

THE MEDIA COMPLAINTS COMMISSION
IN THE MATTER OF THE MEDIA COUNCIL ACT, 2013

COMPLAINT NO. 2 OF 2024

NEHEMIAH STONE BIC MISIANICOMPLAINANT

VERSUS

NATION MEDIA GROUP LIMITED1ST RESPONDENT

EDITOR, DAILY NATION 2ND RESPONDENT

BRIAN OBUYA3RD RESPONDENT

DECISION

A. INTRODUCTION

1. This matter arises from a complaint lodged by Mr. Nehemiah Stone Bic Misiani against the Respondents concerning a broadcast aired on NTV on 7 April 2024 titled ***"HOLY BETRAYAL: FULL SDA CULT EXPOSE DOCUMENTARY."***
2. The Complainant describes himself as a member of the Seventh-day Adventist (SDA) Church and proprietor of Stone Bic Schools. He alleges that the impugned broadcast falsely equated the SDA Church with the extremist activities of the Shakahola Massacre, thereby damaging the reputation of the Church and his business.
3. The 1st, 2nd and 3rd Respondents (Nation Media Group Limited, its Managing Editor, and journalist Brian Obuya) defend the broadcast as a fair, accurate, and public-interest reportage on religious extremism, arguing that it adhered to journalistic ethics and included rebuttals from SDA leadership.

B. THE COMPLAINANT'S CASE

5. On 16 April 2024, the Complainant lodged a formal complaint against the 1st, 2nd, and 3rd Respondents concerning a documentary titled ***"HOLY BETRAYAL: FULL SDA CULT EXPOSE DOCUMENTARY,"*** broadcast on NTV on 7 April 2024 at 9:00 p.m.
6. The Complainant describes himself as a devout member of the Seventh-day Adventist (SDA) Church and contends that the broadcast falsely and unfairly equated the mainstream SDA Church with the Shakahola Massacre, which was a tragedy linked to extremist cult leader Pastor Paul McKenzie. The broadcast, he argues, wrongly suggested that the SDA Church fosters religious extremism akin to the Shakahola deaths, a claim he asserts is baseless.
7. Further, the Complainant alleges that the broadcast sensationalised the SDA Church as a "radicalising cult," a portrayal he maintains is not only inaccurate but malicious. He asserts that the documentary lacked credible evidence to support such a sweeping generalisation, thereby violating journalistic ethics and factual integrity.
8. The Complainant highlights that Pastor Charles Nyakure, the head of the SDA Church's Ranen Administrative Unit, was interviewed in the documentary and distanced the official SDA Church from the alleged extremist offshoots. However, the Complainant argues that the Respondents downplayed or ignored this critical clarification, instead amplifying unverified claims for dramatic effect. Despite the Church's rebuttal, the

broadcast proceeded, which the Complainant alleges was deliberately sensationalised to boost viewership and profits rather than serve the public interest.

9. As a director and proprietor of Stone Bic Schools, an institution aligned with SDA values, the Complainant claims the broadcast caused severe harm to both his schools and the Church, which is not patronised by many in the Nderi/Sigona Area of Kiambu County, where he resides and owns one of his schools. He contends that the false association with extremism has led to public distrust, loss of credibility, and potential financial repercussions for his schools.
10. The Complainant asserts that the broadcast was misleading, inaccurate, biased, and inflammatory. Further, the Complainant claims that the broadcast was founded on malice and intended to incite and create religious animosity.
11. The Complainant pointed out that the day before the broadcast, Mrs. Midamba, identified as a member of the so-called "offshoots," requested the Respondents to postpone the airing of the segment to include her perspective. However, the Respondents did not delay and had already been running a trailer for several days.
12. The Complainant submits that the disclaimer stating, *"The Signages of the Sevent-Day Adventist Churches used in this story are for illustration purposes only and the same are not to be misconstrued to associate the same Churches to the offshoots in reference"*, was an indication that the Respondents were aware of the repercussions of broadcasting a fabricated story and mischievously using pictures of SDA Churches.
13. The Complainant argued that the Respondents were obligated to broadcast content that is accurate and reflects the public interest in religious extremism. However, the Complainant maintains that there should not have been fabricated stories suggesting that religious extremism exists within the SDA Church. They believe that the Editor should not have published the story due to its lack of factual accuracy and that the Respondents failed to provide analytical reporting from a professional perspective.
14. Regarding the topic of Obscenity, Taste, and Tone in Reporting, the Complainant stated that the Respondents should not have published photographs depicting the exhumation of dead bodies without a prior warning to viewers. Concerning the coverage of Ethnic, Religious, and Sectarian Conflict, the Complainant submitted that the Respondents should have exercised caution when broadcasting a story related to religion, as it is a divisive subject similar to ethnicity. The Complainant further argued that the Respondents should not have aired the story in a way that could inflame passions, aggravate tensions, or worsen strained relations among various religious communities. The Complainant emphasised that the Respondents should have recognised the potential of their story to exacerbate communal tensions and, as a result, should have refrained from airing it.
15. Consequently, the Complainant prays the following remedies:
 1. **The immediate retraction of the documentary,**
 2. **A public apology of equal prominence, and**
 3. **The permanent removal of the broadcast from all online platforms.**

