



Integrating Human Rights in Regulation of Media Practice in Uganda



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Integrating Human Rights in Regulation of Media Practice in Uganda

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Executive Summary

Despite ratification of the Universal Declaration of Human Rights (Article 19) and recognition of freedom of opinion and expression by the Constitution of Uganda (1995), state and media practitioners continue to clash in public space over the right of media to access public information and to determine content and presentation of media output.

This policy brief discusses integration of universal media freedoms and rights into the media policy framework, and is based on policy research commissioned by the Uganda Policy Development Management Forum based at Uganda Management Institute (UMI), in partnership with Africa Leadership Institute (AFLI).

Data was obtained by document review and presented to a public policy dialogue attended by media practitioners, government technocrats in the ministry of ICT and National Guidance, Civil Society Organizations (CSOs), academia and the general population.

The study established that the international human rights standards were entrenched in the Constitution of the Republic of Uganda of 1995 which provides the overarching framework that specifies state obligations and accountability on rights and freedoms. The study established that these rights are largely misunderstood and hardly implemented in the Ugandan media space.

This policy brief recommends that; government of Uganda embraces a holistic approach to media regulation to include; protection of media freedom and human rights, recognition of information as a public good; capacity building for media practitioners; expeditious law reforms to integrate media freedom as a fundamental human right, establishment of laws to sanction individuals who abuse media privilege; inclusion of media interests in the National Action Plan and National Development Plan, commemoration of international and local media days and strengthening of networks for media practitioners. Media should also build internal checks to self-regulate and enforce professionalism.



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Mr. Ofwono Opondo the Director Uganda Media Centre discusses a paper at the policy dialogue



Dr. Adolf Mbaine Paper Author and Presenter makes a presentation at the policy dialogue

Introduction

Media freedom is a fundamental right stipulated in the international and local human rights instruments including the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the African Charter on Human and Peoples' Rights and in the 1995 Constitution of Uganda. Media is addressed in Article 19 of the UDHR that 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 regardless of frontiers. The Constitution of the Republic of Uganda Article 29 (1) (a) states among others, "the right to freedom of speech and expression shall include freedom of the press and other media".

Freedom of expression and other human rights are guaranteed together under Article 29 of Uganda's Constitution. This policy brief provides input for review of the existing media policy framework to institute sensitivity to freedom and rights of media houses, media practitioners and media consumers.

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The Problem

The Constitution of Uganda and ratified International treaties provide a framework within which media freedom should be promoted but the public and frequent collision of the state and media actors in Uganda suggests a difference in understanding of media freedom and rights, and an absence of policy guidance on usage and access to public information. Ratification of international human rights instruments including the Universal Declaration of Human Rights is voluntary and was not imposed on the Government of Uganda. However, government

sometimes uses instruments of coercion against the press in ways that indicate insensitivity to media freedom and rights. Additionally, the ratified treaties are silent at population level and do not feature in the socialization space and primary school syllabus which would help to embed human rights and freedoms, and socially prepare actors for the delicate navigation of state and practitioner interests. The deficiency of social and scholarly appreciation of human rights and freedoms limits actors' options to blockage, censorship and physical contest, making media space unattractive to potential actors and way below universal standards.



Dr Gerald Werikhe the acting Executive Director addressing participants at the Inter-Agency meeting at AFLI headquarters where the draft policy brief was critiqued.



The three representatives from Wizarts Foundation, UPIMAC and Foundation for Human Rights Initiative attentively listen at the inter agency meeting

Approach

UMI commissioned policy research on regulation of media in 2019 at a time when State security apparatus and media practitioners were embroiled in legal and physical battles, culminating in lengthy debate in Parliament and a media ban on police imposed by media practitioners. The policy research entailed review of existing policy frameworks including policy documents, international instruments on media freedom and journal articles on the subject of media freedom.



Dr. James Nkata the Director General UMI gives opening remarks during the policy dialogue



Mr. Moses Watasa, the Commissioner for Broadcasting and Communication makes a speech during the policy forum

Findings

Rights of access to information and freedom of expression

The Human Rights Committee in its 102nd Session held in the Geneva (11-29 July 2011) General Comment No. 34 on Article 19 of UDHR asserts, "...a free, uncensored media is essential in any society to ensure freedom of opinion and expression". Media signifies the right to freedom of speech and facilitates the right to information, all of which enhance the citizens' right to participate in their governance. The Human Rights Committee in Geneva (11-29 July 2011) urged State parties to ensure protection of media users and proactively avail to them government information of public interest. The African Commission on Human and Peoples' Rights (of the African Union) in its Banjul Declaration on Principles on Freedom of Expression in Africa (2002), guides governments to guarantee freedom of expression and facilitate public and private broadcasters.

Media responsibility and regulation

Limitations on media freedom should be provided for in the law, established under exceptional circumstances, clearly defined, independent of political influence, non-arbitrary, proportionate and should not be under the penal code (UNESCO 2015).

Restriction of media freedom should be imposed but only when they meet the special conditions laid down by law. Any act which imposes a limitation to a greater extent than is provided for in the covenant should be prohibited. The State party that invokes a legitimate ground for restriction of media freedom must demonstrate its necessity and must follow an agreement with media actors.

Chapter 4 (20) of the constitution of the Republic of Uganda states that all people have an embedded duty to respect the rights and reputations of others. The ICCPR states specifically that freedom of speech and expression for the media is not absolute and media practitioners should be sensitive to interests of other people and respect their rights. Regulation of the media is thus necessary to enforce responsibility and safeguard the rights and freedoms of the media and stakeholders who are not practitioners. However, what is common in Uganda is the state's pursuit of media control instead of regulation.

The Media landscape in Uganda

Uganda has implemented a media liberalization policy since the '90s. According to the Uganda Communications Commission (UCC), by June 2018 there were over 300 registered radio stations (292 operational) and 33 television stations. The UCC recorded an increasing internet penetration rate of 48.2 internet users per 100 inhabitants in June 2018. According to UCC, the evolution of Uganda's internet access and usage requires regulation due to potential abuse.

Threats to the media and their policy implications

Key among the threats to media freedom and rights are the restrictive out-dated laws, exorbitant damages awarded by court against media houses, business censorship due to fear of financial loss, administrative interference by politicians and media business owners, lengthy litigation, pronouncements against media houses by high-ranking government officials, physical attacks from security forces and inadequate professional training among practitioners. These business, legal and capacity threats may compromise freedom of expression and deter media from demanding their rights.

Recommendations

Government of Uganda should regularly revise the policy framework to comply with international standards for media freedom and rights in liaison with; 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. Specifically, government should:

1. Ensure that the National Policy recognises public information as a public good that requires protection from abuse by profit oriented actors.
2. Entrench a Rights Based Approach in all national programs including National Development Plan (NDP) and National Action Plan on Human Rights Entrench ethical and enforce professional standards across media houses and in the public through legislation
3. Introduce media freedoms and rights in the school curricula beginning with primary schools so that children are sensitized to appreciate media rights early in life.
4. Strengthen networks of media practitioners through professional bodies and networks of human rights defenders and local associations that champion media rights and freedom.
5. Provide legislative support for commemoration of important media days including the World Press Freedom Day to enhance population awareness of the role, rights and freedom of media.
6. Spearhead laws that mitigate acts of impunity against media freedom and revise out-dated laws that limit rights and freedoms of the media.



Participants at the inter agency meeting

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