



UNIVERSITY OF LEEDS

# Ethics of Investigative Journalism

A study of a tabloid and a quality newspaper in Kenya

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I confirm that the work submitted is my own and that appropriate credit has been given where reference has been made to the work of others.

**Supervised by Judith Stamper**

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## **Dedication**

In loving memory of my late mother Margaret Awino Maende. We did not have full plates, but we always had books and pencils. RIP Mama.

## Abstract

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The principal theoretical assumption in this study is that the tabloid and quality newspapers in Kenya push the limits of journalism ethics by employing some questionable tactics of investigative reporting. These involve covert surveillance or sting operations by journalists during which they hide their identities, invade the privacy of individuals, buy information, illegally hack telephones and computers or even tape people without consent.

But, could the end justify the means? (Belsey, 1998, p.6).

This study compares two weekly newspapers published in Kenya-- the *Weekly Citizen* (tabloid) and the *Sunday Nation* (quality) so as to establish if investigative journalists working for these two media houses practised ethical journalism.

Drawing on Kieran (2000, pp.156-76) and MacFadyen's (2008, pp.138-56) conceptual ethical framework for investigative reporting, this research presents a content analysis of the *Weekly Citizen* and the *Sunday Nation* during a six month period ending December 2010.

Interviews with Kenyan journalists are further used to gauge the ethics and standards of investigative journalism in the two newspapers.

The findings demonstrate that investigative journalists working for the tabloid and quality newspapers in this study, break certain ethics of journalism in some situations, but they justify the breach by citing the public's right to know, and the endeavour to fight corruption and wrongdoing against society.

Moreover, some Kenyan journalists cite commercial pressures to increase circulation as the reason behind pushing ethical limits to obtain exclusive scoops.

# Table of Contents

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Acknowledgements	1
Abstract	2
Table of Contents	3
<b>1.0 INTRODUCTION</b>	<b>4</b>
<b>2.0 LITERATURE REVIEW</b>	<b>7</b>
2.1 Public Interest	8
2.2 Investigative Journalism	10
2.3 Ethics of Investigative Journalism	12
2.4 Theoretical Framework	14
2.4.1 Duty Based Moral Theory	15
2.4.2 The Theory of Utilitarianism	17
2.5 The tabloids, quality newspapers and Journalism Ethics	17
2.6 Kenya's Print Media Sphere	19
2.6.1 The <i>Sunday Nation</i>	21
2.6.2 The <i>Weekly Citizen</i>	22
2.7 Ethics and Investigative Journalism in Kenya	23
2.8 Conclusion	24
<b>3.0 METHODOLOGY</b>	<b>27</b>
3.1 Aims, Objectives and Research Question	27
3.1.1 Aims	27
3.1.2 Objectives	27
3.1.3 Research Questions	28
3.1.3.1 Invasion of privacy	28
3.1.3.2 Protection of sources	28
3.1.3.3 Phone, computer hacking and concealed recording	29
3.2 The Research Methods	29
3.2.1 Content Analysis	29
3.2.1.1 The Sample Population	30
3.2.1.2 The Codebook Design	32
3.2.1.3 The Research Work	33
3.2.2 Interviews	33
<b>4.0 DATA ANALYSIS AND DISCUSSION OF FINDINGS</b>	<b>36</b>
4.1 Invasion of Privacy	39
4.2 Protection of Sources	44
4.3 Phone, computer hacking and concealed recording	49
<b>5.0 CONCLUSIONS</b>	<b>54</b>
<b>6.0 BIBLIOGRAPHY</b>	<b>57</b>
<b>APPENDICES</b>	<b>65</b>

## Introduction

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Investigative journalism seeks to expose unethical, immoral and illegal behaviour by government officials, politicians as well as private citizens (Kovach and Rosenstiel, 2007, pp.145-9). This genre of journalism has the potential to make a worthwhile contribution to society by “drawing attention to failures within society’s systems of regulation and to the ways in which those systems can be circumvented by the rich, the powerful and the corrupt” (de Burgh, 2008, p. 3).

Investigative reporting however “not only demands the highest standards of accuracy, but also delivers more ethical dilemmas on a daily basis than almost any other form of journalism” (Houston, 2009, p.108).

The hypothesis in this study is rooted in previous research that established that investigative reporting by newspapers in Kenya “lack depth, accuracy, scope and facts” Mbeke (2010, p.41).

By comparing the investigative reporting of the *Weekly Citizen* (tabloid) and the *Sunday Nation* (quality newspaper), this study, unlike previous research on the general standards of journalism in Kenya, investigates specific ethical dilemmas faced by investigative reporters.

Specifically it seeks to establish if the two newspapers invaded the privacy of individuals and protected sources of information. It also seeks to find out if the newspapers engaged in the hacking of telephones and computers or secretly recorded people. These three ethical areas have been chosen because they pose the gravest ethical dilemmas for investigative journalists (Kieran, 2000, pp.156-175; McFadyen, 2008, pp.138-156).

Journalism standards in most countries are enforced by codes of conduct drawn by voluntary regulatory bodies (Frost, 2011, pp.214-20), which remind journalists “about the moral choices they face in reporting the news and by providing them with a sense of their responsibilities and what is expected of them in the pursuit of their duties” (Jacquette, 2007, p.3).

The moral choices “require backing by reasons” (Rachels 1999, p.133) and that is why this study, through interviews with journalists in Kenya, also aims at establishing how journalists justify breach of ethics of investigative reporting.

Kenya, an emerging democracy and the biggest economy in East Africa (Macharia, 2011), liberated its media industry in 1990 allowing the growth of newspapers (Ali, 2010, pp.8-16) with some independent newspapers passionately carrying out investigative reporting. This media boom however led to demands for enhanced ethical standards (Mbeke, 2010, pp.41-45) and forced Kenya’s authorities in 2007 to develop a code of conduct for Journalists to boost “self-regulatory mechanism...as a foundation for the practice of ethical journalism in the country” (Paasch, 2009, p.52).

The Code of Conduct is enforced by a statutory Media Council of Kenya that was put in place by a legislative Act in 2007 to police standards of journalism in Kenya. Mbeke (2010, p.56) says the mandate of the Council is to regulate the media industry and to promote professionalism in the media as the code demands;

“accuracy and fairness, independence, integrity including financial integrity, accountability, the principle of opportunity to reply, the obligation to protect confidentiality, avoidance of misrepresentation and obscenity, the commitment to incorporate acceptable taste and tone in reporting, reasonable respect of privacy and the avoidance of conflicts of interest” (Kanjama, 2010, p.73).

Borden and Bowers (2009, p.356) say, just like other professionals, journalists voluntarily accept to be governed by Codes of Conduct so as to earn the trust of their clients and society. The world over, codes of conduct for the practice of journalism, tend to “focus on the principles of truthfulness, independence and non-malfeasance” (*ibid*) so as to enhance journalistic probity. The codes of conduct place on journalists the burden of ensuring “they are investigating fairly, with factual accuracy, with contextual accuracy and without any ethical breaches” (Houston, 2009, p.108).

Shoemaker and Reese (1996, p.98) argue that ethical codes are but basic guiding principles for the practice of journalism and that no code can anticipate every situation as Belsey and Chadwick (1992, p.9) summarise; “it is the individual

journalist who will come face to face with very difficult ethical dilemmas, and have to make moral choices.”

Kenya’s print media scene is a composition of the tabloid and the quality or mainstream newspapers--some of which publish daily while others are weekly and regularly attempt investigative journalism that exposes corruption in government and immoral behaviour among politicians and private citizens.

Like Britain, where “press regulation has proved problematic and patchy in its effectiveness” (Franklin, 1997, p.229), Kenya is struggling with the regulation of its journalism as an earlier research concluded that despite the existence of the code of conduct for the practice of journalism, “standards are wanting and there is need to improve journalistic standards in Kenya” (Paasch, 2009, p.53).

## Literature Review

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In 1885 *Pall Mall Gazette* journalist William Thomas Stead, operating undercover or while misrepresenting his identity found a 12 year old girl and bought her to prove his investigative story of child prostitution (de Burgh, 2008, pp.44-5). Stead's case is a notable example, among many, that deal with investigative journalists going undercover or misrepresenting their identities to get to the bottom of news stories.

Stead's justification for going undercover was to expose how easy it was to procure young girls for prostitution in the United Kingdom at the end of the 19<sup>th</sup> century. This is one of the instances where journalists have had to choose between what is morally wrong or right and the need to expose it so as to generate public debate or bring about changes in laws to control vice in society. Such choices can be justified ethically as long as journalists can determine "who will benefit as a result of the reporting" (Waisbord 2001, p.15).

Even though this undercover journalism earned Stead a three month jail term, it led to the 1885 enactment of the British Criminal law Amendment Act that changed the age of consent from 13 to 16 to control early marriages and child prostitution.

Similarly, in 1960 in Kenya, editors of the then newly established newspaper-the *Daily Nation*, (a sister publication of the *Sunday Nation*) gave Margaret Kenyatta a small camera loaded with film when she was going to visit her father Jomo Kenyatta in prison. Kenyatta, who was to become Kenya's founding president in 1964, was serving a nine year jail term imposed by the British colonial rulers who found him guilty of causing anarchy in the clamour for Kenya's independence. No picture of Kenyatta had been seen in seven years. Showing Mr Kenyatta in shorts and sandals, the secret pictures taken in prison by Margaret Kenyatta were published on the front page of the *Daily Nation* of June, 19 and "the story was a sensation, the papers sold like hot cakes" (Loughran, 2010, p.32).

According to Loughran who was the editor of the *Daily Nation* at the time, this exposé caused consternation within the British colonial government. "I got a lot of nasty phone calls. One chap actually threatened to horsewhip me. But it was a brilliant success" (*ibid*).



The actions of the *Daily Nation* and *Pall Mall Gazette* introduce the question of public interest and if the public's right to know supersede the ethics of journalism.

## 2.1 Public Interest Justification

A legal case in the United Kingdom's House of Commons in 1999 concerning the qualified privilege in the publication of libellous stories in the interest of the public provides good grounding for the understanding of journalists' duty towards the public. In his judgement in the libel case between Reynolds and the Times Newspapers Limited, Lord Nicholls laid out ten criteria which he said should be observed by the media before any publication of defamatory stories in the interest of the public (Horrie, 2008, pp.114-22).

Quoting Lord Nicholls, Horrie says proof of allegations notwithstanding investigative journalists have a duty to publish stories;

“if it can be shown that there is a high level of public interest in making the allegations, and that they are free from malice, then there is a strong QP (Qualified Privilege) right to publish them...even if the allegations turn out to be untrue, or are incapable of proof.” (*ibid*: 2008, p.118).

The questions investigative journalists need to ask however are:

“Whose interest does investigative journalism serve by publishing a given story? Does the press fulfil its social responsibility in revealing wrongdoing? Whose interests are being affected? Whose rights are being invaded? Is the issue at stake a matter of public interest? Or is individual privacy being invaded when no crucial public issue is at stake? (Waisbord, 2001, pp.15-16).

The claim that investigative journalists “side with the less powerful and the forgotten” (Spark, 1999, p.6) pins the role of investigative journalism to defending the general society, who according to Sparks need to be protected from the excesses of the power elites and the ruling class in society.

Waisbord and Spark write in the defence of the public's right to know and the need to publish stories that are in the public's interest even if they turn out to be contested by the people mentioned in the story and Belsey (1998, p.11) says the reality of ethical

journalism is based on the idea of virtuous conduct, facilitating the democratic process and serving the public interest.

The UK's *Sunday Times* set up a sting operation in 1994 that named and shamed MPs who accepted bribes so as to ask questions in Parliament. The newspaper journalists set up a fictitious company allegedly dealing in arms and approached some MPs to ask a question on behalf of the companies in the House of Common. Kieran says the *Sunday Times* published how Conservative MPs Graham Riddick and David Tredennick took the bait and accepted £1,000 bribe to ask the questions;

“This seems to be an obvious case where lying and deceit is justified in the name of the public interest. It is a deeply serious matter if MPs elected on the basis of representing the interests of their constituents, and the public at large, are asking questions on the basis of shadowy financial inducements” (Kieran, 2000, p.161).

