

“MEDIA REGULATION IN UGANDA WITH REGARD TO INTEGRATION” HOW THE UGANDA MEDIA COUNCIL WORKS AND THE CHALLENGES IT FACES

Paper presented by:- Mr Paul Mukasa, Secretary Media Council Uganda at a Regional Workshop in Bujumbura on how the Media can share their experiences within the East African Community for a better integration.

I will first talk about Uganda’s Commitment to the Promotion of freedom of expression and the Media.

Is Uganda committed to the promotion of the free Media?

The answer is yes. At least in Principle.

International Continental and Regional Instruments

Uganda is a signatory to a number of International, Continental and Regional legal instruments promoting the freedom of the media and expression.

The Universal Declaration of Human Rights, most particularly Article 19 which states that:-

“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”.

Uganda is also a party to the International Covenant on Civil and Political Rights (ICCPR) which also emphasizes the freedom of opinion and expression.

It is a party to the Windhoek Declaration on promoting an independent and pluralistic African Press which was adopted by the General Assembly of the UN Educational, Scientific and Cultural Organisation (UNESCO) in 1991.

Uganda is a party to the African Charter on Human and Peoples Rights.

Article 9 states that “every individual shall have the right to receive information”, and “every individual shall have the right to express and disseminate his opinions within the Law”.

Declaraton of Principles on Freedom of Expression in Africa

This Declaration was adopted by the African Commission AU. Article 17 calls for the “state and Government controlled broadcasters to transform into Public Service Broadcasters, accountable to the public through the legislature not Govt.

The East African Community

Uganda is a member of the EAC. According to Article 33 (b) of the EAC Treaty, membership of the Community is conditional among other things on “Adherence to Universally Acceptable Principles of good governance, democracy, the rule of law, observance of Human Rights and Social Justice”.

Protocal on Management of Information and Communication

Uganda is a member of the International Conference on the Great Lakes Region besides Burundi, Angola, Central African Republic, Republic of Congo, Kenya, Rwanda, Sudan, Tanzania and Zambia.

In 2006, Heads of State and Government of the Members States agreed on a Pact on security, stability and development in the Great Lakes Region.

One of the protocols signed was to do with the management of information and communication, particularly to promote freedom of opinion and expression and a free exchange of ideas in the Great Lakes Region, promote the freedom of the media to receive and to impart information and ideas in the Great Lakes Region and to promote plurastic media and the new information and communication technologies.

The Ugandan Constitution

Article 29 (1) (a) of the Ugandan Constitution 1995 states that:-
“every person shall have the right to freedom of speech and expression, which shall include freedom of the Press and the Media”.

Article 41:- “every citizen has a right of access to information in the 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”.

Article 43:- “in the enforcement of the rights and freedom prescribed in this chapter, no person shall prejudice the fundamental and other human rights and freedom of others or the public interest”.

Media Laws in Uganda

In consonance with Article 29 of the Constitution – the Press and Journalist Act CAP 105 was enacted mainly to fulfill this Constitutional obligation, one of its main objective is stated:- “an Act to ensure the freedom of the Press”.

The Electronic Media Act CAP 104

This Act was set up by the Broadcasting Council to license and regulate Radio and Television Stations and to provide for the licensing of Television sets.

The Access to Information Act 2005

In furtherance to Article 41, this Law was enacted in 2005. The regulations for the implementation of the Act were also gazetted.

All Ministries, Departments and Agencies have appointed Information Officers who will be responsible to ensure that people who ask for information receive it.

According to the Law, the Information Officers are the accounting officers of the said Ministries, Departments or Agencies. They can however delegate this function.

This system could be rolled out to the entire East African Region.

The Liberalisation Policy

The Government of Uganda in 1992 passed the Policy on Liberalisation of the Media, breaking the monopoly of hitherto Radio Uganda and Uganda Television, the only state media monopoly then.

At present Uganda has 244 FM stations, 50 TV stations and about 50 Publications.

