



Memorandum

on the

Press and Journalist Act and the Press
and Journalist (Amendment) Bill, 2010 of
Uganda

March 2010

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About the ARTICLE 19 Law Programme

The ARTICLE 19 Law Programme advocates for the development of progressive standards on freedom of expression and access to information at the international level, and their implementation in domestic legal systems. The Law Programme has produced a number of standard-setting publications which outline international and comparative law and best practice in areas such as defamation law, access to information and broadcast regulation.

On the basis of these publications and ARTICLE 19's overall legal expertise, the Law Programme operates the Media Law Analysis Unit which publishes a number of legal analyses each year, commenting on legislative proposals as well as existing laws that affect the right to freedom of expression. The Unit was established in 1998 as a means of supporting positive law reform efforts worldwide, and our legal analyses frequently lead to substantial improvements in proposed or existing domestic legislation. All of our analyses are available online at <http://www.article19.org/publications/law/legal-analyses.html>.

If you would like to discuss this Memorandum further, or if you have a matter you would like to bring to the attention of the ARTICLE 19 Law Programme, you can contact us by e-mail at legal@article19.org.

KEY RECOMMENDATIONS

General Recommendation:

- The whole Press and Journalist Act should be repealed, rather than amended, and the rule on protection of confidential sources should be moved to another piece of legislation.

Independence of Regulatory and Oversight Bodies:

- Instead of attempting to give the Minister greater control over the Media Council and the Disciplinary Committee, the manner of appointing their members should be completely revised so as to ensure their independence.

Restrictions on Journalists:

- The whole system of mandatory membership for, licensing of and conditions on journalists and editors should be removed from the Act.

Regulation of Content:

- All primary content restrictions in the Act and draft Bill – including those referring to national security, relations with other states and economic sabotage – should be removed.
- Instead of providing for a statutory complaints system, the Ugandan media should be given an opportunity to develop a self-regulatory system. At a minimum, the system should apply to media outlets rather than individual journalists and the specific rules should be reviewed to ensure that they are not too vague or excessively stringent.

Registration and Licensing of Newspapers:

- Neither the proposed licensing system nor the proposed registration system for newspapers should be imposed.

Sanctions:

- The system of sanctions in the draft Bill should be substantially revised so that it only provides for proportionate sanctions for breach of legitimate rules.
- Specifically, the Council should not have the power to suspend a journalist from practice and the courts should not have the power to ban media outlets.

1. INTRODUCTION

This Memorandum contains ARTICLE 19's analysis of the proposed Press and Journalist (Amendment) Bill, 2010 (the draft Bill), as well as the law which it would amend, the Press and Journalist Act, CAP 105 of 1995 (the Act), against international standards on freedom of expression. ARTICLE 19 is an international, non-governmental human rights organisation which works with partner organisations around the world to protect and promote the right to freedom of expression. We have previously provided legal analyses in the area of media law to government and civil society organisations in over 30 countries.¹ Regarding Uganda, we have analysed the freedom of information law and intervened in a case before the Supreme Court in a successful challenge to false news provisions in the penal code. ARTICLE 19 has an office in Nairobi supporting nine countries in the region.

The Act establishes various bodies to regulate the print media sector. It also provides for the licensing of journalists, including conditions on who may work as a journalist, for the registration of editors, for a complaints system for journalists, a code of conduct and various sanctions for unprofessional conduct. The primary import of the draft Bill would be to put in place a licensing system for newspapers. It would also alter the composition of the Media Council and Disciplinary Committee, and establish various new content rules for newspapers, importantly for publishing material deemed to be detrimental to national security.

The Act contains a number of rules which breach fundamental aspects of the right to freedom of expression. The oversight bodies it establishes, in particular the Council and Disciplinary Committee, lack independence from government. Licensing of journalists and placing conditions on who may practise journalism are not permitted under international guarantees of freedom of expression. And the complaints system envisaged by the Act fails to meet international standards in various respects, including that it is not rooted in clear and appropriate rules regarding what is prohibited. These problems are exacerbated by the draft Bill, which seeks to licence newspapers, in clear breach of the right to freedom of expression, and to impose excessively vague and broad restrictions on the content of what may be published.

At the same time, the Act and draft Bill contain very few provisions that support freedom of expression or the development of a diverse, free and professional media sector. Section 2 does proclaim the right to publish a newspaper, although this is something which should be taken for granted in a democracy. But the draft Bill would impose an oppressive registration and licensing system for newspapers, which would completely undercut this statement of principle. The other positive provision is section 38, which protects journalists from being required to reveal their confidential sources of information, except by court order. It may be noted that in many countries, conditions are put on the power of courts to order source disclosure.

Given the above, ARTICLE 19 recommends that the Ugandan authorities consider a fundamentally different approach to the regulation of the print media and journalism. We urge them to consider putting in place a system which is closer to that found in most democracies, namely self-regulation. This would involve doing away entirely with the Press and Journalists Act, as well as attempts to amend it, and letting the sector regulate itself. The few provisions

¹ These analyses can be found on the ARTICLE 19 website, at <http://www.article19.org/publications/law/legal-analyses.html>.

in the current Act which do support press freedom, like the rule on protection of sources, could be added to other legislation, such as an evidence act or law on court procedures.

This Memorandum analyses the Act and draft Bill in some detail, highlighting the key ways in which they breach the right of freedom of expression as guaranteed under international law. The analysis is based on international standards regarding freedom of expression and regulation of the print media, as set out in authoritative statements by international courts and other human rights authorities.

2. INTERNATIONAL STANDARDS

2.1. The Guarantee of Freedom of Expression

Article 19 of the *Universal Declaration on Human Rights* (UDHR)² guarantees the right to freedom of expression in the following terms:

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.

The UDHR, as a UN General Assembly resolution, is not directly binding on States. However, parts of it, including Article 19, are widely regarded as having acquired legal force as customary international law since its adoption in 1948.³ The *International Covenant on Civil and Political Rights* (ICCPR),⁴ to which Uganda acceded on 21 June 1995, imposes formal legal obligations on State parties to respect its provisions. Article 19 of the ICCPR guarantees the right to freedom of expression in the following terms:

(2) 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 orally, in writing or in print, in the form of art or through any other media of his choice.

Freedom of expression is also protected by all three general regional human rights instruments, at Article 10 of the *European Convention on Human Rights* (ECHR),⁵ Article 9 of the *African Charter on Human and Peoples' Rights* (ACHPR),⁶ and Article 13 of the *American Convention on Human Rights* (ACHR).⁷ The instruments from Europe and the Americas, and the decisions of courts and tribunals made under them, are not formally binding on Uganda. Nonetheless, they provide authoritative elaboration of the content and scope of the right to freedom of expression as guaranteed internationally as well as in the Ugandan Constitution.

2.2. Restrictions on Freedom of Expression

² UN General Assembly Resolution 217A(III), 10 December 1948.

³ See, for example, *Filartiga v. Pena-Irala*, 630 F. 2d 876 (1980) (US Circuit Court of Appeals, 2nd Circuit).

⁴ UN General Assembly Resolution 2200A (XXI), 16 December 1966, in force 23 March 1976.

⁵ Adopted 4 November 1950, in force 3 September 1953.

⁶ Adopted 26 June 1981, in force 21 October 1986.

⁷ Adopted 22 November 1969, in force 18 July 1978.

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The right to freedom of expression is not absolute. Both international law and most national constitutions recognise that freedom of expression may be restricted. However, any limitations must remain within strictly defined parameters. Article 19(3) of the ICCPR lays down the conditions which any restriction on freedom of expression must meet:

The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- (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.

A similar formulation can be found in the European and American regional human rights treaties and in the *Declaration of Principles on Freedom of Expression in Africa* (African Declaration).⁸ These have been interpreted as requiring restrictions to meet a strict three-part test.⁹ First, the interference must be provided for by law. This requirement will be fulfilled only where the law is accessible and “formulated with sufficient precision to enable the citizen to regulate his conduct.”¹⁰ Second, the interference must pursue a legitimate aim. The list of aims in Article 19(3) of the ICCPR is exclusive in the sense that no other aims are considered to be legitimate as grounds for restricting freedom of expression. Third, the restriction must be necessary to secure one of those aims. The word “necessary” means that there must be a “pressing social need” for the restriction. The reasons given by the State to justify the restriction must be “relevant and sufficient” and the restriction must be proportionate to the aim pursued.¹¹

2.3. Freedom of Expression and the Media

The guarantee of freedom of expression applies with particular force to the media. The European Court of Human Rights has consistently emphasised the “pre-eminent role of the press in a State governed by the rule of law.”¹² It has further stated:

Freedom of the press affords the public one of the best means of discovering and forming an opinion of the ideas and attitudes of their political leaders. In particular, it gives politicians the opportunity to reflect and comment on the preoccupations of public opinion; it thus enables everyone to participate in the free political debate which is at the very core of the concept of a democratic society.¹³

Similarly, the African Commission on Human and Peoples’ Rights has emphasised,

... the key role of the media and other means of communication in ensuring full respect for freedom of expression, in promoting the free flow of information and ideas, in assisting people to make informed decisions and in facilitating and strengthening democracy.¹⁴

⁸ Article 10(2) of the ECHR, Article 13(2) of the ACHR, and Principle 2 of the African Declaration, adopted by the African Commission on Human and Peoples’ Rights at its 32nd Session, 17-23 October 2002.

