

## **Introduction:**

Human Rights Network for Journalists-Uganda (HRNJ-Uganda) is a membership Non-Profit making organization founded in 2006 by 11 dedicated journalists to address increasing human rights abuses and violations facing journalists in Uganda. At the time, several journalists were faced with state orchestrated violations and the scale of social injustices was on the rise. The widespread outcry propelled the birth of the initiative.

The HRNJ-Uganda's main activity is defending press freedom and freedom of expression and information in Uganda. Currently HRNJ-Uganda is recognized under Uganda law and its mandate is among others; Litigation, Capacity building and Outreach, Advocacy and Networking and Institutional Development. HRNJ-Uganda's membership stands at 230 organizations and individuals. It is also a member to several International and national human rights bodies such as; International Freedom of eXpression (IFEX) at the International level and the Ugandan Coalition on Freedom of Information (COFI), Citizen's Coalition for Electoral Democracy (CCEDU) locally.

This report highlights numerous excesses committed by the state on journalists and several other human rights abuses. It underscores the failure by the Government of Uganda to comply with its obligations to protect, promote and uphold the rights of Journalists and media freedoms. These include; Limitation of Freedom through Defamation Laws; Restrictive Legislation of the Media; Lack of Independence and Pluralism of the Media and safety and security of Journalists.

## **Safety and Security of Journalists**

The safety and security of journalists in Uganda remains frail with many murdered, subjected to arbitrary arrests and torture, intimidation and harassment among other untold suffering at the hands of the authorities. According to HRNJ press index report; there is an increase in cases of violence meted against journalists as indicated by demographics here to:

In 2009, 35 cases of violence were reported and over 50 cases in 2010.

1. On September 10, 2009, a renowned journalist Mr. Kalundi Sserumaga was kidnapped by security operatives at night after attending a talk show on WBS TV and was tortured at an un-gazetted center in Kireka. Arafat Nzito of Simba FM 97.3 on November 3, 2010 was also kidnapped by security personnel, kept incommunicado for eight days at Kololo under the orders of the Chieftaincy of Military Intelligence (CMI). He was released upon filing a *habeas- Corpus* in court while Patrick Otim, who worked with a government owned Mega FM, based in Gulu, was kidnapped from his residence in Pader and held incommunicado for six (6) weeks in May, 2009. He was taken to court after filing a habeas corpus, charged with treason and concealment to treason and was committed to the high court for trial –he still languishes in prison without court hearing.
2. The period under review has seen several journalists murdered with killers still at large. They include;

- 1) Wilbroad Kasujja, a journalist for Buwama community radio in the Mpigi district. She was raped and killed on her way to work.
  - 2) Paul Kiggundu, a reporter with Masaka-based Top radio, was murdered while on duty.
  - 3) Prime radio, news anchor Dickson Ssentongo was murdered on his way to work.
3. In 2008, government established the Media Offences Department within the Uganda Police Force to monitor media output on a daily basis. The department interrogates activists, supporters of the opposition political parties, journalists and media managers or owners over releases from their media houses, majority of the victims have kept reporting to police for years with no resolution. These include: Timothy Kalyegira, Daniel Kalinaki, Angello Izama and Henry Ochieng (Daily Monitor).
  4. Journalists face criminal charges including criminal defamation, sedition (despite being nullified by the constitutional court), treason, forgery and uttering false documents, promoting sectarianism, and publishing false news. These journalists include: Andrew Mwenda, Richard Tumusiime, Charles Bichachi, Otim Patrick, Daniel Kalinaki, James Tumusiime and John Njoroge among others.
  5. On March 24, 2010, Bukedde Photo Journalist Moses Lemisa was admitted in hospital after being assaulted by the Presidential Guard Brigade (PGB), after he took pictures of people killed by the presidential guard just before the president visited burnt Kasubi tombs in September 2009. Police in Lira Northern Uganda, arrested Voice of Lira presenters for hosting president of Uganda People's Congress (UPC) Olara Otunnu. Patrick Ronex Akena and Joe Orech were accused of hosting Dr. Olara who claimed on air that the NRM was solely responsible for the 20 year war in Northern Uganda. The Broadcasting Council later ordered radio management to suspend the two journalists. October 1, 2010, the police interrogated Richard Mivule of Radio Two (*Akaboozi*) for over five hours for inciting violence during the September 2009 riots when he hosted Opposition MP for Kampala Central, Erias Lukwago.