C. THE RESPONDENTS' CASE

16. The Respondents argue that the Complainant did not specify which provisions of the Code of Conduct for the Practice of Journalism in Kenya were allegedly violated, making the complaint legally untenable due to lack of detail.
17. On accuracy and fairness, the Respondents maintain that the broadcast fully complied with Clause 2 of the Code, which requires (1) Fair, accurate, and unbiased reporting on matters of public interest; (2) Presentation of all sides of the story where possible; and (3) Seeking comments from persons mentioned unfavourably.

18. To demonstrate adherence to journalistic standards, the Respondents highlighted the inclusion of a clear disclaimer at the documentary's outset, as reproduced above; Full disclosure of sources, including a recorded telephone conversation with Mr. Midamba's wife regarding her views on the allegations; An interview with **Pastor Charles Nyakure**, President of the SDA Ranen Administrative Unit, whose rebuttals were fairly incorporated.
15. The Respondents emphasise that Pastor Nyakure's participation provided balance and context, fulfilling their duty under Clause 2(2). They argue that his remarks were given due prominence and did not warrant further editorial interference.
16. Regarding the public interest value of the story, the Respondents highlighted Interviews with **Mr. Tom Midamba**, who testified about his family's experience with an alleged SDA offshoot in Rongo, Migori County and contributions from **Dr. Duncan Onyango**, a lecturer, and other experts on religious extremism and the broader national concern over cultism post-Shakahola.
17. Citing **Francois Bennion's Statutory Interpretation** (3rd Ed., p. 606), the Respondents stress that the Commission must prioritise public interest in its analysis:

"The court... should presume that the legislator intended [law] to serve the public interest... and avoid constructions adverse to it."
20. The Respondents rejected claims of bias or malice, noting that the documentary included multiple perspectives, including SDA leadership. Further, the Respondents claim that No evidence suggests the language used was "utterly beyond or disproportionate to the facts" **Raphael Lukale v Elizabeth Mayabi & another [2018] KECA 668 (KLR)**.
21. The Respondents contend that the tone of the broadcast was measured, emphasising documented allegations rather than unfounded attacks. Regarding malice, they rely on the *Lukale* holding, which requires proof of either (1) extreme language disproportionate to the facts or (2) prior or subsequent conduct demonstrating ill will, neither of which, they argue, applies in this case.
21. The Respondents highlight the Complainant's admission under cross-examination that the broadcast never mentioned him or Stone Bic Schools; He lacks proof of reputational or financial harm linked to the documentary. The Respondents reiterated that the documentary explicitly focused on splinter groups in Rongo, Migori County, with no connection to the Complainant's institutions.
22. Relying on **Kagwiria Mutwiri Kioga & another v Standard Limited & 3 others [2015] KECA 349 (KLR)**, the Respondents argue that culpability cannot attach where journalists honestly report on matters of public concern, even if later contested.
23. Quoting Lord Denning MR in **Slim v Daily Telegraph [1968] 2 Q.B. 157 (17 January 1968)**, they assert:

"If [the writer] is an honest man expressing his genuine opinion on a subject of public interest... he has a good defence of fair comment... The right of fair comment is one of the essential elements of freedom of speech."
25. Therefore, the Respondents argue that the Complainant's claims of malice, misrepresentation, and bias must fail, as no connection exists between the broadcast and the Complainant; the documentary disclosed its sources and methodology clearly.
26. The Respondents dismiss the Complainant's argument that their failure to file rebuttals or call witnesses implies liability, citing **Pius Kipchirchir Kogo v Frank Kimeli Tenai [2018] KEELC 2424 (KLR)**:

27. Referencing Nguruman Limited v Jan Bonde Nielsen & 2 others [2014] KECA 606 (KLR), the Respondents argue the Complainant has not met the "higher than arguable" standard for a *prima facie* case, as he shows no "clear and unmistakable right" infringed; Provides no evidence of "material and substantive" harm.