⁹ See, for example, *Mukong v. Cameroon*, 21 July 1994, Communication No. 458/1991, para. 9.7 (UN Human Rights Committee).

¹⁰ *The Sunday Times v. United Kingdom*, 26 April 1979, Application No. 6538/74, para. 49 (European Court of Human Rights).

¹¹ *Lingens v. Austria*, 8 July 1986, Application No. 9815/82, paras. 39-40 (European Court of Human Rights).

¹² *Thorgeirson v. Iceland*, 25 June 1992, Application No. 13778/88, para. 63.

¹³ *Castells v. Spain*, 24 April 1992, Application No. 11798/85, para. 43.

¹⁴ *Declaration of Principles on Freedom of Expression in Africa*, note 8, Preamble.

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And, as the Inter-American Commission on Human Rights has recognised:

[F]reedom of the press is essential for the full and effective exercise of freedom of expression and an indispensable instrument for the functioning of representative democracy, through which individuals exercise their right to receive, impart and seek information.¹⁵

The European Court of Human Rights has also stated that it is incumbent on the media to impart information and ideas in all areas of public interest:

Whilst the press must not overstep the bounds set [for the protection of the interests set forth in Article 10(2)] ... it is nevertheless incumbent on it to impart information and ideas of public interest. Not only does the press have the task of imparting such information and ideas: the public also has a right to receive them. Were it otherwise, the press would be unable to play its vital role of “public watchdog”.¹⁶

2.4. Media Regulation

Regulation of the media presents special problems. On the one hand, the right to freedom of expression requires that the government refrain from interference. This is quite challenging given that the media is an attractive target for control owing to its power to influence public opinion, for example by reporting critically on government policies and exposing corruption, dishonesty and mismanagement. Governments often seek to transform the media from watchdog to lapdog, by making the work of independent or opposition journalists and publications illegal or impossible.

On the other hand, Article 2 of the ICCPR places an obligation on States to “adopt such legislative or other measures as may be necessary to give effect to the rights recognised by the Covenant.” This means that States are required not only to refrain from interfering with rights but are also required to take positive steps to ensure that rights, including freedom of expression, are respected. In effect, governments are under a duty to ensure that citizens have access to diverse and reliable sources of information on topics of interest to them. A crucial aspect of this ‘positive obligation’ is the need to promote pluralism within, and ensure equal access of all to, the media.¹⁷

In order to promote pluralism and protect the right to freedom of expression, it is imperative that the media be permitted to operate independently of government control. This ensures the media’s role as public watchdog and that the public has access to a wide range of opinions, especially on matters of public interest.

This has important implications for media regulatory models. First, as has been stated by the African Commission, for the print media, self-regulation is the best system for promoting high standards in the media.¹⁸ Where self-regulation has demonstrably failed, a public

¹⁵ Preamble, *Inter-American Declaration of Principles on Freedom of Expression*, approved by the Inter-American Commission on Human Rights during its 108th regular session, 19 October 2000, available online in English at <http://www.cidh.oas.org/declaration.htm>.

¹⁶ *Jersild v. Denmark*, 23 September 1994, Application No. 15890/89, para. 31.

¹⁷ See *Informationsverein Lentia v. Austria*, 24 November 1993, Application Nos. 13914/88, 15041/89, 15717/89, 15779/89 and 17207/90, para. 38 (European Court of Human Rights).

¹⁸ 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.

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authority may be entrusted with some limited aspects of media regulation, provided it does not function as a quasi-judicial organ and is independent of government control.

Practical guidance on the establishment and guarantee of the independence of media regulatory bodies may be found in recommendations made within the Council of Europe system, although it is important to note that these are restricted in scope to broadcasting. A Recommendation made by the Committee of Ministers of the Council of Europe, on the Independence and Functions of Regulatory Authorities for the Broadcasting Sector,¹⁹ includes a set of Guidelines regarding broadcast regulatory bodies. The first three sections are of particular relevance here:

Member States should ensure the establishment and unimpeded functioning of regulatory authorities for the broadcasting sector by devising an appropriate legislative framework for this purpose. The rules and procedures governing or affecting the functioning of regulatory authorities should clearly affirm and protect their independence.

The duties and powers of regulatory authorities for the broadcasting sector, as well as the ways of making them accountable, the procedures for appointment of their members and the means of their funding should be clearly defined in law.

The rules governing regulatory authorities for the broadcasting sector, especially their membership, are a key element of their independence. Therefore, they should be defined so as to protect them against any interference, in particular by political forces or economic interests.

These general principles relating to the independence of broadcasting regulatory bodies apply equally to any bodies set up to regulate the print sector.

3. ANALYSIS OF THE EXISTING ACT

3.1. Independence of Oversight Bodies

Overview

The Act establishes three bodies with oversight powers over journalists, editors and newspapers, namely the Media Council, the National Institute of Journalists of Uganda and the Disciplinary Committee. Section 8 of the Act establishes the Media Council, comprising thirteen members, namely a senior officer from the Ministry responsible for information, two mass communications scholars, appointed by the Minister, in consultation with the National Institute of Journalists of Uganda, a representative nominated by the Uganda Newspaper Editors and Proprietors Association, two representatives of electronic media, two representatives of the National Institute of Journalists of Uganda, four members of the public who are not journalists, two appointed by the Minister, one by the Uganda Newspaper Editors and Proprietors Association and one by journalists, and one lawyer nominated by the Uganda Law Society. The Minister also has the power to set the remuneration and allowances of members (section 11).

The Council is tasked with, among other things, regulating the conduct and ethical standards of journalists, arbitrating disputes among the public, the State, and the media, exercising disciplinary control over journalists, and censoring films, videos and plays (section 9).

¹⁹ Recommendation (2000) 23, adopted 20 December 2000. See also, but in less detail, Principle VII of the African Declaration. Note 8.

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The National Institute of Journalists of Uganda, for its part, is managed by an Executive Committee comprising a president, vice president, general secretary, assistant general secretary, treasurer and three other members, voted by the members (section 18). The members are all journalists who qualify for and have taken out membership, who have not been disqualified (sections 15-17). The Institute may receive funding from the government, members' fees and other sources (section 21), and it must gain the approval of the government before borrowing or investing money (sections 22-23).

The objectives of the Institute are to maintain professionalism among journalists, support and advise on training and educational initiatives, encourage research, and promote journalism which is "not contrary to public morality" (section 14). However, the Institute also plays a key instrumental role in determining who may practise as a journalist, since membership of the Institute is a prerequisite for this (see below).

Finally, the Disciplinary Committee is made up of the Chairperson of the Council, who is also Chair of the Committee, the Secretary of the Council, who is also Secretary of the Committee, and four other members of the Council, elected by the Council from among themselves (section 30).

Analysis

It is well established under international law that bodies which exercise powers over the media must be strictly independent of government. For example, Principle VII(1) of the African Declaration states:

Any public authority that exercises powers in the areas of broadcast or telecommunications regulation should be independent and adequately protected against interference, particularly of a political or economic nature.²⁰

Principle VII(2) goes on to state that the appointments process for members should be "open and transparent, involve the participation of civil society, and shall not be controlled by any particular political party." Although this refers to broadcasting and telecommunications regulation, the same principle applies to the print media. As the special international mandates on freedom of expression – the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression – noted in a Joint Declaration adopted in 2003:

All public authorities which exercise formal regulatory powers over the media should be protected against interference, particularly of a political or economic nature, including by an appointments process for members which is transparent, allows for public input and is not controlled by any particular political party.²¹

The Media Council and, by extension, the Disciplinary Committee, fail to meet these standards. Five of the thirteen members of the Council, including the secretary, either represent or are appointed by the Minister. The Minister is even only required to engage in consultation in respect of two of these appointments. This gives him or her considerable control over the Council. Given that the Council appoints the Disciplinary Committee, the same problem carries through to that body.

²⁰ Adopted by the African Commission on Human and Peoples' Rights at its 32nd Session, 17-23 October 2002, available at: http://www.achpr.org/english/declarations/declaration_freedom_exp_en.html.

²¹ Adopted 18 December 2003.

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Government control over the Institute is less direct. At the same time, the government, presumably in practice in the form of the Minister, does play an important role in the funding of the Institute. Furthermore, bodies with similar mandates to the Institute, at least in terms of promoting professionalism and training, are in many countries established on a purely voluntary basis, rather than by statute, which further highlights concerns about potential government control over the Institute.

Recommendations:

- Steps should be taken to enhance the independence of the Media Council, in particular by removing the representative of the Ministry from the Council (currently the secretary) and by removing the powers of the Minister to appoint members. Appointments should instead be made exclusively by professional and leading civil society bodies.
- Consideration should be given to doing away with a statutory Institute, and instead allowing the media to create their own promotional body or association on a voluntary basis. In any case, the body should not be funded by government but instead raise its own funds, for example through members' fees or contributions, or fund-raising activities (such as conducting training).

3.2. Restrictions on Editors and Journalists

Overview

Perhaps the most problematical rules in the Act are those restricting who may practise journalism or be an editor. Pursuant to section 5, a proprietor of a mass media outlet shall, upon appointing an editor, register that editor with the Council by providing his or her name and address, proof of qualifications, the name and address of the newspaper and such other particulars as may be required. Failure to do so is an offence punishable by a fine of up to 300,000 shillings (approximately USD140) and, if this is not paid, up to three months' imprisonment. No one may be appointed an editor who is less than 18 years old, is of unsound mind, is an undischarged bankrupt, is not ordinarily resident in Uganda or does not have the required qualifications, as prescribed by the Council (section 7).

