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**Human Rights and Media in Uganda; A critical Analysis of the Mass Media  
Freedom.**

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## **Declaration form**

The work I have submitted is my own effort. I certify that all the material in the Thesis which is not my own work has been identified and acknowledged. No materials are included for which a degree has been previously conferred upon me.

**Signed: Odongo Bob Denis (Student)**

**Date: May 22, 2012**

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## **Abstract**

The study aimed at investigating the level of independence and freedom of the mass media industry in Uganda. It explored the challenges that media professionals practically go through and face in the process of carrying out media work and practicing their professions in Uganda, and secondly, it identified how both the existing and newly proposed laws impact on the mass media freedom in Uganda while drawing from the domestic, national, regional and international laws. Qualitative methods were used in this research with interviews and content Analysis being central.

The findings indicate that the mass media in Uganda is still not free as most respondents concurred with what is in the documented reports by HRW, Amnesty International, UHRC, IFEX, CPJ, and HRNJ about media censorship in Uganda. A critical analysis of the various media laws in Uganda revealed that they have not been aligned to regional and international standards.

The study, recommends among other things that the government of Uganda should respect freedom of expression as laid down under the constitution, regional and international laws. Secondly, that the media laws in Uganda should be revisited, to meet the regional and international standard by way of repealing clauses that are hostile and unfriendly to free practice of mass media. A self-regulatory media system should be adopted as a way of ensuring less interference by the government in the regulatory process.

*Key words: Human Rights and Media in Uganda, Freedom of expression in Uganda, Media and Press freedom in Uganda, Censorship of Mass Media in Uganda.*

## **List of Abbreviations**

ACME: African Centre for Media Excellence

CSO: Civil Society Organisations

CPJ: Committee to Protect Journalists

CBS: Central Broadcasting Service

DEM group: Democracy Election Monitoring Group

DISOs: District Internal Security Officers

FDC: Forum for Democratic Change

FM: Frequency Modulation

HRW: Human Rights Watch

HRNJ-U: Human Rights Network for Journalists -Uganda

HURINET-U: Human Rights Network of Uganda

IFEX: International Freedom of Expression Exchange

ICCPR: International Covenant on Civil and Political rights

KFM: Kampala Frequency Media

NRM: National Resistance Movement

NMG: Nation Media Group

NTV: Nations Television

RDCs: Resident District Commissioners

UBOS: Uganda Bureau of Statistics

UCC: Uganda Communication Commission

UHRC: Uganda Human Rights Commission

UDHR: Universal Declaration of Human Rights

WBS TV: Wavah Broadcasting Service Television

NB: IREX is an international non-profit organization providing thought leadership and innovative programs to promote positive lasting change globally

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# CHAPTER ONE

## Introduction

### 1.0 Background

Uganda is an East African country, with an estimated population of 34,132,400 (Males 16,741,400 and Females 17,390,000) (UBOS, 2012) and an area of 197,058,000 square km (93,104 square miles)<sup>1</sup>. The major economic activity is agriculture with nearly 80% of the population engaged in subsistence agriculture. In recent years, sound macroeconomic policies driven by donor demands enabled the economy to grow on an average of 7% per year quite above other African states. Structural adjustment policies triggered the transformation of the economy to middle class industries leading Uganda to trade and attract investment in infrastructure from countries like Kenya, the United Kingdom, South Africa, India, and the United Arab Emirates among others.

Among the investors attracted are those who come to invest in the media industry due to its importance to society. The media remains the primary source through which the population get news and related information (Free House, 2010). Newspapers tend to be more read by the urban elite, with very few people in the rural countryside having access to them (HRW, 2010). Local FM radio stations relay news, most of which is extracted from the newspapers, and from international radios like British Broadcasting Cooperation (BBC) news, Radio France, Cable News Network (CNN), Aljazeera and Sky News (IFEX, 2008:286). HRW and Free House (2010) observed that among the various media channels, radio still remains the major form of disseminating and receiving information among the rural population in Uganda. A few rural towns have connections to television (TV), but with very minimal number of people getting information through TV, because they cannot afford it due to high levels of poverty.

International and national bodies singled out Uganda as a country where freedom of expression is heavily stifled despite having some good laws. This study critically analyses the level of

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<sup>1</sup> See ; <http://www.fco.gov.uk/en/travel-and-living-abroad/travel-advice-by-country/country-profile/sub-saharan-africa/uganda?profile=today>

media freedom within the context of both national and international legislation while focussing on the current situation of media practice and human rights.

## **1.1 History of Media Broadcasting in Uganda**

The Ugandan media originates from colonial days when Uganda was still a British protectorate; the British colonial master introduced the media industry in Uganda in 1954, aimed at supporting the imperial agenda of the government<sup>2</sup>. The Uganda Broadcasting Cooperation (UBC), State owned rebroadcasted BBC and other local programmes meant to counter anti British pro independent voices by the local Pan Africanists. Even in colonial days media freedom was restricted because the black Pan Africanists used the media to attack the colonial masters. The colonial masters' reaction to this was the arrest and jailing of critical African writers and closing down their publications (Lugalambi, 2010:13). When Uganda eventually got her independence on 9<sup>th</sup> October 1962, the post independent Ugandan government took over the control of the UBC and continued with the same aggression towards the media. It is reported that, critical politicians and journalists were arrested and jailed during Obote's government with publications called '*Ssekanyolya*' being banned after the 1966 Uganda crisis (ibid).

As Lugalambi puts it, at this time Uganda had two media channels and these remained under the control of Ministry of Information with its employees being public servants. The funds for its operation and administration came from the state coffers (2010:20). For very long period, the UBC remained a government mouth piece, with very little independence in its broadcasting programmes. The concept of public broadcasting therefore lost meaning; there were no laws to protect the media practitioners in the way they were doing their job. This meant much coercion and interference from the state in the matters concerning the national broadcasters. As Lugalambi 2010 reports, the '*Uganda Television and radio*' became a symbol of state power with a biased approach to reporting.

## **1.2 Liberalization of the Mass Media in Uganda**

From the time of independence, the media remained under the control of the government until the time of liberalization of the economy in 1993. The media monopolies were broken; the public media industry had proved to be one of the sectors that were difficult to work in because

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<sup>2</sup> The British colonial government needed a communication system to execute and promote colonial policies and programmes.

the media professionals were not protected by the law and there was a lot of interference, intimidation, and harassment and in some cases coercion by state apparatus<sup>3</sup>. With the change of the media laws, several independent media outlets both print and the broad cast sprang up mostly operated by private individuals, politicians, churches, and business proprietors. According to the Uganda Communication Commission (UCC)<sup>4</sup>, the number of local FM radio media stations increased from 14 in December 1996 to 158 by March 2007 and to date Uganda has over 200 FM Stations, whereas the private television stations increased from four to 45 including Cable channels in the same period (IREX, 2008:388).

In terms of freedom of expression, this seems to be very good for the sector. However, from 2002, the same ruling government of National Resistance Movement (NRM) began to censor the media industry, through creating conditions that make media operation difficult. This was done by allowing very little freedom of expression and diversity of views and introduction of stiff and stringent domestic laws against the media. To date, these laws have been met with resistance by most Media outlets, International bodies, Civil Society Organisations (CSOs), and Journalist Associations. The argument is that the government is violating both national, regional and International laws on freedom of expression (Article 19, 2010; HRW, 2010; Amnesty International, 2011). Most journalists are of the view that the Ugandan government looks at media as a big threat to their existence rather than a partner in development and democratization process hence the enactment of domestic laws that undermine media freedom and independence<sup>5</sup>.

With the liberalisation policy in place, media groups sprang up, major forms being websites, radio stations, newspapers and television channels, which are state, church or privately owned. The state owned media are known as the Vision Group which is the market leader in the newspaper, radio and television sector. Meanwhile, the Nation Media Group (NMG) is respected for its independent coverage and owns the Daily Monitor, National Television (NTV)

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<sup>3</sup> This followed the pressure from international communities especially the World Bank for Uganda to liberalise the economy.

<sup>4</sup> Uganda Communications Commission (UCC) is the regulator of the communications industry in Uganda. UCC regulates and promotes the developments in the communications industry.

<sup>5</sup> Such laws include Press and Journalist Act (Cap 105) of the Laws of Uganda (2000), Electronic Media Act (Cap 104) of the Laws of Uganda (2000) and the Proposed Press and Journalist Bill 2010 to which may have viewed it as attempt to suffocate the media industry in Uganda.

and KFM radio. Both the Vision group and NMG attract the biggest market among the public both at national and international level. Besides these two, there are private individuals in Uganda who have heavily invested in the media industry mostly in local FM radio stations<sup>6</sup>.

### **1.3 Riots and Demonstrations and their impact on the Media.**

Committee to Protect Journalists (CPJ 2009, 2010), Human Rights Watch (HRW, 2010), Uganda Human Rights Commissions (UHRC, 2011), Amnesty International (2011) reported many cases of violation of media freedom in Uganda occurring mostly during political elections period, demonstrations and riots. The 2006, 2011 elections, the April 2011 '*walk to work protest*'<sup>7</sup> and September 11, 2009 riots in Kampala are examples. Actions like the closure of five FM stations by the Broadcasting Council on accusation of '*inciting the public*' on directives of the government provides further example. Media Council actions, such as banning live TV coverage showing the inhuman capture and arrest of the opposition leader Dr. Kizza Besigye, and images of security officers firing into private homes, schools and hospitals, all portray how free media has been compromised in Uganda and are all clear illustrations of intimidation and harassment of the media. (HRNJ-U, 2011:22).

Meanwhile, journalists continue to be prevented from reporting from the scene of events which may reflect negatively on the Ugandan government, and many have been physically beaten and tortured by security<sup>8</sup>. Last year 2011, two social networks, Facebook and Twitter were blocked on orders of the UCC for 24 hours on April 14, 2011 before being allowed back (CPJ, 2011; HRNJ-U, 2011:22; Amnesty International, 2011)). The political talk show programme named '*ebimeeza*'<sup>9</sup> remains banned by the government to date. It is therefore clear that mass media are in theory protected by the law but in practice heavily censored in Uganda (Human Rights House Network, 2010).

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<sup>6</sup> See; Uganda Communication Commission website <http://www.ucc.co.ug>

<sup>7</sup> Starting April 11, 2011, Activists for Change (A4C) began a country wide protest against escalating fuel and food prices in the name walk to work protest.

<sup>8</sup> According to CPJ, 8 journalists were injured ; Ali Mabule and Dismus Buregyeya of the daily *New Vision*, Francis Mukasa of WBS TV, Ronald Muyinda of Radio One, Michael Kakumirizi and Stuart Iga of *The Red Pepper*, Yunusu Ntale of CBS Radio FM, and Isa Aliga of Nation TV available at <http://cpj.org/blog/2011/04/ugandan-media-censored-over-walk-to-work-protests.php> (Accessed on 24.2.2012)

<sup>9</sup> This was an open public out of radio studio political, social and economic discussions on the issues affecting Ugandans that used to be broadcast live on various radio stations especially in Kampala

## 1.4 Statement of the problem

Both national and international legislation states that everyone has the right to freedom of opinion and expression including '*freedom of the press and other media*'.<sup>10</sup> Limitations to the above human rights can only be acceptable and demonstrably justifiable in a free and democratic society in certain circumstances, such as risks to public security or health (Art. 43 Ugandan constitution, 1995; ICCPR, art. 19(3)). The absence of media censorship in a country is seen as an indication of a free society where people may criticise those holding power as well as stimulate debates on issues of national, regional and international importance (Smith, 2010: 293). Media freedom is therefore '*an important right*' recognized in a democratic society as a mechanism and tool that enables the citizens to participate in their own governance through analysing what the government is doing and holding their leaders accountable for their actions (HURINET-U, 2010:5).

