



Devolved Impunity

The State of Safety and Security of Bloggers in Kenya (2019 - 2024)



Developed Immunity

“The Safety and Security of Bloggers in
Kenya (2019 - 2024)”

Report Produced by;

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Executive Summary

Blogging in Kenya has evolved from personal online journals to a critical platform for news, activism, and public discourse. However, this transformation has exposed bloggers to significant threats, both physical and digital. Bloggers face harassment, abduction, and even murder, particularly when criticizing authorities or influential figures. Digital threats, including surveillance, hacking, and online harassment, are exacerbated by vague cybercrime laws. A survey of bloggers and civil society members found that all respondents had encountered

security threats, with 58.3% rating their safety as “very unsafe.” Legal challenges, particularly under the Computer Misuse and Cybercrimes Act, 2018, further restrict freedom of expression, creating a chilling effect that leads to self-censorship.

The report highlights numerous cases of violence against bloggers, including arrests, assaults, and fatalities. The blurred lines between bloggers, activists, and protesters, especially during political movements like the Gen Z protests,

complicate the landscape. Government responses have been inadequate, with county-level authorities often perceived as complicit in blogger harassment. While some interventions, such as arrests and public condemnations, have been made, most bloggers remain unaware of any concrete efforts to ensure their protection. A proposed special police unit for blogger safety has yet to materialize, raising further concerns about the lack of institutional support.

To improve blogger safety, the report recommends legal reforms, including amending the Computer Misuse and Cybercrimes Act and implementing whistleblower protections. Digital literacy and security training, emergency hotlines, and official recognition of bloggers as legitimate news producers are also suggested. A multi-stakeholder approach, involving civil society, media, and tech companies, is crucial for strengthening oversight of surveillance and ensuring rapid response mechanisms. Advocacy efforts, including protests, public statements, and legal actions, continue to push for reforms, but challenges remain in achieving meaningful protection and justice for bloggers in Kenya.

The research methodology employed a mixed-methods approach, combining qualitative and quantitative data collection through questionnaires, semi-structured interviews, and desktop research. Questionnaires were distributed to a diverse sample of respondents to gather statistical insights on key themes, while interviews with subject-matter experts provided in-depth perspectives and contextual understanding. Desktop research involved a systematic review of academic literature, policy documents, and relevant case studies to establish a theoretical and regulatory framework. Data from these sources were triangulated to ensure validity and reliability, allowing for

a comprehensive analysis of the research topic.

The researcher wishes to extend thanks to the respondents for their contributions, namely Dr Mugambi Laibuta, Mutemi wa Kiama, Wanjeri Nderu, Victor Kapiyo, Nerima Wako-Ojiwa, Martin Mavenjjina, Grace Bomu, Dudley Ochiel, Victor Ndede, Kimani Nyoike, Wanjiku Kihika and Sigi Waigumo Mwanzia. All respondents who are quoted in the report consented to their responses being highlighted.

Introduction:

Blogging has been a subject of scholarly interest since the early 1990s. Researchers often define concepts based on structural characteristics. For instance, a blog is defined as “frequently updated web pages with a series of archived posts, typically in reverse-chronological order”¹. This definition aligns with how Kenyans initially defined and explained who a blogger was. One had to have a webpage that they publish content on different thematic issues. Nakajima et al. define blogs as journals on the web. This journal is then updated frequently. However, experts such as Garden² contend that because of its ever-changing usage and technology, researchers do not have a consensus on what blogging is.

One of the tenets of blogging is building a community³. This develops into a community of practice, which are groups of people bound by a shared practice who interact and learn from each other. One of the challenges is often boundaries in that community, especially as it grows. In certain instances, the practice can lead to

generating revenues, which, if done on a frequent basis, can enable someone to earn a living from it. Blogging then becomes a popular and convenient way for people to communicate, publish information, share preferences, voice opinions, provide suggestions, and report news⁴.

When it comes to Kenyan content creators, blogs trace back to an informal online community. The Kenya Bloggers Webring (KBW) was launched in 2003 by blogger Daudi Were of mentalacrobatics.com⁵. Initially, a service aggregated online writings from Kenyan authors using RSS feeds, aiming to connect Kenyans with local content. Over time, search engines became the primary tool for finding information. As Kenyans, both within the country and abroad, increasingly searched for content relevant to their lives, Kenyan creators gained visibility. This shift led to search results that prominently featured Kenyan websites, including forums, message boards, and email lists, reflecting a growing online presence⁶. The largest Kenyan sites at the time blended the

1 https://www.researchgate.net/publication/276974104_Blogging

2 [https://www.researchgate.net/publication/239775345_Defining_blog_A_fool's_errand_or_a_necessary_undertaking#:~:text=As%20Garden%20\(2011\)%20contends%2C%20the%20definition%20of,weblogs:%20virtual%20interfaces%20accessible%20to%20individual%20users%2C](https://www.researchgate.net/publication/239775345_Defining_blog_A_fool's_errand_or_a_necessary_undertaking#:~:text=As%20Garden%20(2011)%20contends%2C%20the%20definition%20of,weblogs:%20virtual%20interfaces%20accessible%20to%20individual%20users%2C)

3 https://d1wqtxts1xzle7.cloudfront.net/30779474/snam1l_agarwal-libre.pdf?1391851860=&response-content-disposition=inline%3B+filename%3DModeling_blogger_influence_in_a_communit.pdf&Expires=1741362799&Signature=e9cZ3mnCNkya6t3LkZnrru-sG4VwD0nXHmXwlhgWQ9-1A~UxW4M0mvESI3zuJ3teIJWyDWE77B~8ZE6im2je3VHWdQS9gnkIFi2YEuVFcEPeRuhLuKjR641VKQB8XXhVP2rEMb9-imqgnxOHQ-pbrw~Lg1qMpeK5XIN6akDvLlzlqIXuKEh9gZdvy~QE3o93HNMSSenmF8nVwiluHWUCD4Z-O-gi5ZI7Qz-EQoQzM62xM5U7u7MIbZG8ksoSGDxqJNekvkTBD2YBsfNulwEvaOvq0eIKG~EF-0nX89FXSUBM7hu3dv7QwJWMk5aArb1XE-7u~7c58MZuzilSks9mw__&Key-Pair-Id=APKAJLOHF5GGSLRBV4ZA

4 https://d1wqtxts1xzle7.cloudfront.net/30779474/snam1l_agarwal-libre.pdf?1391851860=&response-content-disposition=inline%3B+filename%3DModeling_blogger_influence_in_a_communit.pdf&Expires=1741363058&Signature=P5mH-yUv7Gmh4-TGKAO2JMAhaSgKFFeuM5CBXYJcE6OmAFfUg1FW-FIQ0lckc-eJJSIV5-G9phNslLcppic23Ybxi~TcMBSYeNcGrbta1pS4Af-3vOm6cWVBhsOj8ukSnMjuZPi-1v58-doi-GSbSnmyGhydCiL5tEliNzaJah~fQqn904lCw9~dqOM-68DqExS2uQWMH188SDT16~oNAVqtjDJ8qFe9xGA5oRdIGxuTXkLh1q7~BYeislKdOXWslfVn-Y6vJbNQ7ssyhhFmSh3aZIXE3VncRqF5OKVUwNrcgkPcjo7d5B2Hqz~WCY1vi4ePpq~hntLCHuw3~CwA__&Key-Pair-Id=APKAJLOHF5GGSLRBV4ZA

5 https://www.researchgate.net/publication/310500042_From_Cyber_Cafe_to_Smartphone_Kenya's_Social_Media_Lens_Zooms_In_on_the_Country_and_Out_to_the_World

6 https://www.researchgate.net/publication/310500042_From_Cyber_Cafe_to_Smartphone_Kenya's_Social_Media_Lens_Zooms_In_on_the_Country_and_Out_to_the_World

best of community forums and message boards with content sourced to generate conversations. In some ways, they could even be considered social networks⁷.