### **Limits on Freedom of Expression through Defamation Laws.**

6. The Constitutional Court nullified Uganda's sedition law on August 25, 2010. Nonetheless, several journalists and activists still face sedition charges even though the court found this law in contravention of Article 29 of the Ugandan Constitution, which guarantees freedom of expression, opinion, and conscience. The court nullified section 39 and 40 of the Penal Code, Cap 120 which defined and established the law on sedition. However, such recommendations have not been implemented. Individuals charged under

the nullified law include: Andrew Mwenda, Charles Bichachi, Siraje Lubwama, John Njoroge and Musa Kigongo.

7. Section 41 of the Penal Code of Uganda (Cap. 120), under the guise of preventing incitement to tribal segregation, criminalizes speech and effectively bars the media and the public from questioning the imbalance in distribution of national resources. The law contravenes Article 19 of the Universal Declaration of Human Rights (UDHR) and Article 19 of the International Covenant on Civil and Political Rights, to which Uganda is a party. Victims of this law include; Opposition Presidential Candidate under the Uganda Federal Alliance (UFA) Ms. Betty Kanya, MP Betty Nambooze, Semujju Ibrahim Nganda, the former Political Editor of the *Observer Newspaper* and his managing editor James Tumusiime.
8. Penal Code section 179 establishes charges of criminal libel for releasing defamatory stories. Despite efforts across the world to abolish such criminal defamation rules, the law stands in Uganda and has resulted in self censorship for most private individuals and journalists. Henry Ochieng, *Sunday Monitor* editor and Angello Izama, a staff writer, were charged with criminal libel at the Makindye Chief Magistrates Court over an article the state claims defamed President Museveni. Individuals like Radio One talk-show host Kalundi Robert Sserumaga was denied serving in private owned radios and print media by Government. There are several other journalists who have lost their jobs under duress.

#### **Restrictive Legislation on media**

9. Uganda has a number of restrictive laws that have made it difficult for media owners, journalists, human rights activists and the public to enjoy fundamental media freedoms;
10. Under the Electronic Media Act, Cap 104 of 1996, the Broadcasting Council enjoys unprecedented powers of regulating media content. On several occasions the institution has abused its powers by closing down media houses, ban public debates and order the sacking of critical journalists. As witnessed in September 2009, the Broadcasting Council arbitrarily closed down five (5) private radio stations namely: Central Broadcasting Service (CBS) 88.8FM and 89.2FM, Radio 2 (Akaboozi FM), a Catholic Church run FM station Sapientia, and Suubi FM.
11. The Press and Journalists Amendment Bill 2010, that is under cabinet scrutiny seeks to control media outlets. The law gained momentum in the wake of the September 2009 riots that saw several media houses shut down.
12. The Public Order Management Bill, 2009 challenges the enjoyment of freedom of expression, speech, and assembly which are fundamental freedoms and human rights guaranteed by the 1995 Constitution and in several regional and international human rights instruments, such as the African Charter on Human & Peoples Rights, the International Covenant on Civil & Political Rights, and the Universal Declaration of Human Rights. The proposed Bill seeks to reintroduce the provisions of the Police Act,

Cap 303 which were nullified by the Constitutional Court in the case of *Muwanga Kivumbi vs. The Attorney General of Uganda (Constitutional Petition No. 9/05)*; Is contrary to Article 92 of the 1995 Constitution of Uganda, which prohibits the enactment of legislation designed to defeat or overturn a judicial ruling; Grants the Inspector General of Police (IGP) and the Minister of Internal Affairs wide discretionary and unjustifiable powers over the management of public meetings, Places extensive and impractical obligations on the organizers of public meetings, which are impossible to satisfy, and Seeks not only to regulate the conduct of public meetings but extends to regulate the content of the discussion of issues at such meetings, in contravention of the right to freedom of speech.

