HUMAN RIGHTS NETWORK FOR JOURNALISTS - UGANDA

CRITICAL JOURNALISM
UNDER ATTACK

In Defence & Promotion of Freedom of Expression, Information & Media Freedom
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Published by Human Rights Network for Journalists-Uganda (HRNJ-Uganda)
Plot No. 1304 Serumaga Road, Kalonda Zone Bukoto
P.O Box 7472 Kampala Uganda
Tel: +256 414272937 | +256 414667627
Hotline: +256702905566 Toll Free: 0800144155,
Email: info@hrnjuganda.org Website:www.hrnjuganda.org

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+256 - 774 438 107

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## Acronyms

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<th>Description</th>
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<tr>
<td>A.I.G.P</td>
<td>Assistant Inspector General of Police</td>
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<td>ACHPPR</td>
<td>African Charter on Human and People's Rights</td>
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<tr>
<td>ACHPR African</td>
<td>Charter on Human and Peoples' Rights</td>
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<td>BBS</td>
<td>Buganda Broadcasting Services</td>
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<td>CBS</td>
<td>Central Broadcasting Services</td>
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<tr>
<td>CID</td>
<td>Criminal Investigation Department</td>
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<td>CMA</td>
<td>Computer Misuse Act</td>
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<tr>
<td>CSO</td>
<td>Civil Society Organization/s</td>
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<tr>
<td>DISO</td>
<td>District Internal Security Organization</td>
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<tr>
<td>DPC</td>
<td>District Police Commander</td>
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<td>HRNJ-Uganda</td>
<td>Human Rights Network for Journalists-Uganda</td>
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<tr>
<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
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<td>ICESCR</td>
<td>International Covenant on Economic, Social and Cultural Rights</td>
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<tr>
<td>IGP</td>
<td>Inspector General of Police</td>
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<tr>
<td>K.C.C.A</td>
<td>Kampala Capital City Authority</td>
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<tr>
<td>KBS</td>
<td>Kanungu Broadcasting Service</td>
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<tr>
<td>MP</td>
<td>Member of Parliament</td>
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<td>NBS</td>
<td>Nile Broadcasting Services</td>
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<td>NTV</td>
<td>Nation Media Television</td>
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<td>NRM</td>
<td>National Resistance Movement</td>
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<td>PFI</td>
<td>Press Freedom Index</td>
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<td>POMA</td>
<td>Public Order Management Act</td>
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<td>R.D.C</td>
<td>Resident District Commissioner</td>
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<td>RICA</td>
<td>Regulation of Interception of Communication Act</td>
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<tr>
<td>U.P.D.F</td>
<td>Uganda People's Defence Forces</td>
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<td>U.P.F</td>
<td>Uganda Police Force</td>
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<td>U.R.N</td>
<td>Uganda Radio Network</td>
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<td>UBC</td>
<td>Uganda Broadcasting Corporation</td>
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<td>UCA</td>
<td>Uganda Communications Act</td>
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<td>UCC</td>
<td>Uganda Communication Commission</td>
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<td>UN OHCR</td>
<td>United Nations Office of the High Commissioner for Refugees</td>
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Acknowledgement

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We acknowledge the members of HRNJ-Uganda for providing support during the investigation of these cases documented herein. We are grateful to the enormous efforts by Mr. John Baptist Wasswa, Media Consultant and Trainer, for the analysis and compilation of this Index.

In a special way, we are grateful to our esteemed development partners the USAID/Rights and Rule of Law Activity (implemented by Freedom House) for the support towards the research, production and launch of this index.

Further, we appreciate the support extended to HRNJ-Uganda by the Democratic Governance Facility (DGF), Media Legal Defence Initiative (MLDI), Stitching Doen Foundation, AJWS, Embassy of Finland (Nairobi), International Freedom of Expression (IFEX), Embassy of Canada (Nairobi) and the Open Society Initiative for Eastern Africa (OSIEA) among others.
Foreword

We welcome you to the reading yet another of our Press Index for the year 2017. As the past editions, this report focuses on cases documented by HRNJ-Uganda in the year 2017 as perpetrated against journalists and media houses operational in Uganda at the close of December 2017. As you may recall, the past two years-2016 and 2017 have been littered with various politically charged national agendas touching on land law amendments that have been resisted by the populace and the Constitutional amendment to remove the Presidential age limit, another move vehemently contested by the public. In this report, we document the perilous situations confronted by journalists reporting on and in such politically charged debates across the country to ensure that the citizens receive this information as it happens to make informed decisions on emerging issues.

The analysis also raises a red flag on the increasing unfettered powers of the Uganda Communications Commission which is on an unprecedented course of restricting rather than regulating freedom of expression and media rights as exemplified in its various orders it issued in 2017. The report makes various recommendations to various players.

It is our hope that this report can contribute to further robust discourse on how media rights and freedom of expression can be strengthened in Uganda’s critical political dispensation.

Robert Ssempala,

Executive Director
Executive Summary

This is the ninth (9th) Press Freedom Index (PFI) report by Human Rights Network for Journalists-Uganda (HRNJ-Uganda) since the annual editions were launched in 2009. The PFIs provide a detailed account of violations committed against media and highlight aspects of the legal, policy and institutional regulatory frameworks that threaten freedoms of expression and the media, which are provided for in the Constitution of the Republic of Uganda. This edition of the PFI 2017 looks at a range of human rights violations and abuses against journalists, media workers and media houses during 2017. Specifically,

a) It examines the legal policy and regulatory environments and it impacts on the media practice in Uganda;

b) It critically analyses reported cases of violations and abuse against journalists and media houses;

c) It identifies leading offenders with a view of holding them accountable;

d) It assesses emerging trends of threats to journalistic practice and makes recommendations;

e) It highlights efforts taken to advance press freedom and promote a more conducive environment for journalistic practice in Uganda.