Further to these developments, in January 2011, Kennedy Kachwanya had had a number of discussions concerning the condition of content creation and consumption online in Kenya. It became clear that something had to be done to promote the high standards of debate and interaction needed for the growth of local content. It was quickly decided that there were two areas which need to be addressed:- 1. Quality discussions or debate online on important issues and 2. How to make money out of the content Kenyan bloggers created. A few months later, Kachwanya and others met to discuss the formation of a formal and legal structure of a community which would cater for the interests of bloggers in the country - the Bloggers Association of Kenya was then formed in April and came to be the force that it is today.

These perspectives aptly describe how the Kenyan blogosphere has evolved to be where it is today. The use of technology has expanded significantly, with micro-blogging platforms, particularly social media, becoming key channels through which Kenyans share information, express opinions, report news, and communicate. In exercising this inherent freedom to seek, receive and impart information, institutions and powerful individuals have also taken root.

Bloggers not only create long-form content on personal or professional blogs, but they often engage in investigative journalism or opinion writing, sometimes influencing mainstream media narratives. Examples

include Kenyan political bloggers such as Robert Alai who analyze governance, policy, and corruption. Activists, such as Mutemi wa Kiama, on the other hand, use online platforms to advocate for social justice, human rights, and political change. They are typified by their engagement in digital campaigns, petitions, and mobilization efforts, whether as part of organized groups or individually. These two groups are distinguishable from social media users who may not be focused on activism or structured blogging but may amplify viral topics, including human rights campaigns. Even so, some bloggers are activists, and some activists become influencers. One thread that runs through the three categories is that they often face legal and political pressure for their online work, especially when it comes to issues such as calling for action on corruption or human rights violations.

Initially, Kenyan bloggers were seen as individuals with web platforms used to publish information, distinct from social media accounts, and allowing them to claim ownership of their published content. However, this definition has broadened, influenced by news media and politicians who labeled anyone using social media for active advocacy as a blogger. Kenyans active on Facebook and Twitter (now X), calling for accountability, highlighting corruption, and consistently generating content online about politics and democracy were termed bloggers. This broad definition is now commonly accepted and used in this report.

In the physical and digital domain, bloggers who write on topics perceived to be sensitive by the authorities such as corruption, human rights abuses and political scandals face harassment from

⁷ <https://www.standardmedia.co.ke/article/1144010249/social-networking-sites-a-boon-for-webmasters>

county governments who are increasingly intolerant of the exercise of the right to freedom of expression. Freedom of expression involves the right to receive and relay information and opinions without interference by public authorities. However, this intimidation also comes from powerful individuals who are the subject of these bloggers' publications. The voicing of opinions and publishing information on issues on social issues such as governance and human rights has become a thorn in the sides of individuals in high public office, leading them to take various actions that denigrate Kenyans actively using digital platforms.

The state of safety and security of bloggers (2019-2024):

Bloggers in Kenya face persistent threats to their physical and digital safety, encountering numerous challenges that put them at risk. One tactic used by county and national governments is to arrest and detain bloggers⁸, often citing charges of defamation⁹, misinformation¹⁰ or cybercrime¹¹. Upon closer investigation, one can discern that these arrests are attempts to silence critical voices.

Further, physical assaults and threats of violence are not uncommon. Some bloggers have reported being attacked, receiving death threats, or having their families threatened. Cases like the disappearance of Bogonko Bosire¹³ highlight the extreme risks, including possible murder, faced by outspoken bloggers.

With regards to the digital sphere, bloggers often face digital surveillance¹⁴ by Kenyan state agencies. Their communications, social media accounts, and online activities are monitored. This is in addition to reports of hacking attempts on blogs, websites, and personal accounts are frequent, aiming to disrupt their work or steal sensitive information.

“At BAKE, we recognize that the digital age presents both opportunities and challenges for content creators and journalists. As part of our mandate, we are committed to equipping them with the essential tools and knowledge to navigate these complexities, with a strong focus on digital safety. Over the years, we have trained over 1,000 individuals—including bloggers, journalists, and human rights defenders—on practical techniques to safeguard their online presence, secure sensitive information, and protect their sources. These training sessions, conducted in collaboration with various partners, cover critical topics such as using digital security toolkits, responsible online communication, internet shutdowns and mitigating legal risks. By addressing issues like cybersecurity threats and online harassment, we aim to empower creators to produce quality content while staying safe in an increasingly volatile digital environment. Through these initiatives, BAKE is not only tackling immediate challenges like misinformation and cyberbullying but also fostering a more resilient and inclusive digital ecosystem in Kenya. By empowering content creators with the skills to protect themselves and their work, we are strengthening the foundation of a free and vibrant online space.¹⁵”

8 <https://nation.africa/kenya/counties/homa-bay/the-perilous-life-of-political-bloggers--4584580#summary>

9 <https://www.businessdailyafrica.com/bd/corporate/companies/court-bars-blogger-nyakundi-from-writing-defamatory-articles-on-nbk--2118126>

10 <https://ntvkenya.co.ke/news/blogger-charged-with-publishing-false-information-about-dp-gachagua/>

11 Cyprian Nyakundi was charged with alleged publication of false information under section 23 of the Computer Misuse and Cybercrimes Act in 2020. See <https://ifreedom.co.ke/2020/04/the-police-plan-to-arrest-cyprian-nyakundi-for-allegedly-failing-to-attend-court-session/>

12 Similarly, Robert Alai was charged with publishing false information after he posted on social media about alleged coronavirus deaths. See <https://freedomhouse.org/country/kenya/freedom-net/2020>

13 <https://www.citizen.digital/news/family-of-missing-blogger-bogonko-bosire-seeks-answers-on-his-2013-disappearance-n290724>

14 <https://www.theeastafrican.co.ke/tea/sustainability/state-sponsored-surveillance-rises-focus-on-journalists-4528282>

15 Excerpt from interview conducted on 4th March 2025

Legislative-Enabled Digital Threats

This digital harassment is enabled by retrogressive cyber laws and regulations, specifically the Computer Misuse and Cybercrimes Act, 2018, which has provisions that can be used to target bloggers¹⁶. While intended to curb cybercrime, these laws are overly broad and used to suppress dissent. Bloggers face challenges navigating these laws, which can be used to criminalise online speech. The objective of the Act is to protect the confidentiality and integrity of computer systems, prevent the unlawful use of computer systems, facilitate the detection, investigation, prosecution and punishment of cybercrimes, and facilitate international cooperation in dealing with computer and cybercrime matters.

Various organisations criticised the bill prior to its assent, and moved the High Court to declare sections of it unconstitutional. Among these organisations were the Kenya ICT Action Network (KICTANet), Article 19 Eastern Africa, the Bloggers Association of Kenya (BAKE) and the Centre to Protect Journalists (CPJ) who deemed numerous sections detrimental to Kenyan citizens' digital rights. They contended that it violated online privacy, freedom of expression, artistic and academic freedom, freedom of belief and opinion, the right to equality and protection from discrimination, human dignity, and media freedom as guaranteed by the Constitution and international human rights standards. BAKE and the Law Society of Kenya challenged the High Court's decision by filing an appeal in the Court of Appeal, but

the case is still pending.

Since 2017, other laws have been used to criminalise freedom of expression in the online space. The Kenyan court system has played a pivotal role in interpreting and upholding the constitutional right to freedom of expression in a few instances. Where this is the case, the courts have emphasised the importance of the right to seek, receive, and impart information in an open and democratic society through several landmark rulings that reinforce these principles.