Despite constitutional guarantee of the freedom of expression, and enactment of domestic legislation that expand this right, restrictions and censorship of media still exist (Sekagya, 2010; Amnesty International, 2000). The Penal Code Act for example links materials published by journalists to sedition, the Anti-terrorism Act prohibits promoting acts of terrorism through publication, and other laws which will be discussed in chapter four of this thesis. Based on the above domestic laws, over 30 journalists have pending cases in the court of law and yet their trials are regularly postponed (HRNJ-U, 2011:5). Notably, the good laws are non-operational, and depending on the circumstances, the existing domestic media laws have stifled freedom of media (Lugalambi 2010:29, 30). Similarly, media houses continue to be attacked, intimidated and their equipment vandalized by state security (HRNJ-U, 2011:5). Raiding of media premises by security forces continues under the guise of looking for subversive materials, consequently leading to the temporary closure of media outlets. My thesis investigates these challenges related to the practical aspects of the free flow of information by the media in Uganda as per the objectives below.

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<sup>10</sup> See; The Constitution of the Republic of Uganda, 1995, art. 29(1)(2); Art 19, UDHR: see also ICCPR; Art 10, ECHR;13, ACHR; Art 9(2), ACHPR; Art 11, CIS; Art 32, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, acceded to by Uganda June 21, 1995, art. 19

## **1.5 The Research Objectives**

The study was guided by the general objective to investigate the level of independence and freedom of the media industry in Uganda, with the specific objectives being:

- 1 To find out the challenges that media professionals (journalists) practically face in the process of performing their work and practicing their professions in Uganda.
- 2 To identify how both the existing and newly proposed laws impact on the mass media freedom in Uganda.

## **1.6 The Research Questions**

To achieve the above objectives of the study in context, the following research questions were asked:-

1. What challenges do media practitioners (journalists) face with the existing control of the media industry in Uganda?
2. Are there any gaps or contradictions in the existing and new laws that limit mass media freedom in Uganda?

The thesis makes an important assumption, that by signing the international legal documents, and including in the country's constitution with several clauses that protect the mass media, The Uganda government committed itself to respecting these legislations. Unfortunately, as HRJN-U puts it, little effort has been made by the State to bring the existing media laws in Uganda to conformity with regional and international standards (2011:6)

## **1.7 Scope of the study**

This research was carried out in selected prominent media outlets both print and broadcast in Uganda, Media Associations (Organizations), News editors, Owners of radio stations, Station Managers, Talk show hosts, Police, Security Officers, Community, Representatives of Political Parties, Human Rights Organizations and Public Officers in the Ministry of Information in Uganda. In addition, existing secondary data which is available on the internet, journals, reports, legal documents, magazines, and libraries were as well used.

This study has been limited to a period in between September 09, 2009 to 31<sup>st</sup> of February 2012 and carried out in six districts of Lira, Gulu, Soroti, Luwero, Masindi and Kampala with more focus on broadcast and print media. The data collection period was approximately 6 weeks and a researcher being resident in Lira district, interviewed more respondents from Lira than other six districts. Similarly, more respondents were from the radio stations than the print due to a large number of radio practitioners than the newspapers.

## **1.8 Outline of the Thesis**

This thesis adopts both empirical and theoretical approaches to accomplish the research objectives. Chapter one focuses on background information, history of media, liberalization of the sector and eventually the problem statement leading to the research objectives and questions. Chapter two looks at literature review and analytical frame work; theories of communication, mass media as an agent of power and a critical review of the existing media and human rights legislations both nationally and internationally. It presents from a legal perspective, the clauses where mass media derives its rights and circumstances of the limitations. Chapter three presents the methodology aspects and techniques used in the study, from the approaches, study designs, sampling techniques, data collections, analysis and limitations of the study. Chapter four looks at the major findings, analysis and discussions based on content analysis of selected documents and the laws and interviews that were conducted. Finally, Chapter five makes some conclusions and recommendations based on findings, analysis and discussions in the previous chapter.

## CHAPTER TWO

### Literature Review and Analytical Frame work

#### 2.1 Introduction

This chapter focuses on what scholars have written in the field of mass media, it discusses the communication theory and media from the historical perspective. It then looks at mass media as an agent of power and concludes by looking at human rights and media while focusing on national and international legislations and how freedom of expression is guaranteed legally by these instruments; limitation clauses are pointed out in this chapter as well.

#### 2.2 The Communication Theory and Human Rights

The four theories of press presented in a book of '*Communication Theories*' by Severin J.W. and J.W. Tankaro (1997:345) presents some different normative philosophies underlying the functions attributed to media in society. The theories which are a reflection of three authors Siebert, Peterson and Schramm are '*normative theories*' derived from observations.

The authoritarian theory developed in the 16<sup>th</sup> and 17<sup>th</sup> centuries from England out of the philosophy of absolute power of monarch government spread across many parts of the world, yet to date it is still widely practiced in many countries to support and advance the policies of the government in power and to service the state (Severin J.W. and J.W. Tankaro 1997:346). The theory emphasizes that whoever has got the royal patent or similar permission has a right to use the mass media, hence the government patents guides the process of licensing and sometimes censorship. It suggests that the government patents guides licensing and censorship of the media. The theory was developed at the time when the world was under the authoritarian rule by the monarchs with absolute power; although it has later been adopted by various dictators to consolidate their power.

The Soviet totalitarian theory, closely linked to the authoritarian theory emphasizes that the media should be contributing to the success and continued existence of the soviet system in the world. The theory looks at mass media as being controlled by the government through their political, economic actions as well as surveillance. Hence the mass media is seen as an arm of the state that should exist to further the state interest (ibid p.352).



Much different from the two theories above, is the libertarian theory of press and media that was developed out of the general theories of rationalism and natural rights to counter authoritarian views. Milton, Locke and Mill developed the general view that mass media was to perform the functions of helping to discover the truth and checking on those in power as well as providing entertainment and information to the citizens (Severin J.W. and J.W. Tankaro 1997:348). The theory looks at the media as private, and anyone who can afford it can enter into this business with aims of checking those in power. The theory notes that the mass media is controlled in two ways and this has been summarized by Werner as '*Self right process of the truth in the free market place of ideas that would enable individuals to differentiate between the truth and falsehood*' and secondly, the legal system of a particular country that may criminalize defamations, seditions, obscenity and indecency. (ibid)

The social responsibility theory of media was developed in the 20<sup>th</sup> century in the United States and has its roots in the media practitioners, media codes and the commission of freedom of press (p. 350). The theory emphasizes that while media informs, entertains and sells, they should also stimulate conflict for discussion. The theory observes that anyone who has something in his or her mind of great significance should be given a forum where he or she can say it out and that; if media do not give them such opportunity then somebody must see to it that it is done (ibid). The major emphasis of the theory is that the mass media should be controlled by people's opinions, actions, and ethics other than by the state. Serbert et al., 1956, reinforces this by saying that the government has to act as a regulating agency to limit the number of channels and frequencies.

**Realities in Uganda;** The realities in Uganda falls in between the authoritarian and Soviet Union theory that emphasizes that any form of media has to work under the control of government. The control of media in Uganda is more bent towards authoritarian and Soviet Union way because of the control by the governing elites and influential middle class. For example, despite having good laws the authorities in government has often justified media censorship of the ground of protecting and preventing its citizens from national threats.

The contradiction in the laws perpetuates media censorship through the Ministry of Information that has all the rights control media operations through provision of licences, regulations and to some extent even censorship. For example the ruling party leadership in

Uganda argue that if the media violates any of the government policies, then it should have its licence cancelled or revoked. The reason normally given is controlling and restricting sensitive issues from the media for purpose of maintaining peace and security of its citizens. Such Practice follows authoritarian and soviet theories where restrictions are based on protecting national interest. The media in Uganda is therefore seen to further the interest of the ruling party rather than protecting the citizens from threats that may come from the outside world.

One can therefore argue that much as censorship of the media may protect the rulers and those in position of power and authority in Uganda from sensitive issues, it is against the freedom of speech and expressions. Such a practice follows the Soviet Union theory where emphasis is on absolute state control of media for the benefit of the people.

Summarily, the practice in Uganda seems to be the mixture of the two theories with the only difference being that the authoritarian practice tends to allow only one way of communication with little or no feedback from the public while in the Soviet one two ways communications is allowed but with media working and being controlled under a leadership.

Social responsibility theory on the other hand allows for private ownerships. Uganda has allowed private ownership of the media but has been more cautious in doing this. For example most privately owned media outlets are for the people who are either Ministers or Politicians who support the ruling government. Therefore much as social responsibility theory agitates for free media through private ownership without any censorship, the Ugandan case is rather the opposite. The government has tactfully taken ownerships of private media outlets by allowing only politicians and business people who support them to take ownership of media outlets while denying the opposition politicians such opportunities. The media therefore works independently but being '*remote controlled*' by the government.

### **2.3 Mass Media as an Agent of Power**

Although media and power are two different concepts, in reality, there is a close link between the two. The literature for this study is based on the concept of mass media as an agent of power. I examined scholarly work on the relationship between mass media and power.

The mass media remains a powerful tool for promoting public opinion, and also acting as a creator of the very public opinions in what it seeks to reflect in its news (Anastasio 1999:152-

159). It serves as tool for agenda setting in any country because they can determine the criteria by which citizens evaluate their politicians about their performance and achievement in their policies (Iyengar and Reeves, 1997). Results of several studies point out that, the power of the mass media is not limited to only cognitive effects, but also to the message that is conveyed out to the people (Larry, 1993). In most countries, political discussions are normally centered on the topics that have been highlighted by the mass media and press (Rudige, 2003:234). As Gabriel Tarde put it in 1898 *'every morning the papers give their publics the conversations of the day'* (cited in Rudige, 2003:234). The discussions that people normally have at micro levels about the socio economic and political development of their own countries normally originates from the mass media (Erwin et al...1978). Everywhere in the world, people rely heavily on the information from the media and press for any political message, and the media agenda will determine what kind of political information people will use to make political judgment (Wouter et al., 2007:116). The government in power may demonstrate its ability to swiftly deal with the mass media on ground that it is providing information which is of great importance to the public evaluation of those in political office (ibid p.117) Scholar Krosnick and Kinder says; *'The more attention media pay to a particular domain-the more the public is primed with it-the more citizens will incorporate what they know about that domain into their overall judgment.... ..'* (1990:497).

## **2.4 The Historical Approach to the Mass Media**

Rostow and Hagen modernization theorists in historical times argue that the media is a powerful channel of diffusion and powerful tool for political, economic and social development. In another perspective, Schramm view media *'to create the empathetic mobile personality and promote economic consumption and political participation that development required'* (Lerner, 1958 in Mohammadi et al..., (1995). Lerner saw that media development was a secular trend of global importance, the assumption being that traditional societies did not possess distinct or elaborate systems of communication (p.29). His argument puts in context, another theoretical lens that had been developed by the colonialist where instead of focusing on independences of most African states, modernization and technology was reshaped to create dependency syndrome. Therefore more efforts were put towards media imperialism and cultural synchronization in most African states. Uganda situation with the media provides an illustration that is derived from Lerner's perspective of media development (Lerner, 1958 in Mohammadi 1995). Scholars Mohammadi et al... (1995) put

this in context when he looks at media as part of the structures of any government that is in power; he points out that, this can be authoritarian or democratic states, developed or underdeveloped. Perhaps, Ugandan government attempts to control media through ownership either directly or through politicians, businessmen and private individuals who subscribes to the ideology of the ruling party exemplifies Mohammadi's view.

In a separate spectrum, Altschull reinforces the historical view through his four theories of press in his book '*Agents of Power*' (1984). Most notably that, media can be looked at as a mechanism of resistance to the government that is in power. An illustration of how the Ugandans are using the media to resist what is termed as '*bad governance and policies*' by the ruling government. The opposition and the Civil Society Organizations (CSO) are on the fore front of this while the ruling government does it in counteraction way.

Studies point out that the current media environment in developing countries are far better than in 1960s; almost every rural community is accessing at least one form of media as a way of accessing information. Media has therefore remained central in informing people about the socio economic and political development in all countries around the globe.