A combination of qualitative and quantitative approaches were used to compile this Index. Methods used included desk review of reports and documents from a cross section of sources; tabulating reported cases of violations into a SPSS database that captured salient variables that would support analysis. The resultant of this data was analysed in form of themes. For better display, illustrative graphics were exported and produced in Excel. Other qualitative methods used included purposive interviews with among others, victims of violations and experts in human rights and media issues.
Findings and Observations

The analysis of data underlines the continued threats and violations of the freedom of expression and the media. These violations and abuses are by State and non-state actors facilitated by a legal regime that still hosts provisions that undermine these freedoms. Additionally, illegal and unilateral actions especially by the police against the media fraternity. The following findings stand out:

a) The reported documented a total of 113 cases of violations and abuses in 2017.

b) The Police were again the leading violators of media freedoms accounting for 83 cases out 113 (73%), the Uganda Communications Commission (UCC) and the Judiciary followed in distant second and third positions with six (5.3%) and four (3.5%) cases respectively. Police violations include, among others, 45 arrests and detentions; 21 incidents of assault; and seven cases of malicious damage to journalists’ equipment.

c) There were few violations by non-state actors including private security personnel, MPs and mobs.

d) The percentage of women journalists who suffered violations and abuses remains similar to previous years at 12% (13 cases). However, in 2017, one female journalist was kidnapped and tortured while some others were brutalised by Police.

e) Many laws still remain in force to limit freedom of expression. However, the Computer Misuse Act 2011 and the Uganda Communication Act (Amended 2016) were mostly used to curtail media freedoms.

f) Reporters, especially television journalists suffered violations most.

The campaign to amend Article 102(b) of the Constitution to remove the 75 year cap for presidential aspirants (Age Limit Campaign) provided extensive context during which journalists suffered a range of abuses and violations.

The Index observes that the struggle for control of cyberspace intensified in 2017 with this platform becoming the new frontline in the war against freedom of expression.
The Computer Misuse Act 2011, one of the laws to regulate cyber activity, contains broad and vague provisions used by both the Police and the communication regulator, UCC to curtail freedom of expression.

Uganda Communications Commission, in particular, has exploited sections of the laws in ways that call to question the immense power it commands and legality of some of its action in a democratic dispensation.

The Index also observes the continued impunity enjoyed by perpetrators of media freedoms in spite of the existence of laws and institutions under which they should be held accountable. Violations and abuses against journalists such as assault, malicious damage to property, issuance of threats including death threats and torture have gone unpunished even when diligently reported by the victims to relevant authorities.
Recommendations

The Index makes several recommendations to various stakeholders. These include:

a) Police

- The leadership of the Uganda Police Force (UPF) must take measures to ensure that police officers that perpetrate violations against the media are disciplined. The Police authorities should also collaborate with the Director of Public Prosecutions (DPP) by surrendering cases to the DPP and other prosecutorial bodies for further action over human rights violations.

- For transparency and accountability purposes, the Police authorities must also report periodically to the public what action they have taken against errant and abusive police officers and any prosecutions undertaken.

- Human rights defenders should engage the Police Administration to develop a training module for the Police training schools in media rights and the role of the media in society.

- The Development Partners’ community is urged to tailor support to the Uganda Police to human rights observance.

b) Parliament

- Parliament should review the powers of UCC with a view of restructuring it. There is need for the establishment of a new Press and Broadcasting Council to handle content regulation while UCC retains regulation of spectrum. The Index also calls for the establishment of tribunal to settle sector disputes.

c) Civil Society

- Media freedom activists should sensitise all stake holders such as local leaders and the general public on the importance of freedom of expression and the media and their relevance to national development and political stability.
d) Media owners and managers

- Media owners and managers should ensure that the journalists they employ adhere to professional standards and ethics in their work by investing in professional training of journalists.

- Media houses and journalists should show solidarity with colleagues and join hands in the struggle for media freedoms.

- Media managers should invest in the safety of the journalists through provision of appropriate safety gear and equipment.
CHAPTER ONE

Background and Methodology

This Index is different from some other international indices that do scales and assign units of measurement of a range of criteria. It largely catalogues incidents of abuses and threats to journalists and media houses. Additionally, it documents events, practices, policies, laws and administrative acts that HRNJ-Uganda and partner organisations deem to have potential to negatively impact on media practice. The following background gives highlights of the turbulent times for media practitioners over the last few years. It sets the stage for a better understanding of the state of press freedom in 2017.

The space for freedom of expression and of the media has been gradually shrinking over the past five years. This is in the context of general decline in human rights observance in the country where several other freedoms, such as the freedom of assembly, also continue to reduce. The 2013 Press Freedom Index noted that journalists were beaten by Police, which was supposed to protect them, media houses censured information for fear of being closed by the state machinery. It also noted that peaceful assemblies and demonstrations were stopped hence narrowing the space and limiting the platforms for free exchange of opinions and ideas. The report titled: Narrowing Space: Media Under Siege, highlighted the fact that Police remained the biggest violator of media freedoms in the country. Of the 124 violations documented in 2013, 85 were by the Police: of these, 51 were physical in nature.

The report also exposed high levels of impunity and failure by government to hold abusers to account. Another feature was increased reliance on the use of brute force to silence critical media, resulting in a 10-day closure of the Daily Monitor and the Red Pepper.

In subsequent years, enjoyment of press freedoms reduced further under a more restrictive legal regime. The Uganda Communication Commission, which is supposed to independently regulate electronic media was far from independent, with most power vested in the Minister of Information, National Guidance and ICT. At the same
time, the Minister sought more powers to make directives without Parliamentary scrutiny and approval.

In order to clamp down on critical voices, the State machinery invoked laws such as the Public Order Management Act (2013), the Penal Code Act; the Press and Journalists Act (2000) and the Official Secrets Act.

The 2015 Press Freedom Index exposed more violations where leading offenders were the Police, Resident District Commissioners, private individuals and media managers. That year, there were journalists who were killed in line of duty by members of the public. It was also the year when many human rights organisations suffered break-ins at their offices during which computers containing vital data were stolen. With the general elections in sight, State agents literally criminalized political coverage.

The year 2016 was an election year in which freedoms of expression, of the media and of assembly suffered most. Journalists were beaten, arrested and opposition rallies disrupted in a number of cases. Political intolerance by both State agents led by the Police, individuals and communities stifled the media. Intimidation, pressure from the ruling party and self-censorship affected balanced coverage of these elections.¹

1.1 Earlier trends of 2017

Uganda started the year 2017 against the background of a bitter election battle that, although was won by incumbent President Yoweri Museveni, after 30 years in power, the consolidation of that power against his opponents left fundamental freedoms such as the press and speech greatly compromised.²

Additionally, 2017 also started when the country was still in shock following the brutal assault on the palace of the Rwenzururu king Wesley Mumbere in Kasese that had left over 100 royalists killed.³ The king and many close aides were arrested and charged in court. The immediate impact of those events were summarised in the last Press

¹ Africa Centre for Media Excellence: Monitoring Media Coverage of the 2016 General Elections in Uganda
³ The Rwenzururu Kingdom is located in the Rwenzori region of western Uganda. It has its headquarters in Kasese town.
Freedom Index 2016. One salient feature that emerged from these events of 2016 is the increased reliance on brute force that was to characterise a worrying trend in the handling of political issues in 2017.