For example, criminal defamation was declared unconstitutional in the Jacqueline Okuta case, with the courts arguing that forcing a journalist to undergo criminal proceedings for defamation was an unjustifiable limitation of free expression¹⁷. The courts also repealed laws that criminalise criticism of public officials in *Robert Alai v AG*¹⁸ and the use of licensed telecommunication systems to send menacing messages in the *Geoffrey Andare* case¹⁹, noting that these laws were too vague to meet the constitutional requirement that limitations on rights be clear and precise. In 2024, publishing content with "subversive intent" was struck down on related grounds. Sections 22, 23, and 27 of the Act effectively brings back criminal defamation by penalising reputational harm and stating that opaque terms like "apprehension or fear of violence" leave room for subjective interpretation by authorities²⁰.

According to participants in the

¹⁶ <https://jfjustice.net/kenyan-government-using-repressive-cybercrime-law-to-stifle-dissent/>

¹⁷ <https://globalfreedomofexpression.columbia.edu/cases/okuta-v-attorney-general/>

¹⁸ <https://globalfreedomofexpression.columbia.edu/cases/alai-v-attorney-general/#:~:text=The%20High%20Court%20of%20Nairobi,an%20open%20and%20democratic%20state.>

¹⁹ <https://www.standardmedia.co.ke/article/2000198855/law-on-misuse-of-telecommunication-devices-declared-illegal#:~:text=The%20section%20says%20that%20%22a,or%20needless%20anxiety%20to%20another>

²⁰ <https://icj-kenya.org/news/kenyas-growing-digital-landscape-and-the-boundaries-of-free-expression/#:~:text=For%20example%2C%20criminal%20defamation%20was,for%20subjective%20interpretation%20by%20authorities.>

questionnaire, the safety and security of bloggers in the country can be said to be dire. This concern cuts across bloggers and non-bloggers who are actively participating in public discourse in the country. It is dire because the number of bloggers arrested and killed has never been as high as in the last two years²¹ according to Freedom House's Freedom on the Net reports.

Civil society organisations in the country led calls in the last five years for accountability for the violent reprisals against bloggers and activists through campaigns and statements. In addition, CSOs have challenged repressive laws through public interest litigation. However, countering it through advocacy or via the courts has also not always been successful since the enactment of the Computer Misuse and Cybercrimes Act, 2018. 26 sections of the law were challenged in court, but the High Court ruled that the offending clauses that criminalized false publications were lawful²². The court's decision was appealed and the case is currently ongoing. In fact, the upshot of the misapplication of this law means that it causes a chilling effect²³ due to the high risks, leading many bloggers to engage in self-censorship, avoiding certain topics or moderating their criticism to avoid repercussions.

Survey Findings

When asked how respondents would rate the current level of safety for bloggers in Kenya, 58.3% stated it is very unsafe, 33.3% felt it is somewhat unsafe while the remaining minority (8.4%) felt it

was neutral. When requested to answer whether they or any blogger they knew faced security threats (physical or digital) due to blogging activities in the last five years, all respondents responded yes. The respondents listed physical violence, online harassment/cyber-attacks/cyberbullying, threats of arrest or legal action, abduction, enforced disappearance, surveillance, and murder.

When questioned about whether they, or a blogger they know, had faced any legal challenges or harassment from authorities due to their blogging activities since 2019, all survey respondents answered in the affirmative. The nature of these challenges included threats of legal action under the Computer Misuse and Cybercrimes Act, 2018, or the actual bringing of charges especially under Sections 22, 23 and 27 of the Act²⁴ (Kenya Gazette Supplement, 2018) which criminalizes false publications, publication of false information, and cyberharassment respectively.

In other instances, bloggers are also threatened with, or sued for defamation for what they post online. Although criminal defamation under section 194 of the Penal Code was declared unconstitutional by the High Court in 2017, the publication of false information which is likely to harm the reputation of a person is a criminal offence under section 23 of the CMCA²⁵. This raises important questions about freedom of speech and the responsibility of bloggers when publishing information online.

Interview Responses

21 <https://freedomhouse.org/country/kenya/freedom-net/2024>

22 <https://cipit.strathmore.edu/the-computer-misuse-and-cybercrimes-act-judgment-a-digest/>

23 A chilling effect is the inhibition or discouragement of the legitimate exercise of natural and legal rights by the threat of legal sanction.

24 <https://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/ComputerMisuseandCybercrimesActNo5of2018.pdf>

25 https://www.trust.org/wp-content/uploads/2024/09/downloaded_file-7.pdf

Renowned activist Wanjeri Nderu stated during her interview that threats of defamation and cease and desist letters from lawyers are a common tool to harass bloggers and intimidate them.

Nerima Wako-Ojiwa, noted political analyst and Executive Director of Siasa Place stated that it is not uncommon for people to come up to her at forums and tell her to “reduce [on] the activism”. Indeed, she had two stakeholder events canceled in Mathare as a result of “directions from above”²⁶. Wanjiku Kihika, human rights advocate and Executive Director of Tribeless Youth in Nakuru narrated a similar experience in her interview. She recounted how her organisation has faced intimidation directly from the State. Similarly, as an individual, she stated she has been summoned severally by the state officials in Nakuru for posts that she has made which authorities claim to be “incitement”. These instances are exemplars of the type of harassment activists and civil society organizations face when carrying out their activities which just so happen to involve holding the government to account²⁷.

Martin Mavenjina, distinguished constitutional and human rights lawyer speaks to what happens when bloggers and activists face legal challenges. “Litigation is usually expensive. So when you’re attacked in an online space, not all bloggers can afford the services of a lawyer. Therefore, civil society organizations or as human rights institutions [such as the Kenya Human Rights Commission where I work]

do file public interest litigation cases. What do I mean by public interest? It must affect a certain number of people. So sometimes you find bloggers actually unable to afford legal redress because, I mean, the law, accessing justice is so expensive”²⁸.

Mavenjina in the interview added that the other impediment is that it becomes difficult to actually report a perpetrator to the perpetrator. “So in the instances whereby they have been subjected to harassment by police, it’s still the same police you still have to go to report to.... [and] investigate. So it’s like a hunter becoming the hunted. So ... there’s a high chance that they will not investigate”. He then goes on to add that another factor facing human rights defenders and bloggers is the inordinate delay in litigation once one files a case for harassment or being unlawfully abducted by security agencies²⁹.

Regulation of Social Media Content

Amid AI-generated protest songs, viral political satire, and digitally savvy activists defying authority, Kenyan officials are struggling to control a rapidly growing digital movement that resists suppression—placing the country at the intersection of innovation and intimidation. From satirical deepfakes to political memes spreading rapidly online, Kenya’s digital activism is advancing faster than the government can keep up.³⁰

The Kenyan Government has directed all social media companies operating in

26 Excerpt from interview conducted on January 22nd, 2025

27 Excerpt from interview conducted on February 4th, 2025

28 Excerpt from interview conducted on January 29th, 2025

29 Excerpt from interview conducted on January 29th, 2025

30 <https://www.dw.com/en/kenya-ai-generated-social-media-content-free-speech-v2/a-71524279#:~:text=Kenya's%20government%20recently%20ramped%20up,on%20free%20speech%20and%20regulation.text=A%20silent%20war%20is%20unfolding,denied%20involvement%20in%20the%20disappearances.>

Kenya to establish physical offices within the country³¹. The move, announced on X³² by Interior Principal Secretary Raymond Omollo on Thursday, is aimed at enhancing accountability amid disquiet over disinformation and online abuse³³, however the directive is not binding as there is no executive order or Act of Parliament. Interior Cabinet Secretary Onesmus Kipchumba Murkomen also addressed the issue, vowing to restore order on social media by cracking down on individuals who misuse digital platforms to insult public officials and circulate harmful content. He stressed that such behavior undermines the dignity of government leaders and cautioned young people that online insults directed at officials are unlawful and will lead to serious repercussions³⁴. In addition, ICT and the Digital Economy Cabinet Secretary William Kabogo stated his first task, if confirmed, would be to regulate social media. The CS made the remarks during his vetting in the National Assembly³⁵. Kabogo has since denied the existence of any plans to shut down social media³⁶.

