

Perception and implementation of media policy in Uganda: A human rights perspective

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Abstract

Freedom of the media and its safeguards are central to the discussion of the human rights perspective of media policy. Freedom of the media is a human right that facilitates the realisation of the broader freedom of expression that is more recognisable as accruing to everyone. Yet, when freedom of the media, which is part and parcel of freedom of expression, is affected even by policy decisions, the tendency is to regard it as a matter for the media industry and fraternity alone. This paper therefore points to the interrelatedness, interconnectedness, interdependence and indivisibility of human rights and analyses media policy in Uganda from the perspective of the human rights standards that Uganda has adopted through the ratification and domestication of international and regional human rights instruments. These standards were entrenched in the Constitution of the Republic of Uganda 1995 which provides the overarching framework for regulation whether by policy or legislation or administrative actions. Given that policy is about regulation and this necessitates imposing limitations on rights and freedoms, the paper expounds on State obligations and accountability on rights and freedoms; particularly the duty to respect, protect, fulfil and promote media freedom in the State's quest to regulate it. The discussion of the media policy dwells on the need and frameworks for limitations that have been imposed on freedom of the media as well shining the spotlight on media responsibility, professionalism and industry accountability issues. Recommendations are made for actions that will enhance the realisation of media freedom even in the face of regulation.

Key words: Media Freedom, Human Rights, Ratification, Constitution, Regulation

Introduction

This paper addresses press and media freedom of speech and expression in Uganda. Currently, the media regulation in Uganda does not address the sensibilities of media as a concept, structure and institution. As such, the media in Uganda is covered by various policies; some directly and others by interaction. Nevertheless, the overarching consideration is that the Constitution of Uganda and the international treaties that Uganda has ratified provide the policy framework within which media freedom should be protected and promoted. When a country ratifies international human rights instruments, it does so voluntarily, thereby assuming obligations to domesticate their provisions to ensure the realization of those particular rights and report periodically to an international mechanism on the progress made in implementing the provisions of those instruments. Uganda has ratified many such international and regional human rights instruments that provide for human rights including media freedom. This article therefore provides the human rights perspective of media freedom and implementing media policy. It expounds on the understanding of media freedom as a human right; its scope and the international standards associated with it; its importance and implementation in Uganda.

Media freedom as a human right

Freedom of the press and other media is a human right which is part of a wider fundamental freedom: the freedom of speech and expression. This right is guaranteed in international, regional and national human rights instruments that Uganda is a State party to. These are: The Universal Declaration of Human Rights (UDHR) in Article 19, the International Covenant on Civil and Political Rights (ICCPR) in Article 19, the African Charter on Human and Peoples' Rights in Article 9, and in the 1995 Constitution of Uganda in Article 29.

Article 19 of the UDHR states: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers".

The Constitution of the Republic of Uganda is more explicit in this connection as it provides in Article 29 (1) (a) that: "Every person shall have the right to freedom of speech and expression which shall include freedom of the press and other media".

Freedom of expression is widely seen as underpinning all other human rights and democratic freedoms. In line with the interrelatedness, interdependence and interconnectedness of human rights, an individual who does not have the right to think, form an opinion, freely seek, receive and impart his/her ideas and opinions, would also not be able to benefit from his/her other human rights. Human rights are therefore closely connected to the freedom of thought, conscience, movement, religion, assembly and association. Indeed, these freedoms are guaranteed together under Article 29 of Uganda's Constitution which states; "Every person shall have the right to freedom of speech and expression which shall include freedom of the press and other media".

Principles and standards of freedom of expression

The provisions in human rights instruments are brief statements about specific human rights. It was therefore necessary for the international human rights system to establish a mechanism, through which the rights and freedoms provided for are unpacked, expounded on, interpreted and clarified. Over the years the global human rights system has provided expert and technical interpretation, built over the years of experience in considering state reports on the specific human rights instruments. The General Comments of the different treaty bodies and the concluding observations of special procedures and mechanisms of the UN have provided the much-needed interpretations of the latitude of the human rights provisions. In this particular respect, the General Comments of the Human Rights Committee which is the treaty body for the ICCPR have been critical in the understanding of freedom of the media as a human right.

In interpreting what fully constitutes freedom of the media, the Human Rights Committee in its 102nd Session in Geneva (11-29 July 2011) explained in General Comment No. 34 on the ICCPR regarding Article 19 that, "a free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression and the enjoyment of other Covenant rights". Freedom of the media was described as one of the cornerstones of a democratic society that entails the media receiving information to be able to carry out its communication function. Media freedom facilitates the free flow of information and ideas

about public and political issues between leaders and citizens, as well as candidates and elected representatives which is essential. A free press and other media should be able to comment on public issues without censorship or restraint and to inform public opinion. It is also recognised that the public also has a corresponding right to receive the media output.