The need to publish investigative stories of wrongdoing, according to Elliot and Ozar (2010, p.10), at times forces journalists to “make choices that cause emotional, physical, financial or reputational harm” to the elite or the rulers or the powerful people in society but McQuail (2003, p.47) urges restraint saying that “it is in the public interest that the media should do no harm” even though Horrie argues that Lord Nicholls ruling that “investigative journalists have the right to behave as ‘bloodhounds’ as well as watchdogs” (Horrie, 2008, p.114) only added stimuli to journalist’s muscles to harm wrongdoers.

Shoemaker and Reese (1996, p.99) however say that “the media’s traditional justification of the ‘public’s right to know’ has increasingly been questioned as public complaints increase and lawsuits charging invasion of privacy are filed”. On the other hand, what constitutes public interest has also been questioned by most scholars in social and political studies since;

“It will not do first of all to allow news reporters to intrude into any aspect of randomly chosen person’s life merely on the grounds that there exists a readership or viewership that could or would have an interest in consuming whatever information might come to light. Market forces alone should not be allowed to determine the distinction between what is private and what is fair game or journalists to investigate” (Jacquette, 2007, p.187).

However, the decision whether an issue is of private or public concern cannot be left to news subjects to determine because “it would permit individuals arbitrarily to block reporters from what could in principle be important information of public concern” (*ibid*).

## 2.2 Investigative Journalism

Several scholars have attempted a definition and description of investigative journalism. Most of them agree that it is a style of journalism that goes beyond the usual coverage of incidences, press conferences and press statements; rather, it seeks to unearth the hidden information of vice, malpractice and misdemeanour that may injure society.

Horrie (2008, p.114) says investigative journalism “is a generic form in which the journalists or newspaper initiates the story, based on a suspicion of wrong-dong, rather than simply reporting in a more passive and disinterested way the routine news of the day, or unscheduled disasters and accidents” while Kovach and Rosenstiel (2007, p.153) say investigative reporting involves not simply casting light on a subject but also usually “making a more prosecutorial case that something is wrong”. And that investigation could “result in official public investigations about the subject or activity exposed” (Kovach and Rosenstiel, 2007, p.145) in a way that may also produce “the first rough draft of legislation” (de Burgh, 2000, p.3) that eventually outlaws certain forms of wrongdoing such as corruption.

Classical examples of investigative journalism that resulted in official public investigations include the *Washington Post's* Watergate scandal investigation that forced the resignation of US President Richard Nixon in 1974 (*ibid*: pp.78-79). This reporting was only possible through the protection of a source whose identity was kept secret for 30 years (McFadyen 2008, p.140).

Recent examples of investigative journalism that resulted in official public investigations and prosecution include the 2009 scandal of British MPs inflating their allowances which were investigated by *The Telegraph* that resulted in the jailing of three MPs who were found to have fiddled their expense claims (Bingham, 2011).

The *Telegraph* bought the information—a contravention of media ethics but Brooke (2010, pp.248-53) says getting the information through legal means was impossible.

Common wrongs investigated by journalists include; “sex and personal scandals... financial wrongdoing, political corruption, (and) enrichment in public office” (Coronel, 2010, p.112). In some cases, investigative journalists “start or re-ignite debate or provoke political action over some issue that is officially closed” (Horrie, 2008, p.114).

Coronel argues that investigative journalists need to look beyond individuals;

“The best investigative work exposes not just individuals, but also systemic failures. Investigative reports show how individual wrongs are part of a larger pattern of negligence or abuse and the systems that make these possible. They examine what went wrong and show who suffered from the mistakes. They probe not just what is criminal or illegal, but also what may be legal and overboard but nonetheless harmful” (Coronel, 2010, p.113).

Investigative journalism though has evolved and matured over the periods into three distinct forms; original investigative reporting, interpretative reporting and reporting on investigations;

“Original investigative reporting involves tactics similar to the ones used by the police. It uncovers information not before gathered by others in order to inform the public of events or circumstances that might affect their lives. Interpretative (investigative) reporting develops as the result of careful thought and analysis of an idea as well as dogged pursuit of facts to bring together information in a new, more complete context that provides deeper public understanding. Reporting on investigations develops from the discovery or leak of information from an official investigation already underway or in preparation” (Kovach and Rosenstiel, 2007, p.146-7).

Because of its nature of “comforting the afflicted and afflicting the comfortable” (Spark, 1999, p.6), investigative journalism often place news workers in conflict with the power elites, the rich and the corrupt who seek to conceal information. Scholars who have written on ethics of journalism such as Sanders (2010), de Burgh (2008), Kieran (2000) and Frost (2011) agree that in some situations where the flow of information is suppressed by the power elites, journalists are left with no option but to engage in questionable tactics—hide identity, deceit, invade privacy of individuals

and even buy information from whistle-blowers so as to expose wrongdoing against the society.

Restricting the flow of information and the hindering of scrutiny of public offices causes problems to the fabric of professional journalism as Sanders says:

“where there is a basic disagreement on fundamentals between politicians and journalists, notably on such issues as the need for scrutiny (the journalists’ role), the legitimacy of persuasion (the politician’s role) and the general need for information flow, ethical journalism cannot even get off the ground” (Sanders, 2010, p.47).

### **2.3 Ethics of Investigative Journalism**

The word “ethics” when associated with journalism practice has elicited various definitions including “a set of principles and norms that, at least to some degree, guided journalistic practice” (Ward, 2006, p.100), or “a way of studying morality which allows decisions to be made when individuals face specific cases of moral dilemma” (Frost, 2011, p.10) or “the study of the grounds and principles for right and wrong human behaviour” (Sanders, 2003, p.15). The three scholars agree that ethics reflects human values such as courage, self-control and generosity and focuses on the standards of right and wrong.

Journalists, in the course of their duty, deal with the choice between what is moral or immoral if published. They even have to deal with moral and legal issues regarding how they obtain information.

The information that investigative journalists seek—that which touch on corruption, immoral behaviour and other vice are always private or hidden by the power elite and as such journalists are forced to dig deep to obtain information.

Indeed, investigative journalism’s key controversy has centred on how journalists obtained information. “It has always been an ethical and legal grey area, in which journalists have often stepped over the boundaries in pursuit of stories” (Greenslade, 2008, p.324) and “sometimes it isn’t easy to avoid ethical problems” (Shoemaker and Reese, 1996, p.98).

Ethical issues surrounding news gathering techniques such as concealed recording or telephone hacking, protection of sources and invading the privacy of people by the *Weekly Citizen* and the *Sunday Nation* are the key ethics of investigative journalism that this study seeks to test.

Even though unethical investigative journalism has had its downsides in the recent past forcing the closure of Britain's largest selling tabloid--*News of the World* (Sadle, 2011) following revelations of hacking telephones of families of soldiers killed in combat, royals, and a murdered girl, some authors believe investigative journalism is impossible without breaking the ethics of journalism. Gilligan (2011) says "if investigative journalism always had to be perfect, very little would get investigated. We're shining a feeble torch into a large, dark cupboard. We're dealing with tricky people".

The publication of several scoops on scandals of British MPs inflating their claims and allowances in 2009 by the *Daily Telegraph* raised several ethical issues especially how journalists obtained the evidence, after it emerged that editors of *The Telegraph* paid £110,000 to gain access to the data but also kept secret the identity of the source of information. "Editors described the controversial payment – which yielded one of the biggest newspaper scoops in recent times and delivered *The Telegraph* a healthy sales increase – as 'money well spent in the public interest'" (Tryhorn, 2009) as the story boiled into several criminal law suits that resulted in the jailing of three Members of Parliament and "although the stories damaged their (MPs') reputation, they were a fair and reasonable discussion of matters of public concern; it was, after all our money they were spending" (Frost, 2011, p.120).

The method used by the *Telegraph* to obtain the story and the newspaper's secrecy over its source of information reinforces claims that "it is only through illicit means that scandalous corruption can be exposed" (Brooke, 2010 p.253) but this heaves serious ethical and moral dilemma to investigative journalists;

"Yes, journalists should certainly be honest in their activities, in both investigating and reporting. But suppose some public corruption can be investigated only under cover, with the journalist pretending to be someone ready to make a corrupt deal?...A journalist might have the highest regard for the right to privacy, but...some information about a politician doesn't qualify for this protection (Belsey and Chadwick, 1992, p.9).

Justifying the unethical means used by the *Telegraph* to obtain the information Brooke said; “not one of the misuses of MPs expenses has ever been exposed through official channels. It has always been via the media through leaks” (Brooke, 2010, p.251). If the *Telegraph* refused to buy the information or refused to protect their source, the MPs expenses scandal would have not been known and the MPs would have walked scot free. Belsey (1998, p.6-7) argues that “how can the gangster, the drug pusher, the corrupt politician, the fraudulent businessman be exposed, except by methods which in other contexts would be questionable? Perhaps in these journalistic contexts such methods are morally required”.

Defending the breaking of journalism ethics to unearth corruption or vice in society, Kieran says:

“certain actions we normally think of as immoral can be, under certain strict conditions, morally justified...Such matters as deceit or intrusion into privacy may be justified — but only where they are absolutely required to establish proof of serious corruption, deceit or immorality that significantly harms others. Moreover, journalistic actions that abrogate the relevant moral considerations are very often not illegal in any way” (Kieran, 2000, p.159).

Unearthing details of stories that are hidden from the common eye and which in most cases involve issues that some people, especially government officials and the elite in society intend to keep away from the public is a noble job by the media as Belsey (1998, p.6) says the end may justify the means “In the investigation of crime or corruption...perhaps the journalist has to resort to some deception”.

## **2.4 Theoretical Framework**

In considering the roots of ethics of journalism, a look at the works of classical theorists and philosophers in ethics and human behaviour is important so as to ground arguments within this study.

Jacquette (2007, p.7) says a “theory of journalistic ethics should explain where journalistic rights and responsibilities come from and how they are related to the proper moral conduct of professional journalists”.

Technological changes in the media however call for a rethink of the study of theory of journalism ethics.

“The powerful forces now reshaping the media system, including globalization, technological shifts, and economic restructuring, pose extraordinary challenges and opportunities for media ethics theory. The very multidimensionality of these transformative forces require theorists to utilize a wider range of tools to capture the complexity of media practice to supplement, and in some cases refine, the normative frameworks we so often advocate” (Plaisance, 2011, p. 109).

Taking this into consideration, this study is grounded on a select normative theory of journalism ethics as espoused by classical thinkers and philosophers.

#### **2.4.1 Duty Based Moral Theory**

Sanders (2003, p.14) views ethics as a “moral philosophy” meaning that any attempt at a study of journalism ethics must be viewed from the moral responsibility of journalists—the producers of news.

According to Frost (2000, p.7), 18<sup>th</sup> century German scholar Immanuel Kant is a key figure who shaped contemporary ethical thought. Frost says Kant based his theories on “the concept of duty ethics” (*ibid*: p.7) when he developed the “theory of universalizability” also known as the “categorical imperative” (*ibid*).

The works of Kant (1724-1804) point to the need for human beings to give their wills freely to rules so as to enhance morality within society. He wrote “we must have rules to give our actions universal validity and to mould them into a general harmony. These rules are derived from the universal ends of mankind, and they are the moral rules” (Kant, 1930, p.17). This disposition by Kant gives backing for the establishment of Codes of Conduct that govern the professional conduct of journalists.

The essence of Kant’s work is that human beings must take into account the values inherent in their actions and make moral decisions whether such values, principles and morals should be applied universally. If those values of moral agents are to be applied universally in the media then it follows that the principles they subscribe to



then become an acceptable system of the global mass media ethics and standards that bind all journalists.

Kant further writes that “moral goodness consists, therefore, in the submission of our will to rules whereby all our voluntary actions are brought into a harmony which is universally valid” (*ibid*), lending credence to the acceptance by journalists to be governed by the Codes of Conduct which are not laws but are voluntary regulations that guide the practice of journalism.