Cases of violence against bloggers:

The state of safety and security for bloggers in Kenya is fraught with challenges. Physical threats, legal harassment, digital surveillance, and the misuse of cyber laws create a hostile environment for those who use digital platforms to speak out. Despite these risks, many bloggers continue to play a crucial role in promoting transparency

and accountability in the country.

Cases of violence against bloggers and interventions by the county are on the rise. The Interior Ministry has opened investigations into the leadership of 19 counties over harassment and use of violence against bloggers and political opponents in an attempt to silence them³⁷.

Many other cases of arrests and intimidations against Kenyans online have been recorded in the country since the Gen Z protests of June 25, 2024 against the high cost of living, persistent governance issues, corruption, foreign debt and an increasing inflation rate, and demanded that Parliament *#RejectTheFinanceBill2024*. However, most of the Kenyans who were arrested, abducted or killed were not described as 'bloggers' by other online users. The majority arrested, detained and killed because of the demonstrations were identified as 'Gen Z' protesters³⁸ or human rights activists.

However, in the recent months prior to the publication of this report, the line between activist, protester and blogger became blurred as they were all targeted by the government for their online and offline activism. The distinction was particularly blurred. This relates to the case of two brothers and an activist who disappeared on August 19, 2024, after participating in anti-government protests in Kitengela. Media reports indicate that Law Society

31 <https://www.theeastafrican.co.ke/tea/business-tech/kenya-demands-social-media-firms-to-set-up-offices-in-country-4891724>

32 The post was later changed and the statement removed the requirement for physical presence in the country by social media platforms

33 <https://www.business-humanrights.org/en/latest-news/kenya-state-orders-social-media-platforms-to-set-up-physical-offices-in-the-country-to-curb-online-abuses/>

34 <https://www.citizen.digital/news/cs-murkomen-vows-crackdown-on-social-media-misuse-amid-rising-debate-n355739>

35 <https://www.youtube.com/watch?v=XoYksmCYjzA>

36 <https://www.the-star.co.ke/news/realtime/2025-01-28-cs-kabogo-refutes-plans-to-switch-off-social-media>

37 <https://nation.africa/kenya/news/kindiki-19-counties-on-the-spot-over-violence-against-bloggers--4617550>

38 <https://www.amnestykenya.org/statement-on-abductions-of-citizens-suspected-of-involvement-in-rejectfinancebill2024-protests/>

of Kenya (LSK) President Faith Odhiambo stated the brothers, Jamil and Aslam Longton, were later discovered abandoned in Gachie, Kiambu County. They had allegedly been abducted by individuals suspected to be police officers and endured a distressing 32-day captivity in an unknown location, which they described as torture chambers³⁹. Meanwhile, activist Bob Njagi, known for his political posts on Facebook, was also found alive in Kiambu County⁴⁰. While in captivity, the three individuals were reportedly tortured by security agents solely for speaking out in favor of economic reforms and improved governance. Although they were released on September 20, 2024, they revealed that they have continued to live in fear of further abductions and persecution by the State⁴¹.

Three interviewees also highlighted that they suffer from trauma as a result of State action levelled against them for their online activities. For instance, Wanjeri Nderu was forced to move from her home to another county. She stated: *“of course it has been traumatizing for me and my family. Imagine the ordeal of uprooting your home, your entire family from everything they have known for years and moving to the village.”* The popular activist stated the threats of abduction via phone, cyberbullying, and people sent to her physically to relay the message that she should stop posting online, forced her from her home. She contends that these acts of intimidation came as a result of her participation in the #RutoMustGo and #RejectFinanceBill2024 campaigns on the social media platform X⁴².

Wanjiku Kihika stated that the silencing of her freedom of speech/expression is a direct result. She added that she speaks less on social media now as she does not want to compromise her life or that of her family⁴³.

Similarly, when political commentator Kimani Nyoike was asked to specify the impact that the government’s acts of violence against bloggers had on him, he had the following to say

“The deaths of Richard Otieno and Jackson Elipan and those of other Kenyans we have since heard of through news sources shook me to the core as an activist. Losing comrades this close makes me wonder—when will they come for us? The fear is real, the paranoia creeping in.... Trust is thinning, and the weight of organizing in this climate is exhausting. But silence is still not an option for many of us. Even as fear grips, deep inside I know we must push forward—because if we stop, they win”⁴⁴.

Bloggers at risk

The decentralized and fragmented nature of blogging in Kenya makes structured interventions difficult. Bloggers often operate independently, without organizational affiliation, particularly with news organizations, or membership in blogger associations. They also often lack training in physical and digital safety,

39 <https://ntvkenya.co.ke/news/the-longton-brothers-abduction-ordeal/>

40 <https://www.citizen.digital/news/missing-kitengela-brothers-jamil-aslam-longton-and-activist-njagi-found-alive-in-kiambu-n349885>

41 <https://khrc.or.ke/press-release/we-were-forcefully-disappeared-and-tortured-but-we-refuse-to-be-broken/>

42 Excerpt from interview conducted on January 30th, 2025

43 Excerpt from interview conducted on February 4th, 2025

44 Excerpt from interview conducted on February 6th, 2025

unlike news media organizations that have institutional backing, industry regulators, and support organizations. Bloggers often prefer operating independently, citing Article 33 of the 2010 Constitution⁴⁵, making it challenging for entities to empower them on safety.

The primary motive behind the arrest and intimidation of bloggers is to instill fear and discourage critical expression. However, under President William Ruto's administration, this has worsened, with deaths occurring across the country, often perceived as related to local political engagements. Previously, bloggers were largely arrested, detained briefly, and released as a warning. Some were charged under the Computer Misuse and Cybercrimes Act, 2018 (CMCA)⁴⁶.

The following are the cases in which bloggers have either been killed, physically harmed or arrested.

45 <https://www.kenyalaw.org/kl/index.php?id=398>

46 <https://cipesa.org/wp-content/files/documents/A-Case-Study-of-the-Bloggers-Association-of-Kenya-BAKE-versus-Hon.-Attorney-General-Three-Others.pdf>

Summary of Attacks, Deaths, and Arrests of Bloggers and Activists in Kenya

Incident	Date	Location	Event Type & Description
Deaths			
Daniel Muthiani ('Sniper') Death	Dec 2023	Meru County	Death - Found dead after disappearance ⁴⁷ . Four suspects arrested including Governor's brother ⁴⁸ . Case ongoing.
Peris Mugera Death	Mar 2024	Kirinyaga County	Death - Missing since Feb 29, found dead ⁴⁹ . Case unsolved.
Duke Nyabaro Death	Apr 2024	Kisii County	Death - Found hanging but postmortem showed strangulation ⁵⁰ . No investigation updates.
Isaka Maritim 'Babaafrika' Death	Nov 2023	Kericho	Death - Beaten to death ⁵¹ for online advocacy ⁵² . No police report.
Frank Obegi Murder	2022	Kijabe Forest	Death - Mutilated body found ⁵³ , raised safety concerns for bloggers.
Augustus Mutuku Mwathe Murder	Feb 2021	Kibwezi	Death - Ambushed and killed ⁵⁴ after political fallout ⁵⁵ .
Richard Otieno Attack & Death	Nov 2024 / Jan 2025	Molo	Physical Attack & Death - Previously assaulted, later murdered ⁵⁶ . Suspects arrested.
Abductions and arrests			
Bruce John Khajira alias Chawa - 001 Abduction	Sep 2024	Mombasa	Physical Attack - Abducted and sexually abused ⁵⁷ . Suspects in court ⁵⁸ .