A complicated system applies to journalists. A person is eligible for full membership of the Institute if he or she has a university degree in journalism or mass communication, or a university degree and a qualification in journalism or mass communication, and has practised journalism for at least one year. The general assembly of the Institute may set rules for associate members, and appoint honorary members. These are the only types of membership of the Institute (section 17).

To gain membership of the Institute, one must apply to the Executive Committee, which shall, if the person is eligible, recommend that the general assembly approve their enrolment as a member and, upon payment of the prescribed fee, issue him or her with a "certificate of enrolment" (section 16). Membership shall be withdrawn if the individual is of unsound mind, is an undischarged bankrupt, or has been convicted of an offence under the Act or a crime of moral turpitude (unless the sentence has been discharged two or more years ago) (section 17).

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An individual must present the certificate of enrolment to be entered on the register of journalists maintained by the Council, and the Council shall, upon payment of the prescribed fee, issue a “practising certificate”, valid for one year, renewable. Importantly, no one may practise journalism – defined as being paid for the “gathering, processing, publication or dissemination of information”, including on a freelance basis – who does not have a practising certificate. Breach of this rule is an offence punishable by a fine of up to 300,000 shillings (approximately USD140) and, if this is not paid, up to three months imprisonment. Furthermore, no one may be granted a practising certificate if he or she has failed to comply with any order made under the Act (sections 26-28).

Employees of foreign mass media outlets must obtain an accreditation card from the Council. This shall be issued upon payment of such fees and on such terms as may be prescribed by the Council, apparently at their discretion (section 29).

Analysis

It is very clear that international guarantees of freedom of expression, which apply to ‘everyone’, do not permit limitations to be imposed on who may practise journalism. Principle X(2) of the African Declaration states:

The right to express oneself through the media by practising journalism shall not be subject to undue legal restrictions.

The 2003 Joint Declaration by the special international mandates on freedom of expression is even clearer:

- Individual journalists should not be required to be licensed or to register.
- There should be no legal restrictions on who may practise journalism.

An important source of legal authority on the subject of licensing schemes is a 1985 Advisory Opinion requested by Costa Rica, in which the Inter-American Court of Human Rights²² held that licensing, requiring journalists to join a particular association or placing restrictions on who may practise journalism were all unjustifiable restrictions on freedom of expression. Costa Rica and its supporters argued that a requirement for journalists to become members of a *colegio* (association), which imposed certain minimum conditions, such as the possession of a university degree, was legitimate for various reasons. Their main argument was that the requirement was necessary to maintain public order and the ‘normal’ way to regulate the profession. It was further argued that the requirement sought to promote higher professional and ethical standards, which would benefit society at large and ensure the right of the public to receive full and truthful information.

Examining the first argument, the Court observed that the concept of public order would benefit much more from scrupulous respect for freedom of expression:

It is ... in the interest of the democratic public order ... that the right of *each individual* to express himself freely and that of society as a whole to receive information be scrupulously respected.²³ [emphasis added]

²² *Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism*, Advisory Opinion OC-5/85 of 13 November 1985, Series A. No. 5. Available online in English at: http://www.corteidh.or.cr/serieapdf_ing/seriea_05_ing.pdf.

²³ *Ibid.*, para. 69.

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Responding to the argument that a licensing regime is the ‘normal’ way to regulate professions, the Court distinguished between journalism and, for example, the practice of law or medicine. In contrast to lawyers and doctors, the activities of journalists – the seeking, receiving and imparting of information and ideas – are specifically protected as a human right, namely the right to freedom of expression.²⁴

The Court concluded, unanimously, that licensing regimes, mandatory membership in an association and minimum conditions for practising journalism all represent a violation of the right to freedom of expression.

It is clear that the system established by the Act includes all three of these characteristics, and hence is not legitimate. Only those who become members of the Institute may practise journalism. Only those who have a university degree – one of the conditions specifically identified in the Inter-American Court of Human Rights case – and have practised journalism for a year may be deemed to have a right to become full members. Individuals newly entering the profession must serve for a year as associate members, and the Institute may set out such conditions as it sees fit for associate members. Furthermore, members may be removed for vague reasons, such as being of unsound mind.

In addition to being a member of the Institute, individuals wishing to practise journalism must make a further application, and pay a further set of fees, to the Council. This is not only illegitimate but patently unnecessary.

The rules governing editors are also problematical. The stipulated conditions may not appear to be very onerous – but by the same token they can hardly be justified, since they will not guarantee any degree of experience or quality in editors. Again there is the power, in this case vested in the Council, to set rules in its discretion regarding qualifications for editors. It may be noted that most democracies – whether developed countries or less developed countries – neither place conditions on who may practise journalism nor on who may occupy the post of an editor, leaving this instead to market conditions.

There are other problems with these systems. The definition of practising journalism (section 27(5)) is far too broad and does not even require a link with a mass media outlet. Indeed, it would include most individuals working for civil society, all academics, and even students or employees of the telephone company who collected information for purposes of compiling a telephone book. Furthermore, the definitions of ‘mass media’ and ‘electronic media’ in section 1 are both seriously overbroad. Mass media includes not only newspapers and electronic media, but also posters and banners. And electronic media includes any communication to the public by any electronic apparatus, thus including every website, regardless of the nature of its content.

Finally, there is confusion in the Act as to whether it focuses on newspapers or all mass media outlets. Article 5(1) requires the proprietors of all mass media to register the details of their editors, but these details include “the name and address of the newspaper”, suggesting that the real focus is intended to be on the print media.

²⁴ *Ibid.*, paras. 71-72.

Recommendations:

- The whole system of mandatory membership for, licensing of and conditions on journalists and editors should be removed from the Act.
- Any definition of what constitutes the practise of journalism, should this be retained, should include a link to the mass media. And the mass media should be defined in a suitably narrow manner to exclude dissemination over the Internet and to focus on edited material distributed periodically and intended for wide public consumption.

3.3. Regulation of Content

Overview

A number of rules on content, as well as systems for policing this, are woven through the Act. Pursuant to section 6(a), proprietors and editors are required to ensure that what is published is not “contrary to public morality”, whatever that may be. The functions of the Council include a strong focus on policing content, promoting professional standards and exercising disciplinary control over journalists, and include the power to censor or prevent distribution of films and videos (section 9). The Institute, similarly, has a wide mandate in this area, including to promote journalism which is (again) not “contrary to public morality” (section 14).

It is the Disciplinary Committee, however, which has the most detailed and specific role in relation to content. Anyone may make a complaint to the Disciplinary Committee to the effect that a journalist has engaged in “professional misconduct”. Upon receiving such a complaint, the Committee shall provide the journalist with a copy of the complaint and give him or her an opportunity to make representations on the matter. The Committee has wide powers to discipline journalists “if a ground for disciplinary action is proved”, including by suspending their right to work as journalists. Either a journalist or a complainant may lodge an appeal against the Committee’s decision with the High Court, but a journalist who has been suspended may not practise while such an appeal is pending (sections 30-34).

Pursuant to section 40, journalists are subject to the Professional Code of Ethics set out in the Fourth Schedule to the Act. Any failure to observe the standards in the Code constitutes “professional misconduct” which shall be dealt with by the Disciplinary Committee.

The Code itself is quite short – just over a page – and includes a number of provisions commonly found in self-regulatory codes for journalists. There are, however, some problematical provisions which are discussed below.

Analysis

It is immediately apparent that there are too many systems and bodies involved in policing the work of journalists. Ideally, media complaints systems, particularly for the print media sector, should be self-regulatory in nature. Indeed, where an effective self-regulatory system is in place, a statutory system cannot be justified because a less intrusive approach is already able to address the problem. Even where an effective self-regulatory system is not yet in place, the media sector should be given the opportunity to develop one. As Principle IX(3) of the

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African Declaration states: “Effective self-regulation is the best system for promoting high standards in the media.”

At the very least, only one statutory body – presumably the Disciplinary Committee – should have a mandate to address content issues. The importance of independence is perhaps greatest in relation to the policing of content, where even relatively small biases can create serious problems. Thus the lack of independence of the Disciplinary Committee is a particularly serious concern.

Another problem with this system is that it applies directly to journalists, rather than to media outlets as such. While journalists normally originate news and other content, it goes through an editorial process of selection and editing before it is presented to the public. Furthermore, it is dissemination through the media outlet which creates the potential for harm to result from a statement. By the same token, it is the media outlet which has the primary power to take corrective action to prevent harm. Finally, the chilling effect on freedom of expression of imposing sanctions directly on individual journalists is much greater than the corresponding effect on media outlets. As a result, in most democracies, regulatory systems – whether self-regulatory or imposed by statute – apply to media outlets rather than to individual journalists. There is some limited recognition of this in the systems established by the Act, in particular in section 33(c), which envisages fines being imposed on media outlets rather than journalists.

A very serious problem with the system envisaged in the Act is that there is no clear statement of what standards journalists are expected to observe. The Code does of course set out such standards, and there is some link between the Code and the wider notion of professional misconduct, failure to respect which may attract a sanction. But it is nowhere made clear that complaints may only be made for breach of the Code or that the Disciplinary Committee should only judge behaviour against the Code. This is not legitimate for it fails to give journalists adequate notice of what is expected of them. It also opens the door to potential abuse since the Committee has wide discretion as to what it might deem to be unacceptable behaviour. It may be noted that complaints systems in most democracies are clearly linked to an established code. Furthermore, the African Declaration notes that in any complaints systems for the media, “complaints shall be determined in accordance with established rules and codes of conduct agreed between all stakeholders”.