The Human Rights Committee in Geneva (11-29 July 2011) further urged State parties to take particular care to encourage an independent and diverse media which would protect the rights of media users to receive a wide range of information and ideas, including members of ethnic and linguistic minorities.

The Committee also urged State parties to take account of the extent to which developments in information and communication technologies, such as the internet and mobile-based electronic information dissemination systems have substantially changed communication practices around the world stating thus:

There is now a global network for exchanging ideas and opinions that does not necessarily rely on the traditional mass media intermediaries. States parties should take all necessary steps to foster the independence of these new media and to ensure access of individuals thereto.

The emphasis was placed on ensuring independence in the operations of public broadcasting services so the State parties have an obligation to guarantee their independence and editorial freedom which should be protected from undue influence of funding sources.

Closely interrelated with freedom of expression is also the right of access to information particularly that held by public bodies regardless of the form in which the information is stored, its source and the date of production. Such information includes records held by a public body and such other entity carrying out public functions. The right of access to information entails the right of access to public information by the media as well as the right of access to that information by the general public.

States are obliged to proactively avail to the public government information of public interest; make every effort to ensure easy, prompt, effective and practical access to such information including enacting necessary legislation on access to information and instituting the necessary procedures for the timely processing of requests for information. Fees for accessing information should not be prohibitive and any refusals should be clearly justified. The right to appeal against refusals should be guaranteed.

The African Commission on Human and Peoples' Rights (of the African Union) had earlier provided, in its Banjul Declaration on Principles on Freedom of Expression in Africa of 2002, similar guidance in understanding freedom of expression. It provided a whole range of critical issues that the State has to guarantee or refrain from for the freedom of expression, particularly media freedom, to be realized in totality. The principles have also formed the parameters for assessing whether the citizens of a particular State are enjoying freedom of expression. The principles are:

- The guarantee of freedom of expression
- Non-interference with freedom of expression
- Media diversity

- Freedom of information
- Independent private broadcasters
- Public service broadcasters
- Legitimate restrictions on print media
- Independent regulatory bodies and a public complaints system that is accessible
- Professionalism in the media
- Prevention of attacks on media practitioners
- Criminal measures that serve a legitimate interest
- Economic measures that do not interfere with media content
- Protection of sources and other journalistic material.

In view of the foregoing, right to freedom of expression implies that it should be possible to scrutinize, openly debate, and criticize, even harshly, belief systems, opinions, and institutions, as long as this does not amount to advocating for hatred against any individual. No one has the right to silence another just because their opinions differ; and no one has a right to allow another to be silenced just because of difference of opinion. It is everyone's constitutional right to be able to voice their opinion regardless of how unpopular or wrong that opinion is. This does not mean that in exercising the freedom of expression, individuals and the media should be harsh and unreasonable.

Professionalism and good journalism should be able to check the media practitioners' excesses. This professionalism will often be guaranteed through a set of self-regulation practices, including ethical and professional standards, codes of ethics and media accountability mechanisms operated by the media themselves.

In view of the foregoing, there is a whole range of critical issues that the State has to guarantee or refrain from violating for the freedom of expression, and by extension media freedom, to be realized holistically.

Media freedom should normally be perceived as the individual's right to freedom of expression that is extended to the media. It has an inextricable relationship with individuals' freedom of speech and expression. This, as the UN has confirmed, is because the media is very important in the realization of the freedom of speech and expression. However, many Ugandans have not easily made this connection.

Media freedom as part of freedom of speech and expression is a human rights issue with accountability obligations such that its realization is the ultimate objective of the provisions in the instruments that provide for it. Its relationship to other rights implies that the consequences of its violation have serious implications for all other rights.

Limitations on freedom of the press and media

Like most rights, freedom of speech and expression, which includes the freedom of the press and other media, is not absolute. The ICCPR expressly states that the exercise of the right to freedom of expression carries with it special duties and responsibilities to ensure respect of

the rights or reputations of others or to protect public interest. In this regard, both international human rights standards and the Constitution of the Republic of Uganda provide for limitations.

Human rights and freedoms can be and are limited on grounds of public interest which includes public security, public order, public health, and public morality. Limitations are also imposed to safeguard and protect the human rights and freedoms of others; prevent propaganda for war; prevent advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility or violence. The Constitution of the Republic of Uganda which provides for these limitations in Article 43 also categorically states that public interest shall not permit political persecution; detention without trial; and any limitation beyond what is acceptable and demonstrably justifiable in a free and democratic society; or what is provided in the constitution.