47 <https://www.standardmedia.co.ke/health/national/article/2001494743/how-slain-meru-blogger-sniper-was-lured-to-his-death>

48 <https://nation.africa/kenya/counties/meru/meru-governor-kawira-mwangaza-s-brother-among-five-suspects-arrested-in-blogger-sniper-s-murder-4483258>

49 <https://nation.africa/kenya/counties/tharaka-nithi-/who-wanted-blogger-peris-mugera-dead-and-why--4549854>

50 <https://www.article19.org/resources/kenya-justice-for-murdered-blogger-duke-nyabaro/>

51 <https://x.com/BettKMax/status/1724322545770332411?lang=bg>

52 <https://x.com/kipkorirngeno69/status/1723997695092613332>

53 <https://nation.africa/kenya/news/unexplained-lavish-lifestyle-of-four-who-were-killed-3855512> However, according to Africa Uncensored, the four were involved in a life of cybercrime which may have led to their brutal murders. See <https://www.youtube.com/watch?v=KOW6AfSg484>

54 https://x.com/dci_kenya/status/1408124785180266506

55 <https://nairobi.news.nation.africa/police-arrest-three-over-bloggers-death/>

56 <https://nationalpolice.go.ke/suspects-richard-otienos-murder-arrested>

57 https://x.com/DCI_Kenya/status/1854604399215042716

58 https://x.com/DCI_Kenya/status/1838290453495484674

Gideon Kibet alias Kibet Bull Abduction	Dec 2024	Nairobi	Abduction - Cartoonist abducted ⁵⁹ , later released with others ⁶⁰ .
David Oaga Mokaya Charged	Dec 2024	Nairobi	Arrest - Charged for posting image of President Ruto in a casket ⁶¹ .
Billy Simani alias 'Crazy Nairobian' Abduction	Jun 2024	Nairobi	Abduction - Vocal during Gen Z protests ⁶² . Released later.
Nuru Maloba Okanga Detention	Jun 2024	Nairobi	Detention - Charged with spreading false info on YouTube ⁶³ .
Michael Nyangala Arrest	Aug 2024	Taita Taveta	Arrest - Held for criticizing County Governor. Released.
Scorphine Aoko alias Maverick Aoko Arrest	Aug 2024	Unknown	Arrest - Charged with cyber harassment ⁶⁴ . Released on bail.
Graham Kituri alias Maresho Shomoto Arrest	Sep 2024	Taita Taveta	Arrest - Arrested ⁶⁵ for questioning misuse of funds ⁶⁶ .
Justin Siocha Abduction	Nov 2024	Kisii	Abduction - Raised embezzlement concerns. Abducted by suspected DCI ⁶⁷ .
Francis Gaitho Arrests	2024-2025	Unknown	Arrest - Multiple arrests for false information posts ⁶⁸ .
Silvance Abeta (@WanjikuHSC) Arrest	Aug 2024	Unknown	Arrest - Parody account operator charged with cyberbullying ⁶⁹ .
Adam Kenneth Nthiga Abduction	Aug 2023	Meru/Tharaka Nithi	Abduction - Assaulted for Facebook posts ⁷⁰ . Muthambi MCA charged ⁷¹ .

59 <https://www.citizen.digital/news/cartoonist-kibet-bull-freed-two-weeks-after-abduction-n355416>

60 <https://www.capitalfm.co.ke/news/2025/01/silhouettes-cartoonist-kibet-bull-found-alive-after-nairobi-abduction/>

61 https://x.com/ODPP_KE/status/1858510684591653323?lang=en

62 <https://www.amnestykenya.org/statement-on-the-arbitrary-arrest-of-content-creators/>

63 https://www.standardmedia.co.ke/politics/article/2001497501/activist-nuru-okanga-charged-with-spreading-lies-about-dp-gachagua?utm_cmp_rs=amp-next-page ; <https://ntvkenya.co.ke/news/nuru-okanga-charged-with-insulting-president-ruto/>

64 <https://www.standardmedia.co.ke/health/nairobi/article/2001501260/maverick-aoko-released-on-bail-after-allegations-of-cyber-harassment>

65 <https://x.com/KwaelaDotCom/status/1887089921963282530>

66 <https://kwaela.co.ke/breaking-news-arrest-of-taita-taveta-deputy-speaker-for-embezzlement-of-kshs-17-million-in-a-bonding-trip-to-zanzibar-by-30-officials/>

67 <https://www.facebook.com/kenyandailypost/posts/whistleblower-justin-siocha-narrates-how-he-was-abducted-by-rogue-dci-officers-a/1014991504006807/>

68 <https://www.standardmedia.co.ke/health/national/article/2001499198/francis-gaitho-charged-with-publication-of-false-information>

69 <https://www.citizen.digital/news/kenyan-twitter-user-arrested-over-dp-gachagua-mp-nyoro-claims-n327267>

70 <https://www.article19.org/resources/kenya-justice-for-murdered-blogger-duke-nyabaro/>

71 <https://www.standardmedia.co.ke/health/news/article/2001480955/teacher-takes-mca-to-court-over-kidnapping-and-assault>

Mutemi Wa Kiama Arrests	2020-2021	Unknown	Arrest - Arrested for anti-loan campaign ⁷² and digital book distribution ⁷³ .
Charles Gichuki alias Chaos Kibe Arrest	Aug 2020	Unknown	Arrest - Held over anti-corruption content. Site taken down ⁷⁴ .
Milton Were Re-arrested	Aug 2020	Unknown	Arrest - Re-arrested after expose on roads authority ⁷⁵ .
Other violations			
Boniface Mwangi House Bombing	Oct 2021	Machakos	Attack - House bombed ⁷⁶ , suspected political motive ⁷⁷ .
Kennedy Kachwanya Case	Nov 2024	Nairobi	Violation - Challenged ICT Authority for social media blocking ⁷⁸ .
Cyprian Nyakundi Defamation Suit	2019	Unknown	Legal Case - Sued for defamation by Governor Kibwana. Court ordered content removal ⁷⁹ .

⁷² <https://www.article19.org/resources/kenya-cease-attacks-on-and-release-edwin-mutemi-wa-kiama/>

⁷³ <https://www.kenyans.co.ke/news/54127-activist-mutemi-wa-kiama-arrested-after-police-raid-his-home-video>

⁷⁴ <https://ifreedoms.co.ke/2020/08/charles-gichuki-arrested-and-later-freed-without-charge-because-of-a-corruption-tracker-website/>

⁷⁵ <https://ifreedoms.co.ke/2020/08/blogger-milton-were-re-arrested-days-after-dpp-refused-to-approve-his-charges/>

⁷⁶ <https://www.the-star.co.ke/news/2021-10-21-my-house-ruined-to-silence-me-claims-activist-mwangi>

⁷⁷ <https://www.capitalfm.co.ke/news/2021/10/activist-boniface-mwangi-claims-his-house-bombed-blames-governor-mutua/>

⁷⁸ <https://x.com/kachwanya/status/1696808213008531540> ; <https://techweez.com/2024/11/30/ict-authority-unblocks-kenyan-blogger-kachwanya/> ; <https://x.com/BakeKenya/status/1795159424123760940> ;

⁷⁹ <https://x.com/BakeKenya/status/1795159424123760940>

County or national government interventions in cases of violence or enforced disappearances against bloggers:

When respondents were asked to rate the response of county authorities to threats against bloggers, 58.3% of respondents stated that they felt they were very unsupportive, 25% were neutral, and 16.6% felt counties were unsupportive.

Wanjeri Nderu had the following to say about the state of affairs at the county level: *“Very unsupportive. They don’t want to acknowledge that it exists. They are mostly the perpetrators What people don’t understand is we.... have a huge focus on what the national government does. Nevertheless, a lot of the disappearances and abductions, threats and all that, are mostly at the county level. All the way down to the MCAs. The devolution process created small demi-gods. As much as the buck stops at the top, which is the presidency, who is the one who is supposed to guide the way and show how things should really go. Even within the county government, people who hold positions of power including CECs of county governments threaten people who are seen to be against their regime. I have seen incidents, activists I work very closely with on matters of human rights in various counties because I traverse the entire nation in terms of network are threatened by even officials that are employed by county governments for highlighting things that are happening within county governments. So, that is something that is not given a lot of attention”*⁸⁰.