Harold Lasswell (1948, 1950), a Professor of Communication at Yale University argues that media plays an important role in modern society; he mentions '*surveillance of the environment, correlation of part of society to respond to environment, and transmission of social heritage from one generation to the next*' (cited in Severin J.W. and J.W. Tankaro 1997:355). While, Charles Wright (1959) adds on entertainment as the fourth (ibid) while, Smith adds on dissemination of government policies and providing information to the people (2010:292). Mass media therefore informs and provide news and information to the people (p.16). In Uganda all the functions are carried out well with the exception of functions related to reporting political issues. Attempts by media to report on critical political development in Uganda has always met stiff censorship by way of harassment, intimidation and threats (HRNJ, 2010).

To relate further the issue of media and power, Altschull (1984) in his book '*Agent of Power*' looks at media as an agent of power by arguing that an independence media cannot exist and that the press and media are agents of those who hold social, political and economic power(cited in Severin et all...1997). He looks at the three models of press to include the market (capitalist)

model, the communitarian (social) model and the advancing (less accurately, developing countries) model. He concludes by saying that the content of the news in the media always reflect the interest of the donors who fund it and therefore, the press practices always differ from theories (Altschull 1984, p.440-441). This view is relevant in Ugandan situation because, the ownership has always determined the content of the news just like this theory and scholar puts it.

**Table1. Altschull’s views on press freedom**

<i>Market Nations</i>	<i>Communitarian Nations</i>	<i>Advancing Nations</i>
<i>A free press means journalist are free of all outside control</i>	<i>A free press means all opinions are published, not only those of the rich and powerful</i>	<i>A free press means freedom of coincidence for journalists</i>
<i>A free press is the one in which the press is not servile to power and not manipulated by power</i>	<i>A free press is required to Counter oppression of legitimate communities</i>	<i>Press freedom is less important that the viability of the nations</i>
<i>No national press policy is needed to ensure a free press</i>	<i>A national press policy is required to guarantee that press takes the correct form</i>	<i>A national press policy is needed to provide legal safeguards for freedom</i>

Source; From J.H Altschull, *Agents of power: The media and public policy*. 2<sup>nd</sup> ed. (White plans. N.Y, Longman, 1995) p.435. Reprinted by permission by long man in Severin et al...1997, p. 320

From the above table, news media are seen as agents of people who exercise political and economic power (Severin, 1997: 318). Because of that, the content of the news in the both in print and broadcast media normally reflects interest of those who hold power. It is also true that, the concept of media is based on free expression although these are always defined in different ways and context. In summary, in the above models the media is perceived to be deviant hence the school of journalism promotes the ideologies and values that assist people who are in power to maintain their control of the news media (ibid, 318-320)

## **2.5 Mass Media and Human Rights; the Legal Obligations**

In trying to understand media freedom, it is important to review the legal framework within which the mass media operates. Domestically, Article 29 (1) (a)<sup>11</sup> , 41(1)<sup>12</sup> and 43<sup>13</sup> of the 1995

<sup>11</sup> Article 29 of the Constitution of the Republic of Uganda provides for every person’s right to ‘freedom of speech and expression which shall include freedom of the press and other media’.

<sup>12</sup> 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

Ugandan Constitution guarantee basic freedom of expression and speech, which includes freedom of press and media (cited in Sekagya 2010:39). The other domestic legal framework that governs and have impact on the practice of journalism and media in Uganda are the Journalist Act (Cap 105 of 2000) and the Electronic Media Act (Cap 104 of 1996) of the laws of the Republic of Uganda (2000), the 1950 Uganda Penal code (Cap 120)<sup>14</sup>, the Anti-terrorism Act (2000) and the Access to information act (2005), the Press and Journalist Amendment Bill (29 January 2010), the Public Order Management Bill, the Regulation of Interception of Communication Act 2010. It can be argued that, the above national legislations are important because they provide the platform through which journalists practice. *(I will analyze and discuss these domestic laws in detail in Chapter 4).*

A review of the international legislation is important for this study; it forms a basis upon which the national legislations derive their mandate to regulate the practice of media in free and democratic society. Smith 2010 specifies these international laws to include the 1948 Universal Declaration of Human Rights<sup>15</sup> Article 19 which states:

*Everyone has the right to freedom of opinion and expression; this right includes the right to hold Opinions without interference and to seek receive and impart information and ideas through any media and regardless of frontiers (UDHR, Art 19).*

The International Covenant on Civil and Political Rights<sup>16</sup> Article 19 all of which Uganda as country has ratified in 1995 and accepted with full signature states:<sup>17</sup>

*Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either*

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<sup>13</sup> Article 43 of the Constitution of the Republic of Uganda provides that ‘in the enjoyment of rights prescribed [under the Constitution], no person shall prejudice the fundamental or other human rights and freedoms of others or the public interest’ Article 43(2) provides that ‘public interest shall not permit (a) political persecution (b) detention without trial (c) any limitation of the enjoyment of the rights and freedoms prescribed by this chapter beyond what is acceptable and demonstrably justifiable in a free and democratic society or what is provided in this Constitution’.

<sup>14</sup> The Penal Code has since undergone a number of amendments, but 15 June 1950 is its date of commencement as the laws of Uganda (1950).

<sup>15</sup> UN General Assembly Resolution 217A (III), 10 December 1948.

<sup>16</sup> UN General Assembly Resolution 2200A (XXI), 16 December 1966, in force 23 March 1976.

<sup>17</sup> International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, acceded to by Uganda June 21, 1995, art. 19.

*orally, in writing or in print, in the form of art or through any other media of his choice  
(ICCPR, Article 19)*

From the regional perspectives, the laws protecting media freedom are also important and these includes; The Windhoek Declaration on Promoting Independence and Pluralistic African Press adopted by general assembly of UNESCO in 1992, Article 9<sup>18</sup> of the African Charter on Human and people's rights adopted on 27 June 1982<sup>19</sup> and came into force on 21 October 1986, Article II and VI of the 2002 African Commission declaration of the principle of freedom of expression in Africa<sup>20</sup>, Article 2(10) and 17 (3) of African Charter on democracy, Elections and Governance 2007 adopted by 29 African countries by September 2009, Protocol on managing information and communication 2000 of which Uganda is a member and the 2001 African Charter on broadcasting adopted by media practitioners and human rights organizations at the UNESCO conference to celebrate 10 years of Windhoek declarations<sup>21</sup>. Lastly, the Johannesburg Principles on National Security, Freedom of Expression and Access to Information, Freedom of Expression and Access to Information, (U.N. Doc. E/CN.4/1996/39, 1996)<sup>22</sup>

Finally, outside the African continent, there are other regional human rights laws like *European Convention on Human Rights (ECHR)* and *American Convention on Human Rights (ACHR)*. Whereas the decisions from these other regional bodies outside Africa may not be binding to Uganda as a country, none the less they provide a platform from which rights of freedom of expression and media can be looked at from an international lens (Article 19, 2010:2)

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<sup>18</sup> Every individual shall have the right to receive information; secondly every individual shall have the right to express and disseminate his opinions within the law.

<sup>19</sup> African Union (Banjul) Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force October 21, 1986, ratified by Uganda May 10, 1986.

<sup>20</sup> Uganda is a member of the African Union, the successor to the Organization of African Unity (OAU), whose commission adopted the 2002 Declaration of Principles on Freedom of Expression at its 32nd Ordinary Session in Banjul, the Gambia, from October 17-23, 2002.

<sup>21</sup> According to Lugalambi (2010), UNESCO's Windhoek Declaration, like other non-treaty documents, has moral authority by representing a broad consensus of the international community on the detailed interpretation of the Universal Declaration and other relevant standards as they relate to the press in Africa

<sup>22</sup> It sets out standards for the protection of freedom of expression in the context of national security laws. They were adopted on October 1, 1995, by a group of experts in international law, national security, and human rights convened by ARTICLE 19.

## 2.6 Restrictive Legislations

Article 19, HRW, Amnesty International and UHRC acknowledge that right to freedom of expression is not absolute and international and national law permits certain limitations under specific circumstance (Article, 19 2010; UHRC, 2010). Scholar Smith 2010, Amnesty International (2011), HRW (2010) and CPJ (2011) as well observed that the United Nations through the legislation ICCPR<sup>23</sup>, allowed member states powers to make certain restrictions and limitation on the freedom of expression as long as such restrictions is captured under the law and specifically for two reasons; *'(a) for respect of the rights or reputations of others; (b) for the protection of national security or of public order (ordre public), or of public health or morals'*(ICCPR, art. 19(3). UHRC agrees that limitations can be put on ground of public interest and protecting human rights of others. Likewise, Smith 2010 writes that the restriction of freedom of expression itself should not mean putting the right into jeopardy but this should be prescribed by the law (p.295, 296). He argues that classifying information as a security concern is discretionary to a particular state and there is always little that the international treaties bodies can do apart from providing supervisory role over the exercise of state discretion (p.298). A similar restriction can be found in the European Conventions on Human Rights (ECHR) and American Convention of Human Rights (ACHR).

In the same way, the 1995 Ugandan constitution recognises freedom of expression under article 29, but puts limitations and restrictions under article 43<sup>24</sup> in line with the ICCPR, article 19(3). Smith (2010) in agreement argues that restrictions of freedom of media are necessary under certain circumstances and this is pointed out in article 43 of Ugandan constitution. It is right to say that, in theory, the freedom of mass media in Uganda is recognised by law but in practice it is lacking.

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<sup>23</sup> ICCPR stipulates that any interference with the right to freedom of expression must meet a three-part test: it must be (a) provided by law, and (b) only for certain specified permissible purposes (which include the protection of national security and public order) and (c) must be justified as being necessary in the circumstances for one of those specified purpose.

<sup>24</sup> Article 43(2) (c) the Constitution however provides that 'public interest... shall not permit any limitation of the enjoyment of rights and freedoms beyond what is acceptable and demonstrably justifiable in a free and democratic society, or what is provided in this Constitution'.



## **CHAPTER THREE**

### **Methodology**

#### **3.1 Introduction**

This chapter highlights the methodologies used in the study starting with the approach adapted, study design with qualitative methodology being central, sampling techniques where purposive sampling was adopted, data collection methods zeroing on content analysis and use of interviews, data analysis, limitations and finally the ethical concerns in carrying out research. The methodology became very important section for obtaining the data used in chapter four and five of this study.

#### **3.2 The Approach**

My approach to data collection was interdisciplinary, meaning that even though I am a Social Scientist and not a Lawyer by training, I was able to analyze and evaluate laws domestic, national and international in order to determine how they impact on media freedom.

Having taken into consideration the requirement that all media industries in Uganda must be legally registered with the Uganda Telecommunication Commission (UCC), the approach to data collection was to obtain the list of all media radio stations and newspapers from the UCC website. It included detailed information such as owners of the radio stations, frequencies, addresses and locations. This became a useful tool for me (researcher), as it enabled me to easily identify the media outlets owned by politicians, most of whom are Ministers, Members of Parliament and big businessmen inclined to the ruling NRM government. I was able to have a rough picture of how the political ownership as well as their political affiliations is likely to have a political effect on free media practice and how it operates in a political environment.

Secondly, I was able to trace media reports both national and international on media freedom in Uganda whose information provided for me a strong base when it came to interview sessions. I was able to ask questions from an informed point of view especially, during the non-directive interviews that were carried out with the journalists. It also acted as a double check and reinforcement to the interviews that I conducted.

Finally, I managed to speak to some of the prominent journalists and radio reporters that were mentioned in the several reports of the national and international news media. I engaged them in answering several questions about media freedom in Uganda and what they experienced in the industry as professional journalists. *See questionnaires in appendix 1.*

### **3.4 Study Design**

In an attempt to properly address the research objectives and questions, the study adopted qualitative methodology. Punch (2005:186) looks at qualitative research as a method of looking at things '*holistically and comprehensively, to study it in its complexity and to understand it in its context*'. That the major feature of qualitative research is reflected in its designs, being naturalistic and preferring to study things, people and events in their natural settings (p.140). Silverman (2005) adds that qualitative methods are '*especially interested in how people observe and describe their lives*' (p.170). He argues that this gives room for flexibility and for an in-depth focus on the study being conducted since the data obtained is in form of words rather than in numbers (ibid). This method was used to derive meanings out of the respondents' descriptions and explanations of issues raised during the interviews.