Kant’s writings indicate a strong belief that all human beings are equal and that they have a right to their opinions. “He thought that the end did not justify the means. Only by acting from duty could one be said to be acting morally and the consequence was not something that could always be foreseen. This makes his views useful when drawing up codes of conduct” (Frost, 2000, p.8).

Since Kant’s philosophy and theories stress the principle of duty ethics, it then follows that journalists are obliged by duty as Elliot and Ozar (2010, p.10) say to always tell the truth even if the truth “might cause emotional, physical, financial or reputational harm”.

Frost says that Kant’s theories however do not address conflicts of interest in journalism.

“If a journalist were asked by police to suppress the story of a kidnap in order to protect the victim’s life, how could the journalist not publish when it should be a categorical imperative to publish known information, yet to protect someone’s life when such protection is required must surely also be a categorical imperative? Since much of the ethical debate within the media is balancing the right to publish against some other right, such as a person’s right to privacy” (Frost, 2000, p.8).

Journalists’ moral reasoning also derives from their duty of loyalty or duty of gratitude to their readers and advertisers. Frost says philosopher Sir William David Ross (1877-1971) believed that all human beings have duties of fidelity “that we are bound by our own words or acts. If we sign a contract, we are duty bound not to break it”.

Key in Ross’ reasoning is that “if you do wrong, you are duty-bound to undo the wrong and make good the damage as far as possible” (*ibid*: p.9). This goes to the

core of journalist's code of conduct that demand accuracy and the offer for reply for people mentioned in news reports and the need for apology in case of false accusation.

#### **2.4.2 The Theory of Utilitarianism**

Utilitarianism was introduced into the mainstream of contemporary western ethical thought by two 19<sup>th</sup> century British philosophers--John Stuart Mill (1806-73) and Jeremy Bentham (1748-1832). Scholars Sanders and Frost say this theory focuses on the consequences of an ethical judgement, instead of looking at the reasons for a particular action as suggested by Kant.

Sanders (2003, p.19) says the key idea of utilitarianism is that the “consequences of actions are the key to assessing whether they are ethical”. This explanation is further reinforced by Frost who avers for the best outcome for the larger society. He says;

“Utilitarianists believe that an action that produces an excess of beneficial effects over harmful ones must be the right one...it justifies, for example ruining the life of a children's home superintendent by exposing him as a child abuser on the basis that it has saved children” Frost (2011, p.14-5).

This reasoning thus defends and justifies the means by which investigative journalists gather information especially if that information would save the lives of several people.

#### **2.5 The tabloids, the quality newspapers and Journalism Ethics**

Even though the term tabloid was used to denote the size of newspapers, especially the newspapers that were half the size of broadsheets (related with quality journalism), tabloid has lately represented “a certain way of selecting and presenting news” (Örnebring and Jönsson, 2008, p.28) including using page filling pictures and less texts to tell a story and the slanting “toward the visual, emotional and sensational and...the personal experience of ordinary people” (Hallin, 2000, p.277)

while ignoring ethics and standards of journalism such as how those stories are pursued and obtained.

In what McNair (2001, p.44) terms as “dumbing down” of news, tabloids allocate much attention to “scandal and popular entertainment” (Sparks, 2000, p.10). And Franklin laments that because of the tabloids:

“entertainment has superseded the provision of information...the trivial has triumphed over the weighty; the intimate relationships of celebrities from soap operas, the world of sport or the royal family are judged more newsworthy than the reporting of significant issues and events of international consequence” (Franklin, 1997, p.4).

Empirical studies by Prior (2003, p.154) revealed that “soft news still attracts millions of viewers and ranks among the top three news formats for about a third of the population”, giving Tabloids a distinctively important place in the hearts of readers of newspapers.

The tabloids are considered to lower “the standards of idealised journalism” (Conboy, 2006, p.212) because they focus too much on gossip and private lives of celebrities. Further, the view that tabloids blatantly disregard journalism ethics in their investigative reporting as was the previous sting techniques of the *News of the World* that involved the use fake sheikhs to get exclusive stories (Greenslade, 2003, p.652) has further helped give tabloids a bad name and the feeling that popular press undermines “the ideal functions of mass media in liberal democracies” (Gripsrud, 2000, p.285).

In Kenya, the *Weekly Citizen* (*tabloid*) has taken a similar approach to journalism as most UK tabloids, feeding audiences with screaming headlines about celebrities and gossip and stories obtained through questionable means (Maina, 2006, p.36). Rhoufari (2000, p.171) writes that the tabloid press avoid “serious news agenda” by invading the privacy of private people and celebrities and even buying news from sources and this according to Allan (2004, p.206) undermines “the integrity of the ‘quality’ end of news reporting spectrum”.

However, quality newspapers such as the *Sunday Nation* in this study are not blameless when it comes to observing ethics of investigative journalism.

“It is important to remember that journalists working in the mainstream media do not always and necessarily follow the well-trodden path of professional codes and conventions in their news reporting. The codes and conventions of news reporting are themselves dynamic and constantly shifting, liable to disruption from contradictory internal and external forces” (Coyer *et al*, 2007, p.144).

The tabloids cannot take the blame alone according to Orr (2011) because the quality newspapers or the upmarket papers follow up on the lurid tabloid stories but appear to publish them in a more ethical manner.

“It has become endemic, the process whereby a red-top, or middle-market newspaper peddles details of private lives, only to have them followed up by the qualities, with a rather more toney tone. This is sometimes pernicious, not least because it means that the press really are "all in this together" (Orr, 2011).

## **2.6 Kenya’s Print Media Sphere**

Kenya’s print media scene consists of 14 newspapers (dailies and weeklies) namely the *Daily Nation*, *Sunday Nation*, *The Standard*, *Sunday Standard*, *Kenya Today*, *The People*, *the People on Sunday*, *Taifa Leo*, *Taifa Jumapili*, *Business Daily*, *Nairobi Star*, *The East African*, *Coast Week* and *the Financial Post*. The *Weekly Citizen* is a new addition to the print media having started publishing in 1997. (Paasch, 2009; Mbeke, 2010). All the newspapers according to Ali (2010, p.16) are privately owned and publish in English except *Taifa Leo* and *Taifa Jumapili*.

While the number of dailies in Kenya “has not changed since 1990, the number of national weeklies increased from five to nine between 1995 and 2005, including the addition of the *Weekly Citizen* (a gossip tabloid)” (Maina, 2006, p.30). The sluggish growth of the newspaper industry is as a result of the local newspapers industry being “seen as an unattractive investment prospect in the country” (*ibid*).

Mbeke (2010, p.8) however disagrees saying Kenya has a “sophisticated, diverse and lively mass media sector”. Mbeke tables figures to back his claim saying that the good economic performance in Kenya has seen advertising in the media industry

grow steadily from KSh6.6 billion (£46.4 Million) in 2003, Sh8.4 billion (£59 Million) in 2004, Sh9.3 billion (£65 Million) in 2005, Sh13.6 billion (£95.6 million) in 2006 to Sh17.4 billion (£122 Million) in 2007 (*ibid*, p.9).

Even though subject to harassment from the police and government, Kenya's print media now enjoys much more freedom than in the past (Moggi and Tessier, 2001, p.8).

The print media, relative to the Kenya population of 38.6 million people as at 2009 (KNBS 2010), is "very small and urban based. About 2.6 million town folk read newspapers daily compared to 2.2 million rural folk" (Mbeke, 2010, p.14).

The circulation in the print media has stagnated and in some cases gone down because of "affordability, given the high production cost and heavy taxation of newsprint. Circulation and sales respond to the economy and the current situation is unfavourable" (Paasch, 2009, p.25).

The media in Kenya, like in many countries are also subjected to controls through cross media ownership and concentration. Herman and Chomsky (1994, p.14) says overlapping ownership subjects the media "to sharp constraints by owners and other market-profit-oriented forces". As a result, "journalists may feel pressured to promote or suppress stories" (Hackett 2005, p.93).

Kenya's media, according to Mudhai (1998, p.60) has not been spared from such problems including the slanting of news and unethical means of obtaining information to increase sales as "ownership, governmental and economic factors affect how these media operate".

This study narrows its focus to the *Sunday Nation* (a quality newspaper) and the *Weekly Citizen* (a tabloid newspaper) which it compares so as to establish the ethics and standards of investigative journalism observed by the two newspapers and if they subscribe to different sets of standards and ethics of journalism.

### 2.6.1 The *Sunday Nation*

The Nation Media Group, a publicly quoted company at the Nairobi Stock Exchange is controlled by Prince Karim Aga Khan—the spiritual head of the Shia Imami Ismaili Muslims worldwide, who is the principal shareholder (Loughran, 2010, pp. 24-5).

It launched the *Sunday Nation* in 1960 (*ibid*: p.33) and it has grown over time to reach a circulation of over 200,000 for every issue and currently employs over 50 journalists (Moggi and Tessier, 2001, p.9). The English language *Sunday Nation* and its sister paper the *Daily Nation* are the largest circulating newspapers in Kenya controlling about 80 per cent of the market share in Kenya’s print media readership (*ibid*; Paasch, 2009, p.25).

According to Loughran who served as one of the pioneering editors at the Nation Media Group, the *Sunday Nation*, a 98 page weekly newspaper, was initially set up as a tabloid but during its launch the “word ‘tabloid’ was not synonymous, as it later became, with ‘sleazy’, ‘downmarket’ or ‘sensational’; it referred simply to size, a half-sheet newspaper, indeed anything in compressed form” (Loughran, 2010, p.42).

The *Sunday Nation* is the largest circulating weekly in Kenya selling 231,000 copies every Sunday compared to the 90,000 and 40,000 copies sold by the *Sunday Standard* and the *People on Sunday* respectively (Ali, 2010, p.16).

Maina (2006, p.32) writes that the *Sunday Nation* is “notable for its diversity of content...with coverage reflecting a cross section of views and activities. Other papers now seem to be copying this trend”. The *Sunday Nation* concentrates on political commentaries and investigative stories on its front and back pages with sports coverage tucked in the inside pages.

### 2.6.2 The *Weekly Citizen*

The *Weekly Citizen* is a 20 page weekly tabloid newspaper published in Nairobi every Sunday. Interviews with the newspaper's directors and editors reveal that the paper was established in 1997 as a four page A4 size underground leaflet or alternative press circulating in Nairobi and its suburbs at the height of the clamour for multiparty politics in Kenya (Alwaka, 2011).

During the period, the regime of retired president Daniel Moi muzzled the press and restricted media freedom. Investigative stories of corruption could not be published in the more established quality newspapers. The press was constantly watched and monitored and several laws relating to official secrets act and libel laws made it difficult for the press to operate independently (Mbeke, 2010, p.37-45).

Democratisation led to increased political competition thereby widening the space for popular expression that in turn led to increased demand for the alternative sources of information (*ibid*: p.40). This saw the *Weekly Citizen* gradually grow its pagination to eight and eventually to a 20 page tabloid format newspaper by the year 2000.

Even though "the market for such tabloids is limited to the urban areas" (Maina, 2006, p.31), the editor of the *Weekly Citizen* say the newspaper's team of 15 journalists have worked to grow circulation to over 40,000 copies every week on the backdrop of a print order of 50,000 copies (Alwaka, 2011).

The *Weekly Citizen* "dwells mainly on sensationalising imagined or real stories about the who's who of Kenya" (Maina, 2006, p.31). The newspaper concentrates on publishing stories on corruption and sex scandals taking place in private companies and the public sector but it also concentrates on stories touching on the private lives of politicians and the celebrity in Kenya.

The weekly newspaper, in most cases breaks and publishes stories which are later picked up by the quality newspapers.

The newspaper has established itself as a voice of the people and in most cases disregards common journalism ethics to expose corruption in public and private sectors so as to expose other ills affecting Kenyans but this landed its editors in detention in 2006 when police raided the *Weekly Citizen's* offices in Nairobi and

arrested four journalists and vendors (Kiai, 2010, p.106) after the paper ran a front-page story in “titled ‘Kibaki Senile,’ which alleged that President Mwai Kibaki was not in control of the government” (CPJ, 2006), this demonstrated “heavy handed methods of enforcing regulation” (Kiai, 2010 ,p.106).