When a State party imposes restrictions on the exercise of freedom of expression, it has a duty to ensure they do not put in jeopardy the right itself because ensuring the enjoyment of the right has to remain the norm while the restriction becomes the exception. Any act that has the effect of destroying any of the rights and freedoms recognised by the Covenant or which imposes a limitation to a greater extent than is provided for in the Covenant should be prohibited. Therefore restrictions should be imposed only when they meet the special conditions laid down, i.e. they must be provided by law in an unambiguous manner; they must be for safeguarding the rights and reputation of others and the public interest; they must conform to the strict tests of necessity and proportionality; they must strictly be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated. The State party that invokes a legitimate ground for restriction of media freedom must demonstrate in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat.

States parties must therefore institute effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression. The Committee emphasised that safeguarding the rights and reputation of others and the public interest may never be invoked as a justification for the muzzling of any advocacy of multi-party democracy, democratic tenets and human rights. It may be legitimate to restrict freedom of expression in order to protect the right to vote but such restrictions must be constructed with care. While it may be permissible to protect voters from forms of expression that constitute intimidation or coercion, such restrictions must not impede political debate, including, for example, calls for the boycotting of a non-compulsory vote.

The Committee advised that no circumstance can justify an attack on a person, because of the exercise of his or her freedom of opinion or expression, including such forms of attack as arbitrary arrest, torture, threats to life and killing. This was in recognition of the fact that journalists are frequently subjected to such threats, intimidation and attacks because of their activities just as are persons who engage in the gathering and analysis of information on the human rights situation and who publish human rights-related reports, including human rights defenders, judges and lawyers. The state has a duty to thoroughly and expeditiously investigate all such attacks, prosecute the perpetrators and provide appropriate redress for the victims or, in the case of death, their representatives.

Extreme care must be taken by States parties to ensure that treason laws and similar provisions relating to national security, whether described as official secrets or sedition laws or otherwise, are crafted and applied in a manner that conforms to the strict requirements for the protection of the rights of others or public security. Invoking such laws to suppress or withhold from the public information of legitimate public interest that does not harm national security or to prosecute journalists, researchers, environmental activists, human rights defenders, or others, for having disseminated such information violates standards. Such laws should also not ordinarily cover information relating to the commercial sector, banking and scientific progress. In fact the Committee has previously found that a restriction on grounds of national security that was imposed on the issuing of a bank statement in support of a labour dispute, including for the convening of a national strike, was not permissible.

The Committee also observed in General Comment No. 22 that, “the concept of morals derives from many social, philosophical and religious traditions; consequently, limitations... for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition”. Any such limitations must be understood in the light of universality of human rights and the principle of non-discrimination

The courts in Uganda have reinforced this obligation to ensure that the primary objective of the provisions of the human rights instruments at all levels, including the Constitution of the Republic of Uganda, to guarantee the enjoyment of the human rights and freedoms stated therein is not jeopardized. The limitations on the human rights, even if provided within the same instrument, should not override the enjoyment of the right but should be for facilitating the realization of the right in question.

In his judgement, Supreme Court Judge Justice Mulenga in the Constitutional Appeal No.2 of 2002 Charles Onyango Obbo & Andrew Mujuni Mwenda and Attorney General stated that:

The protection of the guaranteed rights is a primary objective of the Constitution. Limiting their enjoyment is an exception, and is therefore a secondary objective. Although the Constitution provides for both, it is obvious that the primary objective must be dominant. It can be overridden only in exceptional circumstances that give rise to that secondary objective. In that eventuality, only minimal impairment of enjoyment of the right, strictly warranted by the exceptional circumstance is permissible.

While expounding on limitation on the ground of “what is acceptable and demonstrably justifiable in a free and democratic society” as stated in the Constitution of the Republic of Uganda under Article 43(1)(c), the judge further explained that the Constitution clearly presupposes the existence of universal democratic values and principles to which every democratic society adheres. According to the judge, the fact that Uganda included democratic principles in the Constitution of the Republic of Uganda under Objective I of the National Objectives and Directive Principles of State Policy underscores her commitment to becoming a democratic state and adhering to those values and principles and therefore to that standard. The judge stated:

While there may be variations in application, the democratic values and principles remain the same. Legislation in Uganda that seeks to limit the enjoyment of the right

to freedom of expression is not valid under the Constitution, unless it is in accord with the universal democratic values and principles that every free and democratic society adheres to. The court must construe the standard objectively.