Sampling was used in this study; Nachmias et al... defines a sample as '*a smaller group obtained from the accessible population. Each member or case in the sample is referred to as a subject*' (1992:185). Sampling is very important in qualitative research; because we cannot study everyone; sampling decisions are required not only about the participants to be interviewed but also the setting and process of the interview itself (Punch 2005: 187). Punch looks at '*Purposive sampling*' to mean sampling in a deliberate way, with some purpose or focus in mind (ibid). In this research, purposive sampling technique was used; hence the researcher used his knowledge of the population to select 34 individuals and media professionals who had experience and knowledge on the issue relating to media freedom.

### **3.5 Data Collection Methods**

Both primary and secondary data were useful sources of information in this research. Primary data were collected during the month December and January 2012 when the researcher was for Charismas break holidays in Uganda. In addition to conducting interviews, national and international documents, text books literatures, periodicals, journals articles, magazines, reports and publications in the library and those posted on internets were mostly consulted source of

data during the research hence content analysis was adopted. The data was collected from six districts of Lira, Gulu, Soroti, Luwero, Masindi and Kampala. The major reason for this was to get wider range of ideas and opinions from across the country on media freedom which became a basis of data findings, analysis and discussions in chapter four.

- **Document Reviews/Content Analysis**

Documents, both historical and contemporary, remain a major source of data for social research (Punch 2005:184). For this study, I analyzed, national and international documents which included; Human Rights Watch report, Article 19 publications and reports, Amnesty International report, The 1995 Constitution of Uganda, the Domestic legislations (*The 1950 Uganda Penal Code, The 2002 Anti-terrorism Act, The 1995 Press and Journalist Act, The 1996 Electronic Media Act, cap 104, The January 29<sup>th</sup>, 2010 Press and Journalist Amendment Bill, The Regulation of Interception of Communication Act, 2010*)<sup>25</sup>, Text books literatures, Periodicals, Journals articles, Magazines, Publications posted on internets and Newspaper Articles. Through examining these documents and other texts, the overall picture of the study was drawn however, newspapers represented opinions rather than real facts hence information from other sources was vital in supporting the findings.

The review of documents as a source of data in this study is supported by the argument by MacDonald and Tipton (1996:187), that with the development of social sciences research, documents have proved to be useful sources of data. Similarly, sociologists like Durkheim, Marx, and Weber did their research primarily relying on documents (cited in Punch 2005:184). Documents were important for this research because it provided the study with a ‘*rich vein for analysis*’ (Hammersley and Artinson, 1995:173). Like Ethnographers says, social researchers should always use any written document that they feel is useful in documenting either ‘*the immediate natural and detailed behavior of participants*’ (Spindler and Spindler, 1992:74)

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<sup>25</sup> Through reading the Ugandan domestic laws, there is always different ways of interpretations of the legal text. I strike a balance between the different sources so as to make a contribution through a balance understanding of the different legislations.

- **Interviews**

The researcher relied heavily and extensively on in-depth interviewing using the interview guide that was developed for the different categories of respondents. Kahn and Cannell (1957) describe interviewing as '*a conversation with a purpose*' (p. 149). With the selection of interviews as a method of data collection, the researcher took into considerations that the respondents had the experience in a given phenomenon under investigation.

Focused (Semi structured) interviews were used; Merton (1946) identified this form of interview as taking place with respondents known to have been involved in a particular experience (p.541-557). Yet following from Payners guidelines, the questions were put in the order that they appeared on the interview guide and the respondents were led from general to specific questions (2004:132). The researcher interviewed the media professionals who had experience the real violation of rights by the state agents in Uganda. Several Media and press scenarios occurred in Uganda which undermined the independence of the industry and through interviews some were explored into details to get the real facts on the ground.

Non-directive (Unstructured) interviews were also adopted for this study. Punch lauded unstructured interview as a powerful tool being widely used in social research because of its richness in producing valuable data (2005:172). While using this method, there were no specified set of questions, nor were the questions asked in specific order, there were no schedules as well (Donald, 1983). However, with little or no directions from researcher, respondents were urged to relate their experience in relation to the media freedom in Uganda and describe whatever event seem significant to them, they were then asked to provide their own analysis of the situation and reveal their opinion and attitudes on media freedom in Uganda (Nachmias, 1992:225). As Payner et al..., in agreement with Nachmias, put it this type of interview proved to be useful for this study because the respondents were able to give accounts of their experiences, opinions and feelings in their own way. The task of the researcher was merely to probe for further details and ask for clarifications whenever necessary (Payner, 2004.132).

### **3.6 Data Management and Analysis**

Data analysis began right from the field where editing was done. Data was then deduced by putting into consideration how themes relate to the objectives, research questions and literature

reviewed. The researcher was able to match several answers from respondents with objectives and the already reviewed literature. Gaps that existed between what has been studied and what the research found in the field were identified and highlighted.

Under qualitative analysis, narrative and content analysis technique was used for describing the data. Qualitative data generated from interviews were analysed using content analysis which involved summarizing the findings in terms of the themes and main issues raised by the respondents. The data was used to reinforce information gathered using structured questionnaires and to draw conclusions. These findings were further linked to the research objectives to generate meanings.

To establish the validity of instruments, the researcher administered the case study questionnaire to 5 key respondents only among the media journalists in Lira district. The questionnaires that were pre-tested enabled the researcher to adjust, improve and reshape on the research instruments especially the interview guide to match the situation of the time. The researcher also checked the information got from the interviews with other sources of the documented reports, this was to ensure that the responses were genuine and for purposes of quality control. After the interviews, the researcher occasionally carried out phone calls to seek clarification in areas that were not so clear during the interview. Through this, the researcher believes the information gathered is a true representation of the situation of media freedom in Uganda.

### **3.7 Limitations and Delimitation of the study**

The greatest limitation to the study was to locate the respondents during the Christmas period and the eve of the New Year. Many potential respondents were away for the festive holidays in their home districts from a period of December 20, 2011 to January 15, 2012. This meant that for nearly 3 weeks the researcher could not do any interviews and yet he was to return to Europe for data analysis; some valuable time was therefore lost to these festive seasons. To counter this, the researcher had to postpone his return to Europe to the February 9, 2012 so as to attain the objective set up for the data collections by carrying out the actual interview with selected respondents.

The second limitation was purely a matter of ethics most respondents expressed fear of being interviewed because of the nature of the research and their jobs, actually two journalists turned down my request even after making assurance to them that this was purely academic. For those who accepted, they stressed that their names and identity should not be published in the final report. To counter this limitation, I was able to identify myself and convince the respondents that I am a student with purely academic interest in the study. I promised them that, I will respect the research ethic of enormity confidentiality and trust and not to publish their names but rather to capture only their ideas in the final report.

### **3.8 Ethical considerations**

Ethical concerns remain central in any kind of social research. Saunders (2007), looks at ethics in the context of research to mean the appropriateness of one's behaviour in relation to the rights of those who become the subject of your work or affected by your work (p.178), while Seiber (1993:14) defines it as *'the application of moral principles to prevent harming or wronging others, to promote the good, to be respectful and to be fair'*.

For this study, the researcher ensured that ethical principles were observed. These included among others, ensuring the principles of voluntary participation; where the selected respondents were not coerced or forced into participation but did it willingly. The researcher made sure that people assented to be interviewed without force; and promised to safeguard the privacy and confidentiality of the respondents. As Saunders stressed, the participants had a right to withdraw partially or completely from the interview process in case they felt so (2007:181). Even Payner (2004) re-echoes the same by arguing that, informant identity should be protected by making them anonymous in the published reports (p.68). In fact, the issue of media freedom being a very sensitive area in Uganda, the researcher considered the privacy of the participants by yielding to their demands of not quoting their names in this final research report. Respondents made it clear that publishing their names in the report would mean that they stand risk of being followed by security agents and risk of losing their jobs with the media outlets they serve.

## CHAPTER FOUR

### Findings, Analysis and Discussions

#### 4.1 Introduction

The chapter looks at the findings, analysis and finally discusses it in line with the objectives of the study as already outlined in chapter one and the literature reviews. Content analysis and interview responses are key materials used to compose this chapter. This chapter forms the main body of the study. It therefore looks at the perceptions of people interviewed, self-censorship as a new phenomenon in media industry in Uganda and specific challenges to free media in Uganda while specifically focusing on ownership, regulation mechanisms and security of the media workers. Following this, the chapter focuses on analysing the legal frameworks including the new domestic laws and the impact of politics on the media accessibility and finally concludes with a general discussion about the findings linking them to the literature reviewed and objectives of this study.

#### 4.2 Perceptions of the people interviewed

The study showed that most radio journalists interviewed were reserved on certain sensitive issues especially commenting their employment, benefits and whether they were treated fairly in their place of employment due to fear of termination of their service. The research also found that most radio journalists work without contracts of employment and because of this; there are no legal binding documents between them and the owners of the media outlets.

*We don't ask for signing of contracts because when you ask that will be the beginning of your exit for the job. The Director of our radio station is aware of the legal implications of signing the contract and he will ask you to accept the job on mutual agreement, if not he says you are free to look at other employment in other radio stations<sup>26</sup>*

On the other hand, the Politicians, CSOs, Resident District Commissioners (RDCs), District Security Officers (DISOs) and Lawyers interviewed expressed their views without fear compared to the journalists interviewed. Many politicians interviewed, tended to defend their own political parties on issues of censorship of the media. NRM politicians and RDC's for example offered the defence that the media in Uganda is free and that censorship is always a

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<sup>26</sup> Interview with Radio Presenter at Rhino FM in Lira on 15.02.2012

response to provocations by journalists and media outlets and is enacted for the sake of maintaining peace and harmony in the country, while their counterparts the opposition politicians, CSOs, lawyers and the public officers in the ministry argued that the media in Uganda is actually not free and they went on to give examples to support their views.

My own analysis and conclusion on the issues of respondents is that politicians will always think differently from professional journalists because they would want to politicize every issue that comes up in the country including this issue of freedom of expression even when it goes against their conscience.

### **4.3 Self-Censorship and the Media Freedom**

Self-censorship among media professionals in Uganda has persisted at different levels and is attributed to different reasons; fear of persecution and arrest, political pressure (*in which case the media decide to abstain from reporting certain issues that are politically sensitive*), fear of losing a job when the story does not comply with the employer's editorial policy or business interests (IREX, 2008:387).

In practice some media outlets have been forced by politicians and government to stop publishing certain stories. Journalists who are critical in reporting about the government get intimidated, harassed, threatened and investigated, many have been charged in courts with unclear crimes and charges. Andrew Mwenda of the *'Independence magazine'* faces a number of pending charges<sup>27</sup>. According to Free House, these threats coupled with legal actions have fostered *'Self-Censorship'*. HRNJ adds that the repressive and restrictive media laws and continued threats by government through the regulatory bodies have created tension and widespread *'Self-Censorship'* among media outlets, journalists and other media practitioners<sup>28</sup>. The media therefore operates in an *'intimidating and threatening environment'* where the consequence has been *'Self-Censorship'* as reported by one journalist with the Monitor newspaper:

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<sup>27</sup> See; Committee to Protect Journalists (CPJ), 'Attacks on the Press 2009: Uganda,' 16 February 2010, accessed at: <http://cpj.org/2010/02/attacks-on-the-press-2009-uganda.php>, and Human Rights Watch (HRW), 'A Media Minefield: Increased Threats to Freedom of Expression in Uganda,' May 2010, accessed at: <http://www.hrw.org/reports/2010/05/02/media-minefield-0>.