13. In 2010, Government passed the Interception of Communications Act. The law permits the Minister of Security to tap all forms of communication in the country. The law violates the right to privacy as enshrined in the 1995 Constitution and other treaties (IICPR, UDHR). It grants overreaching powers to the Minister of Security who is the government Official charged with providing oversight for its enforcement and effecting penalties for any breaches as opposed to courts of law.
14. The 1958 Secrecy Act bars public officials from releasing classified information of government. However this contradicts the 2005 Access to Information Act (ATIA) which provides for free and easy access of information from public bodies. The continued existence of the conflicting Secrecy Act has enabled some officials of government to deliberately classify information demanded for by public members thus contravening the ATIA Act and Article 41 of the Ugandan Constitution.

#### **Lack of Independence and Pluralism of Media**

15. Restrictive Media regulations and other occasional repressive tendencies of government continue to affect media operations. Media practitioners operate under tension and wide spread self censorship conditions.
16. Media regulation bodies are operating under oversight by the Cabinet Ministers of Security, Information, and ICT. These ministers have assumed and applied excessive powers in controlling these institutions which are supposed to be independent from government. Regulatory bodies too in turn have imposed stringent controls over media houses to the extent of directing recruitments, interfering with the media contents to suit interests of the government. The regulatory bodies have disregarded the enforcement of license regulations on the side of pro-government owned media. A number of incidents denying opposition political supporters access to media platforms have been reported and there's never been an intervention from the Broadcasting Council like in the case of Bunyoro region in 2010 during presidential and parliamentary campaigns on Radio

Kitara, Spice FM, Radio Hoima, Kings Radio and Bunyoro Broadcasting Service, radios and in Nakaseke district community radio, where Dr. Kiiza Besigye paid for airtime but was locked out of the radio building by staff and the premises were cordoned off by anti-riot police.

17. In the aftermath of the September 2009 riots, government affected new media control measures. But this was done at the expense of the critical media that had grown to unprecedented levels as required in a free, democratic and open society. The closure of the media houses has caused a resurgence of the state monopolized media environment.
18. In addition, critical journalists, or those who provide a platform for voices of opposition parties are facing censorship, threats and detention. Journalist James Kasirivu was suspended in December 2010 by the Mbarara-based Edigito Radio for reporting on an opinion poll that suggested a clear victory for the FDC presidential candidate Dr. Kiiza Besigye. Mustapha Mugisa and Samuel Ssejjaaka, the chief executive officer and editor of the "Summit Business Review" magazine, respectively were arrested on 11 January 2011 by security operatives and detained by police in relation to their publication of a cartoon of President Museveni on the magazine cover.
19. **Recommendations:**
  1. All laws that criminalise freedom of speech must be repealed.
  2. New and amendment bills that contravene the Constitution and international treaties should be stayed.
  3. Government should quickly investigate attacks against journalists and prosecute their attackers.
  4. Government should stop interfering with the work of regulatory bodies and support self-regulation by the media.
  5. Review the system of media regulation and repeal all provisions that interfere with freedom of the media, and create as well as maintain an environment in which the media can operate freely and independent from political interference.
  6. Government should implement the decision by the Constitutional Court overturning the sedition provision and should immediately dismiss all sedition charges against journalists and politicians.
  7. All suspects who are on committal and in prison should have their cases heard expeditiously.
  8. Reports emerging out from investigations of murdered journalists should be made public and those involved brought to justice.