The standards that are set out in the Act, including the Code, are often unduly vague or otherwise problematical. For example, editors have an obligation, and the Institute has a mandate, to address content that is “contrary to public morality”. This is an impossibly vague term which has no place in a law dealing with the media. Clause 6 of the Code requires everyone who has a “legitimate claim” to be given a right of reply. Again, this is unacceptably vague; clear standards for claiming this right should be provided.

In other cases, the rules are too stringent. For example, clause 1 provides that information shall not be disseminated unless its correctness or truth has been established. This is unrealistic since even the best journalists sometimes make mistakes. Journalists should be required to strive for accuracy, not to attain it. Similarly, clause 5 rules out ever giving a bribe for information. While this is generally frowned upon, there may be circumstances where the public interest in getting the information outweighs the potential harm from this sort of behaviour. In many media codes provision is made for a public interest override for at least some of the rules, in recognition that they need to be applied flexibly, taking into account all of the circumstances.

Recommendations:

- Instead of having statutory systems for dealing with content imposed on them, the Ugandan media should be given an opportunity to develop a self-regulatory complaints system.
- At a minimum, only one body, which is independent, should have a statutory mandate to establish and implement professional standards for the media.
- The standards in any complaints-based code should apply to media outlets rather than individual journalists.
- It should be quite clear that only a breach of the standards set out in the Code may lead to a sanction, rather than anything that might be deemed by the oversight body to be professional misconduct.
- The specific rules should be reviewed to ensure that they are not too vague or excessively stringent. Consideration should be given to providing for public interest overrides for some of the rules.

3.4. Sanctions

Overview

Several provisions in the Act refer specifically to sanctions. Thus, as noted above, sections 5(3) and 27(4) each provide for a fine of up to 300,000 shillings (approximately USD140) and, if this is not paid, up to three months imprisonment, for, respectively, failing to register the details of an editor with the Council and practising journalism without a practising certificate.

Section 33 sets out the sanctions that the Council may impose for professional misconduct, including a warning to the journalist, a requirement to publish an apology of the same prominence as the original article, suspending the practising certificate of a journalist for up to six months and/or requiring a media outlet to pay compensation. Where a journalist has been suspended, this suspension will remain in effect while any appeal is pending before the High Court (section 34(3)).

Pursuant to section 39, whenever criminal proceedings are brought against a media outlet for “an offence against the freedom of the press”, the court may order the offending material to be seized or ban the publication.

Analysis

Under international law, it is established that excessive sanctions, of themselves, breach the right to freedom of expression. In the case of *Tolstoy Miloslavsky v. United Kingdom*, the European Court of Human Rights stated: “[T]he award of damages and the injunction clearly constitute an interference with the exercise [of the] right to freedom of expression.”²⁵ Any

²⁵ 13 July 1995, Application No. 18139/91, para. 35.

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sanction imposed under a law restricting freedom of expression must bear a “reasonable relationship of proportionality” to the harm caused by the statement.²⁶

Suspending a journalist is an extremely severe sanction. The case of *De Becker v. Belgium*,²⁷ decided by the European Commission of Human Rights,²⁸ suggests that a penalty of this type could rarely, if ever, be considered legitimate. De Becker had been sentenced to death for collaborating with the German authorities during the Second World War. The sentence was commuted and De Becker was released, but he was prohibited for life from participating in the publication of a newspaper. The Commission ruled that the ban breached the right to freedom of expression because it was imposed inflexibly, without any provision for its relaxation at a later time when public morals and public order may have been re-established.

The Commission came to this conclusion notwithstanding the extreme circumstances of the case: Belgium was just emerging from five years of war and enemy occupation, during which De Becker had committed treason. It is highly unlikely that an international court would uphold a penalty of a ban on practising as a journalist. Certainly they would not do so merely for a failure to observe the rules of professional conduct or breach of a code of practice. It is particularly problematical that a suspension imposed by the Council, which is not independent, would remain in effect pending an appeal to the courts.

Similarly, banning a media outlet is the most severe sanction that may be imposed, as it effectively brings the life of the outlet to an end. Once again, it is doubtful if such a sanction could ever be justified. Certainly it is not justifiable simply because criminal charges have been laid against an outlet. Seizing material, effectively a form of prior censorship, is also highly problematical in terms of the right to freedom of expression. Because of the risk of abuse of prior censorship (as compared to the imposition of *post facto* sanctions), it is prohibited altogether by the American Convention on Human Rights, except to protect children.²⁹ The European Court of Human Rights has also warned of the problems with prior censorship:

The dangers inherent in prior restraints are such that they call for the most careful scrutiny on the part of the Court. This is especially so as far as the press is concerned, for news is a perishable commodity and to delay its publication, even for a short period, may well deprive it of all its value and interest.³⁰

The simple fact that charges have been brought is not enough to justify seizure of the material those charges relate to. Seizure could only be justified, if ever, in very extreme circumstances, where it has been proven that to allow the material to continue to circulate would cause irreparable harm to an important public or private interest.

Recommendations:

- The Council should not have the power to suspend a journalist from practice.
- Courts should either not have the power to ban media outlets at all, or very stringent conditions should be put on the use of this power.

²⁶ *Ibid.*, para. 49.

²⁷ *De Becker v. Belgium*, 8 January 1960, Application No. 214/56 (European Commission on Human Rights).

²⁸ The Commission no longer exists but it used to act as the initial complaints body within the ECHR system for protecting human rights.

²⁹ See Article 13(2).

³⁰ *Ekin Association v. France*, 17 July 2001, Application No. 39288/98, para. 56.

- Seizure of material prior to a final court decision in the matter should be allowed, if at all, only in very extreme cases where continued publication of the material has been proven to pose a risk of irreparable harm.

4. ANALYSIS OF THE PROPOSED DRAFT BILL

4.1. Independence

Overview

The draft Bill proposes to make changes to the composition of both the Council and the Disciplinary Committee. If implemented, the Council would consist of the following members: a chairperson, appointed by the Minister (a new addition), a senior official from the Ministry, one, instead of two, mass communications scholars, still appointed by the Minister in consultation with the Institute, a representative nominated by the Uganda Newspaper Editors and Proprietors Association, a new representative of private sector newspapers, two representatives of the electronic media, two representatives of the National Institute of Journalists of Uganda, only two members of the public who are not journalists, both appointed by the Minister, and a lawyer now appointed by the Minister in consultation with the Uganda Law Society (section 4 of the Bill, amending section 8 of the Act). The Council would thus comprise 12 members, six of which were appointed by the Minister, only two of which required consultation with other bodies. Both the chairperson and the secretary would be directly appointed by the Minister. As a result, the control of the Minister over the Council would be substantially increased.

Section 7 of the draft Bill would amend section 30 of the Act, stipulating the composition of the Disciplinary Committee, by adding five new members, in addition to the six Council members already on the Committee. Specifically, it would add a lawyer nominated by the Uganda Law Society, a representative of private sector newspapers, two members of the public who are not journalists, and a mass communications scholar, appointed by the Minister.

Analysis

The need for bodies with regulatory powers over the media to be independent has been noted. Given the Council's draconian powers, including directly to license journalists and indirectly to control the Disciplinary Committee (even under the new proposed rules), this is particularly important. Instead of bolstering the independence of the Council, the new proposals actually undermine it.

Increasing the composition of the Disciplinary Committee as proposed would slightly enhance its independence. However, depending on how the two members of the public are to be appointed (which is not clear and this may be by the Minister), potentially only two of the now eleven members would come from outside the Council and be appointed by civil society groups. This is clearly insufficient to ensure the independence of the Committee.

Recommendations:

- The proposed changes to the composition of the Council enhance the Minister's control over this body and should be removed.

- Far more radical overhaul of the membership of both the Council and the Disciplinary Committee should be introduced to ensure their independence.

4.2. Control of Newspapers

Overview

The most significant, and alarming, changes proposed in the draft Bill are in relation to the registration and licensing of newspapers. Section 5 expands the powers of the Council to include registering and licensing newspapers. Pursuant to section 2, newspapers would be prohibited from operating unless they have been registered by the Council. The Bill does not elaborate any requirements or procedures for registration.

Section 6 of the Bill further requires newspapers to be licensed by the Council and imposes harsh sanctions for breach of this rule. The considerations to be taken into account when deciding whether or not to issue a licence to a newspaper include whether it has access to adequate technical facilities and the “social, cultural and economic values of the newspaper”. A refusal to grant a licence shall be in writing and provide reasons, and may be appealed against before the High Court. Licences are valid for one year and may be renewed. They may also be revoked, for breach of a number of vague content rules (see below).

Section 5 of the Bill also gives the Council the power to regulate investment in the print media sector, as well as to regulate foreign investment in the sector, including by “limiting the involvement of foreign media in the print industry”. Neither of these powers are subject to any formal constraints.

Analysis

International law recognises that licensing of broadcasters is necessary, if only to prevent chaos in the airwaves, but it rules out licensing of newspapers. It even regards registration systems for the print media with great suspicion. Principle VIII(1) of the African Declaration states:

Any registration system for the print media shall not impose substantive restrictions on the right to freedom of expression.

