

Introduction

The Media Lawyers Association (herein referred to as MELA) is a non-governmental, non-partisan and non-profit making organization which draws its membership from the legal fraternity. The Association, registered as a Society under the Societies Act, chapter 108, was formed in 2022 to pursue its main objective of promoting media freedom and freedom of expression in Kenya and the East African region.

The organs of the association include: - General Assembly, Executive Committee, Governing Council, and a secretariat.

MELA overall aim is to promote media freedom and advance the protection of freedom of expression by providing support in relevant legal cases. This is done through capacity building, awareness creation, advocacy, public interest litigation, research and partnerships.

Contextual Analysis

The right to receive, seek and impart information is well-entrenched under international law and many domestic laws across the continent. Particularly, freedom of expression and freedom of the media are guaranteed in the 2010 Constitution of Kenya. Notably, the Constitution only limits the right to freedom of expression with respect to propaganda for war, incitement to violence, and advocating hatred on ethnic or other discriminatory grounds. However, the illegal and conspicuous spike in attacks on media houses and journalists cannot be gainsaid.

In January 2018, the State, through the Communication Authority of Kenya and the Kenya Police Service, shutdown several Television Stations and switched off the radio spectrum of licensed media houses. The shutdown was as a consequence of the stations intention to air the swearing of Hon. Raila Odinga and Hon. Kalonzo Musyoka as the people's President and Deputy President respectively at Uhuru Park, Nairobi.¹ The act of shutting down the stations contravened Chapter four of the Bill of Rights in the Constitution of Kenya and narrowed democratic space in Kenya.

In May and April 2018, the Media Council of Kenya reported at least 94 incidents of abuses against journalists and bloggers in Kenya, the highest in a decade. In a number of those cases, police and, in some cases, individuals linked to politicians, threatened and attacked activists and journalists on duty. Nonetheless, authorities failed to investigate or hold anyone to account for physical attacks, harassment, and intimidation against journalists. These violations were exacerbated by the dawn and effects of the COVID-19 pandemic in 2020. In the height of the COVID-19 Pandemic, between March and August, during which access to information by the people was vital, journalists faced insurmountable challenges which hindered their mandates. During this short period, 48 incidents in which 34 male and 14 female journalists and media workers faced various forms of violations, including physical assault, arrest, telephone or verbal threats, online harassment and lack of access to public information, officials and buildings.¹

Problem Statement

With the burst of social media as alternative media, and the emergence of bloggers, social media influencers, the majority of mainstream and alternative journalists cannot afford legal representation when faced with legal charges. Whilst media and journalists' associations exist to protect their membership from attacks, gaps are evident in providing legal representation to members due to the costs of litigation. Moreover, the wide multitude of alternative journalists in the social media space who do not have a membership with the journalist's association because of professional requirements do not have the umbrella protection of associations. As such, bloggers and social media influencers remain prone to attacks and influence from the government and powerful high-profile individuals.

Relevance

On one hand, the legal fraternity plays an important role in democracies, by advancing for justice and truth. On the other, members of the 4th Estate and civil society actors empower citizens with information to demand justice and equity. The nexus between the roles of lawyers and the media is as clear as its importance. MLA will ensure quality representation is available by connecting the journalist facing legal charges to advocates and providing technical legal support to the advocates.

¹Article 19 (2020) Kenya: Journalists attacked and silenced during COVID-19 pandemic, retrieved from <https://www.article19.org/resources/kenya-journalists-attacked/> on 10.02.2022

With its motto '**Information is Justice**', the association is enthusiastic in advancing media freedom and freedom of expression as provided for in Article 33 and 34 of the Constitution 2010. This is buttressed by the provisions of Article 19 of the Universal Declaration of Human Rights which assures everyone with the right to freedom of opinion and expression. This right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

As such, the Association believes that a free, independent and diverse media play an important role in ensuring society's right to know as well as journalists' right to seek, receive and impart information.

MELA will advance this agenda through capacity building, awareness creation, advocacy, public interest litigation research, and partnerships. Particularly, MELA will train the advocates on handling Public Interest Litigation concerning media freedom, train the media fraternity on their rights and get into partnership development with like-minded organizations. Notably, the objectives of the Association are:

- (a) To promote freedom of expression, media freedom and the right to information within the Republic of Kenya, in accordance with constitutional and international human rights guarantees.
- (b) To advance the professional development and expertise of its members.
- (c) To serve as a forum for knowledge exchange and for facilitating collaboration among its members.
- (d) To advance the protection of freedom of expression through providing support in relevant legal cases.
- (e) To promote the development of laws, policies and practices which are aligned with guarantees of freedom of expression.
- (f) To foster research and publications in the area of freedom of expression, media freedom and the right to information.
- (g) To foster improved general knowledge about and awareness of freedom of expression issues among legal professionals as well as the general public.
- (h) To partner with like-minded organizations in pursuing the objects stated herein.

With MELA on board the media fraternity will rest easy and broadcast with no fear or favour.