"A prima facie case requires the complainant to prove infringement of a right—not the respondent to disprove it."

28. The Respondents conclude that the Complainant's demand for removal of the broadcast is Unwarranted, as he proves no entitlement under the law; Unconstitutional, infringing Article 33 (freedom of expression) and Section 38 of the Media Council Act.
28. The Respondents urge the Commission to dismiss the complaint in its entirety.

D. ISSUES FOR DETERMINATION

29. The Commission has distilled the following issue: -

I. Whether the broadcast breached the Code of Conduct for Journalism, specifically Clause 2 and Clauses 12 of the Code of Conduct on the Practice of Journalism.

E. FINDINGS

30. The Commission acknowledges the vital role of investigative journalism in exposing matters of public concern, including regarding religious extremism in the wake of national tragedies like Shakahola. However, such reporting carries a heightened duty of care, precision, and contextual fairness when dealing with mainstream religious institutions, given their influence on social cohesion and individual reputations.
31. The Respondents have done well to demonstrate the public interest in the issue of cults, as they sought and indeed provided comments from all players, except the three ladies, including Mrs. Midamba, who were demonstrably not available for interview within a reasonable time and did not commit to one. However, we still find deficiencies in the broadcast in terms of bias.
32. Upon reviewing the documentary in its entirety, the Commission finds that the Respondents failed to maintain proper journalistic balance in several critical respects:

- a) The broadcast repeatedly drew parallels between the SDA Church and the Shakahola massacre despite lacking conclusive evidence linking mainstream SDA doctrine to extremist practices. The title, **"HOLY BETRAYAL: FULL SDA CULT EXPOSÉ DOCUMENTARY"**, illustrates a conflation between the SDA Church and cults. Such comparisons, without rigorous substantiation, risked misleading viewers and unfairly stigmatising a respected Christian denomination.
- b) The documentary's title—"Seventh-Day Extremism"—and introductory narration framed the SDA Church as inherently tied to radicalism. This tone persisted throughout, including at minute 15:12, reference to an *"improved Seventh Day Adventist"* movement without clarification. At minute 24:49, it claims that Rongo Success Academy lost six pupils to a *"sect associated with the SDA Church"* without verifying the nature of this association. At minute 25:35, explicit comparisons between Shakahola and alleged extremist teachings on fasting and education in SDA-affiliated groups.
- c) While the broadcast included interviews with SDA representatives, their counterarguments were often undermined or overshadowed by the program's overarching narrative. For instance, at minute 26:07, Mr Midamba clarified that the offshoot's practices did not represent the SDA Church, yet his sentiments were not given due emphasis. Dr. Duncan Onyango, at minute 28:56, noted that radicalisation is not unique to the SDA Church, but this broader context was lost in the documentary's focus on SDA-linked cases.

- d) Pastor Charles Nyakure (30:18 33:19), though interviewed, was described as "pensive and evasive" by the 3rd Respondent, which is a subjective characterisation that unfairly casts doubt on his credibility without any justification.
 - e) The broadcast omitted critical distinctions between Official SDA doctrines, such as biblical fasting, as clarified by Pastor Nyakure at 33:19, and Fringe interpretations by unauthorised groups. This conflation risked misinforming the public and unjustly tarnishing the reputation of the SDA Church.
 - f) The personal opinions of the 3rd Respondent were a recurring thread throughout the broadcast, shaping a narrative that conflated splinter groups with both the SDA Church and the Shakahola tragedy. In the closing remarks (at 44:35), the 3rd Respondent questioned whether the SDA Church could **"overcome the tragedy associated with radical religious teachings."** This comment implied guilt by association despite the absence of any proven links between the mainstream SDA Church and extremist activity.
33. The Commission has also considered the title "Holy Betrayal: Full S.D.A. Cult Exposé" and found that it was misleading because the broadcast itself related to an offshoot of the SDA church and not the SDA itself.
34. This kind of misleading title is likely to result in:
- a) Misinformation and Distortion: A misleading title can create a false impression of the story, leading the audience to believe something inaccurate. This directly undermines the principles of truth and accuracy in journalism.
 - b) Sensationalism: Misleading titles are often used to sensationalise content in order to attract clicks or increase viewership/readership, even when the actual story is far less dramatic or relevant to the title. This practice is a form of unethical clickbait.
 - c) Breach of Trust: When audiences frequently encounter misleading titles, it erodes their trust in the media outlet. This erosion of trust can have long-term negative consequences for the credibility of the entire media industry.
 - d) Harm to Public Interest: If the public is misled about critical issues due to inaccurate titles, it can hinder informed public discourse and decision-making.
 - e) Unfairness: A title that unfairly characterises an individual, organisation, or event—even if the content itself attempts to be balanced—can still cause harm and be considered unfair.
35. Upon careful consideration, the Commission concludes that the Respondents breached journalistic standards by prioritising sensationalism over factual rigour, violating Clause 2(1) of the Code of Conduct, which requires journalists to write fair, accurate and unbiased content on matters of public interest. The Commission also finds that the title was misleading.
36. The Commission notes that the Complainant's invocation of Clause 12, "Covering ethnic, religious and sectarian conflict", does not apply to this instance because the story was not one about an existing conflict.
37. Regarding alleged harm to the Complainant's Schools, the Complaints Commission finds that the Complainant failed to prove that the broadcast caused reputational damage to Stone Bic Schools, especially since the documentary **did not mention** the Complainant or his institutions (*Kagwiria Mutwiri Kioga v Standard Limited* [2015]). No evidence linked the broadcast to financial or reputational losses.
38. Regarding the submission by the Complainant on the effect of the Respondents' Failure to Rebut or Call Witnesses along the lines that can be summed up as silence amounted to admission, we agree with the Respondent's argument that the burden of proof rests on the Complainant (*Pius Kipchirchir Kogo v Frank Kimeli Tenai* [2018]). The absence of rebuttals does not absolve the Complainant of proving his case.