And the 2003 Joint Declaration of the special mandates on freedom of expression states:

Imposing special registration requirements on the print media is unnecessary and may be abused and should be avoided. Registration systems which allow for discretion to refuse registration, which impose substantive conditions on the print media or which are overseen by bodies which are not independent of government are particularly problematical.

Registration of the print media is unnecessary and may be abused, and, as a result, is not required in many countries. ARTICLE 19 recommends that the print media not be required to register. Under international law, a *technical* registration requirement for the print media may not breach the guarantee of freedom of expression as long as it meets the following conditions:

- there is no discretion to refuse registration, once the requisite information has been provided;

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- the system does not impose substantive conditions upon the media;
- the system is not excessively onerous; and
- the system is administered by a body which is independent of government.

The proposed licensing system for newspapers clearly breaches these rules. The issuance of licences is dependent upon the discretion of the Council, and includes vague and highly subjective criteria such as social, cultural and economic values. Licences may also be revoked for breach of equally vague and subjective content rules. These problems are enhanced by the fact that newspapers must apply for their licences on an annual basis. This is effectively a repressive and discretionary system for banning undesirable newspapers, which is completely illegitimate.

It is unclear what the registration system for newspapers might consist of, and so it is not possible to assess it against the standards set out above. It may be noted, however, that the Council is not an independent body. Furthermore, the good faith of the government in imposing a registration requirement has to be questioned given that it has unnecessarily been layered on top of a very repressive licensing system.

Some regulation of print media ownership may be necessary to prevent undue concentration of ownership in this sector, or between this sector and broadcasting. However, the powers of the Council to regulate both local and foreign investment in the print media sector are completely undefined and are not even linked to the objective of preventing undue concentration of ownership. Furthermore, the rule on foreign ownership suggests an overall suspicion of foreign involvement, as opposed to some more legitimate social goal. Although excessive foreign control may be a matter of concern, in general, foreign investment can be a very important source of funding, as well as of expertise and access to foreign content, for media outlets.

Recommendations:

- The proposed licensing system for newspapers should be removed from the draft Bill.
- The proposed registration system should either be removed entirely, or completely revised to bring it into line with international standards, including by making it clear that the Council has no discretion to refuse to register a newspaper.
- The powers of the Council to regulate investment in the print media sector should either be removed entirely or constrained to pursuing legitimate objectives, such as the prevention of undue control by one individual over the print media sector.

4.3. Content Regulation

Overview

Section 3 of the draft Bill would add to the functions of an editor, as spelt out in section 6 of the Act, the obligation to ensure that nothing “prejudicial to the national security” is published. Section 9 of the Bill would add a new section to the Act making it a crime to publish material that is “prejudicial to national security or stability and unity or utterances that

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are injurious to relations between Uganda and her neighbours or friendly countries.” It would also make it a crime to publish material that “amounts to economic sabotage”.

Section 6(7) of the draft Bill sets out a number of grounds for revoking a newspaper’s licence. These include, once again, publishing material that is “prejudicial to national security, stability and unity” or to “Uganda’s relations with new neighbours or friendly countries”, or that “amounts to economic sabotage”. A licence may also be revoked for breach of any condition contained in it, regardless of how minor the breach may be.

Analysis

The obsessive focus in the draft Bill with protecting national security is immediately apparent. This is an undefined term which is simply too vague to be legitimate as a restriction on freedom of expression, let alone to serve as the basis for a non-independent administrative body such as the Council to revoke the licence of a newspaper. Newspapers should be free to engage in reporting or criticism on matters relating to national security. In most cases, such criticism actually enhances security, as it is often only when problems are exposed in this way that they are taken seriously by security officials.

The references to relations with other countries and economic sabotage are equally problematical. It is often actually a professional obligation for newspapers to publish information in the public interest which governments may deem to harm relations with foreign countries or be injurious to the economy. This might include the exposure of corruption, mismanagement of the economy or even the simple fact of an increasing rate of unemployment. It is clearly not legitimate to prohibit the publication of these types of information.

Furthermore, to the extent that it is legitimate to criminalise the dissemination of information – for example, hate speech – this should be done through a law of general application rather than a media specific law. If an interest is worthy of criminal protection, it will need to be protected against all forms of dissemination, not just publication in the media.

Recommendation:

- All content restrictions – including those referring to national security, relations with other states and economic sabotage – should be removed from the draft Bill.

4.4. Sanctions

Overview

The draft Bill provides for a number of harsh sanctions for breach of its provisions. Pursuant to section 2, anyone who operates a newspaper without registering it may be fined up to 48 currency points, set by Schedule 1A at 20,000 shillings (a total of approximately USD445), and/or imprisoned for up to two years. Pursuant to section 6(9), operating a newspaper without a licence or in breach of a licence condition would attract the same sanction. Section 9(3) also provides for the same sanction for publishing the material prohibited by that section, while section 6(7) provides for licence revocation for publishing prohibited material.

Analysis

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These are excessively harsh sanctions for breach of provisions which are, of themselves, as described above, illegitimate. As noted, the system of licensing and revocation of licences envisaged by the draft Bill would allow for extensive government control over any newspaper which it did not favour. A prison sentence of two years simply for operating a newspaper in breach of any licence condition, which might be something relatively minor, also cannot be justified.

Recommendation:

- The system of sanctions in the draft Bill should be substantially revised so that it only provides for proportionate sanctions for breach of legitimate rules.

APPENDIX 1: Press and Journalist Act

CHAPTER 105

THE PRESS AND JOURNALIST ACT.

Arrangement of Sections.

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CHAPTER 105

THE PRESS AND JOURNALIST ACT.

Commencement: 28 July, 1995.

**An Act to ensure the freedom of the press, to provide
for a council responsible for the regulation of mass media
and to establish an institute of journalists of Uganda.**

PART I—INTERPRETATION.

1. Interpretation.

In this Act, unless the context otherwise requires—

- a) “chairperson” means the chairperson of the council;
- b) “council” means the council established under section 8;
- c) “editor” includes a person who is, at any given time, in charge of programme production at a radio or television station;
- d) “electronic media” means communication of any message to the public by television, radio, video, cinema or by any other electronic apparatus;

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- e) “executive committee” means the executive committee of the institute established under section 18;
- f) “exhibition” means an exhibition of art, film or videotape with or without sound effects, made by means of cinematography or other means for public consumption;
- g) “general assembly” means the general assembly of the institute;
- h) “journalist” means a person who is enrolled as a journalist under this Act;
- i) “mass media” includes newspapers, posters, banners and electronic media published for public consumption;
- j) “Minister” means the Minister responsible for information;
- k) “newspaper” means a publication which contains all or any of the following—
 - (i) news;
 - (ii) articles;
 - (iii) entertainment;
 - (iv) advertisements;
 - (v) reports of occurrences;
 - (vi) views; and
 - (vii) comments or observations which are published for distribution to the public either daily or periodically;
- l) “roll” means the roll of journalists;
- m) “secretary” means secretary to the council.

PART II—MASS MEDIA.

2. Right to publish a newspaper.

- 1) A person may, subject to this Act, publish a newspaper.
- 2) No person or authority shall, on grounds of the content of a publication, take any action not authorised under this Act or any other law to prevent the—
 - a) printing;
 - b) publication; or
 - c) circulation among the public of a newspaper.

3. Compliance with other laws.

Nothing contained in section 2 absolves any person from compliance with any law—

- a) prohibiting the publication of pornographic matters and obscene publications insofar as they tend to offend or corrupt public morals;
- b) prohibiting any publication which improperly infringes on the privacy of an individual or which contains false information.

4. Access to official information.

A person may have access to official information subject to any law in force relating to national security, secrecy or confidentiality of information.

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5. Registration of particulars relating to an editor.

- 1) A proprietor of a mass media organisation shall, on appointing an editor, register with the council the following particulars in relation to the editor—
 - a) his or her name and address;
 - b) certified copies of the relevant testimonials as proof of his or her qualifications and experience;
 - c) the name and address of the newspaper; and
 - d) such other particulars as may be prescribed by the council.
- 2) The proprietor shall notify the council within thirty days of its coming to his or her notice of any change in any of the particulars referred to in subsection (1).
- 3) Any person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding three hundred thousand shillings and, in case of failure to pay the fine, to imprisonment for a term not exceeding three months.

6. Functions of an editor.

A proprietor and editor of a mass media organisation shall—

- a) ensure that what is published is not contrary to public morality;
- b) retain a copy of each newspaper published by the organisation and a copy of each supplement to it for not less than ten years;
- c) in the case of electronic media, retain a record of all that is broadcast by a radio or television station for not less than thirty days.

7. Disqualification of an editor.

A person shall not be appointed an editor of a mass media organisation if—

- a) he or she is less than eighteen years of age;
- b) he or she is of unsound mind;
- c) he or she is an undischarged bankrupt or insolvent;
- d) he or she is not ordinarily resident in Uganda;
- e) he or she does not possess the requisite qualifications prescribed by the council.

PART III—MEDIA COUNCIL.

