

Press freedom in Kenya

European Parliament resolution of 15 January 2009 on press freedom in Kenya

The European Parliament,

- having regard to the African Charter on Human and Peoples' Rights,
 - having regard to its previous resolutions on Kenya,
 - having regard to the Universal Declaration of Human Rights,
 - having regard to Rule 115(5) of its Rules of Procedure,
- A. whereas on 2 January 2009 President Kibaki assented to the Kenya Communications (Amendment) Bill 2008, which amended the Kenya Communications Act of 1998,
- B. whereas the 2008 Act, as it stands, disregards the rights to freedom of expression and press freedom as enshrined in the Universal Declaration of Human Rights and echoed in other international conventions which Kenya has signed and ratified, including the African Charter on Human and Peoples' Rights,
- C. whereas the two main problematic sections are Sections 88 and 46; whereas Section 88 gives the Information Minister considerable powers to raid media organisations that are deemed to be a threat to national security and to dismantle their broadcasting equipment; whereas Section 46 gives the State the power to regulate contents to be aired and published by electronic and print media respectively,
- D. whereas according to a press release issued by the East African Journalists' Association (EAJA), the 2008 media Act would introduce direct media censorship by the government,
- E. whereas Prime Minister Odinga has joined widespread opposition to the legislation; whereas Orange Democratic Movement (ODM) officials recently held crisis talks, claiming that the President had failed to consult the Prime Minister over the Act,
- F. whereas, according to the Kenyan National Commission for Human Rights, the presidential assent to the Bill indicates that the Grand Coalition is not working in unison,
- G. whereas freedom of expression is a fundamental human right, as stated in Article 19 of the Universal Declaration of Human Rights,
- H. whereas, a year ago, following flawed presidential elections in Kenya, street demonstrations led to riots and ethnic clashes that spread across the country, killing more than 1 000 people and leaving another 350 000 homeless,
1. Regrets the signing of the Kenya Communications (Amendment) Bill by President Kibaki, who neglected to take widely reported reservations about it into consideration at the time of its signature;

2. Welcomes, however, President Kibaki's recent move to revise the Act and his gesture to consider amendments to the legislation proposed by members of the media;
3. Reiterates its commitment to press freedom and the fundamental rights of freedom of expression, information and association; stresses that access to information representing a plurality of opinion is essential for the empowerment of citizens;
4. Calls on the Kenyan Government to initiate stakeholder consultations in order to build a consensus on how to better regulate the communications industry without interfering with press freedom; asks President Kibaki and Prime Minister Odinga to do their utmost to guarantee that any updated version of the new media Act will be compatible with the principles of freedom of expression and information;
5. Underlines the need to address the culture of impunity in Kenya in order to bring those responsible for the post-election violence a year ago to justice; calls for the setting-up of an independent commission, consisting of local and international legal experts, to carry out investigations and prosecutions; notes that President Kibaki and Prime Minister Odinga have agreed in theory to create such a commission, but that it has yet to be formed;
6. Instructs its President to forward this resolution to the Council, the Commission, the governments of the Member States, the Government of Kenya, the Co-Presidents of the ACP EU Joint Parliamentary Assembly, the East African Community, and the Chairmen of the Commission and the Executive Council of the African Union.