The Broadcasting Policy / UBC Act

Like the African Commission Declaration – which calls for public service broadcasters, Uganda’s enactment of the UBC Act 2005 was an effort in this direction and in furtherance of its broadcasting policy which was largely influenced by this declaration.

The Media Council

The Media Council was formed by an Act of Parliament through the Press and Journalist Act CAP 105.

Its main objective is to regulate the media with the intention of protecting media freedom enshrined in Article 29 of the Constitution and to ensure that this freedom is not misused as per Article 43 of the Constitution.

Under Section 9 of the Act the functions of the Council are:-

- a. To regulate the conduct and promote good ethical standards and discipline of Journalists
- b. To arbitrate disputes between the public and the Media; and the State and the Media

- c. To exercise disciplinary control over Journalists, Editors and Publishers.
- d. To promote the free flow of information
- e. To censor Films, Video Tapes, Plays and other related apparatuses for public consumption.

Composition

The Council is composed of:-

1. Scholars in Mass Communication
2. Representatives of Uganda Newspapers and Proprietors Association (UNEPA)
3. Four members of the Public not being Journalists but of proven integrity and good repute.
4. Two Representatives from the Electronic Media.
5. A Representative of Journalists
6. A Representative of the Uganda Law Society
7. A Representative from Government, specifically from the Ministry of Information, the Director of Information or a Senior Officer who acts as the Secretary.

Nomination from these organisations is forwarded to the Minister who constitutes the Council.

Disciplinary Committee

The Media Council has a six man Disciplinary Committee headed by its Chairperson.

How complaints are lodged

A complaint is reduced in form of writing and addressed to the Secretary of the Media Council. The Secretary within 30 days upon receipt of the complaint refers the matter to the Disciplinary Committee which fixes the date for hearing.

The Committee gives the journalist who is complained about an opportunity to be heard and is given a copy of the complaint at least 14 days before the hearing.

Penalties

If the Committee finds a journalist guilty these are the options:-

1. The journalist is admonished and required to apologise to the aggrieved party in the manner specified by the Committee including the same boldness of lettering on the page where the article appeared in the newspaper.
2. Suspension of the Practicing Certificate of a journalist for six months.
3. The Media organization which published the matter can be ordered to pay damages to the complainant.

The journalist is free to appeal to the High Court if he/she is not satisfied with the decision.

Practicing Certification

Section 27 of the Act requires all practicing journalists in Uganda to have enrolled with the Statutory National Institute of Journalists of Uganda (NIJU) and then be a Practicing Certificate by the Media Council.

The Law makes it an offence to practice without a Certificate. Nevertheless, journalists have refused to register and resisted this requirement arguing that the right to practice journalism is guaranteed by the Constitution under Article 29.

There is also a growing trend of citizen journalism and people using the social media to communicate ideas, pictures and breaking news, an area which hitherto was a preserve of the traditional journalists. This makes the situation even more complicated.

The Right to Publish

To start a publication in Uganda one of the essential things to do is:- You register with the Registrar of Companies, submit the particulars of the Editor with the Council and you start publishing.

Section 2 of the Act gives the right to publish a paper:- (1) a person may subject to this Act – publish a newspaper.

No person or authority shall on grounds of the content of publication take any action not authorized under this Act or any other Law to prevent the:-

- i. printing
- ii publication
- iii. circulation among the public of a newspaper

Professional Code of Ethics

Section 40 of the Act empowers the Council to ensure that the Professional Code of Ethics of journalists is adhered to. The Code is the only national guideline to professional ethical and responsible journalism and media in Uganda.

The Code which is provided for in the 4th Schedule of the Act has nine articles as follows:-

1. No journalist shall disseminate information or an allegation without establishing its correctness or truth.
2. No journalist shall disclose the source of his or her information: he or she shall only divulge the source in the event of an overriding consideration of public interest and within the framework of the law of Uganda.
3. No journalist shall solicit or accept bribes in an attempt to publish or suppress the publication of a story.
4. A journalist shall not plagiarise the professional work of others or expropriate works or results of research by scholars without acknowledging their contribution and naming his or her sources of information.