Several issues had a profound impact on the enjoyment of freedom of the press, of speech and expression and access to information. We shall mention them here but reserve more in-depth discussion for later chapters. In April 2017, Makerere University scholar and researcher, Dr Stella Nyanzi posted on her Facebook page sharp criticism of President Museveni and the First Lady Janet Museveni, who is also Minister of Education, over government failure to provide sanitary pads for school girls. This had been an election promise by President Museveni during the presidential elections campaigns when he was seeking re-election. Dr Nyanzi was charged with cyber harassment of President Museveni under the Computer Misuse Act 2011. The high profile case against Dr Nyanzi was to usher in a wave of charges against journalists and other citizens under this Act.

In March again, Assistant Inspector General of Police Andrew Felix Kaweesi was gunned down in a Kampala suburb. All media covered this shocking murder with new exposes each day pointing at disturbing criminal activity within the Police. Indeed, President Yoweri Museveni told the Inspector General of Police General Kale Kayihura that the Police had been infiltrated by criminal gangs. Journalists covering the Kaweesi murder suffered intimidation by the Police and Gen Kayihura petitioned court to stop media from reporting about the Kaweesi murder in total disregard to freedom of the press and expression as well as the right of access to information by citizens.

The third development was a proposal to amend the Constitution to allow government to compulsorily acquire land for infrastructural development. The government argued that compensation procedures were too slow and often ended up in lengthy and costly litigation, which delayed time-bound donor funded infrastructural projects. Under article 237 of the 1995 Constitution, land belongs to the people and there are limited circumstances under which government may seize private land, even then, only after adequate and prior informed consent followed by Compensation. These proposals generated considerable opposition from majority submissions to the Judicial Commission of Inquiry into land Matters. Many argued that there were
enough laws in place to deal with land matters and expressed fears of a government hidden agenda.

Sensing growing opposition to the land proposals, President Museveni took the campaign to radio stations across the country to explain the government intentions. The way the radio campaigns were handled is what caused threats to freedom of the media: no opposing views were allowed; no discussion on the matter was permitted after the president had spoken; even discussion of such matters in subsequent days was disallowed by police. Across the country, the unpopular land proposals became a sensitive topic to discuss especially at upcountry radio stations.

Further threats to media freedoms came with yet another controversial proposal for Parliament to amend the Constitution to remove Article 102 (b) that barred persons aged 75 years and above from contesting in an election for the presidency of the Republic. The whole process of getting this proposal through various stages generated widespread opposition from the official Opposition, sections of the ruling National Resistance Movement (NRM) party, large sections of civil society, academia and the Uganda Law Society among others. Two distinct sides emerged: those who opposed the Constitutional amendment and others who supported it. Two local expressions came to define the two sides. Opponents used the slogan Togikwatako⁴ (Do not tinker with/amend the Constitution) and supporters adopted the word Tugikwateko (Let’s amend it).

Government agents and security organs manifested a high level of intolerance breaking up consultative meetings of those opposed to the amendment of the Constitution and using other crude means to silence opposing views. The media was again caught up with Police using a range of methods to disrupt coverage of groups opposed to amending the Constitution. Journalists were arrested or detained; radio stations were intimidated and some switched off for reportedly not observing minimum broadcasting standards⁵; the Uganda Communications Commission ordered that some journalists be sacked because of the way they did their work.

The last directive of 2017 came on New Year’s Eve when the Uganda Communication Commission ordered all broadcasting stations in Uganda to broadcast live the

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⁴ Both words are from the Luganda language, widely spoken in Uganda.
⁵ Minimum broadcasting standards are part of the Uganda Communications Act. They are reproduced in Annex II
President’s New Year’s speech. Subsequent chapters will detail these events and trends as evidenced by journalists caught in the line of fire as they narrate experiences.

The 2017 PFI, like those before, focuses its attention on media platforms dispensing journalistic communications. But because of the continued evolution of media technologies and use, social media inevitably attracted some focus of this Index because of the overlaps in social discourse across platforms.

Article 29 of the 1995 Uganda Constitution states that: Every person shall have the right to freedom of speech and expression which shall include freedom of the press and other media.

Article 19 of the Universal Declaration of Human Rights states:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media regardless of frontiers.

This universal human right places the individual at the centre of all discussion about freedom of the press and expression. This Index examines the enjoyment of and restrictions to this freedom starting from the individual to the collectives.

This Index, therefore, to a greater extent focuses on the adverse aspect of freedom of expression—freedom from government control and interference. In this respect, cases of abuses and threats to individual journalists and to media houses have been compiled and analysed. The 2017 Index, however, also examines the positive aspects of freedom of expression. In this case, the Index examines how far the State promotes and provides conditions for citizens to express themselves; to contribute to reasoned debate; to frame issues of national importance; to enforce policies that promote plurality of channels and of alternative views. “In this commercial system, no matter how free speech is protected, there will be many whose voices remain unheard for lack of media to express them”

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1.2 Progressives Steps Undertaken

In spite of the bleak outlook of the practicing environment, there were some achievements registered. Journalists won four cases in court, the most prominent one being the case against former Divisional Police Commander (DPC) of Wandegeya Police Station in Kampala. Mr Joram Mwesigye, a senior Police officer was found guilty of assaulting and causing actual bodily harm to Andrew Lwanga of WBS TV in 2015. Details of this and other cases are summarised in Annex I.

1.3 Methodology

The 2017 Press Freedom Index was planned and operationalised through several stages that involved data collection, investigation and verification as well as documentation and analysis. The first stage was a consultative and brainstorming session where HRNJ-Uganda, selected experts and partners to crystalize objectives to be addressed in the 2017 Index.

The next stage was to receive and document cases of abuses and violations as they were reported from different parts of the country. There are various ways through which violations and threats to media freedoms are reported. They include: a toll free line dedicated to this cause; a Facebook page; a network of field monitors that were trained for the purpose by the United Nations Office of the High Commissioner for Human Rights (UN-OHCR) and personal contacts who reach out to HRNJ-Uganda staff. In addition, HRNJ-Uganda scans both print and online media platforms for incidents of violations and abuses. Any other issues, such as laws, policies, actions and statements of any party that have potential to affect the enjoyment of media freedoms are also documented and followed up. Some of them are appended to this report at the end.