8. Establishment of the Media Council.

- 1) There is established a council to be known as the Media Council.
- 2) The council shall consist of—
 - a) the director of information or a senior officer from the Ministry responsible for information, who shall be the secretary to the council;
 - b) two distinguished scholars in mass communication appointed by the Minister in consultation with the National Institute of Journalists of Uganda;

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- c) a representative nominated by the Uganda Newspapers Editors and Proprietors Association;
 - d) four representatives of whom—
 - (i) two shall represent electronic media; and
 - (ii) two shall represent the National Institute of Journalists of Uganda;
 - e) four members of the public not being journalists, who shall be persons of proven integrity and good repute of whom—
 - (i) two shall be nominated by the Minister; and
 - (ii) one shall be nominated by the Uganda Newspapers Editors and Proprietors Association;
 - (iii) one shall be nominated by the journalists; and
 - f) a distinguished practising lawyer nominated by the Uganda Law Society.
- 3) The persons referred to in paragraphs (c), (d), (e) and (f) shall be appointed by the Minister.
 - 4) The chairperson of the council shall be elected by the members from among their number.
 - 5) Members of the council shall hold office for a period of three years upon such terms and conditions as may be specified in the instruments of appointment and shall be eligible for reappointment.
 - 6) A member of the council may resign his or her office in writing, addressed to the chairperson and in case of the chairperson to the Minister.

9. Functions of the council.

- 1) The functions of the council shall be—
 - a) to regulate the conduct and promote good ethical standards and discipline of journalists;
 - b) to arbitrate disputes between—
 - (i) the public and the media; and
 - (ii) the State and the media;
 - c) to exercise disciplinary control over journalists, editors and publishers;
 - d) to promote, generally, the flow of information;
 - e) to censor films, videotapes, plays and other related apparatuses for public consumption; and
 - f) to exercise any function that may be authorised or required by any law.
- 2) In carrying out its functions under subsection (1)(e), the council may refuse a film, videotape or apparatus to be shown, exhibited or acted for public consumption.#

10. Meetings, etc. of the council.

- 1) The First Schedule to this Act shall apply to meetings and other matters of the council specified in that Schedule.

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- 2) The Minister may, by statutory instrument and after consultation with the council, amend the First Schedule to this Act.

11. Remuneration of members of the council.

Members of the council may be paid such remuneration or allowances as may be approved by the Minister.

12. Annual report.

The council shall, within three months after the end of each year, submit to the Minister an annual report on all its activities; and the Minister shall lay the report before Parliament within three months after receiving it.

PART IV—THE NATIONAL INSTITUTE OF JOURNALISTS OF UGANDA.

13. Establishment of the institute.

- 1) There is established an institute to be known as the National Institute of Journalists of Uganda.
- 2) The institute shall be a body corporate with perpetual succession and a common seal and may sue or be sued in its corporate name.
- 3) The institute may, subject to any limitations conferred in this Act, acquire, hold, manage and dispose of any property, movable or immovable, and enter into any contract or other transaction and do anything which may in law be entered into or done by a body corporate.

14. Objects of the institute.

- 1) The objects of the institute are—
 - a) to establish and maintain professional standards for journalists;
 - b) to foster the spirit of professional fellowship among journalists;
 - c) to encourage, train, equip and enable journalists to play their part in society;
 - d) to establish and maintain a mutual relationship with international journalists organisations and other organisations with a view to enhancing the objectives of the institute;
 - e) to carry on such activities as are incidental or conducive to the attainment of the objects specified in paragraphs (a), (b), (c) and (d) of this section.
- 2) Without prejudice to the general effect of subsection (1), the institute shall under that subsection have the following functions—
 - a) to advise on courses of study, the conduct of qualifying examinations and generally on matters related to professional education for journalists in Uganda;
 - b) to ensure the maintenance of professional education for journalists;

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- c) to promote the usage of journalism which is not contrary to public morality;
- d) to encourage research in journalism for the advancement of professionalism;
- e) to make byelaws of the institute.

15. Membership of the institute.

- 1) Membership of the institute shall be of the following categories—
 - a) full membership;
 - b) associate membership; and
 - c) honorary membership.
- 2) A person shall be eligible for full membership of the institute if—
 - a) he or she is a holder of a university degree in journalism or mass communication; or
 - b) he or she is a holder of a university degree plus a qualification in journalism or mass communication, and has practised journalism for at least one year.
- 3) The general assembly may set qualifications for associate membership of the institute or may provide that a specified class of members of a society or institute may qualify for associate membership of the institute.
- 4) The general assembly may award honorary membership to a person who has made an outstanding contribution towards the realisation of the objects of the institute, except that no honorary member shall be liable to pay any subscription fee.
- 5) An associate or honorary member shall not be eligible to vote.

16. Application for membership of the institute.

- 1) A person may apply to the executive committee for full membership or associate membership, and the committee shall, if it is satisfied that the applicant is an eligible person, inform the general assembly to approve the enrollment of the applicant as a full member or associate member of the institute on payment of the prescribed fee.
- 2) Upon the enrollment of a person under subsection (1), the general secretary shall cause to be issued to him or her a certificate of enrollment.
- 3) A person shall not be eligible for enrollment under this Act, unless that person has complied with such requirements, whether relating to instruction, examination or otherwise, as to the acquisition of professional skill and experience as may be specified in the byelaws made for that purpose by the institute.

17. Disqualification from membership of the institute.

- A person shall not be enrolled or continue to be a member of the institute if—
- a) he or she is of unsound mind;
 - b) he or she is an undischarged bankrupt or insolvent; or

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- c) he or she is convicted of an offence under this Act or an offence involving moral turpitude; but this paragraph shall cease to apply two years after the completion of the sentence.

18. Executive committee.

For the proper management of the affairs of the institute, there shall be an executive committee consisting of a president, a vice president, a general secretary, a treasurer, an assistant general secretary and three other members, all of whom shall be elected annually by the institute at a general meeting.

19. Functions of the executive committee.

The functions of the executive committee shall be—

- a) to maintain and publish the roll of members of the institute;
- b) to secure international recognition of the institute;
- c) to ensure the maintenance of professional standards among members of the institute;
- d) to promote the publication of a journal of the institute;
- e) to do anything that is incidental to the functions of the council or for the furtherance of the objects of the institute.

20. Meetings of the committee and of the general assembly.

The Second and Third Schedules to this Act shall apply to meetings of the executive committee and the general assembly.

PART V—FINANCIAL PROVISIONS.

21. Funds of the institute.

- 1) The funds of the institute shall consist of—
 - a) grants from the Government;
 - b) annual subscription fees from members;
 - c) fees and other monies paid for services rendered by the institute;
 - d) grants, gifts or donations from sources acceptable to the institute; and
 - e) monies borrowed by the institute for the performance of its functions.
- 2) All monies of the institute shall be managed through a fund to be established by the general assembly.
- 3) The institute may operate a bank account in a bank determined by the executive committee, and the bank account shall be operated in a manner decided by the general assembly.

22. Borrowing powers.

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The executive committee may borrow money on terms that may be agreed upon by the Government for the performance of the functions of the institute.

23. Investment.

The executive committee may invest monies of the institute in any securities issued or guaranteed by the Government or in any other projects approved by the Government.

24. Financial year.

The financial year of the institute shall be the calendar year that is twelve months beginning from the 1st day of January and ending on the 31st day of December each year.

25. Accounts and audit.

- 1) The institute shall keep proper books of account and prepare an annual financial statement of account for the preceding financial year not later than the 31st day of March in the following year.
- 2) The books and account of the institute shall be submitted within three months after the end of each financial year to the Auditor General to be audited by him or her or by an auditor appointed by him or her.
- 3) The Auditor General shall report annually to the Minister, as soon as is practicable after auditing the accounts of the institute, the result of his or her examination, and the report shall state his or her opinion.
- 4) The Minister shall, within three months after receipt of the report referred to in subsection (3), lay the report before Parliament.

PART VI—REGULATION OF PUBLIC PRACTICE.

26. Registration of journalists.

The name and particulars of a person enrolled under this Act shall, on presentation of the certificate of enrollment to the council, be entered on the register of journalists of Uganda.

27. Practising certificate.

- 1) The council shall, upon payment of the prescribed fees, issue a practising certificate to a person who is enrolled under this Act.
- 2) The practising certificate shall be valid for one year and is renewable upon payment of the prescribed fee.

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- 3) No person shall practise journalism unless he or she is in possession of a valid practising certificate issued under this section.
- 4) A person who contravenes subsection (3) commits an offence and is liable on conviction to a fine not exceeding three hundred thousand shillings and in case of failure to pay the fine to imprisonment for a period not exceeding three months.
- 5) In this section, a person is deemed to practise journalism if he or she is paid for the gathering, processing, publication or dissemination of information; and such person includes a freelance journalist.

28. Refusal to grant a practising certificate.

No person shall be granted a practising certificate by the council if—

- a) he or she is not enrolled; or
- b) he or she has failed to comply with any order made under this Act.

29. Accreditation card.

- 1) No person being an employee of a foreign mass media organisation or working as a freelancer for that mass media shall practise journalism in Uganda unless he or she is in possession of an accreditation card issued by the council.
- 2) The accreditation card referred to in this section shall be issued upon payment of fees and upon such terms as may be prescribed by the council.

PART VII—DISCIPLINARY COMMITTEE AND INQUIRIES.

30. Disciplinary committee.

- 1) There is established a disciplinary committee consisting of—
 - a) the chairperson of the council, who shall be the chairperson of the committee;
 - b) the secretary to the council, who shall be the secretary to the committee;
 - c) four members elected by the council from among their number.
- 2) The council shall, when hearing disciplinary cases, appoint an advocate of not less than five years' standing to advise the disciplinary committee.
- 3) Four members of the committee shall form a quorum.