Human rights considerations in imposing limitations

Ultimately permissible limitations on media freedom should be based on the following principles according to the United Nations, in particular UNESCO:

- The limitations must be provided for in the law.
- They must be necessary to protect a number of public areas as well as the rights of others. There must be exceptional reasons for such restrictions.
- The restrictions must be clearly and narrowly defined – not left open to multiple interpretations or abuse.
- They must be applied by a body which is independent of political, commercial or other unwarranted influences.
- They must be applied in a manner which is neither arbitrary nor discriminatory, and which is subject to adequate safeguards against abuse, including the right of access to an independent court or tribunal.
- The restrictions must respect the truth principle i.e. that no one should be penalised for statements that are true.
- The restrictions should only criminally penalise the dissemination of certain information after it has been proven beyond reasonable doubt that the information was disseminated with the intention of inciting discrimination, hostility or violence.
- The restrictions should respect the right of journalists / media practitioners to decide how best to communicate information and ideas to the public.
- Prior censorship should not be used as a tool to restrict the space for debate and discussion.
- Restrictions must be formulated in a way that makes it clear that their sole purpose is to protect individuals holding specific beliefs or opinions, rather than to protect the belief systems from criticism.
- If sanctions must be imposed the following critical principles should be put into consideration.
 - Care should be taken to apply the least intrusive and restrictive measures in order to minimise the chilling effect on freedom of expression;
 - Any imposition of sanctions should be in strict conformity with the principle of proportionality;
 - ‘Offences’ involving freedom of expression should not be considered under a penal code.

Media responsibility and regulation

Like all other rights and freedoms, media and press freedom come with duties and responsibilities. Under the ICCPR, the media have an embedded duty to respect the rights or reputations of others and to ensure protection of public interest. In Article 20, the media is expressly obliged to desist from propaganda for war as well as advocacy of national, racial or

religious hatred that constitutes incitement to discrimination, hostility or violence. In addition, media practitioners also have duties generally as individuals in exercising their rights. The Constitution of the Republic of Uganda states categorically that the exercise and enjoyment of rights and freedoms is inseparable from the performance of duties and obligations. Accordingly, in a number of articles, the Constitution enjoins citizens both in their individual and official capacity to respect the rights and freedoms of others.

In view of the foregoing, regulation of the media to enforce responsibility is necessary. However, more often than not, the state and its functionaries tend to want to control the media instead. Regulation is acceptable and necessary for enforcing responsibility and safeguarding the rights and freedoms of others, as opposed to control that violates media freedom. The General Comment states that regulatory systems should take into account the differences between the print and broadcast sectors and the internet, while also noting the manner in which various media converge. The African Commission on Human and Peoples' Rights in the Declaration of Principles on Freedom of Expression in Africa of 2002 acknowledged that "effective self-regulation is the best system for promoting high standards in the media".

The media should be facilitated by policy and legislation to establish self-regulatory accountability mechanisms that can play a very important role for the media and its efforts to exercise its functions and responsibilities according to established professional standards. In view of the fundamental importance of freedom of expression and the need to refrain from constricting it, media professionals themselves remain the best arbiters of their profession because at a minimum their credibility is at stake, and without credibility, the economic viability of their enterprises consequently gets at risk. The focus must remain on the promotion of ethical and professional standards which is not best enforced by penal sanctions. Self-regulation could take any form from purely independent self-regulatory mechanism, co-regulation or statute-backed self-regulation.

Importance of media freedom

The media enable the right to freedom of speech and expression and also facilitate the right to information, all of which enhance the citizens' right to participate in their governance. Freedom of speech and expression means that everyone has the right to express or disseminate information and ideas; the right to seek information and ideas; the right to receive them; and the right to impart them. Media freedom facilitates scrutiny, open debate and criticism of belief systems, opinions, and institutions, as long as this does not amount to advocating hatred against an individual or being unreasonable. As regional human rights courts have already recognized, the right to freedom of expression is applicable not only to comfortable, inoffensive or politically correct opinions, but also to ideas that offend, shock and disturb.

Media freedom enables the media to play their critical role in democracy and contribution to good governance. This entails providing information, education and entertainment; providing platforms for and facilitating public dialogue, debate and citizen feedback; exposing, denouncing excesses and human rights violations; monitoring the use and abuse of power and facilitating the accountability agenda; building and setting the public agenda. The media is also instrumental in mobilizing citizens to participate in nation-building activities; advocating

for action that is in the interest of the people; criticizing public policies and actions with a view to fostering transparency and accountability; empowering citizens with information to participate fully and meaningfully in their governance and development processes; providing a voice to the voiceless, ‘invisible’, powerless and marginalized etc.

The media mirrors society – its progress and ills. Therefore the media must operate professionally and responsibly, in full compliance of the law and the ethical code of conduct. Media practitioners are human rights defenders who require special protection in the course of their duty.

In recognition of this critical role of the media, the Committee made specific reference to certain specific areas of political discourse that have been of concern regarding undue restriction of media freedom including blocking access during election periods to sources of political commentary, including local and international media, limiting access of opposition parties and politicians to media outlets; in some instances restriction of political polling especially when it is not legitimately for maintaining the integrity of the electoral process.

In fact the Committee emphasised that in circumstances of public debate concerning public figures in the political domain and public institutions, the value placed by the Covenant upon uninhibited expression is particularly high.