Another stage involves HRNJ-Uganda technical team posting alerts to an international subscriber base of about 2000 people and organisations engaged in human rights and media freedoms specifically. These alerts serve to inform the network of suspected violations as soon as they occur and what action is being taken.

The verification stage starts when a case is reported. Investigations are carried out, by HRNJ-Uganda field team and depending on the findings, some cases are referred
to courts of law while others that involve state agencies are forwarded to relevant government departments. All these cases and actions taken are entered into the organisation’s database for documentation.

At the end of the year, HRNJ-Uganda commissions a resource person to study the data of verified cases through a range of methods to research and compile the Press Freedom Index to highlight the threats to journalists and the media during the year.

### Methods

The main methods used included desk review of documents, analysis of alerts in the database and qualitative in-depth interviews with experts in the field of media rights, professional journalists, and victims of abuse as well as some representatives of offending organisations.

### 1.4 Objectives

The main objective of the PFI 2017 was to document and assess the state of media freedom in Uganda.

**Specific Objectives:**

1. To examine the legal policy and regulatory environment and how they impact on the media practice in Uganda;
2. To document and report on cases of violations and abuse against journalists and media houses;
3. To identify leading offenders of media freedoms with a view of holding them accountable;
4. To assess emerging trends of threats to journalistic practice and make necessary appropriate recommendations;
5. To highlight efforts taken to advance press freedom and promote a more conducive environment for journalistic practice in Uganda.
1.5 Data Management

Quantitative data captured in the organisation database was carefully constructed into variables and analysed using statistical (SPSS) program to establish occurrences and emerging patterns of abuse. The findings partly informed the qualitative interviews with leading respondents. The qualitative data was organised and discussed thematically to analyse patterns and trends; to capture moving stories of victims of abuse and to highlight salient comments and opinions of those who represent leading offending institutions.

1.6 Ethical Considerations

As much as possible, efforts were made to seek the consent of persons whose names appear in the Index. In some situations, because of the sensitivity of the responses, some names have been withheld to protect the interviewees.
CHAPTER TWO

An Examination of the Legal framework and its Impact on Media Practice in Uganda

Introduction

Uganda is party to several international and regional human rights instruments that guarantee the freedom of expression and media rights. These international standards form part of Uganda’s legal framework on freedom of expression and the attendant media rights there under. They include the following:

At the global level, United Nations Human Rights System is the Universal Declaration for Human Rights (1948); the International Covenant Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966 all collectively constituting the International Bill of Rights.

At the continental and regional level is the mother standard setter for human rights- African Charter on Human and Peoples’ Rights (ACHPR) and the progressive soft laws such as the Declaration of Principles on Freedom of Expression in Africa.

All these international and regional instruments provide for the same cherished fundamental freedoms as the Constitution of Uganda under Chapter Four-in the Bill of Rights. These are the right of freedom of expression and of the press; freedom of movement and association; right to privacy of person, property and communication among others.

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1 Uganda acceded to the ICCPR on 21st January 1987
The Uganda legal regime

The Constitution of the Republic of Uganda elaborately provides for freedom of opinion, expression and access to information. Article 29(1a) provides that everyone shall have the right to freedom of speech and expression which shall include freedom of the press and other media. Article 41(1) says that everyone shall have the right of access to information in possession of the State. Article 20 guarantees that the freedoms of expression and of access to information are inherent and not granted by the State.

These international instruments became part of the Uganda legal system when they were ratified by the legislature through acts of Parliament. As such, they should be respected just like any other law of the land. The Constitution of Uganda (1995) also contains several provisions that direct how Uganda must observe the international obligations and commitments that the country has entered since Independence in 1962.

- Article 28 (XXVIII) (b) that provides the principles on which Uganda should conduct its foreign policy. These include respect for international law and conventions that the country has subscribed to.
- Article 287 that adopted all conventions that previous government had entered with any country or international organisation since Independence Day October 9th 1962, and were still running when this Constitution came into force.
- Articles 119 (4); 123(1) 123(2) all give different perspectives on the accession to, domestication, and execution of international conventions.

It is therefore important for State actors to appreciate the international obligations on freedom of expression and the press to which Uganda has committed itself under a range of international instruments that it has domesticated.

These Constitutional provisions and international instruments discussed earlier provide the framework for the enjoyment of freedoms of expression and of the media. It is against these standards that this Index is holding violators of media freedoms accountable; that provisions of subsequent laws that limit fundamental freedoms of expression and the media are flagged and critiqued; and that recommendations for improvement are made accordingly.
2.1 Legitimate limitations to freedom of expression

While granting and guaranteeing freedoms including the freedom of expression and of the press (including other media), the Constitution of Uganda 1995 also provides for instances for limitation of the enjoyment of the prescribed rights and freedoms. According to Article 43 (1) of the Constitution of the Republic of Uganda, 1995, during the enjoyment of the rights and freedoms prescribed in the Constitution, no person shall prejudice the fundamental or other human rights and freedoms of others or the public interest. Public interest shall not permit any limitation of the enjoyment of the rights and freedoms prescribed by this Chapter beyond what is acceptable and demonstrably justifiable in a free and democratic society, or what is provided in this Constitution under Article 43 (2) (c).

Article 19, an international civil society organisation that advocates for media rights, has developed a three part test which any limitation must meet before it is considered legitimate.4

a) The limitation must be provided by the law, and not made at the whims of a State official; it should be anchored in a known law made by Parliament or any forum representing the people; must be precise and clear so that they are well understood by all. (These standards will be essential when analysing the applications of some of the recent laws related to freedom of expression).

b) There must be a legitimate aim for such limitation. The legitimate aims are respect for the rights and reputations of others, and protection of national security, public order, public health or morals.’5

c) Limitation must be made out of real necessity. Even if a limitation is in accordance with a clear law and serves a legitimate aim, it will only pass the test if it is truly necessary for the protection of that legitimate aim.

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5 Article 19 (3) of the ICCPR https://www.humanrights.gov.au/.../4-permissible-limitations-iccpr-right-freedom Accessed on 3rd March 2018
2.2 Legal provisions that limit freedoms of expression

Despite the prevalence of the above Constitutional guarantees aligned with both regional and international framework for media freedoms and freedom of expression, various laws exist that seek to extinguish the above benefits. These include;

**The Penal Code Act, Cap 120**

This basic criminal code compendium has several sections that undermine freedom of expression. It provides for a range of offences in relation to respective pieces of legislation. For instance Sections 53 and 179 criminalise defamation. Section 41 criminalises sectarian speech and forbids talk along tribal, religious, ethnic or other lines of differences among people. It thus criminalises media scrutiny of demographic imbalances in the sharing of the national resources.