31. Complaints against a journalist.

- 1) A complaint or an allegation against a journalist, which if proved would constitute professional misconduct, may be made to the disciplinary committee by any person, and the complaint or allegation shall be reduced into writing.

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- 2) The secretary shall, upon receipt of a complaint, within thirty days refer the matter to the committee which shall fix a date for the hearing of the complaint.
- 3) The committee shall give the journalist against whom the complaint or allegation is made an opportunity to be heard and shall furnish him or her with a copy of the complaint and any other relevant document at least fourteen days before the date fixed for the hearing.

32. Procedure of the committee.

The procedure to be followed by the committee in the hearing of the complaint shall be as provided in the First Schedule to this Act.

33. Committee's decision.

After hearing the journalist to whom the complaint relates and after considering the evidence adduced, the committee may dismiss the complaint if no ground for a disciplinary action is proved, or if a ground for a disciplinary action is proved, impose any or a combination of the following penalties—

- a) that the journalist be admonished or be required to apologise to the aggrieved party in the manner specified by the committee, including the same boldness of lettering on the page where the article appeared in the newspaper;
- b) that the practising certificate of the journalist be suspended for a specified period not exceeding six months;
- c) that the media organisations which published the matter that led to the complaint pay compensation to a person who suffered loss or injury as a result of the misconduct.

34. Appeal to the High Court.

- 1) A journalist or complainant aggrieved by the decision or order of the committee may appeal against the decision or order to the High Court within fourteen days from the date on which the report of the committee was delivered to that journalist or complainant.
- 2) An appeal made under this section shall be—
 - a) made by petition in writing under the hand of the journalist or complainant; and
 - b) heard and decided upon by a judge of the High Court after summary hearing.
- 3) Where the council suspends a journalist, the journalist shall not, while an appeal is pending under this section, be entitled to practise.

35. Implementation of the committee's orders.

- 1) The council shall be responsible for the implementation of the committee's orders.
- 2) The secretary shall ensure that an order of the committee is noted in the register against the name of the affected journalist and shall send a certified copy of the committee's decision to the National Institute of Journalists of Uganda.

36. Revocation of suspension of a journalist.

The council may, on receiving new facts relating to a case of a journalist on suspension, revoke the suspension.

PART VIII—MISCELLANEOUS AND TRANSITIONAL PROVISIONS.**37. Report, etc. to be received in evidence.**

A report or order made by the council and signed by the chairperson and the secretary shall be received in any legal proceedings and shall be taken to be that particular report or order without further proof of its contents unless the contrary is shown.

38. Protection of source of information.

A journalist shall not be compelled to disclose the source of his or her information except with the consent of the person who gave him or her the information or on an order of a court of law.

39. Seizure order.

- 1) Whenever criminal proceedings have been instituted for an offence against the freedom of the press, the court may, on application to it for confiscation, order that the material involved in the offence be seized or issue a ban on the publication.
- 2) A seizure order shall be effected by the police and shall relate only to those copies which were intended for dissemination.
- 3) Any person aggrieved by the decision or order of the court may appeal to a higher court against the decision within thirty days from the date on which the seizure order was issued.

40. Professional code of ethics.

- 1) A journalist enrolled under this Act shall be subject to the professional code of ethics provided in the Fourth Schedule to this Act.
- 2) A person who contravenes any provision of the professional code of ethics commits professional misconduct and shall be dealt with by the disciplinary committee.
- 3) The Minister may, by statutory instrument and after consultation with the council, amend the Fourth Schedule to this Act.

41. Practising journalists prior to commencement of this Act to continue to practise.

A person who is practising journalism immediately prior to the commencement of this Act may continue to practise journalism until he or she is duly enrolled as a journalist in accordance with this Act.

42. Regulations.

- 1) The Minister may, on the advice of the council, make regulations for better carrying into effect the provisions of this Act.
- 2) Without prejudice to the general effect of subsection (1), regulations may be made under it prescribing—
 - a) the particulars and other matters to be entered in the register;
 - b) the fees to be paid under this Act;
 - c) the procedure of the disciplinary committee and the manner of lodging a complaint; and
 - d) anything which under this Act is to be or may be prescribed.
- 3) Notwithstanding the Interpretation Act, the Minister may, with the approval of Parliament, by statutory instrument, increase any fines specified in this Act.

SCHEDULES

First Schedule.

ss. 10, 32.

Meetings of the council and other miscellaneous matters.

1. Meetings of the council.

- 1) The council shall meet for the discharge of its duties at least once every two months or upon a request in writing to the chairperson by at least one-third of the members of the council at such time and place as the chairperson may appoint
- 2) A meeting of the council shall be convened by a notice issued under the signature of the secretary to the council at least fourteen days before the meeting; except that in the case of an emergency, a shorter notice may be given.
- 3) The chairperson shall preside at all meetings of the council; and in his or her absence, a person elected by the members present shall preside.
- 4) Seven members shall form a quorum at a meeting of the council.
- 5) Any decision at a meeting of the council may be determined by simple majority of the members present.

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- 6) A member of the council shall have one vote; and in the event of equality of votes, the chairperson or person presiding at the meeting shall have a casting vote.
- 7) The council may invite any person to any of its meetings, but that person shall not have a voting right.
- 8) Subject to this Schedule, the council may regulate its own procedure.

2. Minutes.

- 1) The secretary to the council shall cause to be recorded and kept minutes of all meetings of the council in a form approved by the council.
- 2) The minutes recorded under this paragraph shall be submitted to the council for confirmation at its next meeting following that to which the minutes relate and when so confirmed shall be signed by the chairperson and the secretary in the presence of the other members present at the latter meeting.

3. Validity of proceedings not affected by any vacancy.

The validity of any proceedings of the council shall not be affected by any vacancy among its members or by any reason only of the fact that any person not entitled to vote at any meeting attended or voted.

4. Disclosure to interest.

- 1) If a person is present at a meeting of the council at which a matter is the subject of consideration and in which matter that person or his or her spouse is directly or indirectly interested in a private capacity, he or she shall, as soon as practicable after the commencement of the meeting, disclose that interest and shall not, unless the council directs otherwise, take part in any consideration or discussion or vote on any question relating to that matter.
- 2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

5. Committees of the council.

The council may establish committees as may be required for the efficient discharge of its functions.

6. Proceedings of the disciplinary committee.

- 1) For the purposes of any complaint, the disciplinary committee may administer oaths or affirmations.

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- 2) A person appearing as a party before the disciplinary committee may, at any stage of the proceedings, appoint an advocate to represent him or her or otherwise to assist the disciplinary committee.
- 3) For the purpose of carrying out its duties, the disciplinary committee may interview and correspond with any person as it may deem necessary.

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Second Schedule.

s. 20.

Meetings of the executive committee.

1. The executive committee shall meet as often as the business of the executive committee requires, but the executive committee shall meet at least once in three months.
2. The president shall convene a meeting of the executive committee if a request for a meeting in writing addressed to the general secretary is received by him or her, signed by at least three members of the executive committee.
3. The executive committee shall meet at a time and place that may be determined by the president.
4. Notice in writing of a meeting of the executive committee shall be given to each member of the executive committee at least seven clear days before the date of the meeting.
5. The notice under paragraph 4 shall include, as far as practicable, a statement of the business to be transacted at the meeting.
6. The nonreceipt of a notice by any member shall not affect the validity of the proceedings of the meeting.
7. Five members of the executive committee shall form a quorum.
8. No notice shall be given of an adjourned meeting unless the meeting resolved otherwise.
9. In case of emergency and with the approval of the president, or the vice president in the absence of the president, a notice calling the meeting may be given to the members at least one clear day before the date of the meeting; and the nonexistence of the emergency shall not affect the validity of the proceedings of the meeting.
10. The president or, in the absence of the president, the vice president shall preside at any meeting of the general assembly.
11. The person presiding at a meeting may, with the consent of the meeting, adjourn the meeting of the executive committee to a place that may be determined by the president.

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12. Questions proposed at a meeting of the executive committee shall be determined by a majority of the votes of the members present; and in case of equality of votes, the person presiding shall have a casting vote.
13. Proper minutes of the deliberations of the meeting shall be recorded and issued by the person presiding at that meeting, and those records shall be sufficient evidence of that meeting.
14. Subject to this Schedule, the executive committee may regulate its own procedure.

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Third Schedule.

s. 20.

Meetings of the institute.

1. Annual general meeting.

- 1) The institute shall hold an annual general meeting which shall be held before the 30th of June in each financial year of the institute, at a time and place that may be determined by the chairperson.
- 2) The following business shall be transacted at the annual general meeting—
 - a) reception and consideration of the accounts of the institute and the auditor's report;
 - b) election of members of the executive committee; and
 - c) any other business.

2. A special general meeting.

The president may convene a special general meeting of the institute whenever he or she considers it necessary and shall convene such meeting within fourteen days of giving notice of the meeting.

3. Notice of motion.

- 1) A member writing to bring a motion not related to the ordinary business of the annual general meeting before the meeting may give notice to the general secretary to reach him or her at least five weeks before the date of the annual general meeting.
- 2) The motion must relate to the matters of the institute or to the profession.