Thus, the mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties, albeit public figures may also benefit from the provisions of the Covenant. Moreover, all public figures, including those exercising the highest political authority such as heads of state and government, are legitimately subject to criticism and political opposition.

In this regard, laws on disrespect for authority, defamation of the head of state, the protection of the honour of public officials should not be overly restrictive and punitive. State parties should not prohibit criticism of institutions, such as the army or the government.

State parties were warned against imposing onerous licensing conditions and fees on the broadcast media, including on community and commercial stations and to ensure the criteria for consideration of the application of such conditions and licence fees are reasonable and objective, clear, transparent and non-discriminatory. States are required to institute licensing regimes that ensure equitable allocation of access and frequencies between public, commercial and community broadcasters. The need for an independent and public broadcasting licensing authority, with the power to examine broadcasting applications and to grant licenses was emphasised.

The development of modern mass media necessitates effective measures to prevent such control of the media as would interfere with the right of everyone to freedom of expression. State monopoly control over the media is undesirable and instead it should promote plurality of the media by, among others, taking appropriate action to prevent undue media dominance or concentration by privately controlled media groups in monopolistic situations that may be harmful to a diversity of sources and views. This calls for maximum care when determining systems of government subsidy to media outlets and placing government advertisements so that they are not employed to the effect of impeding freedom of expression. At the same time,

private media must not be put at a disadvantage compared to public media in such matters as access to means of dissemination, distribution and access to news.

The penalization of a media outlet, publishers or journalist solely for being critical of the government or the political social system espoused by the government can never be considered a necessary restriction of freedom of expression. Any restrictions on the operation of websites, blogs or any other internet-based, electronic or other such information dissemination system, including systems to support such communication, such as internet service providers or search engines, should meet the criteria for permissibility and should be content-specific rather than generic bans on the operation of certain sites and systems. Sites or an information dissemination system should not be banned from publishing material solely on the basis that it may be critical of the government or the political-social system espoused by the government.

In recognition of the fact that journalism is now a function shared by a wide range of actors, including professional full-time reporters and analysts, as well as bloggers and others who engage in forms of self-publication in print, on the internet or elsewhere, general State systems of registration or licensing of journalists should not violate media freedom. Accreditation systems should not be used to disadvantage some sections and not be discriminatory.

The freedom of journalists and others who seek to exercise their freedom of expression to travel outside the State party, or of foreign journalists to enter into a State party or the freedom of movement of journalists and human rights investigators within the State party (including to conflict-affected locations, the sites of natural disasters and locations where there are allegations of human rights abuses) should not be unduly restricted. States must also recognise the right of not to disclose their information sources.

Emerging and international threats to security such as terrorism should not be used as an excuse to violate media freedom. Offences such as “encouragement of terrorism” “extremist activity”, “praising”, “glorifying”, or “justifying” terrorism, should be clearly and precisely defined to ensure that they do not lead to unnecessary or disproportionate interference with freedom of the media and access to information. Journalists should not be penalized for carrying out their legitimate activities.

Defamation laws should not serve, in practice, to stifle freedom of expression and penal defamation laws in particular should include such defences as the defence of truth and they should not be applied with regard to those forms of expression that are not, of their nature, subject to verification. Regarding comments about public figures, consideration should be given to avoiding penalizing or otherwise rendering unlawful untrue statements that have been published in error but without malice. A public interest in the subject matter of the criticism should be recognised as a defence. Care should be taken by State parties to avoid excessively punitive measures and penalties. In fact, decriminalization of defamation should be considered as well as only applying criminal law to media work in the most serious of cases.

State obligations on media freedom

Protection of media freedom entails safeguarding the various correlated components of the right to freedom of speech and expression. It is important then that protection of media

freedom is conceived and implemented holistically as a right to be realized for all individuals in Uganda.

It is important to understand the different levels of state obligations in order to appreciate the demands of a holistic approach. The state has an obligation to:

- **Respect:** This entails the duty to ensure that its own agents, public officials and others acting in official capacity do not violate the right to freedom of speech and expression that includes media freedom.
- **Protect:** The duty to ensure that no third party like private individuals and other non-state actors interfere with the people's freedom of speech and expression as well as media freedom.
- **Fulfill:** The duty to ensure that a conducive atmosphere, i.e. a favourable policy, legal, judicial, administrative framework for the enjoyment of the rights; and to provide where due to circumstances beyond their control people are unable to access the rights.

Media freedom can only be fully protected if the State is willing not only to respect but also protect and fulfil the right.