Sections 49, 51 and 52 criminalise what authorities might interpret as inducing a boycott, incitement to violence and incitement to refuse or delay payment of tax. As such, this law restricts free debate on matters of public interest and undermines public affairs journalism.

**The Press and Journalist Act 2000**

This law was enacted in 1995 by the National Resistance Council that acted as the National Assembly of the Republic of Uganda then. In 2000, it was proclaimed an Act of Parliament. Its commencement on 28 July 1995 repealed the Newspaper and Publications Act Cap 305 and the Press Censorship and Correction Act Cap 306 both of which were colonial laws.

This law has many provisions that limit freedom of expression and of the media in unnecessary ways. It limits those authorised to practice journalism; it imposes requirements for journalists to register before practicing; to have an annual practicing certificate; and to register editors and forces journalists to belong to the government sanctioned National Institute of Journalists in Uganda (NIJU).  

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Other restrictive laws are listed here below.

a) The Anti-Terrorism Act 2002
c) The Uganda Broadcasting Corporation Act 2005 (Here the model used to set up and fund the national broadcaster is untenable).
d) The Public Order Management Act 2013 (POMA)
e) Regulation of Interception of Communication Act 2010
f) Presidential Election Act 2005
g) Referendum and Other Provisions Act 2005
h) Parliamentary Elections Act 2005
i) Uganda Communications Act 2013 (As amended in 2016)
j) Computer Misuse Act 2011
k) The Anti-Pornography Act 2014
l) The Official Secrets Act 1964

It is against this background that the following chapter explores ways in which laws have been used to curtail freedoms of expression and the media.

2.3 Why knowledge of the legal framework is important

Analysis of the violations in this Index shows an alarmingly high rate of violations committed by state actors. This raises questions about how much state actors know and appreciate the international, regional and national legal instruments that guarantee the freedom of expression and the attendant rights and freedoms of the press. Unfortunately, State actors including the Police and the Uganda Communications Commission, as well as many stakeholders including media owners and practitioners often are not aware of these instruments and the force they carry. As a result, State actors have continued to violate freedoms of expression and of the media while not many victims are aware of the breadth and depth of the laws that
they should invoke for their own protection. It is for this reason that this Index has highlighted these international, regional and national legal frameworks which will also serve as the benchmark for critiquing media violations in Uganda in 2017.

Indeed, democracy thrives in countries where freedoms of expression and the press are respected. This is because these freedoms enable citizens to freely hold opinion, express their views and ideas through available platforms including media platforms and to make their voices heard by the governors.
State agencies in Uganda continued to use a range of laws to curtail free freedom of expression and of the press in 2017. The Police and Uganda Communication Commission (UCC) used criminal charges to prevent journalists from writing and reporting about stories that facilitate good governance and State accountability. However, unlike in previous years when state agencies especially the Police made excessive use of criminal libel laws to arrest, charge and interrogate journalists for long periods, in 2017 the most repressive laws were the Penal Code Act, Computer Misuse Act and the Uganda Communications Act (2013) as amended in 2016. These laws are drafted in a way that is wide catching and can be invoked against anyone and many journalists could not write or follow up stories that critique government for fear of being victimised using these laws.

The Uganda Communications Commission, which is the government regulator of telecommunications and broadcasting, assumed powers of interpreting its Act in an elastic manner and largely interfering in editorial decisions of broadcast media houses and introducing a range of new dimensions of gagging the media.

The Communication Amendment Bill (2016)

On 6th April 2017, Parliament passed The Communication Amendment Bill (2016). This Bill amended Section 93(1) of the Uganda Communications Act 2013 to end the requirement for approval by Parliament before government could bring any regulations in the communication sector. HRNJ-Uganda and other stakeholders expressed concern and authored an opinion on the implications of the Communications Amendment Bill.

‘The problem with the bill is that the Minister has been given power to single-handedly control communications, which is a very sensitive sector in the country,’ HRNJ-Uganda’s Executive Director Robert Ssempala commented soon after the Bill was passed. The amended Communications Act gives extraordinary powers to the
Minister of Information, ICT and National Guidance to pass all regulations governing the communication industry in the country without parliamentary oversight.

The 19th Uganda Human Rights Commission report published in June 2017 also criticised the passing by Parliament of that amendment Bill. The Commission noted that the amendment threatened enjoyment of the fundamental freedoms guaranteed in the Constitution and that information was such an important resource which should not be tampered with without adequate consultation with the people's representatives (Parliament).

The effect of the new powers vested in the Minister of Information and ICT are now manifested in the way institutions under him, particularly UCC, apply the law in an elastic and selective way. The regulator decides which station to close; which staff of a media house should be suspended; which station should be warned; which guests must not be allowed to appear in talk shows; which media houses should have the broadcasting licence revoked, withheld or suspended.

3.1 The Rise of Arbitrary Bans, Guidelines and Directives in 2017

- UCC on many occasions warned broadcast stations and closed two media houses- Radio Hoima and Kanungu Broadcasting Services (KBS) citing breach of the minimum broadcasting standards as set forth in Section 31 and Schedule 4 of the Uganda Communications Commission Act 2013, which calls for a broadcaster to ensure any program it broadcasts is not likely to create public insecurity or violence. Public insecurity or violence is not defined in the Act making it overly broad and susceptible to abuse by the regulator.

- On May 25th 2017, UCC suspended the broadcasting license of Radio Hoima and ordered the station to close for allegedly airing sectarian content. UCC's Executive Director Godfrey Mutabazi said that UCC had received complaints concerning the radio's hosting of members of Bunyoro Kitara Reparation Agency (BUKITAREPA) who allegedly uttered sectarian statements.  

  “The Commission has reviewed the content of the aforementioned programs, and has confirmed that the statements and utterances made during the..."
programs are sectarian, and promote violence and ethnical prejudice among the public… the Commission hereby suspends your broadcasting license as further investigations continue,” Mutabazi directed.

- On October 17th 2017, UCC directed Kanungu Broadcasting Service (KBS) to suspend the station manager, Ronalds Agaba and Desmond Kyokwijuka Misairi, the host of a political programme, The Global Focus. Mutabazi said the programme was likely to cause public insecurity and violence.