## **2.7 Ethics and Investigative Journalism in Kenya**

According to Mbeke (2010, p.38) investigative journalism in Kenya, although started in the 1970s, is not well developed. Investigative journalism took root in Kenya in the early 1990s because of market forces, tolerance of it within media houses and the availability of a cadre of well trained and working journalists at the time. According to Kiai (2010, p.108) a strong market demand for investigative reporting has arisen as a result of “the growing public disgust with corruption in Kenya”.

However there are “obvious and serious gaps in the quality of investigative reports in Kenya. The investigative reports lack depth, accuracy, scope and facts. Generally what comes across is that the stories are often done in a hurry with no adequate follow-up” (Mbeke, 2010, p.41).

The number of cases brought by various Kenyan politicians and celebrities before Kenya’s media regulator—the Media Council of Kenya, is a testimony of those gaps Mbeke refers to.

According to the Media Council of Kenya, breach of ethics of journalism formed the bulk of complaints from politicians, business people and celebrities between January and December 2010.

“A total of 44 complaints were instituted with the Council. Of these, 3 complaints were by the Press against Government authorities for violation of press freedom and 41 complaints were directed against the press for breach of journalistic ethics” (Media Council of Kenya, 2011).

Investigative journalism in Kenya is hampered by the fear of defamation and criminal libel, the fear of victimisation, inadequate financial resources and waning editorial commitment (Mbeke, 2010, p.43).



## 2.8 Conclusion

The Literature review indicates that investigative journalism has played a key role in most countries including Kenya in the fight against graft in public offices, societal vices and misdemeanour but in most cases it has not been easy for journalists who have had to break some journalism ethics so as to expose graft and misdemeanour in society.

The theoretical background in this study underpins the need for ethics in investigative journalism. Kant, one of the moral theorists studied under the Literature review believed that human beings are bound to tell the truth even if that action would harm others but in so seeking to tell the truth, human beings ought to respect each other so as not to treat others as a means to justify the end. Kant's beliefs clash with the actions of journalist Gilligan who wrote that he had lied and received stolen goods out of which he wrote news that earned him awards and accolades.

From the literature review, it can be deduced that journalists working for the tabloid and quality newspapers do not necessarily play alongside journalism ethics. They break them from time to time depending on the news stories they are investigating and depending on the situations such as difficulty in getting official documents to back the story.

An editor with the *Telegraph*, one of the quality newspapers in the United Kingdom writes that "as a journalist I have lied, I have received stolen goods, and for these things I have won two of the top awards in the profession" (Gilligan 2011). This assertion brings to the fore the underhand tactics used by even the quality newspaper journalists to get to the heart of an investigative story.

Journalists work on behalf of the public and the trust with which the public has entrusted in them demands that they meticulously reveal detailed information of events or hidden issues that if left untouched could harm the general public. Lord Nicholls ruling read alongside the works of scholars cited in this study defend the journalists' action to publish some investigative stories even in cases where evidence is scarce and even if the published stories later turn out to be untrue as long as such a story is in the interest of the public or intended at defending the public from harm. This view is supported by the fact that news is a perishable commodity

and if left unpublished for a long time may go stale and may cease to interest the public.

However these views clash with the reasons for the establishment of various Codes of Conducts for journalists in Kenya. The Codes of Conducts are aimed at streamlining the conduct of journalists to ensure that published stories are balanced, factual and are of good taste.

Borden and Bowers (2009, p.356) say, just like other professionals, journalists voluntarily accept to be governed by codes of ethics so as to earn the trust of their clients and society. The Codes of Conduct the world over tend to “focus on the principles of truthfulness, independence and non-maleficence” (*ibid*).

The journalists agree to be bound by the Codes of Conduct as a sign of good faith, goodwill, an acceptance of the need to instil professionalism in their work as Besley (1998, p.10) says “all the virtues associated with ethical journalism—accuracy, honesty, truth, objectivity, fairness, balance, respect for the autonomy of ordinary people—are part of, and required by, journalism as located within the democratic process”.

However, there are some media houses and some journalists who nonetheless bend the Codes to gain and achieve news stories. They do so because sometimes the information is hidden and the need for the public to know far outweighs the need to keep within the journalism ethics. They do so because “There is a job to be got, promotion to be obtained, so the story has to be written and the methods necessary to obtain the story used, the story must sell, the managers must be satisfied, the growth targets met. The market must be chased, so there is a constant temptation to print trivial stories, salaciously presented and obtained by suspect methods” (Belsey, 1998, p.12).

The Literature Review underscores Kenya’s media scene and specifically the weekly publications the *Sunday Nation* and the *Weekly Citizen* which dominate the weekly publications’ stable in Kenya’s media industry. The two newspapers have a diverse history as the Sunday Nation was established nearly 50 years ago but the Weekly Citizen is relatively new having published for the past 13 years. Even though the two weeklies are starkly different in terms of their history, they command a combined

circulation of about 240,000 copies every week with the Sunday Nation taking the Lion's share of the circulation.

The *Weekly Citizen* has had its share of troubles with authorities in Kenya which accuse it of unethical journalism but in contrast the *Sunday Nation* has been hailed as ethical press.

## Methodology

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### 3.1 Aims, Objectives and Research Question

The study drew on the hypothesis that the *Weekly Citizen* carries out important investigative journalism but it does this in disregard of journalism ethics and that this gives journalism a bad name. On the other hand the *Sunday Nation* is more cautious and strives to adhere to journalism ethics but it tends to pick what the *Weekly Citizen* has already published, polish it up, get more details and quotes and then publish the same in a more sanitised and ethical way. To allow for full examination of this hypothesis, a number of aims, objectives and research questions were formulated. These are intended at guiding the research initiative and putting the study into perspective.

#### 3.1.1 Aims

This study aims to;

- i. Compare the frequency with which the *Weekly Citizen*--a tabloid and the *Sunday Nation*—a quality newspaper breach or uphold ethics of investigative journalism.
- ii. Examine ethics of investigative journalism in Kenya's tabloid and quality newspapers and to add to existing research.

#### 3.1.2 Objectives

To realise the aims of this study, it became necessary to formulate the following objectives

1. To investigate if the *Weekly Citizen* and the *Sunday Nation* protect their sources of information, invade the privacy of people, or secretly record or hack people's telephones and computers.

2. To establish the views of Kenyan journalists regarding ethics of investigative journalism.

### 3.1.3 Research Questions

This study utilises the conceptual ethical framework for investigative journalism identified by Kieran (2000, pp.156-175) and McFadyen (2008, pp.138-156) as;

1. Invasion of privacy,
2. Protection of sources,
3. Phone, computer hacking and concealed recording.

Since this is a comparative study of a tabloid (*Weekly Citizen*) and a quality newspaper (*Sunday Nation*) in Kenya, the general question this research aims to answer is:

Do the *Weekly Citizen* and the *Sunday Nation* observe ethics of investigative journalism?

Specific questions derived from the ethical framework of investigative journalism are:

#### 3.1.3.1 *Invasion of Privacy;*

How frequent do the *Weekly Citizen* and the *Sunday Nation* publish private details of people's health, sex life or bank records?

#### 3.1.3.2 *Protection of sources;*

How often do the *Weekly Citizen* and the *Sunday Nation* write stories with anonymous sources to protect the sources' identities?

When would tabloid and quality newspaper journalists in Kenya disclose the identity of their news sources?

Are there instances when Kenya's tabloid or quality newspaper journalists have been forced to name their sources?

### 3.1.3.3 Phone, computer hacking and concealed recording;

How often do the *Weekly Citizen* and the *Sunday Nation* write stories quoting private e-mails or phone details of individuals?

Do the *Weekly Citizen* and the *Sunday Nation* journalists secretly record news sources?

Have the *Weekly Citizen* and the *Sunday Nation* hacked telephones or computers of celebrities and politicians?

## 3.2 The Research Methods

This study utilised a hybrid research method comprising;

1. Content analysis of a selection of editions published by the *Weekly Citizen* and the *Sunday Nation* and,
2. Interviews with editors and journalists working in the tabloid and the quality newspapers in Kenya.

### 3.2.1 Content Analysis

To investigate the occurrence of non-ethical issues in the *Weekly Citizen* and the *Sunday Nation*, a quantitative and qualitative analysis of investigative news articles published by the two newspapers during the periods July 2010 to December 2010, was carried out to determine the frequency with which articles appearing in the *Weekly Citizen* and the *Sunday Nation* disregarded the selected journalism ethics as framed by Kieran (2000, pp.156-75) and McFadyen (2008, pp.138-156) as the biggest ethical dilemmas facing investigative journalists. These include: invasion of privacy, protection of sources of information and concealed recording or telephone hacking.

Quantitative content analysis is used to measure the frequencies of the breach of ethics of investigative journalism produced by the *Weekly Citizen* and the *Sunday Nation* since it is a formal system that helps researchers in “drawing conclusions

from observations of content” (Stempel III, 1989, p.124) especially of newspapers, magazines and television programmes.

According to Wimmer and Dominick (2003, p.141) content analysis “is a method of studying and analysing communication in a systematic, objective, and quantitative manner for the purpose of measuring variables”.

Wimmer and Dominick say that the main advantage of using content analysis is “its potential to identify trends over a long period of time” (*ibid*: p.142).

Stages in content analysis according to O’Sullivan *et al* (2003, p.274) include;

- 1 Defining and pinning down the research problem
- 2 Defining samples
- 3 Drawing out content categories
- 4 Measurement of the categories to establish frequency of occurrence
- 5 Review of results and interpretation.

### **3.2.1.1 The Sample Population.**

This study aims at examining ethics of investigative journalism in the weekly tabloid and the quality newspaper in Kenya. The two newspapers under this study are the *Weekly Citizen* and the *Sunday Nation*. The study analysed the contents of the two newspapers during a half year period starting in July 2010 and ending December 2010. The *Weekly Citizen* was selected because it is currently the only weekly tabloid in Kenya and the fastest growing tabloid (Maina, 2006, p.31). The *Sunday Nation* on the hand was chosen because it is the oldest and the largest circulating weekly quality newspaper in Kenya (Ali, 2010, p.16).

The sample was determined by the weekly issues of the two newspapers (tables 1.2 and 1.3). The archived *Weekly Citizen* newspapers were physically collected from the newspaper’s library at the third floor of Campus House in Nairobi and photocopied while archived *Sunday Nation* newspapers which were digitally stored at the Nation Media Group’s library at the fourth floor of Nation Centre were digitally mastered in a compact disc. This involved travel to Nairobi, the headquarters of the two newspapers. It was hoped that the consistent sampling from July 2010 to

December 2010 would offer accurate representation of the contents of the two newspapers.

Figure 1.1: Population Sample in study:

*Weekly Citizen and Sunday Nation*

Period (in 2010)	Number of Sundays in a month	Number of editions per month per newspaper	Number of articles analysed per newspaper per month
July	4	4	12
August	5	5	12
September	4	4	12
October	5	5	12
November	4	4	12
December	4	4	12
Total	26	26	72

The difficulty was that all the archived *Weekly Citizen* newspapers from the months of July 2010 to December 2010 had to be physically sorted out since the newspaper's library is not very organised and material is not stored in digital format. Photocopying the front, inside and back pages of each of the 26 editions of the weekly newspaper was not simple as some were not properly arranged in terms of edition dates or issue order. Further, the *Weekly Citizen* Library did not have an installed photocopier machine so photocopies had to be made from outside the Library room.

On the other hand, getting copies of the *Sunday Nation* was relatively easy as the newspaper's editions are stored digitally. With the help of Library assistants, the 26 editions of the *Sunday Nation* were digitally mastered to a compact disc. This made the work easier and tidier.

The search, photocopying and copying or mastering materials on compact disc took place in April 2011 in Nairobi.



The top three investigative stories published by each of the two newspapers per week was photocopied (in the case of the *Weekly Citizen*) or digitally mastered on a compact disc (in the case of the *Sunday Nation*), meaning that for each month a total 12 stories were included in the sample population. The top three stories of each edition was chosen because they either appeared on the front or back pages of the newspapers considered to be the prime pages of the newspaper where lead or exclusive investigative stories are published or they appeared in the special report sections of the newspapers. (See appendix 5).