The Media landscape in Uganda

Uganda's Constitution guarantees freedom of speech and expression, including freedom of the press and other media. There are statutory bodies for regulating the media, and vain efforts by the media practitioners for self-regulation. The Access to Information Act is in force and its Regulations of 2011 to operationalize Article 41 of the Constitution, which guarantees citizens the "right to access information in possession of the State or any other organ or agency of the State except where the release of the information is likely to prejudice the security or sovereignty of the State or interfere with the right to the privacy of any other person".

Uganda has implemented a media liberalization policy since the 1990s. This resulted in the proliferation of media houses from 1993 when the first private radio station opened. According to the Uganda Communications Commission, by June 2018 there were over 300 registered radio stations (292 operational), 33 television stations. The growth in Uganda's internet access and usage has also been unprecedented with increasing internet subscriptions. The UCC has also recorded an increasing internet penetration rate which stood at 48.2 internet users per 100 inhabitants by June 2018. The internet has admittedly revolutionized access to information.

In spite of the constitutional guarantees on media freedom, as well as the obligations Uganda assumed through the ratification of international and regional instruments that provide for media freedom, there are still several retrogressive provisions in law that are not in tandem with human rights standards and the constitutional guarantees. Media freedom monitors at the national, regional and international level like the Uganda Human Rights Commission Annual Reports, Press Freedom Index, Africa Media Barometer have documented that the growth in numbers of radio and television stations has failed to enhance the realization of media freedom. Instances of violation of media freedom have been highlighted and specific recommendations made for its protection.

Claw back pieces of legislation coupled with other measures and undue restrictions by the state continue to be applied thereby discounting the constitutional guarantees. Security issues are centre-stage and with them increased government secrecy on matters that should ideally be in the public arena. Even when the low cost, decentralized nature and great reach of the Internet has made it a key outlet for the dissemination of independent opinions about State authorities and policies, it has instead attracted unprecedented interest among state functionaries to control, monitor and censor the digital media, in particular the Internet. Media regulation is done by the Uganda Communications Commission and the Uganda Media Council. The media effort at self-regulation has not been successful.

The Uganda Broadcasting Corporation (UBC) is still in the grip of the ICT Minister, which negatively impacts on its independence and transparency. It has still not transformed into a truly public broadcaster accountable to the public through Parliament. Community broadcasters that could effectively fill the gap since they are not profit motivated are still operating under an unclear policy and legal environment. In some respects they have been subjected to the same conditions as commercial stations and they are prone to interference by the State. Even though the fee for non-profit making broadcasters was lowered, this is not supported by regulations.

Increasingly, many media practitioners have found themselves in the line of fire; being shot at, beaten, arrested or harassed by state agents and their tools and equipment destroyed, particularly while covering demonstrations, riots and elections. Media houses have also been closed by the state for publishing or airing information that did not go down well with government officials.

Studies have been undertaken by a number of stakeholders including the Uganda Human Rights Commission, the Human Rights Journalists Network, the Human Rights Network Uganda, among others, on the existing legal framework in Uganda and whether it promotes media freedom. All the findings indicate that a number of legislations currently do not safeguard the growth of media, but rather seek to control and criminalize the work of journalists. Many recommendations have been made for the government to comply with the human rights standards it has committed itself to as explained above to review the laws to ensure they facilitate rather than restrict the enjoyment of media freedom in Uganda.

There are other extra-judicial actions that government and security agents have taken against the media and media practitioners that have had the effect of violating media freedom. The arbitrary shutting down of the internet during elections; the switching off air of radio stations by a police officer and sometimes on the instructions of the Resident District Commissioners (RDCs) or proprietors of media houses hosting opposition politicians and for other political reasons has also been recorded in Uganda. This is on top of the escalating incidence of attacks on journalists as well as other concerns for individuals, groups and institutions working on issues of safety of journalists in Uganda, the region and globally.

The order by the Uganda Communication Commission to 13 radio and TV stations to “suspend” a total of 39 news executives and producers over coverage of opposition politicians was the most recent controversial government action violating media freedom. Ironically, the

order was issued two days to the World Press Freedom Day oblivious that Uganda would become the subject of discussion globally for this incident as the international community commemorated the Day. On 30 April 2019, the UCC accused the seven radio stations (Akaboozi FM, Beat FM, Capital FM, CBS FM, Pearl FM, Sapientia FM and Simba FM) and six TV channels (NTV-Uganda, NBS, TBBS, Bukedde TV, Kingdom TV and Salt TV) of misreporting the news in a manner “likely to create public insecurity or violence.” The UCC also accused them of carrying “extremist or anarchic messages, including incitement of violence for political and/or other purposes”.

The 2019 Annual World Press Freedom ranking of Uganda by Reporters Without Borders might be telling. Uganda was ranked at number 125 out of 150 countries, a drop from 117 in 2018. The organization attributed this to the growing intimidation and violence against reporters. The security services have been registered as the leading press freedom violators, often targeting journalists and arresting them arbitrarily. It is also becoming common for the authorities to intervene directly to block the broadcasting of TV reports. Government acknowledged that the assessment could hold some water if it was done in the period of heightened political tension. However, it was quick to point out that harassment of journalists was not institutional.