  “The purpose of this letter is to inform KBS that the Commission has initiated investigations into this matter and to that end therefore, hereby orders KBS to immediately suspend the presenter, a one Ronalds Mwengare Agaba and Desmond Kyokwijuka Misairi, the radio station producer and his program aired on KBS with immediate effect as investigations are being concluded by the Commission,” said the directive from UCC.

- On October 20th 2017, UCC directed Kanungu Broadcasting Service to cease operations. This was after the alleged station’s failure to adhere to the above-mentioned directives - suspending two presenters and a political talk show, the Global Focus.

- On November 21st 2017, UCC’s Executive Director Mr. Godfrey Mutabaazi directed Mbarara based Endigito Radio to suspend a popular political programme - World Express and its host James Kasirivu. The World Express runs weekly between 2-5:30PM and is broadcast in Luganda, a local dialect. Mutabazi said that UCC had also launched investigations into the programme for the month of November.

  “The Commission in accordance with Section 29(b) of the UCC Act, directs you to submit recordings of the programme ‘World Express’ hosted and presented by a one Kasirivu ‘The Great…The commission further directs you to suspend the producer of the programme World Express as investigations are being conducted,” Mutabazi directed.

- UCC also used administrative guidelines issued to broadcast media on how they should handle especially political issues in a year that was politically charged with
campaigns for and against proposals to amend Article 102(b) of the Constitution to lift the 75 year age cap for one to stand as President. UCC also ordered a ban on live coverage of Parliamentary debate on the Age Limit proposals during which MPs fought on the floor of Parliament.

UCC’s Executive Director opined that the live broadcasts of such events on television and radio stations were “inciting the public, discriminating, stirring up hatred, promoting a culture of violence amongst the viewers and...likely to create public insecurity or violence.”

“The Commission hereby directs all broadcasters to immediately stop and refrain from broadcasting live feeds which are in breach of the minimum broadcasting standards and the best practice guidelines for electronic media coverage, reporting and broadcasting of live events,” concluded Mutabazi.

The regulator issued guidelines which barred broadcast stations from hosting on their talk-shows MPs who had been expelled temporarily from Parliament following the brawl where they disrupted attempts by a private member to table a motion seeking leave of Parliament to present the Bill for amending the Constitution to remove the 75 year age limit for a presidential candidate. Critics of the proposed amendment argued that they were intended to benefit the incumbent President. Those who supported the lifting of the age limit say that Article 102(b) was discriminatory in nature as it segregated against persons who would otherwise still have the ability and the will to serve even at that age, like it happens in many countries.

During the country-wide strike by medical workers, television stations showed pictures of helpless patients abandoned in public hospitals while others discharged themselves for lack of doctors. Even the intervention by military
doctors sent in to help was a drop in the ocean of demand. UCC issued guidelines to television stations not to give live coverage to events related to the medical workers’ strike.

Medical workers, under their union the Uganda Medical and Dental Association, demanded a hefty pay rise and improvement in working conditions. Their demands followed a decision by government to pay each MP Shs 20 million to facilitate consultations with constituents on the Age Limit Bill. Medical workers and a cross section of people, civil society and the Opposition criticised the payment as a bribe and accused government of misusing public funds to buy favours instead of providing basic medical needs. At first, the government used threats and intimidation to break the strike but it failed. As the situation deteriorated in public health facilities, Government came under intense pressure to negotiate with the medical staff leaders which ended in promises of substantial pay increases and a commitment by government to provide necessary equipment and medicines to public hospitals.

- At the close of 2017, UCC ordered all radio and TV stations across the country (270 radio stations and about 100 TV stations) to broadcast live the New Year’s address to the nation by President Yoweri Museveni. Already, all private radio stations have to provide one free hour a week during prime time for government information and public interest issues. There is a public broadcaster (Uganda Broadcasting Corporation) which has three TV channels (UBC, Star TV and Magic) as well as a string of FM radio stations covering much of Uganda.

Three fundamental arguments arise here. First, under the new power given to the Minister of ICT and National Guidance by the Uganda Communications Amendment Act (2016), UCC should not usurp the editorial independence of media houses on what to broadcast and not to air and also direct people’s intelligence to decide what is right and wrong. Secondly, for the sake of good governance and accountability the regulator of the technical side of communications should not be the one to also regulate the content, especially of the press and other media. Thirdly, UCC is acting ultra vires to order media houses to suspend their employees.

The Index presents cases that have been reported and documented by HRNJ-Uganda. But there are many other violations that broadcast media houses decide to keep under wraps out of fear of UCC.
3.2 The Computer Misuse Act (2011)

The Computer Misuse Act (CMA) came into force in February 2011 with the following objectives:

- To provide for the safety and security of electronic transactions and information systems.
- To prevent unlawful access, abuse or misuse of information systems including computers.
- To make provisions for securing the conduct of electronic transactions in a trustworthy electronic environment.

As much as the spirit of the law is to provide for a safe and secure environment for proper use of the electronic systems, there are many provisions that are broad and vague and can lead to abuse and limitations of freedoms of expression and of the media at a time when the use of information and telecommunications technologies has become the foundation of most modern business transactions including the business of the media.

HRNJ-Uganda made an analysis of the potential threats that might arise from the CMA 2011. The highlights of that analysis were that in spite of government efforts to provide for policies, laws and structures for the expansion of the use of ICT countrywide, the laws in place do not fully conform to the stated intention of the government.\(^8\)

**Critique of the CMA 2011**

HRNJ-Uganda noted that CMA 2011 poses imminent danger to free access to information; the right of privacy; freedom of expression among others. Secondly, CMA 2011 contains vague, imprecise, sweeping, broad and confusing provisions that have potential to affect the enjoyment of freedoms. International standards on human rights demand that while the State can limit enjoyment of freedoms, those limitations should be narrowly defined and should conform to international standards to which Uganda is a party. HRNJ-Uganda notes that CMA 2011 falls short on those standards.

Thirdly, CMA 2011 indulges in unnecessary limitation and criminalisation of access to

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\(^8\) Analysis of the Computer Misuse Act 2011, Human Rights Network for Journalists-Uganda
information. In this way, CMA 2011 goes against the spirit and letter of various local and international laws. These include, Article 41 of the Constitution of the Republic of Uganda that provides for freedom of access to information in possession of government; Article 42 of the same Constitution that allows Parliament to enact laws on access to information; Article 19 of the Universal Declaration of Human Rights; Article 19 of the International Covenant on Civil and People’s Rights which offers guidelines on access to information and circumstances under which information in possession of governments can be accessed.