The sample consisted of 26 newspaper editions from each of the *Weekly Citizen* and the *Sunday Nation*—the units of analysis, making a total of 52 newspaper editions for the study period. From the sample population, 12 investigative stories, six each from the two newspaper categories per month were analysed making a total of 72 stories per newspaper sample for the six month period. This means that 36 stories from each of the two newspapers were sampled.

The recording units were defined as the news stories published on the front, inside pages and back pages and labelled as investigative stories or exclusive stories. This is so because this research aims at studying the ethics of investigative reporting of the two newspapers.

### **3.2.1.2 The Codebook Design**

The key variables to be tested in this study are the ethics of investigative journalism that yield the biggest dilemma for investigative journalists outlined by Kieran (2000, pp.156-175) and McFadyen (2008, pp.138-156) as invasion of privacy, protection of sources, phone and computer hacking and concealed recording.

To make the hypothesis of this study measurable, the variables were further broken down into smaller and specific attributes by which these variables could be coded (see appendix 1) with each ethical attribute assigned a number. The numbers corresponding to the attributes of ethics in journalism were written down for clarity purposes and also to enhance reliability and accuracy of findings.

### **3.2.1.3 The Research Work**

The codebook, bearing the categories of ethics of journalism and each of the smaller attributes of journalism ethics was used to analyse each of the 36 investigative articles picked over a six month period beginning July 2010 to December 2010. A handwritten coding sheet was drawn up in which data was put (see sample in Appendix 1).

Analysing each of the newspaper articles took an average 10 minutes meaning that it took approximately 360 minutes or six hours spaced within a nine day period to analyse all the sampled articles.

### **3.2.2 Interviews**

Interviews were the most suitable method to use in gauging the views of Kenyan journalists regarding ethics of investigative journalism because it offered in-depth details from professionals who encountered ethical dilemmas in the course of their duty.

Interviews according to Knight (2002, p.50) are important because they can be a “warmly inter-subjective means of exploring human experience”.

Furthermore “structured interview...provide an approach to illuminate and contextualize both media professionals’ manifestations of virtue in their work as well as the nature of their ethical deliberation for specific types of moral quandaries (such as issues of privacy, transparency, conflict of interest, sourcing)” (Plaisance, 2011, p.103)

In-depth interviews were preferred because it was important to find out first-hand how they perceive journalism ethics and how they react to situations that force them to break the ethics. O’Sullivan *et al* (2003, p.280) says “interviews are a research method that can be employed to investigate a wide variety of research problems and projects” and that interviews are qualitative research which seek to uncover audience interpretations and observations.

Interview method was appropriate since “questions which were not understood can be rephrased, and reluctant or anxious respondents can be helped by being given encouragement” (Keats, 2000, p.3-4). Other methods of research do not offer a chance to probe and get in-depth information.

In-depth interviews “give direct access to unique forms of experience and expression often denied by other methods. The strengths of interviews often include: their freedom (both the interviewer and interviewee are allowed to explore and negotiate the particular topic); their directness of contact, feedback and responses; and their in-depth detail” (O’Sullivan *et al*, 2003, p.280).

Because of the varying level of age and experience among Kenyan journalists, and because newsrooms the world over have similar structures that come together in the production of news (Shoemaker and Reese, 1996, p.152-3) interviewees were categorised into

1. Editors
2. Sub-editors
3. Senior journalists
4. Junior journalists

For the purposes of the study, 12 journalists working for the tabloid and quality newspapers in Kenya were interviewed as indicated in table 1.4.

This categorisation was chosen because it fits in with the newsroom structure as explained by Shoemaker and Reese (1996, p.152) and also because it is the chain responsible in the manufacture of news.

The Editors interviewed all have over 10 years of experience in journalism while one subeditor interviewed had clocked 11 years in journalism. Another sub-editor interviewed had worked in media for over five years. Two senior journalists interviewed had been in active journalism for over five years while one senior journalist had over 10 years of experience. The junior journalists interviewed were fresh from college or universities and had not completed two years in the newsrooms.

Figure 1.2: Interviewees by category

category	Tabloid	Quality newspaper
Editor	1	1
Sub-editor	1	2
Senior Journalist	2	1
Junior Journalist	1	3
Total	5	7

Among the senior journalists interviewed, was a reporter who had been forced by a prosecutor in 2006 to name her sources of information in an investigative story that had been published. This was considered an important experience since the confidentiality of sources is among the key variables being tested by this study.

The interviews were conducted by telephone and recorded using broadcast studio facilities at the University of Leeds' Institute of Communications Studies.

The interviews with the journalists were recorded and saved and their names would not be mentioned in this study for the purposes of confidentiality.

However some obstacles were observed while arranging the interviews and recording the interviews. Using telephones removed the face-to-face contact that would have been helpful in noting body language of the interviewees. Lack of physical contact made it difficult to arrest the attention of the interviewees for longer periods.

## Data Analysis and Discussion of Findings

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This chapter presents a simultaneous analysis of the data generated from the content analysis and a discussion of the findings from the interviews with Kenyan journalists.

The key question to be analysed by the data and the interview discussions is; do Kenya's tabloid and quality newspaper journalists observe ethics of investigative journalism?

The articles from the *Weekly Citizen* and the *Sunday Nation* were analysed for;

1. Invasion of privacy
2. Protection of sources
3. Hacking of phones/computers and concealed recording

A summary of findings on ethics of investigative journalism of the 36 investigative stories from the *Weekly Citizen* and the *Sunday Nation* are presented in figures 1.3 and 1.4.

Figure 1.3 *Weekly Citizen*: ethics of investigative journalism analysed

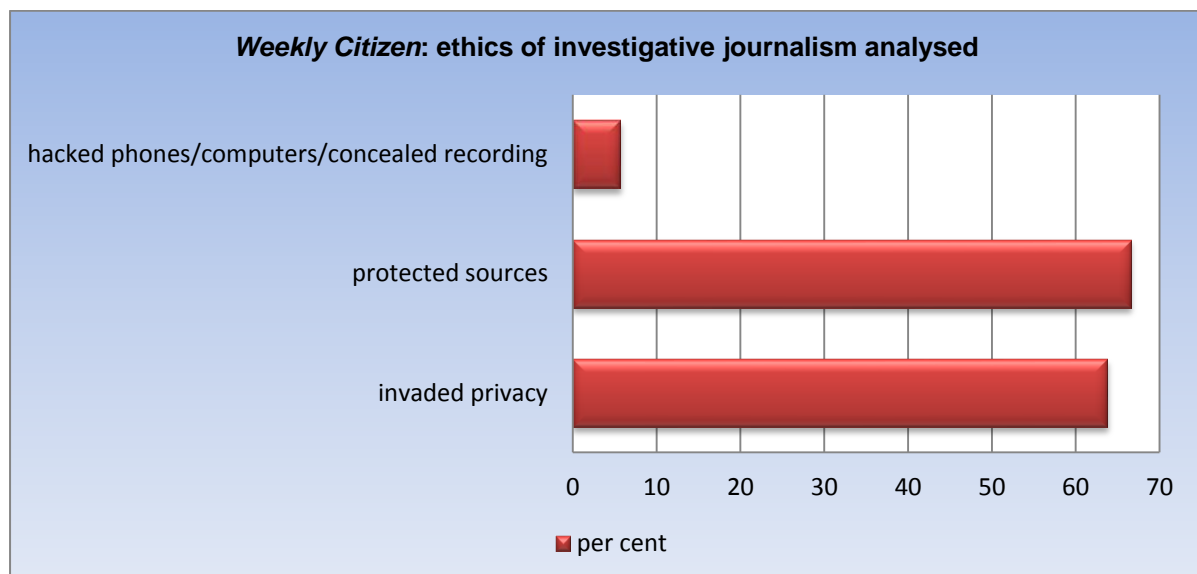
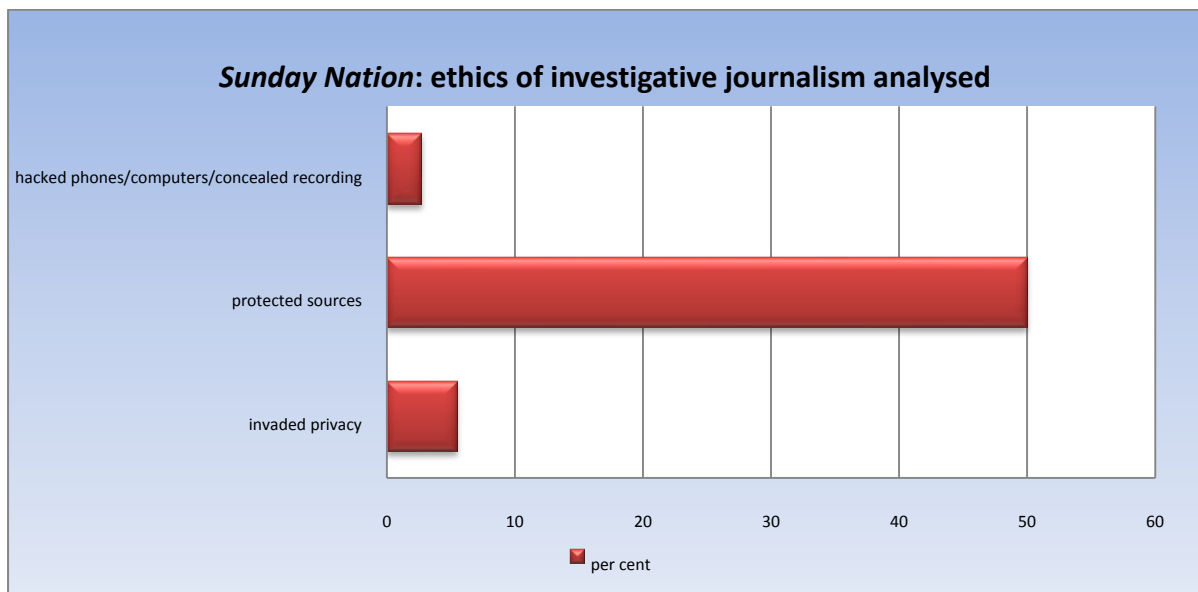


Figure 1.4 *Sunday Nation*: ethics of investigative journalism analysed



The 36 investigative news articles from the *Weekly Citizen* and the *Sunday Nation* were further analysed for specific ethical attributes namely:

1. Health life of individuals
2. Sex life of individuals
3. Private bank details
4. Sources who cannot be named for security reasons
5. Anonymous sources
6. Private e-mails
7. Private phone conversations