Media practitioners also continue to grapple with issues of working conditions, remuneration and exploitation within the industry; qualifications and professionalism; and unethical conduct, especially corruption. The interference in editorial independence by media owners has escalated, motivated by the need to safeguard their commercial and political interests. Advertisers have a strong hold on editorial decisions regarding whether a story runs or is withheld; just as politician proprietors or their cronies use the media outlets to suppress political dissent or opposition.

In the discourse about media freedom, there is a glaring disconnect between the right and the general freedom of speech, expression that all citizens have. Consequently, when the media or media freedom are under attack, the general public or civil society remain indifferent as they do not perceive that as a danger they too are facing. Even the violators do not seem to appreciate that intricate connection of media freedom to their own freedom of expression.

Threats to the media and their policy implications

The media in Uganda faces threats at different levels and this invariably affects the realization of the right to freedom of expression and ultimately impacts on democracy.

Legal threats

Restrictive, outdated laws still exist on the Statute Books. Some of these have been invoked by state agents with a motive of restricting media freedom. Some provisions that do not directly relate to the media have also been invoked as holding charges to rein in media practitioners. In other cases, some media practitioners have had to frequently report to police or courts in respect of pending charges. Limitations to the right to freedom of speech and expression have more often than not been used by state agents as a means to restrict criticism and silence dissenting views contrary to what the standards provide on limitations.

Judicial threats

Courts have awarded exorbitant damages, fines and prison sentences against the media. Civil damages are appreciated in civil disputes between members of the public and the media. The problem is when courts award exorbitant damages that threaten the existence of media house. Some of these high costs have affected the media businesses causing the proprietors to take drastic action against the media practitioners in question including sacking or demanding self-censorship. The lengthy litigation also takes a heavy toll on the media businesses and practitioners as the endless trips to court become not only costly but also distractive. Some journalists have at some point had multiple cases (even up to 15) pending in court.

Physical threats

Media practitioners have faced direct physical attacks including shootings, attempted shootings, tear gas, beatings, abductions and harassment. The physical attacks have not only been from State actors but also non-State actors like mobs of rioters, politicians, students, traders, motorcycle taxi riders also known as boda boda riders, with the aim of silencing or restricting media practitioners. State agents are wary of being exposed while violating rights so they attack the media practitioners to ensure that their excesses are not exposed as they do attract both national and international criticism and pressure.

Political threats

Public pronouncements have been made against some media by high-ranking government officials. Some media houses and practitioners have been publicly accused of political partiality. Consequently, owners start interfering in the editorial decisions in order to prove that they are not linked to the opposition and to ensure that they are not shunned by advertisers who would not want to be associated with the opposition. In some instances, state agents access newsrooms to find and file information about journalists.

Economic threats

Media owners are typically more interested in the bottom line than in journalism's public interest mission. The primary reason for most media proprietors to start the business is profits and not the promotion of free expression or service to the public. Any threat to the profit margin is a frightening prospect to such proprietors, making them so vulnerable to economic threats. Such threats have manifested in the form of withholding of advertisements, paid airtime and space; or costly legal battles; shouldering exorbitant damage awards and even closure of the business. The pressure to lay off media practitioners deemed too critical of government in favour of profits is real.

Administrative threats

Some government officials, like some RDCs, have arbitrarily directed media practitioners; some with the cooperation of the media owners, on what to or not to discuss or who to host or interview. Media proprietors and editors sometimes take internal administrative actions

and decisions based on considerations of protection of business and political interests. Some editors have pressured practitioners and forced them to reveal their sources not for purposes of protection but to expose them to the powers that be. Media owners, police and other security agents have also pressured media practitioners to reveal their sources. In other instances, overly subjective administrative regulations have been made regarding licensing and taxation, in order to cripple, close or suspend certain media outlets. Some administrative directives have been made compelling news media not to cover certain aspects, especially during public protests, riots, electoral processes or emergencies.

Internal challenges within the media fraternity

The challenges of lack of professionalism, inadequate training, unethical conduct, corruption coupled with poor working conditions and inadequate remuneration for media practitioners have increased their vulnerability. Many of them have fallen prey to agents dangling unscrupulous and unethical baits to get favourable coverage or suppress unfavourable information. Some have sadly sold their soul. There is also no strong union, no umbrella association, no publishers' association, no editors' association and this weakens the media industry as it cannot stave off external pressures and attempts to control it.

Low levels of media literacy

There is also among different sections of society, including the political class, low level of media literacy. Many people do not appreciate the importance of media freedom or make the connection of its importance to their own freedom of expression and other rights. As a result, the efforts to ensure media freedom are largely lone efforts by the industry and human rights defenders, when it should be the concern of everyone.