<sup>28</sup> HRNJ-U, 'Government blocks radio stations from live broadcasting Buganda Kingdom conference,' 4 January 2011, accessed at: [http://www.ifex.org/uganda/2011/01/04/conference\\_broadcasts\\_banned/](http://www.ifex.org/uganda/2011/01/04/conference_broadcasts_banned/).



*Many journalists in the media outlets have concrete information and stories well researched upon with strong evidences but they do not report them because of fear of the consequences from those holding powers of the state<sup>29</sup>.*

Another had this to say:

*Many practitioners in Uganda are under self-censorship because of the relationship that the owners of the media outlets have with the government, they no longer do critical reporting. Rather than reporting on government policies and political developments in Uganda many journalists and Media outlets have now resorted to reporting leisure activities like weddings, Discos<sup>30</sup>*

Perhaps, the closure of five privately owned radio stations in September 11, 2009 and the subsequent re-opening with conditions attached to it escalated self-censorship among the media practitioners. The frequent warnings by the government through the Media Council, UCC and Broadcasting Council worsened fear among many media outlets across the country. Many journalists censor themselves by avoiding discussing sensitive political topics including any differences between the central government and the Kabaka the King of Buganda (Amnesty International, 2011:12).

The Media Council has a significant role to play in determining the hostile environment in which the media operate. This organization holds overwhelming powers that work to create situation of self-censorship among the journalists. In April 2010, the Council Chairman Eng. Godfrey Mutabaazi made directives on the suspension of two radio presenters of Voice of Lango, a Lira based FM radio station for hosting opposition politicians (HRNJ-U, 2010:8), similarly in December 2010, it instructed the management of Radio Kigezi to dismiss a presenter accused for being partisan (HRNJ-U, 2011:13). Such directives, by the Media Council for the suspension and dismissal of journalists have a far reaching impact on media freedom as it increases '*self-censorship*' among many journalists for fear of losing their jobs.

The study revealed that many journalists no longer find the media jobs interesting because of high level of censorship, instead they prefer not to report, if they feel the content of their news would antagonize the government and possibly cost them their job. '*We censor ourselves because we do not want to lose our job which is a source of livelihood to our family and*

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<sup>29</sup> Interview with a journalist of Monitor newspaper on 12.01.2012

<sup>30</sup> Interview with a journalist of Red Paper Publications in Kampala on 12.01.2012

*defendants*<sup>31</sup>. Self-censorship was found common among the journalists working in areas far from the capital city of Kampala (often referred to as ‘*up country*’). This was attributed to the harshness, threats and intimidation by the RDCs and the Police who hold overwhelming powers on behalf of the president at the district level.

#### **4.4 Specific Challenges to Media Freedom in Uganda**

- **The Impact of the Media Ownership on Media**

The media ownership remains a key determinant of way in which media houses carry out their activities. The issue of media ownership has recently become an issue of debate and contention. The government control of the private media through owning or through the people who are pro government has turned out to be one of the biggest hindrances to free media<sup>32</sup>. An election radio survey carried out on the eve of the 2011 presidential campaign showed the ruling party presidential candidate taking more favours in the radio stations country wide than the other five candidates (Lugalambi, 2010). This link to the ruling NRM party has been a major factor in compromising free media operation in the country; yet media remains a major way through which the citizens get the information (HRW, 2010; Free House, 2010). Even though there are independent media, their works are always compromised by third parties that have links to the ruling government.

The research finding revealed that opposition candidates and politicians across the country were denied air time on many radio stations because of their political affiliations. NRM politicians, ministers and businessmen own radio stations and this has a lot of effect on how media operates. These radio owners find it extremely hard to host opposition politicians for fear of annoying their party president; secondly they fear losing business by the government on advertisement from various ministries who are doing business with them:

*We fear to lose our positions as ....., we fear to lose revenue source from the government advertisement mainly Ministry of Health and therefore we do everything possible to maintain our relationship with the government even if it means denying opposition access to our airwave we will do that*<sup>33</sup>

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<sup>31</sup> Interview with Radio Presenter at Voice of Teso, Soroti on 19.01.2012

<sup>32</sup> See; Uganda Media Profile; A comprehensive profile of major TV and radio stations, newspapers, magazines, and ISPs in Uganda on website <http://www.ucc.co.ug>

<sup>33</sup> Interview with the Radio Director Radio Wa FM in Lira; 17.02. 2012

Another journalist told me:

*The government has invested heavily on compromising media, many outlets are controlled by state and they have a lot of say on what goes on in the outlets. Even the private media outlets are controlled indirectly through the people, businessmen and politicians who work for the ruling government<sup>34</sup>.*

Besides doing business in the media sector, such people also have other business interests; the implication of antagonizing the government through their media outlets would mean losing other businesses and investments with the government like constructions, supplies, health and schools (Free House, 2010).

The impact of ownership of media outlets on freedom of expression was further demonstrated during the 2011 presidential and parliamentary election campaigns to the disadvantage of those without the stations, and more especially opposition candidates. The finding indicates that many media outlets campaigned for incumbent president and his supporters; Super FM for example campaigned for candidates Museveni and Peter Ssematimba, Voice of Lango in Lira campaigned for Felix Okot Ogong and candidate Museveni, Mega FM and Radio Rupiny campaigned for candidate Museveni and NRM leaning candidates in Gulu, Radio Kitara and Kings Radio campaigned for Kabakumba Masiko and Candidate Museveni, Metro FM campaigned Captain Edward Francis Babu, Busiro FM campaigned for former Vice President Professor Gilbert Bukenya and other NRM contestants, Voice of Teso and Voice of Busoga for Mike Mukula and Museveni respectively, Radio Kinkinzi campaigned for Prime Minister Amama Mbabazi and Candidate Museveni, Radio Apac for Jovino Akaki, Museveni and NRM leaning candidates (HRNJ, 2011:11). The above facts show the level of press restrictions and the bias of the coverage by the existing media outlets on instruction and orders from their proprietors.

Surprisingly, in Lira district, it was frustrating for opposition candidates as, in the two weeks prior to the 2011 elections, the NRM party booked and paid for many airtime slots in all the five radio stations, many of which were subsequently not used. The reason was to deny the opposition candidates free access to the media<sup>35</sup>.

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<sup>34</sup> Interview with a journalist Radio Rupiny , Gulu on 15.12. 2011

<sup>35</sup> Interview with the Director Radio Wa Lira on 07.01.2012 and a journalist of Unity FM on 13.01.2011

- **The Impact of Regulatory Mechanisms on the Media**

The media plays a major role in shaping the government in power, it is therefore important for the government to always distance itself from interfering with media regulatory systems (HRW, 2010). The regulatory bodies must be independent in all aspects and free from interference by political and commercial interests. This means they should be guarded against political and government influence (UHRC, 2010; Article 19, 2010:4). For media '*self-regulation*' remains the best way for promoting high standards in the media industry<sup>36</sup> and where this has failed the public authority could come in with some regulatory mechanism as long as it does not rely so much on government as its source of decisions (Article 19, 2010:5). In the Ugandan context, regulation has presented a social problem because the regulatory framework impedes media freedom due to government control over appointment and licensing of the various regulatory bodies through its line ministries (Free House, 2011; Article 19, 2010:4)

The study found that the major institutions that are mandated to regulate the media industry in Uganda are compromised by the government who appoints them (Free House, 2011; Amnesty International, 2011:11). Whereas the Media Council<sup>37</sup> major responsibilities is to regulate the conduct of journalists, arbitrate disputes between the public and the media and to accredit foreign journalist; it has been greatly criticized for being housed in the Prime Minister's office. It is argued by most critics including Amnesty International that through this, the Council is more vulnerable to political control and compromise by the very office that accommodates its office and Ministry of Information that appoints the members leading to illegitimate restrictions of freedom of expression (Free House, 2011, Amnesty International, 2011:11). Likewise, the Broadcasting Council, which guides and regulates the broadcasting sector, has its image tinted with bias because of its licensing process and decisions on the opening of new outlets. The actions to illegitimately close five radio stations in September 10, 2009 and the banning of live debates '*ebimeeza*' portrays the Broadcasting Council negatively in the eyes of both the public and international bodies (ibid).

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<sup>36</sup> African Declaration, note 8, Principle IX. By contrast, the broadcast media may be more strictly regulated in order to manage the limited available radio spectrum.

<sup>37</sup> According to HRW report 2010, in 1997, plaintiffs challenged the Press and Journalist Statute. The Constitutional Court decided on procedural rather than substantive grounds to dismiss the challenge. The Court based its decision on differing rules of procedure between cases brought directly to it by way of petition and those referred to it by another court. Uganda Journalists Safety Committee, Mohammed Katende, Peter Bahemuka v. Attorney General, Constitutional Petition No. 7/97, 1997

Consequently, the study reveals that majority of local radio stations are owned by politicians and business people supportive of the government. In most parts of the country, members of the opposition are denied licenses by the Broadcasting Council to open radio stations while their counterparts in the ruling party are given licenses<sup>38</sup>. Practical example includes James Musinguzi, a treasurer with Forum for Democratic Change (FDC) party, who was denied a license to open up a radio Station in Kinkizi, while his main rival Amama Mbabaazi the current Prime Minister was granted the license in the same area by the Council (IFEX, 2008:386).

The finding from the study revealed further that not only has the licensing caused problems with media regulatory systems but also the exorbitant fees set up by the council have made the operation of the media business difficult. The licensing fee stands at Uganda Shillings three million (\$1,275) for Local Radio FM station and Uganda shillings five million for Televisions (TV) and slightly less for upcountry media outlets depending on the kilometers from the city centre (Free House, 2011). This implies that owners of the media outlets needs to invest huge capital in order to operate media business.

On the other hand, there is much interference by government on the work of the UCC. For example, Free House 2011 reports that during February 2011 elections, The UCC on orders from the government blocked the sending of SMS during the vote counting for fear of '*promoting hatred and creating discomfort among the public*'. (HRNJ-U, 2011:13). All the telecommunication services were ordered to stop relaying the data to the DEM group and opposition Forum for Democratic Change (FDC) tallying centers in Kampala. While in April The UCC instructed the internet service providers in Uganda to block Facebook and Twitter for 24 hours in an effort to avoid mobilization of the public through these social networks which they argued would have incited more riots on escalating food and fuel prices in Uganda code named '*Walk to work protest*' (HRNJ-U, 2011:15). This was a violation of freedom of speech and participation through the media channels as captured in both national and international laws (Amnesty International, 2011)

In addition to the licensing challenges, the findings revealed much interference by the regulating bodies on the operation of the media outlets, quite often '*minimum broadcasting*

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<sup>38</sup> IREX, "Media Sustainability Index (MSI)-Uganda 2008," accessed at: [http://www.irex.org/system/files/2-Africa\\_08\\_uganda.pdf](http://www.irex.org/system/files/2-Africa_08_uganda.pdf). According to the IREX MSI 2008, 75 percent of stations are owned by politicians and 75 percent of them belong to the NRM ruling party.

*standards.*' has been used by the Media Council to close down several radio stations including the Buganda kingdom–owned Central Broadcasting Service (CBS), Ssuubi FM, Radio Two, and Radio Sapientia belonging to the Catholic Church of Uganda. This was done without warnings, just based on government instructions through the chairman of the Broadcasting Council whose letter only mentioned breaches of '*minimum broadcast standards*' without substantiating (Free House, 2011). The acts were illegal because these radio stations were not given notice, explanations for the closure and opportunity to appeal the council's decision (Article 19, 2010; Amnesty International 2010; Free House, 2010; HRW, 2010).

This study found that the government smuggled in another regulatory mechanism to stifle media freedom outside the legal mandate. In 2005, the Office of the President created the Media Centre, whose major function is to create positive factual public awareness of the government. HRW observed that on the eve of 2006 and 2011 election the Media Centre usurp the power of the Media Council and set itself another task of investigating foreign journalists and censoring radio journalists moving 100km outside the city centre (2010:14). This was outside the mandate upon which the Media Centre was supposed to operate and in any case, it is illegal because there is no law that establishes the Media Centre (HRW, 2010).