The data are presented in figures 1.5 and 1.6

Figure 1.5 *Weekly Citizen*: The specific ethical attributes analysed

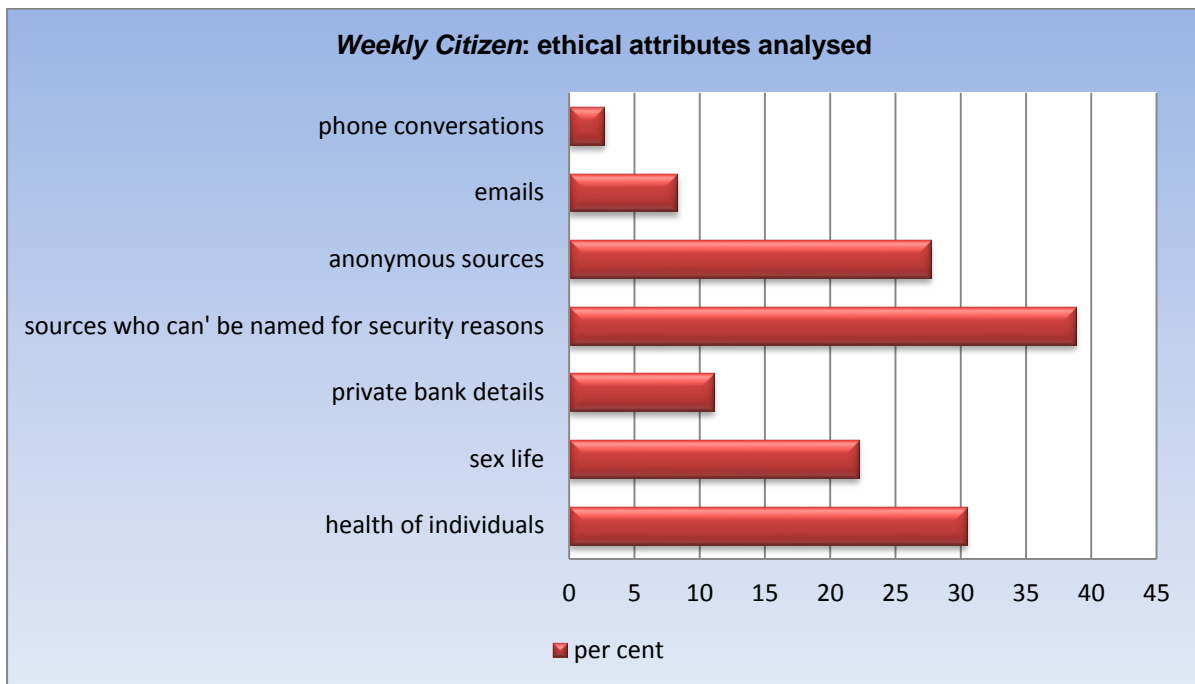
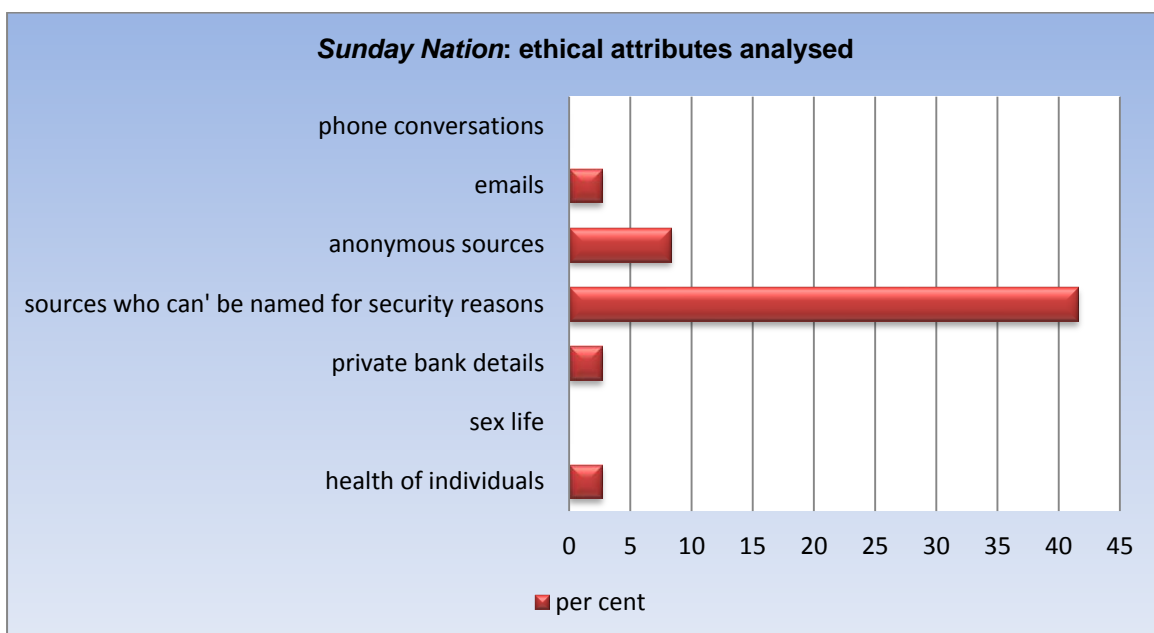


Figure 1.6 *Sunday Nation*: The Specific ethical attributes analysed



## 4.1 Invasion of privacy

Invasion of privacy is defined as the “publishing of information regarding those aspects of an individual’s personal life –sexual relationships, marriage...health-which have no demonstrable bearing on any public position they might hold, when no statutory offense has been committed” (Burden, 2008, p.171).

Unjustified media intrusion and exposing of intimate details of individuals in the media is unethical because there are things which people would “want to hide because these would discredit them in the eyes of others” (Gerstein, 1984, p.265). Davies (2008, p.3) points out that “we shouldn’t be writing about anybody’s private life at all unless there is some really powerful public need.”

Table 1.5 indicates the frequency of violation of privacy of individuals by the *Weekly Citizen* and the *Sunday Nation* which is “the greyest moral area for journalists” (Sanders 2003, p.77). The violations of the journalism ethic were established from analysing the newspaper samples on three specific attributes namely stories which mentioned;

1. Health of individuals
2. Sex life of individuals and
3. Details of private bank accounts.

Figure 1.7 the frequency of invasion of privacy of people

Invasion Privacy	JULY 2010		AUG		SEPT		OCT		NOV		DEC 2010	
	WC	SN	WC	SN	WC	SN	WC	SN	WC	SN	WC	SN
Health of individuals	3	0	2	0	3	0	1	0	2	1	0	0
Sex life of individuals	3	0	0	0	2	0	1	0	1	0	1	0
Private bank details	1	0	1	0	1	0	0	0	1	1	0	0

Key: WC=*Weekly Citizen*. SN=*Sunday Nation*



From the data, 11 of the 36 investigative stories or 31 per cent of the stories published by the *Weekly Citizen* alone between July and December 2010, reported on the health of individuals.

The data shows that 22.2 per cent of the investigative stories by *Weekly Citizen* during the period or eight out of the 36 stories analysed exposed the sex life of individuals. A further four stories (11.1 per cent) exposed private bank details of individuals. Most of the stories were published in three consecutive months.

In the *Sunday Nation*, 2.7 per cent or one out of the 36 stories analysed reported on the health of individuals while no story was observed to have reported the sex life of any person. One story or 2.7 per cent of the quality newspaper's stories gave the particulars of bank details of private individuals.

To illustrate invasion of privacy of individuals, this section outlines notable examples from the *Weekly Citizen* and the *Sunday Nation* articles that showed sex and health life of individual and particulars of bank accounts of private people.

In the 13 September 2010 edition, the newspaper ran a story headlined "*Sex Dens Where Cheaters Hide*" and went ahead to name prominent people who frequent the city's brothels. In the 11 October 2010 edition it published a story headlined "*Is Ruto Dating Emmy Kosgey*" that exposed details about the sex life of the cabinet minister and in the 29 November 2010 edition it ran a story with the headline "*Inside Churchill Sex Saga: No laughing matter for top comedian*" detailing the extra marital affairs of the famous comedian.

It was observed that the *Weekly Citizen* invaded an individual's right to privacy by reporting on the individual's sex life in a story headlined "*Inside Churchill Sex Saga: No laughing matter for top comedian*" (29 November 2010).

The *Weekly Citizen* reported:

"Churchill started frequenting the girl's home at Donholm estate where he would spend the nights. One night three weeks ago,...Churchill was as usual relaxing at the lady's bedroom naked when he saw the door suddenly swing open and two men enter the room...he confiscated Churchill's clothes and all the while as another man clicked away pictures of the episode."

The article that says the television comedian was found naked in a woman's house touched on private sex life of the individual and exposed his private intimate affairs.

An editor at the *Weekly Citizen* however justified the publication of the story that exposed the intimate life of the comedian saying that the story helped the police solve sex related crimes in Nairobi.

Said the editor;

*"It later transpired that there were con-women targeting prominent personalities by sleeping with them and later holding them to ransom demanding large sums of money or they get exposed in the media. We did follow-ups on the Churchill sex story and exposed the con-woman who demanded Sh5 million from the comedian, this was in public interest to know."*

In another story related to the private sex life of prominent people: *"Is Ruto Dating Emmy Kosgey"* (*Weekly Citizen* 11 October 2010), the *Weekly Citizen* reported:

"Ruto is not the only minister's name mentioned in secret love affairs. Sources say majority of ministers are known to be having mistresses both in Nairobi and upcountry, where they rent for them homes in upmarket estates."

"One such case is that of former powerful minister Julius ole Sunkuli who was caught up in allegations of sexual impropriety when he allegedly had sex with a lady in his office which resulted in unplanned pregnancy."

Further analysis shows that, during the period under study, the *Weekly Citizen* carried four stories that reported on the private bank details of individuals among them two stories headlined *"Inside Kirima's pot of wealth"* (27 September 2010) and *"New fears in Kirima saga"* (29 November 2010) which exposed bank account operations of private individuals. The *Weekly Citizen* (29 November 2010) reports:

"she was given Sh900 million in a London account and a house in Runda which she co-owns with her siblings."

Rachels (1984, p. 290) says privacy is necessary in commerce so as to "protect people's interest in competitive situations" yet the *Weekly Citizen* published private details of bank accounts of individuals.

Stories touching on intimate relationships and private bank accounts were not observed in the *Sunday Nation* but the quality newspaper was found to have published stories about the health of individuals. A story in the 21 November 2010 edition titled “*Wako in Europe for Treatment*” disclosed that the health of Kenya’s Attorney General was deteriorating.

The *Sunday Nation* reported:

“Attorney-General Amos Wako is out of the country for treatment in Europe. Mr Wako travelled two weeks ago and is expected to return next week. Confirming that the AG was seeking medical treatment overseas, Government Spokesman Alfred Mutua told the *Sunday Nation* that the State’s chief legal adviser was recovering after treatment.”

The *Sunday Nation*’s editor interviewed in this study confirmed that they invaded the privacy of the Attorney General by exposing his health but justified it by saying the public needed to know. Said the editor; “*It was justified to publish this story. Kenyans wanted to know the health condition of the Attorney General, the man who was a key figure in the drafting of several laws that would help in the implementation of the new constitution. Definitely his health was a hot subject.*”

The *Sunday Nation* (21 November 2010) story also justifies the publication of the health status of the Attorney General.

Quoting unnamed sources, the *Sunday Nation* reported:

“Government sources intimated Mr Wako’s absence may negatively impact the work of the Kenya Anti-Corruption Commission as he is the one who gives legal direction to the agency after it completes investigations.”

From the forgoing, it can be deduced that invasion of privacy is common within the tabloid (*Weekly Citizen*) than it is in the quality newspaper (*Sunday Nation*).

An interview with a journalist at the *Weekly Citizen* established that the newspaper’s editorial department felt that even though they have in most cases published people’s private sex life, bank account details and health status of people thereby appearing to invade people’s privacy, the people mentioned were public figures and any information about them was deemed to be of interest to the public.

Said the journalist:

*“The media owners are concerned about the bottom lines. They want stories that can move the public and the masses to buy the newspapers. The end result is that we go the extra mile to get juicy details of individuals, yes some could be private details but they are important for the public to know and for our own circulation figures.”*

Claims that economic pressures within the media industry push editors into publishing materials that breach the privacy of individuals ties with Herman and Chomsky’s (1994, p.14) view that the media “are subject to sharp constraints by owners and other market-profit-oriented forces.”

McNair (2003, p.57) however pins the blame on editors “who become the proprietors ‘voice’ within the newsroom, ensuring that journalistic independence conforms to the preferred editorial line”.

A senior journalist interviewed in this study said: *“The result is sensationalism and amplified stories devoid of any ethics as long as the readers can buy the newspaper.”*

This comment echoed sentiments by Belsey (1998, p.12) that “there is a job to be got, promotion to be obtained, so the story has to be written and the methods necessary to obtain the story used”.

## 4.2 Protection of sources

The thorny issue of protection of journalists' sources erupted in Kenya in 2006 when a magistrate ordered a journalist "to appear in court to reveal the source of her story" (Mwaura, 2009). Even though the matter was later withdrawn after the intervention of the High Court, protection of sources still "remains a dilemma throughout journalism" (Coulter, 2005, p.65). Frost (2000, p.147) says "several British journalists have gone to prison in the past for failing to reveal a source. Some countries, such as Denmark, have laws that prevent a journalist revealing a confidential source."