Impunity

The majority of the abuses against the media, particularly the physical violence against journalists by state agents, have gone unpunished. The implication is that many state agents do not get deterred from such acts. If anything they are willing to violate these media freedoms hoping it will earn them recognition from the powers that be, especially following a publicly made complaint.

Challenges of advancing technology

The information, communication technology explosion has changed the face of journalism and expanded the latitude and platforms for sharing information in real time. The growing reach of social media may have partly facilitated the rise of fake news; but it has also drawn attention to the full implication of media freedom with the real time communication facilitated by the increasing mobile phone coverage. With it has come a challenge of complying with the high responsibility that characterizes the exercise of freedom of expression as well as the challenge of effectively regulating or policing communication without the matching technology tools. Often this results in highhanded or arbitrary actions that have a general negative effect owing to the inability to zero on the actual culprits.

Disparity in protection

Media practitioners who operate in urban areas as well as in big institutions continue to have better protection than their counterparts upcountry or in smaller media entities. Conditions of work, sophistication of audiences and accessibility of information vary greatly between these categories. The likelihood of succumbing to pressure increases with the vulnerability that characterises such disparity. There is a particularly challenging issue of free-lancers who work under extreme conditions.

These threats, although in varying degrees, create an uncertain environment for media professionals causing fear and a chilling effect on the direct victims or their colleagues. This ultimately translates into self-censorship which is a direct assault on free speech and the right to information because meaningful criticism of public policies and authorities gets shunned. Most media outlets are increasingly suffering the dwindling of news spaces taken over by the increasing entertainment and advertising. Entertainment is safer and rarely attracts frowns from overzealous state agents while advertising brings in the revenue. Equally, investment in professional training and in gathering and disseminating news and information has reduced. Not only does this deny the media practitioners their rights but it puts in jeopardy the fundamental right of society to be kept informed. On the other hand, many media proprietors are not willing to join initiatives to fight for media freedom, media space and the rights of media practitioners since their major interest remains business as opposed to facilitating the realization of human rights.

Conclusion

Protection of media freedom in Uganda is critically important given the role the media plays in enhancing respect for human rights, facilitating the democratization process and ultimately contributing significantly to sustainable development. Protection and promotion of media freedom requires a broader, holistic approach that consciously focuses on all the correlated facets of media freedom including; the right to freedom of speech and expression as well as the right to information; the State obligations at international, regional and national levels to guarantee, safeguard, protect and promote freedom of expression and to cater for the expanding media spaces. The onus is on Government to effectively embrace the obligations it assumed when Uganda ratified international and regional human rights instruments that have clearly lay out standards, policy frameworks and principles to guide the implementation of government programmes and actions to enhance media freedom.

Recommendations

The following recommendations are made in view of the policy framework that the international human rights regime provides:

- The Government should embrace holistic approach to media protection at all its levels to uphold the interdependence, interrelatedness and interconnectedness of rights. This requires emphasis on freedom of speech, expression, thought, opinion, assembly, association, movement and participation in own governance.

- The Government should enact a National Policy that recognises public information as a public good and a right that requires special protection from abuse, violation and exploitation by profit-motivated media owners.
- Government should support media practitioners to appreciate their responsibilities and to conduct sensitization, training and public education programmes to enhance public understanding of the value of media freedom, freedom of speech and expression and the role of media in ensuring democracy.
- Parliament should spearhead expeditious law reforms that recognise the role of the media and enhance freedom of speech and expression as stipulated in the Constitution of the Republic of Uganda, prohibiting arbitrary interference and control of the media by state agencies.
- Parliament should institute laws to mitigate impunity when violation of media freedom and the rights of media practitioners have occurred besides entrenching media freedom in the national development plans such as the Uganda Vision 2025, the National Action Plan on Human Rights and National Development Plans.
- Government should ensure national compliance to international human rights standards for media and establish structures for accountability and protection of the media. These include: The Parliamentary Committee on Human Rights; the UN Special Rapporteur on freedom of expression; the UN Special Rapporteur on Human Rights Defenders; the UN treaty body system; the African Commission on Human and People's Rights; the Africa Peer Review Mechanism and the Universal Periodic Review.
- All stakeholders and not just media practitioners should participate in commemoration of important days for the media including the World Press Freedom Day to ensure safety of journalists in compliance with the UN Plan of Action on the Safety of Journalists drawing from the National Action Plan on Human Rights.
- Support and strengthen support networks of media practitioners under threat, including networks of human rights defenders, as well as other media professional bodies and unions to enhance their capacity to champion media freedom.
- Media practitioners should practice self-regulation to check the media practitioners' excesses and enforce ethical and professional standards.

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