Foundation for Human Rights Initiative for example criticized the Media Centre for conducting its activities as '*political prop, acting largely as information outlet for the NRM rather than as an independent government agency*'<sup>39</sup>. From the above discussions, media activities are seen to be highly censored in Uganda. One journalist interviewed said:

*The Media Centre is rather a promoter of government propaganda and interest through the media rather than an independent regulatory body of the NRM government. There is no legislation that creates and regulates the conduct of the Media Centre and this renders it illegal in Uganda media regulatory system*<sup>40</sup>.

The last system put in place is '*the Police Media Crime department*', set up three years ago to investigate crimes related to media. HRW observes that up to April 2010, 90 cases were submitted by the Director of Public Prosecution and out of which 12 were allowed to proceed

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<sup>39</sup> See; Foundation for Human Rights Initiative, "Freedom of Expression, Report for the Period June 1-November 30, 2007," <http://www.fhri.or.ug/Freedom%20Research%20June%20-%20November%202007%20.pdf> (accessed February 2, 2012), p. 28

<sup>40</sup> Interview with a Red Pepper journalist in Kampala on 21.01. 2012

(2010:14). The findings indicate that, the media crime departments of the Uganda Police rather exist to intimidate rather than exercising criminal investigation to the alleged crime committed by journalists and other media practitioners<sup>41</sup>. Article 19 observed that the establishment of this department has led to increased number of journalists who are being charged rather than helping to regulate the practice of journalism<sup>42</sup>.

In summary therefore, one can argue that the UCC, the Media Council, and the Broadcasting Council, all have assumed powers beyond the legal obligation granted to them by the Ugandan laws and have continued to undermine and violate media freedom by acting to promote the interests of the ruling party rather than the interests of ordinary citizens to which they were established to serve.

- **Safety and Security of Journalists**

According to the Human Rights Network for Journalists-Uganda (HRNJ-U, 2010; 2011) press index report, increased violence has been experienced by Ugandan journalists over the past three years. The report indicates that, in 2009, 35 cases of intimidations, harassments and violence were reported while the number shot up to 50 cases in 2010 and 107 in 2011. International bodies (Amnesty International, 2011; HRW, 2010; Article 19, 2010) report that several journalists continue to fall prey to attack by unknown people purportedly suspected to be security operatives.

The security of media professionals remains at great risk; journalists interviewed revealed that many of their colleagues continue to disappear, suffer at the hands of security operatives and others are killed under unclear circumstances. The following examples illustrate this finding. Sserumaga Kalundi of WBS TV and Arafat Nzito of Simba FM 97.3 were kidnapped on 10<sup>th</sup> September 2009 and November 3, 2010 and held in an undisclosed location by the security forces<sup>43</sup>. Paul Kigundu and Dickson Ssentongo lost their lives while at work under

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<sup>41</sup> Interview with journalist with the New Vision Publication in Gulu district on 22.01.2012

<sup>42</sup> See; Article 19 publication available on [http://www.article19.org/data/files/medialibrary/2636/11-08-09-A\\_HRC\\_WG.6\\_12\\_UGA\\_3\\_Uganda\\_E.pdf](http://www.article19.org/data/files/medialibrary/2636/11-08-09-A_HRC_WG.6_12_UGA_3_Uganda_E.pdf)

<sup>43</sup> See; HRNJ-Uganda Press Index available on <http://lib.ohchr.org/HRBodies/UPR/Documents/session12/UG/HRNJ-Uganda-HumanRightsNetworkJournalists-eng.pdf> accessed on 27.02.2012

unclear circumstance<sup>44</sup>. Wilbroad Kasujja of Buwama Community radio in Mpigi was raped, and later killed on her way from the radio station. Top radio reporter Paul Kiggundu and Prime radio news anchor Dickson Ssentongo were both murdered in cold blood while at work. Foreign Rwandan journalist Charles Ingabire from Inyenyeri publications was murdered in Kampala in November 2011 under unclear circumstance. Journalist Gideon Tugume was shot at Kibuye roundabout and injured as he took live coverage of Dr. Besigye's return from treatment in Nairobi (HRNJ-U, 2010; 2011). Although the government distanced itself from such brutal acts against the media, and in many instances condemned them, it remains government responsibility to provide security and protection to all Ugandan citizens including journalists.

#### **4.5 The Impact of the Domestic Legal Framework on the Media.**

There are specific Ugandan laws that have been put in place to criminalize certain practices of the media professionals. The clauses in these laws have been criticized for taking away media freedom by contradicting the country's constitutions and the international legislation that promotes free practice of the media. To trace how draconian such laws are to the media, I analyze and discuss them below.

- **The 1950 Uganda Penal Code**

The 1950 Penal Code contains a number of sections that restrict the freedom of media. It defines offences that criminalize sedition<sup>45</sup> (Penal Code Act 1950: sec 40), sectarianism (sec 41), Incitement of violence (sec 51) and libel (sec 79 which also includes publishing of defamatory information). Despite the legal guarantee under the constitution and international laws, criminal charges through the above sections of the domestic law continue to be a method through which journalists have been framed and charged as a way of scaring them from expressing their views on government policies and actions (Amnesty International, 2011:9; Article 19 submission to UN). IFEX (2010) and HRNJ (2010) reports that many Commonwealth countries to date have dropped many sections of this law, but in Uganda,

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<sup>44</sup> See; International partnership group freedom of expression mission to Uganda Statements

<sup>45</sup> The Penal Code Act defines sedition as when a person alters or publishes statements aimed at bringing hatred, contempt or disaffection against the president, the government or the judiciary. According to HRNJ-Uganda/IFEX 2010, In 2005, journalist Andrew Mwenda and the East African Media Institute, petitioned the Constitutional Court challenging the provisions on sedition in the Penal Code Act, available on [http://www.ifex.org/uganda/2010/08/25/sedition\\_law\\_null/](http://www.ifex.org/uganda/2010/08/25/sedition_law_null/) (accessed on 29.03.2012)



journalists like Mwenda<sup>46</sup> and opposition supporters continue to be charged with sedition charges including opposition politicians like MP Betty Kanya, MP Betty Namboze and Medard Ssengona.

In its submission to the United Nations, Article 19 argues that the Penal Code is not only vague but ‘susceptible to unreasonable wide interpretations by both authorities and those subject to the law’ it is therefore clear that such ‘draconian law’ has a chilling effect on freedom of expression in any democratic country. In a landmark case of freedom of expression, the Constitutional Court on August 25, 2010, nullified sections 39 and 40 and Cap. 120 of the Penal Code Act which defines and establishes law on sedition; also removed are sections 42, 43 and 44, which put in place a law promoting sectarianism<sup>47</sup>.

Similarly, in the case of Charles Onyango Obbo & Others Vs Attorney, the Constitutional Court<sup>48</sup> nullified the offense of publication of false news under section 50 of the penal code of Uganda as being unconstitutional. Despite the Court ruling on section 50 of the Penal Code in February 2004, more charges resurface under the nullified law; journalist Yoweri Musisi of CBS was charged with publishing false news in March 2011, an offense that no longer existed. The case was later dropped on May 18, 2011 after his lawyers and HRNJ-U challenged the legality of the charge following a Supreme Court ruling in 2004 (HRNJ-U,2011:21; Amnesty International, 2011: 9-10).

### • **The 1995 Press and Journalist Act**

The 1995 Act whose content regulates the practice of media has been a subject of criticism especially the registration clause, which requires licensing of the practice of journalism; perhaps, placing conditions on who qualifies to practice journalism as put down in section 26 and 27 of the above Act even worsens the situation (Free House, 2010). The Act becomes worse with the proposed amendment of January 29, 2010 by the government (The 1995 Press and Journalist Act). Article 19 criticizes the Act as not being in line with the international

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<sup>46</sup>According to HRNJ-Uganda and IFEX 2010, Out of the 25 times, Andrew Mwenda, a Ugandan journalist has been charge, 18 times were with the offences of sedition.

<sup>47</sup> See; HRNJ-U, ‘Constitutional Court nullifies law on sedition,’ 25 August 2010, accessed at: [http://www.ifex.org/uganda/2010/08/25/sedition\\_law\\_null/](http://www.ifex.org/uganda/2010/08/25/sedition_law_null/). accessed on 14.03.2012

<sup>48</sup> Also see; Lead Judgment by Justice Joseph Mulenga of Supreme Court of Uganda, 2004 in Constitutional Appeal No. 2 of 2002 between Charles Onyango Obbo and Andrew Mwenda and Attorney General.

legislation because it puts too many conditions on the kind of person who may practice journalism and yet this is mentioned nowhere in the international legislations of freedom of expression (Article 19.2010: 1).

- **The 1996 Electronic Media Act, cap 104**

The Electronic Media Act gives the Broadcasting Council unchecked and excessive powers to act with impunity on the media outlets by regulating media content (HRNJ-U, 2011:27). Such power became practically experimented during the September 11, 2009 closure of four radio stations Central Broadcasting Service (CBS), Radio 2 (Akaboozi FM), a Catholic Church run FM station Sapientia, and Suubi FM) during the riots and demonstration in Kampala<sup>49</sup>. In addition, the Broadcasting Council has abused its powers on many occasions by ordering suspension of critical journalists, banning public debates and live broadcast coverage of riots and demonstrations as well as blocking the Social Network Facebook and Twitter on April 14, 2011 during the walk to work protest (HRNJ-U, 2011:27). According to Article 19, the Council's unquestioning compliance with decisions from the government poses a great threat to free practice of media; the Council lacks independence but operates under directives from the government through the Ministry of Information.

- **The 2002 Anti-Terrorism Act**

In force since June 2002, the Anti-Terrorism Act focuses on criminalizing coverage of mostly opposition politicians, dissident, and rebels. Under section 9, it prohibits publication of items that promote terrorism (HRNJ-U, 2011:28). It has been argued that, the definition of 'terrorism'<sup>50</sup> as captured in the Act is 'vague' and creates fear among journalists to the extent that it becomes difficult for journalists to report any clashes between government and any rebels without risking imprisonment (HRW, 2010: 48, ). The law does not permit any form of coverage of organization or any group and individual suspected to be engaged in a terrorist act by way of direct engagement or financial support<sup>51</sup>. Section 8 and 9 focuses on '*publishing or disseminating news or materials that promote terrorism*'. This section is hostile to media freedom because it

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<sup>49</sup> See; HRNJ-Uganda UPR Report p.3 available on <http://www.hrnjuganda.org/index.htm> accessed on 27.02.2012

<sup>50</sup> HRNJ- U (2011) captures the definition in the Act as 'An act of terror is any act or omission aimed at forcing government to change any thing(policy, law, practice etc) and in through doing that a person dies' p.28

<sup>51</sup> Ibid. p2

illegitimately contributes towards restricting freedom of media (HRNJ, 2011). Similarly, Section 19 provides for tapping or interceptions of any communication by an assigned officer of Ministry of Security. The implication is that no longer can the sources of news of journalists be secure as there is a third party intercepting under the provision of this law (Amnesty International, 2011: 14). A journalist can be required to reveal his sources of information during the investigation under this Act, something that is both unethical, and undermines the practice of journalism (HRNJ-U, 2011:28).

- **The Public Order Management Bill 2009**

With the major aim of “*safeguarding public order and other related matters*”<sup>52</sup>, the bill prevents freedom of media and freedom to assemble. The proposed law is in contradiction with the Ugandan Constitution of 1995, the Africa Charter on Human and People’s Rights, the International Covenant on Civil and Political Rights, and the Universal Declaration of Human Rights among other regional and international treaties on freedom of the media (Amnesty International 2011, Article 19, 2010). It infringes on a number of rights including freedom of speech and expression and rights to public gatherings, and gives government through the Inspector General of Police and the Minister of Internal Affairs unchecked powers over managing public gatherings, at which the media are almost invariably present (An Analysis of Public Order Management Bill of Uganda, 2009).