F. FINAL DETERMINATION AND ORDERS

39. The Complaints Commission finds that the 1st, 2nd and 3rd Respondents breached Clause 2 (1) of the Code of Conduct for the Practice of Journalism, which requires fair, accurate and unbiased reporting on matters of public interest. The Commission finds that the documentary wrongly conflated the mainstream Seventh-day

I Certify this to be a true and correct copy of the Original
 Sign: *[Signature]* Date: 23 June 2025
 REGISTRAR
 COMPLAINTS COMMISSION
 www.complaintscommission.or.ke
 P.O. BOX 43132 - 00200, NRB

Adventist (SDA) Church with extremist groups without sufficient substantiation, framed the SDA Church sensationally through its title **'HOLY BETRAYAL: FULL SDA CULT EXPOSÉ DOCUMENTARY'** and narrative structure, and employed unjustified subjective language such as labelling Charles Nyakure as 'pensive' and 'evasive', thereby undermining neutrality.

40. Subsequently, the Complaints Commission orders the following:

- I. Mandatory disclaimer: The 1st and 2nd Respondents shall, within fourteen (14) days of this decision, edit all online versions of the documentary to include a prominent disclaimer at the beginning, stating:

"Pursuant to a ruling by the Media Complaints Commission, Nation Media Group clarifies that no established correlation exists between the mainstream Seventh-day Adventist Church and the extremist groups referenced in its documentary, including those associated with the Shakahola tragedy."

- II. The Respondents are hereby CAUTIONED against using misleading titles for future Broadcasts, given the ethical breach identified regarding the title **"Holy betrayal: Full S.D.A Cult Exposé"**.
- III. The Complainant's request for permanent removal of the documentary is denied, as the documentary retains public interest value in discussing religious extremism, and the corrective measures ordered sufficiently address the breach of journalistic standards.
- IV. Each party shall bear its own costs.

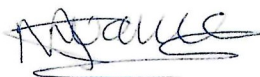
DATED and DELIVERED at NAIROBI this.....19thJUNE2025



MR. DEMAS KIPRONO
CHAIRPERSON, MEDIA COMPLAINTS COMMISSION



MS. POLLY GATHONI
VICE- CHAIR, MEDIA COMPLAINTS COMMISSION



MR. KANTIM MWANIK
COMMISSIONER, MEDIA COMPLAINTS COMMISSION



MS. NASRA HUSSEIN OMAR
COMMISSIONER, MEDIA COMPLAINTS COMMISSION

I Certify this to be a True copy
of the Original
Sign:  Date: 23rd June 2025
REGISTRAR
COMPLAINTS COMMISSION
www.complaintscommission.or.ke
P.O. BOX 43132 - 00200, NRB


Maseme Machuka

MR. MASEME MACHUKA

COMMISSIONER, MEDIA COMPLAINTS COMMISSION

I Certify this to be a True copy
of the Original
Sign:  Date: 23rd June 2025
REGISTRAR
COMPLAINTS COMMISSION
www.complaintscommission.or.ke
P.O. BOX 43132 - 00200, NRB