Respondents were then asked to speak to government interventions in cases of

violence or harassment of bloggers, 50% stated they had heard of government interventions in the way of arrests/ investigations and judicial processes such as habeas corpus applications. There are also public condemnation of violence such as was the case after the brutal killings of Peris Mugeru and Daniel Muthiani aka Sniper. It was also stated that Okiya Omtatah is known to provide legal support for victims of State violence. On the other hand, 41.6% of respondents were not aware of any government interventions and 8.3% were unsure.

In May 2024, the Cabinet Secretary for Interior Prof. Kithure Kindiki stated that the government has formed a special police unit to protect bloggers⁸¹. He was speaking at the Senate in response to investigations into the murder of Meru blogger, Sniper. During his statement, he urged bloggers to report instances of harassment to the police. However, neither he nor the police have been reported to have taken any action regarding this specific police unit since then.

Suggested policy interventions to improve the safety and security of bloggers:

Bloggers in Kenya should be recognised as a special group requiring legal and constitutional protections due to their vital role in promoting free speech, transparency, and democratic accountability. In recent years, many bloggers have faced harassment, arbitrary arrests, cyber threats, and legal actions under vague or overly broad laws such as the Computer Misuse and Cybercrimes Act. These threats undermine press freedom and discourage

80 Excerpt from interview conducted on January 30th, 2025
 81 <https://techweez.com/2024/05/09/dci-unit-to-monitor-blogger-threats/>

independent journalism, particularly in a digital age where bloggers often serve as the primary sources of investigative reporting and political commentary. Given Kenya's commitment to upholding human rights, special protections for bloggers would ensure their right to express opinions without fear of persecution, safeguard access to information, and strengthen democratic governance. Judicial recognition of bloggers as a vulnerable group would also align with global human rights trends, where protections are extended to journalists, activists, and other individuals facing targeted repression based on their work.

Significant improvements in legal protections, enforcement of existing rights, and the promotion of a safe environment for free expression are necessary to ensure their safety and security. In particular, interventions to improve the safety and security of bloggers is necessary. This includes, strengthening legal protections and enhancing digital security.

Media freedom laws should explicitly recognize targeted attacks on bloggers as a threat to press freedom and democracy, with clear penalties for perpetrators. Bloggers exposing corruption and governance issues should be legally protected from undue retaliation. The Directorate of Criminal Investigations (DCI) should prioritize cases involving bloggers and digital activists, ensuring thorough and transparent investigations. Based on the growing risks, a special task force should be created within law enforcement to handle threats, harassment, and violence against bloggers and journalists.

The government should take action against state actors implicated in attacks on bloggers to prevent political weaponization of the justice system. It is also imperative to establish independent oversight mechanisms to investigate allegations of harassment, physical violence, or

cyberattacks against bloggers. This includes prosecuting those responsible, regardless of their official status, to signal that the rule of law applies equally.

Many governments misuse defamation, sedition, or cybersecurity laws to silence critics. Legal reforms should prevent the arbitrary arrest or prosecution of bloggers under vague statutes that can be weaponized against free speech.

The Kenya National Human Rights Commission should exercise its mandate to investigate these gross violations against bloggers and activists by the government. They should release reports and call for immediate action to be taken.

Ensuring judicial independence is crucial to prevent courts from being used as tools of repression. Special legal provisions or human rights courts may be needed to address politically motivated cases against bloggers.

Physical and digital safe havens should be established where bloggers under threat can seek protection and legal support. Secure online platforms should be developed to allow threatened bloggers to continue publishing anonymously. This includes providing encrypted communication channels, VPN access, and hosting services in jurisdictions with strong free speech protections. Paradigm Initiative's Ayeta digital security toolkit provides essential guidance on these protections, equipping activists with strategies to evade digital surveillance, secure their communications, and prevent hacking attempts. Additionally, Ripoti Africa platform serves as a reporting and documentation platform, highlighting cases of digital rights violations, online harassment, and state-led crackdowns on free speech. These initiatives complement the need for physical spaces where activists and bloggers can get safe havens when under attack from state agencies.

Similarly, bloggers facing legal action should have access to pro bono legal representation and financial assistance for their defense. International advocacy groups can help by establishing rapid-response legal aid networks.

The government should uphold constitutional protections for freedom of expression (Article 33) and ensure compliance with international human rights standards. When asked what policy measures do respondents think should be implemented to improve the safety and security of bloggers in Kenya, one respondent quipped “just implement the Constitution. We have the Constitution which is already there. It provides for freedom of expression, freedom of the press, provides for the right to a fair trial. [The government] needs to respect and uphold those rights. I don’t see anything new”. When asked further whether there were any existing policies that they believed helped protect bloggers, they remarked “just implement the Constitution. Respect and uphold the rights.”

A blogger reiterated the same point and had the following to say:

“You know, every time I hear the word policy or laws, I get shivers because those things exist. I don’t think it is something that new. Our constitution for instance does provide [for], when it comes to matters of human rights. What we are discussing here is a human rights issue, how to treat people, how Kenyans can have a decent existence, and what their rights are. All those things are there but they just need implementation. That is my opinion. I am not thinking of how we can be bringing in anything new. Because that blogger, the person you are calling blogger is a Kenyan, a human being who is a Kenyan to begin with. what he

does on his computer, categorizes him as a blogger, does not remove him from ‘yeye ni Mkenya na akona rights zake’. So, I don’t think we need anything extra to add and say this should be specific for bloggers. Sioni, what the purpose is because though we are saying this is a special group of people.... There is nothing special about using the tools that are best available and easy for you to use. I don’t think we need anything special to set them aside. Let us recognize that we are all Kenyans. We all deserve to be treated with dignity that is enshrined, and we are protected by the constitution. Let’s implement what is there.”

The legal and regulatory framework needs updating, specifically, amendment of the Computer Misuse and Cybercrimes Act 2018 to ensure that provisions cannot be used to unjustly target bloggers and include specific protections for freedom of expression.

In addition, there is an urgent need to enact whistleblower protection laws to protect bloggers who expose corruption and political wrongdoing. In cases where bloggers expose government corruption or human rights violations, they should be granted similar protections afforded to whistleblowers, including safe passage to countries with strong asylum policies.

Other interventions to improve the safety and security of bloggers:

It is also imperative that stakeholders such as civil society organisations promote digital literacy and security through capacity building. This would require digital security coaching to provide bloggers with training on secure communication tools, encryption, and best practices to protect their online presence.

It was suggested by one of the respondents that there should be a toll free line which one can call when they are in distress as a result of harassment by the Kenyan authorities.

State-led interventions should recognize bloggers as independent news producers and alternative sources of information. The government needs a policy shift to acknowledge their role and improve their security.

In addition, civil society should collaborate so as to improve the rapid response teams of institutions such as the Kenya National Commission on Human Rights as well as that of the Defenders Coalition.

Further, public awareness campaigns should be mounted to raise awareness about digital security among the broader public, including the risks faced by bloggers. Further, bloggers need to be made aware of their legal rights and what entitlements they have when they are arrested or abducted by State forces.

It has been reported that the Kenyan government has acquired state of the art surveillance technologies even though there are no official government reports of the same⁸². One civil society representative during his interview stated that “Kenya [over the years] has acquired sophisticated surveillance capabilities, and that is why you see it’s easy for security agencies to detect and arrest bloggers. So it’s about time we came up with an oversight framework for some of these bodies that are tasked with surveillance. For instance, look at the NIS - they operate [as if] they

are [a] law unto themselves.... [If] in the course of surveillance, they did wrongfully arrest a person, whom do you hold to account? Yes. So because of the absence of a robust oversight mechanism for critical intelligence gathering, like NIS, then that has given them unfettered discretion to continue committing serious violations. Of course, bloggers have not been spared.”