Neither the proposed restrictions in the bill, nor its scope, match the international standard permitted under the international human rights law of which Uganda signed and is bound by, specifically the ICCPR and the African Charter on the right to peaceful assembly and freedom of expression (Amnesty International, 2011:28). The bill has far reaching consequences for wide sections of the population if passed into the law. The effects on the peaceful assembly and expressions would be much on the media, human rights defenders and the political parties (ibid).

- **The Regulation of Interception of Communication Act, 2010**

Introduced by the Minister of Security, passed into law in July and into force on September 03, 2010, the bill lacks safeguards on right of freedom of expression and privacy (Amnesty

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<sup>52</sup> See; the Preamble of the Public Order Management Bill 2009

International, 2010). Human rights activists disagree with the arguments advanced by the government of guarding the 'security' of the country and dismiss such a law as contradicting the rights of privacy enshrined in the 1995 Ugandan constitution<sup>53</sup>, The law is not in harmony with the national, international and regional treaties, (ACHR, ICCPR,UDHR)<sup>54</sup>. In its submission to the United Nations, Article 19 argues that the law gives too much power on surveillance, interceptions of electronic, communications and postal mails by allowing intrusion into communications of organizations, groups and individuals including media professionals. The Act does not define the grounds for interceptions and gives unchecked powers to Minister of Security over control of 'Monitoring Centre'<sup>55</sup> (Amnesty International, 2010). Where it defines, for example 'National security' the definition is broad, section one of the Act says 'national security of Uganda includes matters relating to the existence, independence or safety of the State' (Communication Act, 2010). As argued by many journalists and in agreement HRW, 2010; Article 19, 2010; UHRC, 2010 and Amnesty International, 2011, what constitutes 'national security' has been termed 'vague'. Analysts look at it as a deliberate attempt to suffocate and stifle media freedom in a free democratic society; even the Johannesburg Principles on national security re affirms that such security concerns should not be generalized to include 'protecting a government from embarrassment or exposure of wrongdoing'<sup>56</sup>.

Although intensions of the Act may be to protect ordinary citizens through utilizing legal avenues, it does not state for example, the issues which a judge should consider before the interception warrant is issued. The implication could mean a judge may not be required by law to consider specific human right issues before issuing the warrant of interception and this is likely lead to gross human rights violations. And yet, the warrant issued may also not conform to the international standards (Amnesty International, 2010). The interpretation of this law for the media practitioners and human rights defenders is that, they can no longer be

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<sup>53</sup> See Report of the sessional committee on Information and communication technology (ICT) on the regulation of interception of communication bill 2007, June 2010 available in the office of Clerk to parliament Uganda.

<sup>54</sup> As Amnesty international puts it, this right is also provided for under Article 29 of the Ugandan Constitution, Article 19 of the UN International Covenant on Civil and Political Rights (ICCPR) and Article 9 of the African Charter on Human and Peoples Rights (ACHPR). Uganda is party to both treaties. Article 27 of the Ugandan Constitution guarantees the right to privacy which is also provided for under Article 17 of the ICCPR available on <http://www.amnesty.org/en/library/asset/AFR59/016/2010/en/4144d548-bd2a-4fed-b5c6-993138c7e496/afr590162010en.pdf> (accessed 30.03.2012).

<sup>55</sup> See; Section 3 (1) (a) (c) & (4) of the Act.

<sup>56</sup> Johannesburg Principles, principle 2

secure, because their sources of information would be easily accessed by the government through the government interception centre that is granted the legal authority to tap communication.

- **The Press and Journalist Amendment Bill 2010**

The Act among other things, proposes who may practice journalism, reduction in the number of public and media representatives on the media council, gives more power to the Minister of Information and introduces stringent licensing procedures. CPJ, Free House, Amnesty International, Article 19 and HRW all described the bill as a ‘draconian’. Article 19 for example argues that the international guarantee of the freedom of expressions which applies to every citizen does not in any way provide for limitations on the practice of journalism as per African declaration principle X (2). This is reinforced by the 2003 joint declaration by special international mandate which reaffirmed that, individual journalists are neither required to get licenses in order to practice and nor to register with anybody. It provides that there are no legal restrictions on the practice of journalism in any country. (Article 19, 2010: 8)

As this Act is a new law, the researcher administered questionnaires to lawyers and Human Rights Network Uganda (HURINET –U) to try to find out more about the Press and Journalist Amendment Bills (2010) introduced two years ago. The findings revealed that not only does the bill curtail freedom of media but also the daily enjoyment of fundamental human rights across many categories of people. The key weaknesses identified in the bill include the following.

Firstly, much as the law focuses on professional journalists, it neglects others in the media work such as Disc Jockeys and Master of Ceremonies, Television and Radio presenters. Likewise, there is no provision for registering untrained journalist under the proposed bill and in the event of unprofessional conduct, it becomes impossible to reprimand or hold them accountable (HURINET –U, 2010; Lugalambi, 2010). Ambassador Blay-Amihere during the round table discussions on Ugandan media laws in Kampala on 31 of May 2010 disagreed with the degree requirement in this law for professional journalists. He argues: ‘.....*the degree requirement*

*does not meet universal standards, and also goes against the Ugandan constitution that talks about freedom of association*<sup>57</sup>

The proposed law gives much power to the Minister of Information to appoint and dismiss members of the Broadcasting Council. This makes the Council less independent and merely an implementer of the directives from the Minister. Increasing the number of members in the disciplinary committee seems a good idea but, reducing the number of media professionals and public representation from three to one and from two to one will limit the journalist and public from controlling and regulating the media (Analysis of clause 4 section 8).

Section 6 gives the Media Council the power to register and license the print media however; it is silent on the requirements and procedural matters (Article 19, 2010). By providing the new stringent conditions for licensing the newspapers, it will not only scare away investors from the media industry but will also affect the production given the fact that the licenses can be removed by the government at any time and at will (HURINET-U, 2010:4). This will likely have a long term effect on the job market for those in the media profession as employees will be uncertain of the future of their jobs until such a time when the license of their media outlet is renewed. Further, the media industry would turn to employing the journalists on contract so as to be able to meet the operational cost; this creates job insecurity because of unpredictability of the whole media industry (p.7). The restrictive licensing condition was lamented by one respondent interviewed who said:

*The proposed law says you can appeal if you have been denied the license to operate, but given our slow legal processes it may take between two to five years before such appeal is heard by our courts and this is unfair as many employees will be denied their livelihood as they wait the pending court decision*<sup>58</sup>

*The bill further proposes for punishment of both journalist who writes an article and the Editor who reviews it, this create a situation of double punishment which is against criminal law doctrine of punishing individual twice for the same offense committed (HURINET-U 2010: 4)*

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<sup>57</sup> See; Round table P and J rapporteur report 2010 available online at <http://www.acme-ug.org/media-laws> accessed on 12.03.2012, p.4

<sup>58</sup> Interview with one of the lawyers on 27.01.2012

In addition, the bill lacks definitions of certain terms, for example what amounts to ‘*economic sabotage*’, and ‘*prejudice to state security*’<sup>59</sup>. This will make it difficult for the members of the media to publish news about the state for fear of being reprimanded (*An analysis clause 6 and 9*). It is difficult to determine what will be considered sabotage under the new proposed law until a particular news item has been broadcast. In its present state, it gives power to the Minister of Information to determine what ‘sabotage’ is. The Minister is likely to abuse this power to please the appointing authority. As summed up by HURINET-U (2010:6) ‘*Dummy report*’:

*Even if such media could determine what constitutes sabotage, censoring themselves to appease the interests of government parties is anathema to the free-flow of information and the spirit of Ugandan democracy.*

A critical analysis of the ‘*Dummy’s Guide to Press and Journalist Bill 2010*’ by HURINET-U reveals that, the bill has long term effects on students’ writings at higher institutions of learning like Universities. The implication of this law as analyzed by a lawyer interviewed from HURINET-U is that, all reports, opinions, dissertations, thesis, articles to be published for public consumptions in journals and academic papers could be censored as they have to be scrutinized to ensure that they do not compromise state security and economic interest. The implication is that even students’ research findings, may not be published and shared with the public basing on this law. This will stifle the work of researchers because they would find it hard to access information that would be useful for their work (2010:7). CSOs’ publications, newsletters, annual reports, periodicals with the new proposed laws will have to pass through scrutiny. This means that, depending on the content, whatever analysis CSOs’ make on government policies and programmes may not be published due to the strict proposed law (p.8). In general, the bill limits accountability and transparency because the government will not be liable to scrutiny by the media with the new law in place.

#### **4.6 Politics and the Mechanics of Media Suppression**

In Uganda, as in any other country, the media plays a role in shaping the political landscape; it informs and educates citizens. The research findings indicate that media attempts to perform this function on eve of 2011 presidential and parliamentary elections met stiff resistance from the

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<sup>59</sup> HURINET, 2010 observes that the lack of definitions in the bill Violates article 28(12) of the Ugandan Constitution, which states that every offence must be defined and its penalty provided for in the law.

state. This resistance came either from politicians or the regulatory bodies with connections to the ruling government and their security agents (HRNJ, 2011:7). Yet this was a vital time when ordinary citizens were to evaluate the performance of their elected political leaders. Vital and sensitive information was censored by way of denying media free reporting (ibid, p.7 and 8). As HRNJ- U (2011) notes, the media objectives of empowering and educating citizens about their rights towards 2011 presidential and parliamentary elections achieved little due to massive censorship of media by the ruling government and its security agents. The citizens were not able to make the fully informed choice of candidates that would have been possible if they were informed and educated by the mass media (HRNJ-U, 2011).

The study revealed that political threats, Intimidation and harassment were the common methods used to silence the media in Uganda. As Lugalambi and Tabaire, (2011:15) observe, the state used some of the crude measures against media. It is reported that the incumbent President Museveni hosted media owners and editors at the 'State house' and warned them of the dangers of hosting the opposition leaders who abuse him on radio stations. One journalist explained '*He threatened to shut down radios which are opposed to government, the most notable and singled out by the president are the Monitor newspapers, The Observer and the Red paper*'<sup>60</sup>. The 'open threats, harassment and intimidations' by the head of state does not only undermine media freedom but it affected the quality of the news reported as journalists opted for 'self-censorship' rather than critical reporting.

Access to media, especially radios was highly influenced by which political party the candidates belonged to. Opposition politicians faced more difficulties in accessing media outlets and coverage compared to the politicians from the ruling party. This is contrary to the Electronic Media Act, chapter 104 which provides that '*A broadcaster shall ensure that.....(c) where a programme that is broadcast is in respect to a contender for a public office, then each contender is given equal opportunity on such a programme.....*'. To illustrate this, below are the realities of what transpired during the 2011 presidential and parliamentary elections.

While on his campaign mission in Bunyoro region, Dr. Kizza Besigye the opposition presidential candidate for the Forum for Democratic Change (FDC) party was denied access to

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<sup>60</sup> Interview with the Monitor Journalist on 17.01.21012



all airtimes in the region. King's Broadcasting Services, Radio Kitara, Spice FM, Hoima FM, Bunyoro Broadcasting Services, and Liberty Broadcasting Services are the stations that refused to host FDC party president. Surprisingly, the reasons given were not convincing '*All Station Managers were under instructions from the NRM political leadership in the region not to give air wave to any politician unless such politician was cleared by office of RDC*<sup>61</sup>', and since Dr. Besigye was not cleared he was denied airtime. Another FDC politician had this to say:

*Opposition candidates were denied airtime as the radio Station Managers said they were under strict instructions from the Directors not to avail airtime to the opposition candidates especially Forum for Democratic Change*<sup>62</sup>

In Karamoja region, FDC Campaign messages were aired on Nena FM owned by RDC of Moroto, a retired media practitioner. He subscribes to the ruling party and because of this, he ordered his radio station to stop the advert for FDC campaigns (HRW, 2010:42). Access to other air waves by opposition varies; in another incidence in Jinja, the National Broadcasting Service (NBS) FM refunded FDC money paid for the advertisement under unclear circumstance. A former Health Minister, Mike Mukula who owns two radio stations Voice of Teso (Soroti) and Voice of Busoga (Jinja) instructed to his radio station not to host any FDC politician during the 2011 campaigns. He argues that, he was at liberty to determine how to operate his business and therefore would determine who to do business with. In Pader district, Dr. Besigye was scheduled to hold a campaign talk show on Luo FM but was refused when his agents went to make payment for booking on what the Manager said were orders from above (URNJ- U, 2011).