4. Notice of meeting.

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- 1) The secretary shall send to each member of the institute notice of the meeting and the agenda for the meeting not less than fourteen days and not more than twenty-one days before the date of the meeting.
- 2) In the case of the annual general meeting, the secretary shall send with the notice—
 - a) a copy of the annual report of the executive committee;
 - b) a copy of the accounts of the institute together with the auditor's report;
 - c) a list of persons nominated or proposed for election to the executive committee or as auditors; and
 - d) a list of persons proposed for admission to membership of the institute.
- 3) The nonreceipt by any member of the institute of a notice of the meeting or any relevant document shall not invalidate the proceedings of the meeting to which they relate.

5. Associate member.

Associate members shall be entitled to notice and shall speak during a meeting but shall not be entitled to a vote.

6. Chairperson of the meeting.

- 1) The president or, in the absence of the president, the vice president shall preside at all meetings of the institute.
- 2) In the absence of both the president and the vice president, the members present shall elect one of the members to preside at the meeting.

7. Quorum of meetings.

- 1) At the annual general meeting the quorum shall be one-third of the voting members of the institute; and if after fifteen minutes from the time appointed for the meeting the quorum is not met, the meeting shall stand adjourned to that day a fortnight later the same time and place.
- 2) On the date to which the meeting is adjourned, the meeting shall proceed to business notwithstanding that there may be less than one-third of the enrolled members.
- 3) At a special general meeting the quorum shall be one-half of the enrolled members; and if after fifteen minutes from the appointed time for the meeting the quorum is not met, the meeting shall stand dissolved.

8. Adjournments.

- 1) A person presiding at any meeting may adjourn the meeting from time to time and from place to place.

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- 2) Only the business left unfinished at the meeting from which the adjournment took place shall be transacted at the adjourned meeting.
- 3) No notice shall be given of an adjourned meeting unless the meeting resolved so.

9. Voting at a meeting.

- 1) Every question proposed at any meeting of the institute shall be determined by a simple majority of the members present and voting; and in case of equality of votes, the chairperson shall have a casting vote.
- 2) Voting shall be by secret ballot.

10. Minutes of meetings.

Minutes of the meetings of the institute shall be properly recorded and shall be confirmed by the subsequent meeting and signed by the chairperson and secretary of the meeting, and that shall be sufficient evidence of the meeting.

Fourth Schedule.

s. 40.

Professional code of ethics.

1. No journalist shall disseminate information or an allegation without establishing its correctness or truth.
2. No journalist shall disclose the source of his or her information; he or she shall only divulge the source in the event of an overriding consideration of public interest and within the framework of the law of Uganda.
3. No journalist shall solicit or accept bribes in an attempt to publish or suppress the publication of a story.
4. A journalist shall not plagiarise the professional work of others or expropriate works or results of research by scholars without acknowledging their contribution and naming his or her sources of information.
5. A journalist shall obtain his or her information through the skilful application of journalistic principles and shall never bribe or offer inducements to his or her source.
6. No journalist shall deny any person with legitimate claim a right to reply to a statement. Corrections and rejoinders are to be published in appropriate form without delay and in a way that they will be noticed by those who have received the original information.
7. A journalist shall at all times strive to separate his or her own opinions from factual news. Where personal opinions are expressed, the public shall be made to know.

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8. A journalist shall take the necessary steps to correct any damaging report he or she has made on any individual or organisation.
9. A journalist shall not originate or encourage the dissemination of information designed to promote or which may have the effect of promoting tribalism, racism or any other form of discrimination.

History: Statute 6/1995.

Cross Reference

Interpretation Act, Cap. 3.

APPENDIX 2: A Bill for an Act, the Press and Journalist (Amendment) Bill, 2010

Draft of 29th January, 2010

A Bill for an Act

Entitled

THE PRESS AND JOURNALIST (AMENDMENT) BILL, 2010

An Act to amend the Press and Journalist Act in order to provide for registration of newspapers; to require that the editor of a newspaper shall ensure that what is published is not prejudicial to national security; to rationalize the composition of the media council; to provide for licensing of newspapers; to increase the membership of the disciplinary committee; to provide for expeditious disposal of complaints before the disciplinary committee; to provide for offences and penalties and to provide for other related matters.

BE IT ENACTED by Parliament as follows –

1. Amendment of section 1 of the Press and Journalist Act

Section 1 of the Press and Journalist Act, in this Act referred to as the principal Act is amended by inserting immediately after paragraph (b) the following –

“(ba) “Currency point” has the value assigned to it in Schedule 1A”.

2. Insertion of new section 4A of the principal Act

The principal Act is amended by inserting immediately after section 4 the following –

“4A Registration of newspapers

(1) The proprietor of a newspaper shall not operate a newspaper unless it is registered with the Council and has complied with the requirements of section 5.

(2) A person who contravenes subsection (1) commits an offence and is on conviction liable to a fine not exceeding forty eight currency points or imprisonment not exceeding two years or both.”

3. Amendment of section 6 of the principal Act

Section 6 of the principal Act is amended by inserting immediately after paragraph (a) the following -

“(aa) ensure that what is published is not prejudicial to the national security;”

4. Amendment of section 8 of the principal Act

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Section 8 of the principal Act is amended in subsection (2) –

(a) by inserting immediately before paragraph (a) the following –

“(aa) a chairperson of the council appointed by the Minister;”

(b) by substituting for paragraph (b) the following -

“(b) one distinguished scholar in mass communication appointed by the Minister in consultation with the National Institute of Journalists of Uganda;”

(c) by inserting immediately after paragraph (c) the following -

“(ca) one representative of the private sector newspaper operators;”

(d) by substituting for paragraph (e) the following –

“(e) two members of the public who are not journalists appointed by the Minister;”

(e) by substituting for paragraph (f) the following –

“(ee) a distinguished lawyer appointed by the Minister in consultation with the Uganda Law Society.”

5. Amendment of section 9 of the principal Act

Section 9 of the principal Act is amended by inserting immediately after subsection (1) (a) the following –

“(aa) to register newspapers;

(ab) to license newspapers;

(ac) to regulate investment by print media owners in the print industry;

(ad) to regulate foreign media ownership by limiting the involvement of foreign media in the print industry;

6. Insertion of new section 9A in the principal Act

The principal Act is amended by inserting immediately after section 9 the following -

“9A. Licensing of newspapers

1) A person shall not operate a newspaper unless there is in force in relation to the newspaper a license issued by the Council.

2) An application for a license shall be in the form prescribed by Regulations.

3) The Council shall before issuing a license under this section take in account the following

(a) that the applicant -

(i) in the case of an individual, is a resident of Uganda; or

(ii) is a locally registered partnership or company;

(b) proof of existence of adequate technical facilities; and

(c) social, cultural and economic values of the newspaper.

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- 4) A license issued under this section is valid for one year and is renewable subject to the requirements under subsections (2) and (3).
- 5) Where the Council refuses to grant a license in respect of a newspaper, it shall state in writing the reasons for the refusal.
- 6) A person whose application for a license under this section has been refused may appeal to the High Court and the High Court may confirm or set aside the refusal and may give such orders as it may consider appropriate.
- 7) The Council may revoke a license issued under this section on the following grounds –
 - (a) publishing material that is prejudicial to national security, stability and unity;
 - (b) publishing any matter that is injurious to Uganda’s relations with new neighbours or friendly countries;
 - (c) publishing material that amounts to economic sabotage; and
 - (d) contravention of any condition imposed in the license.
- 8) A person whose license has been revoked may appeal to the High Court against the revocation and the High Court may confirm or set aside the revocation and make such other order as it may consider appropriate.
- 9) A person who –
 - (a) operates a newspaper without a license issued under this section; or
 - (b) contravenes the provision of a license issued under this section, commits an offence and is liable on conviction to a fine not exceeding forty eight currency points or imprisonment not exceeding two years or both.”

7. Amendment of section 30 of the principal Act

Section 30 of the principal Act is amended by inserting immediately after paragraph (c) the following –

- “(d) a distinguished lawyer nominated by the Uganda Law Society;
(e) one representative of the private sector newspaper proprietors;
(f) two members of the public who are not journalists;
(g) a distinguished scholar in mass communication appointed by the Minister.”

8. Amendment of section 31 of the principal Act

Section 31 of the principal Act is amended by inserting immediately after subsection (3) the following -

- “(4) The committee shall ensure that the hearing does not take more than two weeks after the date fixed for the hearing.”

9. Insertion of new section 36A in the principal Act

The principal Act is amended in Part VIII by inserting immediately before section 37, the following -

“36A Offences and penalties

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- 1) A person shall not publish the newspaper material that is prejudicial to national security or stability and unity or utterances that are injurious to relations between Uganda and her neighbours or friendly countries.
- 2) A person shall not publish in a newspaper material that amounts to economic sabotage.
- 3) A person who contravenes subsection (1) or subsection (2) commits an offence and is liable on conviction to a fine not exceeding forty eight currency points or imprisonment not exceeding two years or both.”

10. Insertion of new section 42A in the principal Act

The principal Act is amended by inserting immediately after section 42 the following -

“42A Amendment of Schedule 1A

The Minister may by statutory instrument with the approval of Cabinet amend Schedule 1A.”

11. Insertion of Schedule 1A

The principal Act is amended by inserting immediately before the First Schedule, the following -

“SCHEDULE 1A

Currency point

Currency point is equivalent to twenty thousand Uganda Shillings.”

12. Transitional provisions

Any person operating a newspaper immediately before the commencement of this Act shall apply for registration and for a license under section 4A and 9A of the principal Act within six months after the commencement of this Act.