Grace Bomu, who is an ICT policy researcher, had a few thoughts on what should be done to improve the safety and security of bloggers in the country. She opined that the Office of the Director of Public Prosecutions (ODPP) guidelines on prosecution should be designed to protect bloggers by setting a threshold for evidence to be committed. The guidelines should require bloggers to be remanded for further investigation, ensuring that they are aware of the ongoing investigation against them. The Constitution is a good policy, but laws like the CMCA are limiting freedom of expression. Practitioners or advocacy groups should develop a court code that can be adopted by the judiciary and police officers⁸³.

Additionally, she stated that there is a need for more support for mechanisms of solidarity, such as involving civil society organizations working on freedom of expression. This would allow them to provide good evidence for their programs, such as the judiciary. Community solidarity is an important aspect of protecting bloggers and ensuring their freedom of expression. By implementing these guidelines, the ODPP can ensure that bloggers are protected and their rights are upheld, ultimately benefiting the wider community⁸⁴.

82 <https://theconversation.com/state-surveillance-kenyans-have-a-right-to-privacy-does-the-government-respect-it-244660#:~:text=Kenya%20has%20systems%20that%20make,makes%20surveillance%20susceptible%20to%20abuse.>

83 Excerpt from interview conducted on January 27th, 2025

84 Excerpt from interview conducted on January 27th, 2025

Multi-Stakeholder Collaboration: Partnerships between civil society, media organizations, and tech companies should be formed to enhance bloggers' safety. This necessarily also includes collaboration between NGOs and government to ensure the operating environment for bloggers is safe and secure.

Legal assistance ensures bloggers have fair trials and defense against unlawful actions, while public interest litigation works toward systemic legal reforms that create a safer environment for digital expression. Together, they safeguard bloggers' freedom of speech, privacy, and security, reinforcing Kenya's democratic values.

Bloggers who are also human rights defenders and activists should organize themselves and separate themselves from pro-government bloggers, according to Kapiyo. He was of the view that, even though they are not a homogeneous group, they should organize so as to be more effective in pushing back against government restriction of the right to freedom of expression⁸⁵. In addition, there is a need to decentralize solidarity efforts from Nairobi and the Coast.

Advocacy efforts towards justice for bloggers who are victims of violence in the counties:

To counter these unfortunate occurrences, advocacy campaigns have been organized to demand justice for bloggers such as the Meru procession⁸⁶ to protest the murder of Daniel Muthiani alias Sniper

last year. However, human rights groups such as Article 19 have been speaking out against unlawful detentions for years, such as strongly condemning the arrest and detention of bloggers and activists such as Mwalimu Mutemi wa Kiama⁸⁷.

Safety and security and advocacy efforts then become natural counter-measures to promote freedom of expression. The advocacy efforts bringing awareness of the plight of bloggers have primarily been directly and indirectly. Directly, there are instances of collaborative efforts where various civil society groups put out joint statements compelling authorities to conduct prompt, thorough and independent investigations into the violence and murders of bloggers and those found to be responsible must be prosecuted. The DCI has been the primary institution targeted for calls to investigate the cases. In addition, organizations produce publications documenting violations against bloggers.

Advocacy efforts have also been channeled towards the policy framework that has since 2018 been used to arrest bloggers; the CMCA. The law has three provisions namely sections 22, 23 and 27, that high-ranking government officials have used to curtail the rights of bloggers through threats of, and arrests. But these efforts have also been broader. In regards to the Gen Z⁸⁸ arrests, the government found no law to arrest and detain the bloggers, hence the efforts have been filing habeas corpus applications to compel the police to produce the abducted bloggers and Kenyans, dead or alive. Government and politicians have also been challenged to use the rule of law and

85 Excerpt from interview conducted on January 27th, 2025.

86 <https://www.youtube.com/watch?v=D0hFJuU78DI>

87 <https://www.article19.org/resources/kenya-cease-attacks-on-and-release-edwin-mutemi-wa-kiama/#:~:text=ARTICLE%2019%20Eastern%20Africa%2C%20Amnesty,the%20Court%27s%20punitive%20ball%20terms.>

88 Generation Z, or Gen Z, refers to people born between 1997 and 2012.

charge the arrested individuals with crimes they feel the individuals committed within 24 hours of their arrests. Furthermore, human rights civil society organizations have engaged parliamentary committees on violations that human rights defenders are facing that are contrary to Article 33 of the Constitution.

Another method has been through public interest litigation. Public Interest Litigation (PIL) is a powerful legal mechanism that allows individuals, civil society organizations, and advocacy groups to challenge government actions that violate constitutional rights, fundamental freedoms, or democratic principles. Against repressive governments, PIL serves as an essential tool for upholding the rule of law and protecting marginalized communities. PIL is an effective advocacy strategy as it holds the government accountable, safeguards fundamental rights, raises public awareness and mobilizes support for the cause of bloggers, all while creating precedents for future advocacy.

According to Mavenjina, engagement with regional and international human rights mechanisms, including the African Commission on Human and Peoples' Rights, the Universal Periodic Review (UPR), and the Special Rapporteur on Freedom of Expression is another advocacy tool. Civil society organizations (CSOs) use these platforms to highlight violations against bloggers and journalists, advocate for policy changes, and contribute to guidelines that protect online human rights defenders⁸⁹.

He explains that the UPR process, however, operates on a four-year cycle, meaning governments have extended time to address human rights concerns—or to delay

action. Kenya, like all states, will be reviewed in May, after which recommendations will be made. By the next review in 2029, the government must demonstrate progress. This lengthy process often allows administrations to shift responsibility to future governments. If leadership changes, accountability becomes even more uncertain, as new administrations may deflect blame onto their predecessors. Moreover, while these mechanisms are valuable in drawing international attention, they are not immediate solutions. Their effectiveness is limited by the slow pace of implementation and the potential for governments to avoid meaningful reforms. As a result, sustained pressure from CSOs remains crucial in holding governments accountable⁹⁰.

When questioned about the role civil society organizations and media associations should play in advocating for the rights of bloggers, respondents listed psychosocial support, legal representation, lobbying for changing of repressive laws which government agents use for overreach and abuse. In particular, organizations should strive to be more proactive in their advocacy rather than merely being reactionary when violations occur. Similarly, they should coordinate better to avoid duplication of efforts, and avoid the paralysis that comes when organizations operate in silos, and everyone rests on their laurels because they think the other organization is doing something, yet no one has addressed that current state of affairs.

According to Victor Kapiyo, reputed lawyer and researcher, the media can play a role in providing coverage of incidents of violence against bloggers, but they should report these incidents in a way that is analytical

89 Excerpt from interview conducted on January 29th, 2025

90 Excerpt from interview conducted on January 29th, 2025

instead of merely recounting events. In this way, it raises awareness and triggers public outrage such as should be happening around the abductions and brutal extrajudicial killings. In addition, according to Kapiyo, civil society organizations and media associations should find avenues of convergence and partner to build stronger voices against state excesses. He stated “collective power, collective advocacy, collective organizing is critical in pushing back against abductions and securing justice for those affected”.⁹¹

Lastly, respondents were asked how effective these advocacy efforts are in achieving justice for bloggers. They responded as follows: 58.8% felt they were somewhat effective; 16.6% felt they were neutral or very ineffective respectively; and 8.3% felt they were very ineffective.