*I made a booking on Luo FM two days ago, but today when I came to pay bill for the said show, the Managers refused the money saying the RDC Santa Okot had instructed them not to host Opposition FDC party in Luo FM*<sup>63</sup>

In Lira district, the Voice of Lango owned by the NRM leaning Member of Parliament for Dokolo County and former Youth Minister Hon. Okot Ogong Felix had to apologize to the State House for hosting Uganda People's Congress Presidential Candidate Ambassador Dr. Olara Otunu (HRNJ 2011, IFEX 2011). Dr. Otunu made comments on a live show that President

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<sup>61</sup> Interview with the Radio Manager in Hoima District on 13.01.2012

<sup>62</sup> Interview with FDC politician of Bunyoro Region held in Kampala on 17.12.2011

<sup>63</sup> Interview with FDC Official in Aruu County on 16.12.2011

Museveni and his ruling government committed genocides in Northern Uganda<sup>64</sup>. In Hoima the RDC Assimwe Martha instructed the management and owner of Radio Hoima Canaan Kyanku not to host FDC Leader Besigye; in Kampala, Dembe FM Managing Director turn away the advert paid by FDC for their campaigns; while other media outlets which got paid never relayed FDC advert and never refunded the money some were taken to court by FDC for breach of contract (HRNJ-U, 2011:12).

The study revealed price discrimination in the payment for airwaves to the radio station, with opposition politicians being charged higher than the NRM politicians:

*We pay 400,000 Uganda shillings approximately (200USD) for one hour show and yet the ruling party pays 150, 000 Uganda shillings (75USD) on the same stations, even the president is hosted free of charge on the same radios<sup>65</sup>*

Such political acts that threaten free media in Uganda to the disadvantage of opposition parties are many and cannot be exhausted in this thesis. The above are example to shows the extent to which media freedom is restricted in Uganda.

#### **4.7 Uganda Media Freedom Rankings 2011**

The media ranking for Uganda has fallen among the countries surveyed in 2011. The research found out that, according to the latest survey of the world ranking of media freedom by Reporters Without Borders, Uganda has dropped from 96 to the 139th position out of 170 countries (Article by Bagala Andrew in the Monitor, January 26, 2012), While in 2009, Uganda was placed 86<sup>th</sup> position out of a total of 175 countries and in 2008 it got position 107 out of 173 and 96 out of 169 in 2007 (Reporters Without Borders' Press Freedom Index in Lugalambi and Bernard Tabaire (2011)).

Freedom House's Freedom of the Press Rankings, put Uganda at 110 position of the 196 countries surveyed in 2010, 109 out of 195 of countries surveyed in 2009 and 110 out of 195

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<sup>64</sup> See; East African Independence Media review Wednesday June 16, 2010 available at [http://www.eastafricapress.net/index.php?option=com\\_content&view=article&id=383:radio-apologizes&catid=99:press-freedom](http://www.eastafricapress.net/index.php?option=com_content&view=article&id=383:radio-apologizes&catid=99:press-freedom)

<sup>65</sup> Interview with FDC Official in Masindi on 20.01.2012

countries in 2008 (Freedom House's Freedom of the Press Rankings in Lugalambi and Bernard Tabaire (2011)).

Perhaps, the 2012 ranking would have even been worse if it was not because of concerted efforts by various stake holders like journalists, Amnesty International, HRW, UHRC, and Article 19 to fight for the promotion of rights of the media in Uganda. The ranking reveals a significant problem in Uganda in the area of freedom of expressions and speech.

## **CHAPTER FIVE**

### **Conclusion and Recommendations**

#### **5.1 Conclusion**

This study analyzed the level of freedom of expression in Uganda; it looked at the hindrance to free practice of media among the Media outlets in Uganda; and how the both domestic and international legislations impacted on the level of freedom of expression within Ugandan Context. The communication theory remains central in guiding this study with the concept of power and mass media being analyzed in the literature review. Besides this, the international and national legislations and their clauses were reviewed from the contents of various legislations and it provided a basis for the analysis, discussions and recommendations of this study.

Using interviews and content analysis, the study produced various findings; restrictions of media freedom in Uganda takes various forms; ranging from threats, intimidations, harassment, enactment of new sub laws, criminal charges. Consequently it has led to self-censorship as discussed by this thesis. The ultimately cause of this, is an attempt by the regime in power to consolidate and retain power under all means and the effects has been denying people the information that they would have got through the mass media.

The Ugandan Constitution is well streamlined with good clauses that are aligned along the international legislation, however; the challenge is the implementation of the law in practice. The action of the security organizations, the media regulatory bodies and the government at large has reduced freedom of expression and media in practice. Government attempts to ban or restrict freedom of expression through the introduction of many media sub laws and the use of security agencies has instead ended up with great impact on journalists who have fallen victims of such security torture and intimidations.

The research findings still portray lack of freedom of expression in Uganda as highlighted in the analysis and discussions in chapter four. A concerted effort by both international bodies and CSOs is vital in reviving the freedom of expressions in Uganda. Media domestic laws need to be aligned to the international standards. The use of security to intimidate, threaten and scare journalists as they make coverage remain one way through which the media freedom suffers.

Government monopolies in controlling the media through owning and regulating the mass media has eroded the quality of the materials that mass media produce for fear of repercussions and consequently leading to self-censorship. The introductions of draconian laws and rampant amendment of the media laws has perpetuated government interest as far as the practice of freedom of expression is concern than protecting the free practice of media.

## **5.2 Recommendations**

From this study, and basing on the objectives and findings, the followings form part of my recommendations that need to be adopted and implemented to realize free practice of media in Uganda and in any democratic state.

The 2010 Press and Journalist Amendment Bill should not only be revised, but should be repealed and withdrawn in its totality because it gives more threat to the freedom of expression in Uganda. The overwhelming powers given to the Minister to appoint members of the regulatory bodies of the media should be reduced with self-regulatory system taking a central role as far as the regulatory mechanism is concerned. Individual clauses for the laws should be directed to the media industry rather than to individual journalists who are employees only in their capacity. The appointments of members of the Media Council should be done in an open and transparent manner involving all the stake holders in the media industries.

The proposed registration and licensing of print media should be repealed from the Act to give room for free media practice; it should be streamlined to match the international standards of freedom of expression. There should be a comprehensive revision of the media laws in Uganda including the electronic media Act of 1996 to provide for full independence from the government control.

The twelve months period for licensing is very short that the media owners cannot access bank loans with such duration of license. This may also discourage foreign investors who have interest in the media business. It is a recommendation of this study that, the government should consider extending the period of license to a more realistic period of at least more than 3 years.

The international bodies like African Union, European Union, Amnesty International, US Government, Donor Agencies and CSOs should join in advocating and campaigning for fair

media law and task Ugandan government to recognize that freedom of expression are paramount for any democratic society and more specifically for the citizens of Uganda. Constitutional and Supreme Courts should be an option used by the CSOs and media advocacy organizations to challenge media draconian laws. A comprehensive media law reforms therefore should be done with the constitutional guidelines and experiences from other Commonwealth countries should guide such reforms.

There is need for the government to respect Article 29 (1) (a), Article 20 (2) of the constitution of Republic of Uganda, UDHR Article 19, and ICCPR Article 19 plus other regional laws by allowing opposition to freely express their views without much censorship and interference from the government security agents like police and army. This means, the voices of the Uganda's opposition politicians should not be excluded from the Uganda political, economic and social development process by compromising their freedom of expressions during vital political stages like during campaigns for political offices.

The Parliament of Uganda should desist from passing laws that curtails universal freedom of human rights as declared by the United Nations in 1948. The domestic laws like the 2010 Press and Journalist Amendment Bills that are inconsistent with the constitution and the international legal instruments should be rejected by the parliament. The 2002 Anti-terrorism law should be aligned in a way that protects human rights including freedom of expression. Media law reviews by the parliament should take into consideration the principle of pluralism and diversity without offending the owners of the media outlets.

The Uganda journalist through their association should come up with a non-statutory regulatory body that is independence from government control and such a body should perform the function of monitoring journalism practices, trainings and performance in the whole media sector in Uganda. In case the government, wish to continue with its current Broadcasting Council, Media Council and UCC then, it should be empowered to perform its functions without government interference.

Lastly, the security should restrain from violating the rights of journalists as they perform the daily work of coverage. Instead they should create a free environment where journalists and other media practitioners are able to carry out the work without any form of harassments,

intimidations and threats. This means strict guidelines should be developed by both the Ministry of Internal Affairs in collaboration with the Inspector General of Police, Army Commander, and Directors of both Internal and External Security Organizations of Uganda on how to protect journalists especially during riots and demonstrations.

***Justification for Excess Word Count: 16,756***

The research being based on Content Analysis and Interviews, it was important to describe and explain certain legal terms both within the text and as foot notes to make the reader understand and secondly to quote narrations from the people interviewed to back up the findings.

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## APPENDICES

### Appendix 1 Interview Questions Guide

#### *Questions for Print Journalists, News editors, Station Managers, Talk show hosts, Radio Presenters*

- 1) Comment on the level of freedom of media industry Uganda?
- 2) What specific challenges do media practitioners face with the existing control of media industry in Uganda?
- 3) Do the Ugandan national laws protect journalists in the process of performing their work? Explain
- 4) In your view, are there any contradictions in the existing national laws with the international laws that may limit media freedom in Uganda?
- 5) Do the media freedoms in Uganda differ in any way before and after the liberalization of the Media industry in 1993? explain
- 6) Do the Press and Journalist Act (1995) have any loopholes that you may consider to be aimed at stifling media freedom? Explain
- 7) The current law establishes the UCC, the Media Council and the Broadcasting Council charged with regulating the media industry, in your view do these Councils exercise their roles independently?
- 8) What is your view on the proposed registration and licensing requirement imposed on the media practitioners by the new Press and Media Amendment Act 2010?
- 9) Comment on the restrictive clauses both in the national and international legislations and how it has been applied and used in Ugandan context.

#### *The Owners and Directors of Radio Stations and News papers*

- 1) As an owner of the Media Outlets (Radios, TVs, Newspapers, Magazines), comment on the level of media freedom in Uganda?
- 2) How autonomous have you been in carrying out your business? Has there been any interference or influence in the way you operate your business by government? Explain.
- 3) There have been reported cases of rampant termination of media employee's contract, as a stakeholder in the media industry comment on this?
- 4) Cases of denial of access to Radio stations and refund of airtime booked by members of opposition politicians have been reported in media. What are your views on this?

***Police, Security Officers, Resident District Commissioners***

- 1) What are your views on the way security agents have been handling the press and media professionals in the process of performing their work more especially as they cover events where you are directly involved in trying to restore order like demonstrations and riots?
- 2) There has been reported complain on press and in human rights organisations reports of confiscation of media coverage equipment's by security agents. Comments on why these have been happening?

***Community, Representatives of Political Parties, CSOs, Media Associations and Organizations, Public Officers in the Ministry of Information in Uganda***

- 1) How does the new press law affect members of the community, CSOs, Politicians, private investors, development partners Universities, institutions of learning, students in such institutions, and researchers?
- 2) What is your view on how the media council of Uganda is appointed currently; do you see this changing with the proposed new law of 2010?
- 3) What is your view on the level of freedom of expression in Uganda more especially among the community, Political Parties and the CSOs?