

ARTICLE 29 COALITION

STATEMENT ON THE PRESS AND JOURNALIST (AMENDMENT) BILL, 2010

6 March 2010

The Press and Journalist (Amendment) Bill, 2010 has come to our attention and its proposals, if passed into law, will further erode press freedom and free expression in Uganda.

We, the members of Article 29 Coalition, a voluntary network of media organisations and associations with a mandate to promote media freedom and professionalism in journalism, and our allies strongly object to the spirit and content of the proposed amendments to the Press and Journalist Act Cap 105 of 2000:

1. Some of the proposed newspaper licensing conditions, such as “proof of existence of adequate technical facilities” and the “social, cultural and economic values of the newspaper” violate constitutional guarantees of freedom of expression and are subject to abuse. A person or legal entity should be free to publish a newspaper whether they have state-of-the-art technology or not. Some of the newspapers that stood up to the oppressors of the past, including the colonialists, and highlighted human rights abuses were produced with rudimentary technology but the ideas they propagated were transformative. Freedom of expression and of the press cannot be the preserve of only those who have ‘adequate’ technical facilities and other resources.
2. In general, the amendments amount to excessive and authoritarian statutory control of media freedom, and therefore contradict the vision of the framers of Uganda’s 1995 Constitution as well as other international instruments and protocols to which Uganda is a signatory. The proposed amendments not only impose a Machiavellian discipline on the media, but also claw back any gains made in media freedom and professionalism over the years.
3. To require the licensing of newspapers means the government through the Media Council would now have the power to revoke or refuse to renew the licence at will, which is the situation with broadcasting. This is very dangerous. The Media Council could easily revoke or refuse to renew the licence of a newspaper accused of committing the new publication offences the bill creates. And this could be done even before a competent court has pronounced itself on whether the newspaper in fact committed the alleged offences. This is what happened to CBS Radio when the Broadcasting Council shut it down during the September 2009 conflict between the government and the Buganda monarchy that led to fatal riots.
4. Contrary to the provisions of Article 29 of our constitution, licensing of newspapers will amount to licensing the very fundamental freedom of expression that is guaranteed in the constitution. Licensing of newspapers is an archaic control mechanism which has been used by regimes that do not appreciate the role of the media in enhancing the public good. These amendments are reminiscent of the Zimbabwean Access to Information and Protection of

Privacy Act (AIPPA) of 2002 that was effectively used to de-license critical newspapers in that country using the licensing requirement.

5. Particularly disturbing is the Media Council's powers to revoke a newspaper's license based on publishing material that is "prejudicial to national security, stability and unity," "injurious to Uganda's relations with her neighbours or friendly countries," and that "amounts to economic sabotage." The criminalisation of the publication of such material is very dangerous as such provisions are prone to subjective interpretation. Troubling questions arise: Who and what constitutes prejudice to national security? Who defines and what constitutes injury to Uganda's relations with her neighbours or friendly countries? Moreover, we foresee a situation where a politician or government functionary with interests in a particular business might decide that critical or unfavourable reporting and commentary about the activities of that business amount to economic sabotage.
6. By their public mandate, newspapers can legitimately and responsibly comment on matters of national security, foreign relations as well as the economic trends in the country. Given the fact that the definitions of legitimate and injurious commentary and reporting on national security, foreign policy and economic affairs are contested, as they should be in a democracy, these provisions will only serve to offer a tool for government and politicians to crack down on dissenting but legitimate comment on public affairs.
7. We find no justification whatsoever for any moves to change the current requirement of registering newspapers at the General Post Office to a state-controlled Media Council with such sweeping powers. We note that the bill is based on an opportunistically narrow view of the print media industry as a political actor. The industry operates as a business like any other, pays taxes and competes in the open market. It would be counter-productive for the economy and outright unfair to subject print media entrepreneurs to a separate and restrictive licensing regime that other business enterprises do not have to suffer from.
8. The government's blatant desire to control the media is implicated in the proposed amendment to the manner of appointment of the members of the Media Council as well as the chairperson. Whereas the current law allowed the election of the chairperson of the Media Council by the members and nominations of members by specific bodies, the amendments propose direct appointment of the chairperson as well as other members by the minister. This would logically deliver the Media Council to the wishes of the minister and the interests he/she represents.
9. The proposal to have the minister appoint the chairperson of the Media Council, if adopted, would further erode the independence of the regulator. Currently, the members of the council elect a chairperson from among themselves. But even then the way the Media Council is constituted makes it easy for the minister to interfere with its independence. The proposed amendment does not address this problem. Instead, it worsens what is already a bad situation.
10. We have already seen the dangers of excessively empowering a regulatory body with no accountability mechanisms, in the form of the Broadcasting Council, whose powers and

methods of operation have stifled the otherwise vibrant deliberative culture in the broadcasting sector. As we call for the necessary policy reforms in broadcasting regulation, it is ironical that government is proposing a similar model for the print sector.

11. In the same vein, empowering the Media Council to regulate foreign media ownership by limiting the involvement of foreign owners in the print industry amounts to victimisation of sections of the media in Uganda that have strong foreign involvement. There is need for in-depth and principled discussions about the participation of foreign investors in the country's media industry as a whole before laws are enacted. The government's own principles and policies on foreign investment in the country should apply equally to the print media industry.
12. We are also concerned that these amendments are coming close to a very important period in our democratic cycle - the 2011 general elections. The media serve a critical role of offering citizens with strategic information that empowers them to make informed choices. In order for the media to effectively fulfil that role, journalists require unfettered space that is free from processes that may lead to overt or covert control. It is our sincere belief that the proposed amendments will greatly curtail the media's capacity to fulfil its important duties during the electoral period.
13. In conclusion, we reject the proposed amendments because their impact will serve more to hamper media freedom and professionalism than to enhance it. We are in principle opposed to statutory regulation of the media and call upon government to acknowledge and support self-regulatory initiatives such as the Independent Media Council of Uganda. We also call upon the Minister of Information to stay any process that may amount to effecting these amendments, and to enter into dialogue with interested parties to ensure that any concerns about media freedom and professionalism that may have informed the drafting of these inhibiting provisions can be addressed democratically.

On behalf of the Article 29 Coalition:

1. Mr. Joshua Kyalimpa, General Secretary, Article 29 Steering Committee
Email: jkyalimpa@yahoo.co.uk Tel: +256 (0)772-640004
2. Mr. Stephen Ouma Bwire, Member, Article 29 Steering Committee
Email: stephen.ouma5@gmail.com
3. Dr. George W. Lugalambi, Chairperson, Article 29 Members' Assembly
Email: lugalambi@gmail.com Tel: +256 (0)782-577605
4. Mr. John Bosco Mayiga, Vice Chairperson, Article 29 Members' Assembly
Email: umdf.mayiga@gm Tel: +256 (0)772-507820