Important jurisprudence regarding bloggers:

On July 16, 2022, Joshua Otieno Ayika used his verified Twitter account to predict an impending military coup in Kenya. This post resulted in his arrest on July 21, 2023, followed by his court appearance on July 24, 2023. He was charged with “Subversive Activities” under Section 77(1) (a) of the Penal Code and “Publication of False Information” under Section 23 of the Computer Misuse and Cyber Crimes Act, 2018. Authorities argued that his statements threatened public order and security, potentially inciting panic and unrest. Consequently, the petitioners challenged the constitutionality of Section 77 of the Penal Code, claiming it infringes on multiple constitutional rights and

unjustly restricts freedom of expression.⁹²

The court underscored that freedom of expression and the right to access information are fundamental pillars of any democratic society. It affirmed that every individual has the right to express themselves, which encompasses the freedom to seek, receive, and share information or ideas, as well as the freedom of artistic creativity, academic liberty, and scientific research.⁹³

In evaluating the offence of subversion under Section 77, the court found that the Penal Code failed to clearly define “subversive intentions,” as the term was overly broad and vague. Additionally, Section 77(1) restricts freedom of expression by criminalizing any speech deemed to have subversive intent. The court noted that this limitation predated the 2010 Constitution and therefore did not qualify as a justified restriction under Article 24(2). As a result, the court ruled in favor of the petitioners, declaring Section 77(1) and (3)(a) through (g) of the Penal Code unconstitutional, along with any enforcement of these provisions by the respondents. Since the case was a matter of public interest, no costs were awarded.⁹⁴

91 Excerpt from interview conducted on January 27th, 2025.

92 <https://icj-kenya.org/news/case-analysis-katiba-institute-and-8-others-vs-dpp-and-2-others-hcchrpet-no-eo16-of-2023/>

93 <https://icj-kenya.org/news/case-analysis-katiba-institute-and-8-others-vs-dpp-and-2-others-hcchrpet-no-eo16-of-2023/>

94 Katiba Institute & 8 Ors Vs DPP & 2 Ors HCCHRPET No E016 of 2023 available at <https://katibainstitute.org/wp-content/uploads/2024/03/Judgment-Katiba-Institute-8-Ors-Vs-DPP-2-Ors-HCCHRPET-No-E016-of-2023-1.pdf>

Recommendations

- It is imperative for stakeholders such as civil society organisations to promote digital literacy and security through capacity building. This would require digital security coaching to provide bloggers with training on secure communication tools, encryption, and best practices to protect their online presence.
- That there should be a toll free line which one can call when they are in distress as a result of harassment by the Kenyan authorities.
- Bloggers should be recognized as vital contributors to the information ecosystem, providing alternative sources of news, analysis, and public discourse. A policy shift is necessary to acknowledge their role in fostering transparency and accountability while ensuring robust protections for their security and freedom of expression.
- In addition, civil society should band together so as to improve the rapid response teams of institutions such as the Kenya National Commission on Human Rights as well as that of the Defenders Coalition.
- Further, public awareness campaigns should be mounted to raise awareness about digital security among the broader public, including the risks faced by bloggers. Further, bloggers need to be made aware of their legal rights and what entitlements they have when they are arrested or abducted by State forces.
- It has been reported that the Kenyan government has acquired state of the art surveillance technologies⁹⁵. One civil society representative stated “Kenya [over the years] has acquired sophisticated surveillance capabilities, and that is why you see it’s easy for security agencies to detect and arrest bloggers. So it’s about time we came up with an ... Oversight framework for some of these bodies that are tasked with surveillance. For instance, look at the NIS - they operate [as if] they are [a] law unto themselves.... [If] in the course of surveillance, they did wrongfully arrest a person, whom do you hold to account? Yes. So because of the absence of a robust oversight mechanism for critical intelligence gathering, like NIS, then that has given them unfettered discretion to continue committing serious violations. Of course, bloggers have not been spared.”
- Grace Bomu, who is an ICT policy researcher, had a few thoughts on what should be done to improve the safety and security of bloggers in the country. She opined that the ODPP guidelines on prosecution should be designed to protect bloggers by setting a threshold for evidence to be committed. The guidelines should require bloggers to be

95 <https://theconversation.com/state-surveillance-kenyans-have-a-right-to-privacy-does-the-government-respect-it-244660#:~:text=Kenya%20has%20systems%20that%20make,makes%20surveillance%20susceptible%20to%20abuse.>

remanded for further investigation, ensuring that they are aware of the ongoing investigation against them. The Constitution is a good policy, but laws like the CMCA are limiting freedom of expression. Practitioners or advocacy groups should develop a court code that can be adopted by the judiciary and police officers⁹⁶.

- Additionally, she stated that there is a need for more support for mechanisms of solidarity, such as involving civil society organizations working on freedom of expression. This would allow them to provide good evidence for their programs, such as the judiciary. Community solidarity is an important aspect of protecting bloggers and ensuring their freedom of expression. By implementing these guidelines, the ODPP can ensure that bloggers are protected and their rights are upheld, ultimately benefiting the wider community⁹⁷.
- Multi-Stakeholder Collaboration: Partnerships between civil society, media organizations, and tech companies should be formed to enhance bloggers' safety. This necessarily also includes collaboration between NGOs and government to ensure the operating environment for bloggers is safe and secure.
- Legal assistance ensures bloggers have fair trials and defense against unlawful actions, while public interest litigation works toward

systemic legal reforms that create a safer environment for digital expression. Together, they safeguard bloggers' freedom of speech, privacy, and security, reinforcing Kenya's democratic values.

- Bloggers who are also human rights defenders and activists should organize themselves and separate themselves from pro-government bloggers, according to Kapiyo. He was of the view that, even though they are not a homogeneous group, they should organize so as to be more effective in pushing back against government restriction of the right to freedom of expression⁹⁸. In addition, there is a need to decentralize solidarity efforts from Nairobi and the Coast.

96 Excerpt from interview conducted on January 27th, 2025

97 Excerpt from interview conducted on January 27th, 2025

98 Excerpt from interview conducted on January 27th, 2025.

Conclusion

The state of safety and security for bloggers in Kenya remains precarious, with significant challenges stemming from legal, political, and technological threats. While digital platforms have expanded the space for free expression, bloggers face increasing risks, including harassment, surveillance, arbitrary arrests, and cyber threats. The enforcement of laws such as the Computer Misuse and Cybercrimes Act has raised concerns about the criminalization of online speech, limiting press freedom and discouraging critical discourse. The use of arrests, legal intimidation, digital surveillance, and even enforced disappearances demonstrates a pattern of suppression targeting those who challenge authority. Despite constitutional guarantees of free expression and important court rulings that have struck down overly broad laws, bloggers continue to face arbitrary enforcement of the Computer Misuse and Cybercrimes Act, 2018, as well as other legal and extralegal threats.

While civil society organizations and the judiciary have played a role in defending digital rights, these efforts have had limited success in curbing state overreach such as carrying out abductions. The rise of AI-powered digital activism versus government attempts to regulate online spaces, signals an ongoing battle over the limits of free speech in Kenya. The testimonies of bloggers, activists, and legal experts illustrate the chilling effect of these threats, forcing many to reconsider their online engagement or face dire consequences.

As the line between bloggers, activists, and protesters becomes more obscured,

the urgency of protecting digital freedoms grows. Without meaningful legal reforms and accountability measures, the repression of bloggers will persist, undermining democratic principles and restricting civic space in Kenya. The struggle for online freedom is far from over, and the resilience of bloggers remains critical in the fight for transparency, accountability, and human rights.

To enhance blogger safety, there is a need for legal reforms that protect digital rights, stronger enforcement of existing protections, and greater digital literacy among bloggers to safeguard against cyber threats. Additionally, collaboration between civil society, media organizations, and policymakers is crucial in fostering a safer online environment. Addressing these issues is essential for ensuring that Kenya upholds its commitment to freedom of expression and the protection of digital rights in the evolving online landscape.

Devolved Impunity