Coulter lays down the reasons for protecting the identities of news sources;

"The fundamental ethical principle of journalism is that we have a moral imperative to give a guarantee of anonymity to genuine confidential sources providing bona fide information. There can be no transparency in the trust that our sources must have in us as professional journalists. If we sacrifice that trust, we betray our credibility as reporters of the truth" (Coulter, 2005, p.66).

Davies (2008, p.33) says whistle-blowers often "reveal something that is vital to the public interest: the sort of thing that politicians conceal. They have the right to be protected."

Without protecting the confidentiality of sources the Watergate scandal would have not been reported (MacFadyen, 2008, p. 140) and the reporting of multi-million shilling scandals "such as the Goldenberg and Anglo-Leasing money schemes, would not have been possible in Kenya" (Mwaura, 2009). If a journalist exposes the identity of confidential sources of information "it is reasonable to expect that in the future, informants who for one reason or another need to remain in secret will be reluctant to come forward to divulge what they know" (Jacquette 2007, p.158).

Newspapers across the world have resorted to the use of anonymous sources or unnamed sources in their stories but as Davies says the media's use of 'anonymous sources' has come under great scrutiny in some countries following revelations in 2003 that Jack Kelly, a Pulitzer Prize-nominated journalist for the *USA Today*, and Jayson Blair—a star reporter at the *New York Times* fabricated quotes which were attributed to anonymous sources (Davies, 2008, p.32) as a result the *New York*

*Times* now demands that its reporters reveal an unnamed source’s identity to a ranking editor” (*ibid*).

News articles appearing in the *Weekly Citizen* and the *Sunday Nation* editions under review were analysed for indicating;

1. Anonymous sources and
2. Sources who cannot be named for security reasons.

Data from figure 1.4 indicate that although the tabloid press are considered as a “lowering of the standards of idealised journalism” (Conboy 2006, p.212), the *Weekly Citizen* appears to protect their sources as 14 of the 36 investigative stories (39 per cent) it published indicated ‘sources who cannot be named for security reasons’ while the newspaper also published 28 per cent or 10 of the 36 sampled stories that indicated ‘anonymous sources’.

On the other hand, the *Sunday Nation* had 15 out of the 36 investigative stories (42 per cent) indicating ‘sources who cannot be named for security reasons’ while the newspapers also had 8.3 per cent or three of its 36 stories indicating anonymous sources.

Though still controversial, the use of ‘anonymous sources’ in journalism is still common and “must be justified in ways that will limit abuse” (Boeyink, 1990, p.233).

Figure 1.8 Protection of sources frequency

Protection of sources	JULY 2010		AUG		SEPT		OCT		NOV		DEC 2010	
	WC	SN	WC	SN	WC	SN	WC	SN	WC	SN	WC	SN
Sources who cannot be named for security reasons	3	4	2	3	1	2	3	2	3	3	2	1
Anonymous sources	2	0	2	1	1	2	2	0	2	0	1	0

Key: WC=*Weekly Citizen*. SN=*Sunday Nation*

One of the stories headlined “*Minister diverts NSSF cash to build private apartments in Watamu*” published on 9 August 2010 issue of the *Weekly Citizen* exposes corruption in Kenya’s cabinet by quoting an unnamed sources.

The *Weekly Citizen* reports:

“In what amounts to abuse of office, a cabinet minister is using National Social Security Fund resources to build himself a block of apartments in the tourists resort of Watamu near Malindi, we have reliably learnt.”

“According to one of the drivers involved in the construction, the minister has promised the NSSF team at the site promotions and cash rewards.”

The story which quotes anonymous sources is an investigative piece on deep seated corruption within Kenya’s cabinet.

The same story however was picked and followed up by the *Sunday Nation* stories published on 12 December 2010 “*Corruption in Cabinet*” and 19 December 2010 “*MPs banned from the US over Charterhouse*” but named American Ambassador to Kenya as the source of the story. The *Sunday Nation* investigations take a different route by investigating the source of stories about corruption in the Kenyan cabinet and reveals that the US ambassador to Kenya was responsible for giving the Kenya cabinet a bad name contrary to diplomatic etiquette that according to the story required that the ambassador ought to have discussed the corruption issue with the Kenyan president without leaking the story to the media.

In most of the stories studied, the *Weekly Citizen* and the *Sunday Nation* deliberately concealed identities of most of their sources by indicating in the body of the story ‘anonymous source’ or ‘source who cannot be named for security reasons’ and not mentioning them by name that can allow for ease of identification of those sources, meaning that they strived to protect their news sources and refrain from exposing them to the public.

The *Sunday Nation* (19 December 2010) for example, quoted an anonymous source in a story that exposed how Kenyan members of Parliament had been banned from visiting the US because of corruption.

The *Sunday Nation* reported:

“The US has slapped a blanket ban on up to 11 MPs who are members of the House Finance, Trade and Planning Committee.  
A US State Department official who spoke on condition of anonymity could not confirm or deny the incident stating that they do not discuss individual cases with the media.”

A senior journalist at the *Sunday Nation* said; *“there was deep public interest to know what was going on in Parliament and in the cabinet. The ministers were stealing from the public coffers and we only needed a senior diplomatic source familiar with the goings on in the Kenyan cabinet to give us the details on condition of anonymity.”*

Protecting the confidentiality of sources became a big court case in Kenya in 2006. A tabloid journalist working who was summoned to a court in a bid to force her to disclose the sources of her information said;

*“I declined to name my sources before the court in 2006 and defended my position by quoting the Code of Ethics for the Practice of Journalism in Kenya. The magistrate ruled that the Code of Conduct was not law and could not be used to justify my refusal to name my sources. I referred the matter to the constitutional court for interpretation and I won and effectively protected my sources. Under no circumstances will I disclose the identity of my confidential sources.”*

An investigative editor working for the tabloid press echoes Jacquette’s (2007, p.158) sentiments that once a source has been betrayed, it would be difficult to win their confidence back.



The investigative editor said;

*“Two journalists including myself were taken to a court in Mombasa in a case brought against us by the police following a story we had published regarding terrorist cells in Kenya. The police demanded to know who gave us the information and when we declined they added other criminal charges on us and said we were cooperating with terrorists. We were acquitted after the police failed to prove the case, but we were not going to give the identities away. I need my sources all the time. I will not betray them because they are likely to deny me information if I disclosed their identities. It’s something worth going to jail for.”*

A junior reporter working at one of the quality newspaper had this to say; *“We signed a code of conduct form that stipulates how the new journalists conduct ourselves while dealing with sources. One of those stipulates that we do not give the names of our sources to the police, we have to respect that”*.

Two of the journalists interviewed said they have frequently received information from civil servants regarding corruption in various government ministries and went ahead to publish those stories with confidence and without naming the sources especially after the sources provided paper documentation to prove the stories. The journalists however agreed that the newspaper stories did not look professional if most of the stories were attributed to unnamed sources.

An editor with the quality newspaper says the publication of a story given by a confidential source should only take place after the journalist concerned has properly briefed the editor. Said the editor;

*“We should not rush to publish a story just because the source requests confidentiality. The journalist writing the story must properly brief the desk or the news editor of the name and credibility of the source and why that particular source wants to remain secret. We also allow agree not to name sources to protect their jobs or for their own security”*.

### 4.3 Phone, computer hacking and concealed recording

Phone and computer hacking and concealed recordings which Davies (2008, p.278) terms as the “dark arts” of journalism remain the most controversial method investigative journalists use in gathering information especially after the closure of Britain’s largest selling tabloid the *News of the World* in 2011 over phone hacking scandal (Sadle, 2011).

In 2007, a private investigator and a royal editor with the *News of the World* were jailed for intercepting voicemail messages of Prince William and several public figures after they pleaded guilty and failed to show any public interest for the information they gleaned from the hackings (Davies, 2008, p.285).

News stories published by Kenya’s *Weekly Citizen* and the *Sunday Nation* were analysed for quoting private e-mails or documents or reporting private telephone conversations.

Figure 1.5 shows that hacking into people’s phones, computers and concealed recording, though not rampant in Kenya, does happen within the tabloid and quality newspaper studied.

Figure 1.9 Phone/computer hacking/concealed recording frequency

Phone/ computer hacking/concealed recording	JULY 2010		AUG		SEPT		OCT		NOV		DEC 2010	
	WC	SN	WC	SN	WC	SN	WC	SN	WC	SN	WC	SN
Private e-mails/documents in story	1	0	0	0	0	1	0	0	2	0	0	0
phone conversations indicated in story	0	0	0	0	0	0	0	0	1	0	0	0

Key: WC=*Weekly Citizen*. SN=*Sunday Nation*

One story or 2.7 per cent of the 36 investigative stories published by the *Weekly Citizen* was found to have been obtained from listening to private telephone conversations while three stories or 8.3 per cent of the 36 stories in the *Weekly Citizen* were found to have been obtained from private e-mails.

The *Sunday Nation* had no stories obtained from listening to private telephone conversations but one story was found to have been obtained from private e-mails.

However, interviews with the journalists working at the tabloid and quality newspapers in Kenya could not establish if the newspapers had the technology to bug people's telephones but they agreed that police informants have previously supplied them with information which appeared to have been obtained from tapping people's telephones. No evidence of this could be obtained by this study.

The *Weekly Citizen* reports a private telephone conversation in its story "*Exposed: State House Hand in boundary battles*" (22 November 2010). The newspaper reports:

“...Government Printer Andrew Rukaria upon receiving it, telephoned his godfather in the corridors of power believed to be head of civil service and secretary to the cabinet ambassador Francis Muthaura.”

The newspaper article reported details of a telephone conversation between two government officials in total breach of their privacy and the confidentiality of government processes. This reporting had the potential of spilling out government official secrets that could be harmful to the state if it fell in the wrong hands.

Newspaper stories analysed further indicated that the *Weekly Citizen* published three stories obtained by sifting through personal e-mails of individuals between July 2010 and December 2010. The stories were identified because they indicated that the information was from personal e-mails of the individuals. Interviews with the editor of the *Weekly Citizen* also revealed that the information was obtained from unauthorised access to private e-mails and personal computers.

One of the stories published in the *Weekly Citizen* on 1 November 2010, headlined "*Who will benefit from New Constituencies*" extensively published copies of private e-mails and word documents emanating from the Interim Independent Boundaries

Commission offices. The newspaper also quotes from the e-mails and computer word documents. It reported:

*“Weekly Citizen has seen the said approval copy by Attorney General Chambers. It is on these grounds that the Government Printer was instructed not to print.”*

Interviews with the editor of the *Weekly Citizen* indicated that the information was obtained from the computers of the Commission.

Said the editor;

*“We got a tip off that the Interim Independent Boundaries Commission was about to release the proposed new constituency boundaries. This was a hot political issue in Kenya that had the potential to cause a repeat of the chaos witnessed after the 2007 disputed general elections because some politicians were against the subdivision of their constituencies because that would mean cutting down the number of their voters. So we found a way to get to e-mails and word documents from the commission’s computers to publish the story ahead of the mainstream or quality newspapers”.*

The stories were subsequently picked up by the quality newspapers including the *Sunday Nation* which published it 20 days later in the 21 November 2010 edition under the headline *“Winners and Losers in Review of Boundaries”*. The variance with the *Weekly Citizen* stories is that it is more polished and uses quotes obtained from interviews with the commission officials and politicians unlike the *Weekly Citizen’s* story which only quoted from the e-mails and word documents from the Commission.

For example, reporting the same story picked from the *Weekly Citizen*, the *Sunday Nation* (21 November 2010) quoted interviewed politicians and reported:

*“Mr Ndile, who intends to contest in the newly-created Kibwezi West constituency (Makindu), says the new electoral units may lay the ground for the return of politicians who lost in previous elections. “It is a blessing in disguise for some of us,” he said.”*

It can be deduced that the quality *Sunday Nation* newspapers pick and follow-up on the stories that have been published by the tabloids but they do it in a more sanitised way to appear that they are within the ethics of journalism and as Orr (2011) writes “when tabloids' lurid stories are followed up by the 'upmarket' papers, who or what is really at fault?”