Fourthly, CMA 2011 infringes on the right of freedom to privacy. Article 27 of the Constitution of the Republic of Uganda guarantees the right to privacy of person, home, property, correspondence and communication. Article 12 of UDHR also emphasises this right to privacy.

This right gets added attention in the internet era in that it includes both the individual’s right to a zone of autonomy within a private sphere such as a home, but also with respect to personal choices within the public sphere. The internet, many will agree, has become a much cherished public sphere where a plethora of ideas, discussions, and information sharing take place. But the internet also provides for private spheres depending on the user’s choices. Sections 9, 10, 11 of CMA 2011 pose serious threats to the right to privacy.

Fifth, CMA 2011 contains vague and ambiguous sections. The definition of a computer is broad and vague and this makes every computer in a government office inaccessible. This vagueness complicates access to information in possession of government and makes scrutiny of government business difficult.

Sixth, Section 24 of CMA 2011 creates the offence of cyber harassment. Section 25 criminalizes communications that “disturb or attempts to disturb” the peace and quiet of any person with no “purpose of legitimate” communication. The section is ambiguous and creates room for misinterpretation.

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9 These sections refer to unlimited powers the Act gives to an investigative officer to access data stored on a person’s computer including personal details for purposes of criminal investigation or prosecution of an offence.
3.3 How the Computer Misuse Act was applied in 2017

The focus of this Index is news media platforms that dispense journalistic communication. That notwithstanding, this section starts by considering the case of Dr Stella Nyanzi, a Makerere University researcher and a human rights activist who was in April 2017 charged with cyber harassment against President Yoweri Museveni. She was charged under the Computer Misuse Act 2011 for authoring a sharp critique of the President and his wife, who is also Minister of Education. The critique posted on her Facebook page dwelt on government failure to provide sanitary pads to school girls contrary to an election promise the President had earlier made during an elections campaign. The criticism by Stella Nyanzi was deemed to be offensive to the President and in breach of his right of peace and privacy. She was remanded in prison and at one time prosecutors wanted to subject her to a psychiatric examination.

The Stella Nyanzi case raised the spectre of potential threats to use of social media especially for journalistic communication. Many journalists now have a presence both in their traditional platforms and on social media. The following incidents were to follow, this time involving journalists and media houses:

a) The Inspector General of Police, Gen. Kale Kayihura challenged in court a publication by the Red Pepper and two online outlets- The Investigator and Chimp Reports on the murder of Assistant Inspector General of Police Andrew
Felix Kaweesi. The IGP argued that the publications were prejudicial to police investigations into the murder and posed a threat to national security. Court ordered the media outlets to stop reporting on the murder. CMA 2011 was invoked to gag the media outlets on grounds of national security.

b) On 19th June 2017, Red Pepper editor Ben Byarabaha was summoned by Police and subjected to long hours of interrogation over a story published in the Red Pepper titled, ‘Kayihura rushed to India.’ The story alleged that the IGP had been flown to India for medical attention. Police charged him under Section 179 of the Penal Code Act and Section 25 of the CMA 2011 for disturbing the peace and privacy of the IGP.

c) On 6th October 2017, Charles Odoobo Bichachi, Executive Editor of the Daily Monitor and Red Pepper’s Deputy News Editor Richard Kintu were summoned to Police and subjected to hours of interrogation. They were charged with offensive communication over stories that related to the Age Limit debate that were ongoing in the country at the time. The Monitor’s story was titled, ‘Age Limit budget for 23-man team leaks.’
d) At the end of July 2017, Richard Kayiira, an editor with Bukedde TV and Bukedde newspaper, was summoned and subjected to intensive interrogation over stories related to the absence of the IGP and his alleged appearance in Turkey. The editor was charged with offensive communication and disturbing the peace and privacy of the IGP. He was told to report to Police every week as they investigated his case.

e) On 1st November 2017, Felix Osike, Vision Group weekend editor, was summoned to Police Media Crimes Unit over a story that appeared in Saturday Vision on 28th October 2017. The story was titled ‘Kayihura security beefed up.’ Police said the IGP had been so disturbed and they therefore charged Osike with offensive communication and disturbing the peace and privacy of the IGP. All the journalists summoned insisted that their stories had been thoroughly verified and were balanced.

f) On 1st November 2017, Police detained two editors of an online publication, the Investigator Stanley Ndawula and Robert Ndawula on charges related to offensive communication. They were held for several days until court ordered the Police to either charge them in court or to release them. They were later released on bail.
The more serious concern with CMA 2011 is the chilling effect it has on journalists and media houses leading to increased fear of communicating via the computer and social media hence leading to self-censorship.

Felix Osike, weekend editor with the Vision Group English newspapers, comments on the ordeal he underwent during Police interrogations:

“I have to keep reporting to the Police even now. The charges were ambiguous… the Police was exploiting the vagueness in the laws. They are interested in keeping the concerned journalists off their desks and to keep them busy thinking about the charges. It is not healthy for the media. You feel intimidated. You do not know what the outcome will be. It forces you to be cautious especially if you are writing or handling investigative stories.”

Osike adds, “It has a chilling effect on the media generally. Imagine I am editor. What happens to an ordinary reporter? But when we have the facts, we shall always hold leaders accountable whenever they are involved in things that go against the law. These threats by the Police have not weakened us as a newspaper and they will not divert us.”

The use of the laws to curtail freedom of expression also violates a cardinal role of journalism to monitor government and its agents. It prevents journalists from making legitimate and fair comment about leaders and matters of public interest on behalf of the citizenry. In the case of the IGP, as a public figure commanding the entire Police force, he is subject of immense public interest and it is only legitimate that he is always subject of media interest and scrutiny because he holds a public office. That is the reason that ‘public interest and fair comment’ are permissible defences against such charges. Richard Kayiira, Bukedde TV and newspaper editor narrates his ordeal at the hands of the Police:
“I was summoned at the end of July to report to the CID headquarters at Kibuli Police Barracks for interrogation in connection with a story that the Bukedde had published. The story was a follow-up to an earlier Police press briefing where the Police dismissed reports on social media that the Inspector General of Police (IGP) Kale Kayihura was ill and had been flown out of the country for medical treatment.”

