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Proposed Ugandan media law threatens the right to freedom of expression

Amnesty International is deeply concerned that legislation proposed by the Ugandan government provides for restrictions on the media which will violate the right to freedom of expression. The draft Press and Journalist (Amendment) Bill, 2010, dated 29 January 2010, awaits cabinet discussion which, if adopted and supported by the cabinet, will subsequently be tabled in Parliament to be enacted into law.

The Bill proposes mandatory registration and licensing of newspapers by a government-controlled Media Council. The Council has broad discretionary powers to revoke licences, and journalists who breach the law would be subject to punishment by heavy fines and imprisonment of up to two years.

These proposals are being put forward where there has been a consistent pattern of attacks by the government on freedom of expression, in particular press freedom in recent years. Presently there are over a dozen criminal court cases pending in which a number of journalists face charges including criminal libel, sedition and the “publication of false news” in relation to media stories critical of government. A number of individual journalists have also been subjected to arbitrary arrest and detention and torture or other ill-treatment.

Following political demonstrations and riots in September 2009 in the capital, Kampala and other parts of the country, a number of broadcasting houses and newspapers faced official intimidation– including warnings over possible closure because of their reporting on events during the riots. The Broadcasting Council - a government body established by law with powers to exercise control over broadcasting, including content – arbitrarily ordered the shutting down of four radio stations. This was purportedly over failures, in the period preceding and during the protests, to comply with the minimum standards on broadcasting content provided for under the Electronic Media Act, 2000. Stations were not given prior notice or adequate explanations regarding the reasons for their closure, or an opportunity to appeal against the closure orders, as required by law. To date, one radio station remains closed. The Council also ordered the discontinuation of some radio programmes during and immediately following the riots.

Under the proposed Press and Journalist (Amendment) Bill the Media Council will, in the process of exercising its powers on registration and the granting or revocation of licences, make determinations on the basis of broad and undefined considerations such as the “social, cultural and economic values of the newspaper” as a pre-condition for granting a licence, and whether material published is prejudicial to “national security, stability and unity” or “Uganda’s relations with new neighbours or friendly countries” or amounts to “economic sabotage”. Aside from the procedures for registration and licensing, the publication of newspaper material “that is prejudicial to national security or stability and unity” or “that amounts to economic sabotage” will constitute a crime by a newspaper or journalist(s) punishable on conviction by a heavy fine or up to two years’ imprisonment or both.

Against this backdrop, the proposed law will offer the government broad powers to silence media criticism of government policies and practice.

Amnesty International considers that the Bill will extend and deepen the already existing widespread censorship of the print media under powers set out in the parent law – the Press and Journalists Act which has been in force since July 1995.

AI is deeply concerned that this Bill, which provides for a government-controlled body to refuse or revoke media licences on the basis of broadly worded and undefined criteria, carries a very high risk for violations of the right to freedom of expression not only of journalists but of people in Uganda generally. The right to freedom of expression includes the right not only to impart, but also to seek and receive, information and ideas of all kinds. The media accordingly plays a key role in enabling the exercise of these different aspects of the right to freedom of expression not only by individual journalists and media workers and those who wish to disseminate information and ideas, but also by people for whom the media are a key source of information.

Amnesty International calls on the Ugandan government to withdraw this proposed law and amend existing legislation to bring it in line with its obligations regarding the right to freedom of expression guaranteed in international law and under Article 29 of the Ugandan Constitution.

Background

Article 19 of the UN International Covenant on Civil and Political Rights (ICCPR) provides for the right to freedom of expression, which includes freedom to “seek, receive and impart information and ideas of all kinds”. This right is also guaranteed under Article 9 of the African Charter on Human and Peoples’ Rights (ACHPR). Uganda is party to the ICCPR and the ACHPR. Article 29 of the Constitution of Uganda provides for every person’s right to “freedom of speech and expression which shall include freedom of the press and other media”.

While international law permits certain restrictions to be placed on the exercise of the right to freedom of expression, the ICCPR stipulates that any interference with the right to freedom of expression must meet a three-part test: it must be (a) provided by law, and (b) only for certain specified permissible purposes (which include the protection of national security and public order) and (c) must be justified as being necessary in the circumstances for one of those specified purposes. The Human Rights Committee, the body of independent experts responsible for monitoring states’ implementation of the ICCPR, has stated in its General Comment on Article 19 that, “...when a State party imposes certain restrictions on the exercise of freedom of expression, these may not put in jeopardy the right itself”.

Article 43 of the Constitution of Uganda provides that “in the enjoyment of rights prescribed [under the Constitution], no person shall prejudice the fundamental or other human rights and freedoms of others or the public interest”. Under Article 43(2) (c) the Constitution however provides that “public interest...shall not permit any limitation of the enjoyment of rights and freedoms beyond what is acceptable and demonstrably justifiable in a free and democratic society, or what is provided in this Constitution”.

Demonstrations and riots took place on 10-13 September 2009 in Kampala and elsewhere over the government’s decision to stop a delegation from Uganda’s Buganda Kingdom from visiting the eastern district of Kayunga to join celebrations of National Youth Day on 12 September. The police said the visit was stopped to prevent possible violence between supporters of the Kabaka, king of the Baganda people, and a local ethnic group in Kayunga – the Banyala, which opposes the Kabaka’s authority. Up to 27

people were reportedly killed during the riots. At least half of them died after being shot by police and security personnel.