An editor with the *Sunday Nation* said;

*“The difference between Kenya’s tabloid and quality newspapers is that the tabloids will go to any length regardless of journalism ethics to obtain information, that’s why they easily get exclusive stories at times. In the mainstream media, we respect the ethics of journalism and we could not use the information obtained from the private e-mails of the Commission even though someone brought them to us earlier”.*

All the journalists interviewed agreed that taping interviewees without informing them first and hacking telephones and e-mail of news subjects should not be condoned but should only be done in situations where there is an intense public interest to get the news published.

One of the sub-editors interviewed though disagreed with what he said was a recent move by his newspaper journalist and editors to hack into the e-mails of Kenya’s new Chief Justice and to publish the details. Said the sub-editor;

*“During interviews for the new Chief Justice and the President of the Supreme Court of Kenya, the person who would later be appointed the Chief Justice was accused of being gay or being sympathetic to the gay community in Kenya. This man’s sex orientation was controversial because he wears an earring or a stud. The interview panel asked him if he was gay. He answered to the contrary. So our journalists with the help of private investigators hacked his e-mail to see if there was any communication that would implicate him in the gay unions. They found some information that was published in the Standard newspapers. I must say this was embarrassing to the new Chief Justice, worse still I was the one subbing (editing) the story, it put me in an awkward position because I did not agree with it but I’d to do the work so as to send the story to press” (see story in appendix).*

An investigative editor says he has never hacked telephone conversations or e-mails of the people he investigated but agreed to recording conversations with news sources without their knowledge because;

*“We have to get some proof that we did the job. We have to have some back-up in case someone makes a U-turn and says he did not give us the information. It’s important at times to record without telling them because if you tell them they will coil and may refuse to divulge much.”*

Further, interviews revealed that Kenyan journalists have never been sued for illegal phone or computer hacking but some of them expressed fears that the actions against the *News of the World* following revelations of phone hacking could be replicated in Kenya media scene which, according to Ali (2010, p.2-35) follows on the global mass media dynamics shaped by influences of the British press.

## Conclusion

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Ethics of investigative journalism is a difficult subject area to study because different journalists, different media houses and different authors have divergent and opposing opinions on the strict observation of ethics when it comes to the actual practice of journalism.

It is even a more difficult study because in some cases it is not easy to establish from the published news stories, the journalists' or the media houses' culpability when it comes to, for example, hacking telephones and computers of news sources. Besides, only one sub-editor was willing to go on record as saying that he had witnessed his news organisation hack into a private e-mail and use the contents obtained in a news story.

The twin methodology used in this research—content analysis and interviews, enabled a more detailed study of the ethics of investigative journalism practiced by journalists of the *Weekly Citizen* and the *Sunday Nation*. While the content analysis offered a measure of the frequency with which the journalists of the two newspapers breached the specific ethics of investigative journalism that have been measured in this study, the interviews goaded journalists working for the two newspapers and other Kenyan journalists into offering information and views on the subject under study.

The Literature review chapter offered a closer look into ethics of investigative journalism elsewhere in the world especially in Britain where most authors agreed that it has been difficult to police the media. But the chapter also related this to the situation pertaining in Kenya where previous research on standards of journalism established that journalists in Kenya also faced similar ethical dilemmas.

This study established that investigative journalists gather pursue most stories due to public interest. However obtaining hidden information is never easy and news organisations resort to using undercover reporters or private investigators who might use covert methods to invade the privacy of individuals or hack into people's telephones and computers besides secretly recording people thereby loading ethical burden to investigative journalism.

As much as scholars say that ethics of journalism are universal, this study established that what is ethical to one news media could totally be unethical to another media organisation. For example an editor of the *Weekly Citizen* that published the sex scandal story headlined “*Inside Churchill Sex Saga*” (29, November 2010), involving one of Kenya’s famous comedians, justified the publication by saying the public had the right to know and that the publication of the story helped expose a group of cheats who were tricking celebrities into sexual affairs and later demanding cash or exposing them in the media. But an editor at the *Sunday Nation* said they did not publish the story because it was wrong to write about the sex life of individuals even if they were public figures.

This study established that stories published by Kenya’s *Weekly Citizen* (tabloid) and *Sunday Nation* (quality newspaper) flouted ethics of investigative journalism notably; they invaded people’s privacy, hacked telephones and computers of people besides secretly recording news subjects. In most cases however, the two newspapers appeared to respect their sources by not disclosing their identities in the news stories.

Phone hacking scandal that brought down Britain’s largest selling tabloid *News of the World* in 2011 is not only confined to tabloids in the UK, it also happens within Kenya’s tabloid newspapers though less frequent compared to the invasion of privacy incidences which yielded stories about sex and health of individuals and sometimes even details of their bank accounts.

From the interviews, it emerged that the frequent use of anonymous or unnamed sources in news stories to protect sources, which has become controversial in some countries, also remains a touchy issue in Kenya because some whistle-blowers, especially those working in the civil service have information regarding corruption and other vices in government to share with the media but they want to remain anonymous and this proves to be a difficult area for the news media because it introduces the issue of believability of newspaper stories more so because the anonymous sources “are speaking without authorisation” (Davies, 2008, 35) and therefore appear to be less authoritative sources.



From the interviews, this study established that journalists working for Kenya's tabloid and quality newspapers defended the breach of ethics of investigative journalism by suggesting that the need for the public to be informed outweighed the privacy of individuals and that getting stories because of public interest justified the hacking into phones and computers of news subjects at times.

It would however be "naïve to suggest that every covert investigation carried out by a journalist could be completely justified by...public interest" (Frost 2000, p.50), some stories are totally unjustifiable on public interest grounds. Take for example, the publication of private bank details of a former cabinet minister in the *Weekly Citizen* story "*Inside Kirima's pot of Wealth*" (27 September 2010) and "*New fears in Kirima saga.*" It is not clear what public justification was achieved with the story other than sensationalism and the invasion of a person's privacy.

It also emerged from the interviews that economic pressures within Kenya's media houses has helped to push journalists to extreme limits to obtain exclusive scoops, especially salacious information about individuals that would increase newspaper sales.

Exclusive and interesting stories are in most cases about people and their private lives and are likely to push newspaper sales but Manning urges that despite the cut throat competition to sell more newspapers, good "editorial policy may still provide opportunities for serious and investigative news journalism" (Manning, 2001, p.66).

Journalists interviewed and various authors cited in this study agree to the need to observe media ethics but they also agree that in some instances editors should "turn a blind eye to questionable behaviour" (Greenslade 2008, p.324) and get the story published because the public have the right to know.

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# Appendices

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## Appendix 1

### Codebook

#### Content Analysis

Story Identification

S. Story Number

S1, 2, 3, 4...

W. Week Published

W1, 2, 3, 4...

M. Month Published

M1=July

M2=August

M3=September

M4=October

M5=November

M6=December

P. Page published

P1, 2, 3, 4...

Variable Identification

*Invasion of Privacy*

V1. Health of individuals

V2. Sex life of individuals

V3. Private bank details

*Protection of sources*

V4. Sources who cannot be named for security reasons

V5. Anonymous sources

*Phone and computer hacking and concealed recording*

V6. Private e-mails/documents in story

V7. Private phone conversations in story.

## An example of how the stories were coded

Variable: **Invasion of Privacy** (*Weekly Citizen* stories)

Stories reviewed:

1. “*Sex Dens Where Cheaters Hide*” (13 September 2010)
2. “*Is Ruto Dating Emmy Kosgey*” (11, October 2010)
3. “*Inside Churchill Sex Saga*” (29 November 2010)
4. “*Strange Happenings at Gulf African Bank*” (15 November 2010)

The following figure is an example of how data was input into the handwritten coding sheet

	<b>V1</b>	<b>V2</b>	<b>V3</b>
<b>S</b>	S2	S1	S3
<b>W</b>	W1	W22	W20
<b>M</b>	M1	M2,	M5
<b>P</b>	P1	P1	P15

The signs;

V1 denote ethical attribute—Health of individuals

V2 denote ethical attribute—Sex life of individuals

V3 denote ethical attribute—private bank details

S1, denote the number the particular story was allocated

M denotes the month the story was published (July=M1, December=M12)

P denotes the page the story was published on

## Appendix 2

### Interviews

#### Sample of Questions

Specific questions for a journalist who was taken to court to force her to reveal sources of her story

1. Are you well versed with the ethics of journalism as enshrined in the media Council of Kenya's Code of Conduct for the Practice of Journalism in Kenya?
2. What's your view of Kenya's tabloid press (such as the *Weekly Citizen*) and the quality/mainstream press (such as the *Sunday Nation*) regarding adherence to journalism ethics and standards?
3. Do you think Kenya's tabloids (including alternative press) and the quality/mainstream press subscribe to different ethical standards of journalism? Please explain.
4. In your work as an investigative journalist, what ethical challenges have you faced and how did you deal with them? (you may restrict your answers to; taping a news source without consent, invading the privacy of individuals to gain information, or disclosing identities of your sources)
5. You have previously been taken to court to force you to disclose your sources of information. Why, did you in the first instance decline to reveal the identities of your sources. Under what circumstances would you disclose the identities of your news sources?
6. What's your view regarding buying of information or documents from sources? Under what circumstances would you pay a news source for information or back-up documents? If you buy documents/information from a source would you go ahead to quote them in your story? Why would you do/not do that? Please explain
7. Would you tape a news source/interviewee without their consent? Under what circumstances would you do this? Would this offer any ethical challenges especially if viewed from the lens of the Media Council of Kenya?
8. In Britain, tabloid journalists at times employ covert methods such as hacking phones/computers of people to obtain information. Have you done this before? Would you accept a story achieved through this method? Would this present any ethical challenges to your news organization?

Specific questions for journalists working at the *Weekly Citizen* tabloid press in Kenya

1. Please give me a brief history of the *Weekly Citizen*. Please indicate:  
When the paper was launched  
Reasons for launching the paper  
Pagination  
If it prints in colour/Black and White pictures  
Where are its offices?  
How would you classify the *Weekly Citizen*--Is it a Tabloid or alternative press  
Do you take in advertising?  
Print and Circulation figures
2. The *Weekly Citizen* has faced serious backlash from politicians and the police. I'm informed that the police have routinely mopped the paper off the streets. Why do the police do this?
3. The *Weekly Citizen* tends to concentrate its investigative journalism on scandals especially those touching on corruption and sex scandals...why has the *Citizen Weekly* chosen this line of coverage?
4. Have the quality/mainstream press picked and published some of the investigative stories you have published before? Please name any particular stories.
5. Some journalists I have interviewed say that the *Weekly Citizen* is a very good investigative newspaper but they fault it for flouting ethics of professional journalism. What do you say about this?
6. Are you well versed with the ethics of journalism as enshrined in the media Council of Kenya's Code of Conduct for the Practice of Journalism in Kenya?
7. What's your view of Kenya's tabloid press (such as the *Weekly Citizen*) and the quality/mainstream press (such as the *Sunday Nation*) regarding adherence to journalism ethics and standards?
8. Do you think Kenya's tabloids and the quality/mainstream press subscribe to different ethical standards of journalism? Please explain.
9. In your work as an investigative journalist/editor, what ethical challenges have you faced and how did you deal with them? (you may restrict your answers to; sources demanding cash for information, hiding your identity to gain information, taping a news source without consent, invading the privacy of individuals to gain information, or disclosing identities of your sources)
10. Protecting your sources is a cardinal principle of the Code of Conduct. Under what circumstances would you disclose the identities of your news sources?
11. What's your view regarding buying of information or documents from sources? Under what circumstances would you pay a news source for information or back-up documents? If you

buy documents/information from a source would you go ahead to quote them in your story?  
Why would you do/not do that? Please explain

12. Would you tape a news source/interviewee without their consent? Under what circumstances would you do this? Would this offer any ethical challenges especially if viewed from the lens of the Media Council of Kenya?
13. In Britain, tabloid journalists at times employ covert methods such hacking phones/computers as an editor would you accept a story achieved through this method? Would this present any ethical challenges to your news organization?