5. A journalist shall obtain his or her information through the skillful application of journalistic principles and shall never bribe or offer inducements to his or her source.
6. No journalist shall deny any person with legitimate claim a right to reply to a statement. Corrections and rejoinders are to be published in appropriate form without delay and in a way that they will be noticed by those who have received the original information.
7. A journalist shall at all times strive to separate his or her own opinions from factual news. Where personal opinions are expressed, the public shall be made to know.
8. A journalist shall take the necessary steps to correct any damaging report he or she has made or any individual or organization.
9. A journalist shall not originate or encourage the dissemination of information designed to promote or which may have the effect of promoting tribalism, racism or any other form of discrimination.

The Professional Code of Ethics needs to be updated to suit the changed times.

The Media Council has arbitrated several cases and has awarded damages to the aggrieved. Most of cases are against the Red Pepper Publications Ltd.

Most prominent was when the Council awarded 100 million shillings to the late Libyan leader Colonel Muammar Gaddafi who complained about the Red Pepper which was linking him to be in a love affair with the Queen mother of the King of Tooro Kingdom in Uganda.

Our cases can be viewed on our website: www.mediacouncil.ug

The Media Council has exercised some disciplinary controls over journalists, editors and publishers through written warnings to abide by the requirements set by the Law, requests to respect Professional Code of Conduct, requests to desist from publishing and voicing pornographic materials and programmes.

The Media Council has summoned some of the mentioned media personnel and after discussing with them given them a caution which can be followed by an official warning.

Independent Media Council

Besides the Statutory Media Council, there is also a section of journalists in Uganda who believe in self regulation and self censorship.

They have formed a body called Independent Media Council whose duty is to promote self regulation and self censorship among the media.

This is a welcome phenomenon because we believe that self regulation arises from an independent, free and responsible media which is one of the objectives of our Constitution.

Nevertheless, we also believe that in a young democracy and a young journalism profession, a Statutory Media Council is still necessary.

Challenges

Many media personnel doubt the independence of the Media Council from government. Whereas the Council acts independently and has even dismissed cases against the media brought to it by government, many people think the Council is the arm of government.

Nevertheless, we also believe that in a young democracy and a young journalism profession, a Statutory Media Council is still necessary.

Challenges

The Constitutional provisions in favour of press freedom renders the Media Council and sometimes Courts of Law unable to inflict appropriate penalties to the offending journalists and publishers even when the wrongs committed are glaring.

Some people may call the Media Council toothless due to this provision in light of the media excesses which might go unchallenged.

Some publications have constantly continued to publish pornographic materials despite the Media Council Bans issued in December 2006 and reinforced in November 2008.

The government has now drafted the Anti -Pornography Bill which is soon reaching the Ugandan Parliament for debate. The Penal Code Act Section 166 – prohibits pornography but pornography is not defined hence the lacuna which makes its curbing difficult.

The Media has been widely privatized that the control is almost impossible. Almost every small village has an FM station – Uganda has 112 districts with 244 FM stations.

The free and liberalized media seems to be an irreversible trend. There is need for regional States to put in place a strong public relations mechanism and a pro-active approach to information dissemination to respond effectively and timely.

The state should also get used to negative media against it and to counter it through the public relations and pro-active mechanism or through legally accepted arbitration methods.

Inadequacy of the law, the Press and Journalist Act.

The Press and Journalist Act did not give the financial base for the Council, nor did it set up a secretariat with the expertise and personnel necessary to carry out the entire mandate of the Council.

Censoring films, video tapes and other related apparatuses for public consumption is a gigantic task or function for which the Media Council has no staff, financial and administrative capacity to handle.

The Council raises funds to run its operations through charging accreditation fees from foreign Journalists. It is 100 dollars for a period not exceeding 30 days and 200 dollars for a whole year.

Lack of awareness about the role of the Council

The Council's arbitration role is either ignored or not known. Government for example would be taking its complaints to the Media Council before the Courts of Law or using other means.

The public out there have also not utilized fully the services of the Council.

Selected Bibliography

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