The IGP had not been seen in public for some time prompting public speculation on his state of health. Police said that the IGP was in Turkey on official business. Bukedde Newspaper moved the story forward by calling Uganda's ambassador to Turkey to confirm the presence of the IGP in that country. The ambassador categorically denied knowledge of the IGP’s alleged trip to Turkey and Bukedde Newspaper platforms published that new angle to the story contrasting it with the Police report. Kayiira adds,
“I reported accompanied by the company lawyer. I spent the whole day subjected to intense interrogation during which the Police wanted to know the motive of the story we had published that rubbish the Police account. ‘What motivated you to telephone Turkey? They asked. I was released on Police bond in the evening but told to report every week. I still report there. As of today March 9th 2018 I have reported 15 times and every week they only tell me the file is between the CID and the DPP. The bond is extended and I wait for the following week to report again. But they do not have a case because we have all the facts.” It is traumatising. You start getting scared and to imagine that if I published more of these stories, I would spend most of the year reporting to Police. Each day you report is a wasted day. You spend long hours there answering questions or waiting for the investigating officer if he is out of office. It is psychological torture. You do not know if you will come back or you will be dragged to court. The family gets worried and at times family members plead with you to get off ‘those stories that government people do not want.”

The raid on Red Pepper Group and arrest of editors

The Computer Misuse Act was again to feature prominently in the closure of the Red Pepper and arrest of its directors and editors later in the year.

On Tuesday 21st November 2017, Police raided the Red Pepper publications, cordoned off the premises and took hostage all its staff within the premises, releasing them later in the night after searching them and confiscating their cell phones and other work tools. Five Directors and three Editors were arrested, their homes searched and later detained at the highly feared Nalufenya detention center, a place known for detaining hardcore criminals and notorious for gruesome torture. The Directors in detention include, Arinaitwe Rugyendo, Patrick Mugumya, Johnson Musinguzi, Richard Tusiime and James Mujuni, and editors; Ben Byarabaha (Managing Editor), Richard Kintu (News Editor) and Francis Tumusiime (News Editor). Red Pepper premises have remained
CRITICAL JOURNALISM UNDER ATTACK

shut down since 21st November, 2017, hence foiling the publication of The Red Pepper Newspaper, and sister publications of Kamunye, Entasi Weekly Newspaper and Red Pepper Online issue.

Soon after, a treason charge, which carries a possible seven-year jail term, was lodged against them. The controversial article, published November 20, said that President Museveni was plotting to overthrow his Rwandan counterpart Paul Kagame. The story also mentioned the President’s brother General Salim Saleh (Caleb Akandwanaho) and the then Security Minister General Henry Tumukunde as involved in the alleged plot.

HRNJ-Uganda condemned the raid and the arrest of the journalists and shutdown of the production premises. “The amount of force applied is disproportionate, harsh and unprecedented. This constitutes economic sabotage to the media house,” said a statement from HRNJ-Uganda on the raid.

Prior to the media siege, a meeting was held between the line minister and the Red Pepper management and a consensus was reached including having the minister write a rebuttal to the published story. The Red Pepper was, however, raided on the
same day in the evening before the rebuttal was published.

The following Monday, the Red Pepper Directors and Editors were brought from Nalufenya, taken to St. Francis hospital for medical check-up and later taken to the Red Pepper premises where they were subjected to hours of interrogation. The same day, the directors and editors were charged with publication of a news story prejudicial to national security and which defamed President Museveni, his brother Gen. Salim Saleh and Security Minister Lt. Gen Henry Tumukunde.

They were also charged with the use of computers and other electronic system to publish information that portrayed Museveni, Saleh and Tumukunde as if they are planning to overthrow Kagame. Prosecutors argue that the report subjected the three to ridicule, contempt and hatred. The charge of treason was dropped.

After 29 days of incarceration, the directors and editors were, in absentia, granted Shs 20 million cash bail by Buganda road court Chief Magistrate, James Mawanda Ereemye.

It is not the first time Red Pepper was closed. In May 2013, security closed Red Pepper and Daily Monitor offices for nearly a month over a controversial document written by former Coordinator of Intelligence Services, Gen David Sejusa.
3.4 The state of Internet freedoms and media practice

The Internet is increasingly becoming a powerful tool of communication for millions of Ugandans. In 2017, statistics put the internet user population in Uganda at 16 million people representing 41% of the national population. Almost all media houses and media organisations have a web presence where they and their journalists extend communication and conversations to websites and social media platforms such as Facebook, Twitter, WhatsApp, YouTube among others. Many journalists also manage blogs to extend personal journalistic expression.

The year 2017 has been assessed in two ways. In the first place, some assessments have noted slight improvements in the internet freedoms based on vibrant civil society activism on digital rights issues and the absence of deliberate mobile or fixed internet networks disruptions as opposed to 2016.

But it should also be noted that with respect to freedoms for internet users involved in dispensing journalistic communication, there are real threats that arise from the cyber legal environment. This chapter has elaborated on the Computer Misuse Act 2011 and the Uganda Communication Act as amended in 2016. There are other laws that remain in place to regulate cyber activity. Indeed some of these are positively meant to improve the internet environment and they contain many positive aspects. However, there are many ambiguous and broadly expressed provisions that pose potential threat to freedom of expression especially for journalists. Below is a summary of the other laws that govern the cyber environment in Uganda.

a) The Anti-terrorism Act 2002

b) The National Information Technology Act

c) The Regulation of Interception of Communication Act 2010. It provides for lawful interception and monitoring of communications in the course of their transmission through a telecommunication, postal or any other related service or system. Section 3 provides for the establishment of a monitoring centre under the oversight of a minister.

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d) The Anti-pornography Act

e) The Draft Data Protection and Privacy Bill 2014. This Bill is at the stage of public consultations and has not yet been returned to Parliament for passing. It is a progressive law intended to provide avenues for protection and privacy of data and internet users.

The biggest threats to freedoms of expression and of the press came from the Uganda Communication Act 2016, the Computer Misuse Act 2011 as outlined earlier and from the Regulation of Interception of Communication Act (RICA) 2010. Osike explains,

‘When you look at the media as a whole, this RICA 2010 is the biggest threat to freedom of expression. It has been used to monitor and record conversations of journalists and their sources. It is an intrusion on privacy contrary to Article 29 of the Constitution, which provides for freedom of expression and speech. Police and security agencies use it very much and we are aware of this fact. It is a real threat. So journalists have to be extra careful when they contact sources.’

These laws combined have impacted negatively on the media in general because they are broad and vague and they can be stretched anytime to serve any intended purpose lawful or otherwise. Use of a mobile phone to speak to a source can be interpreted as misuse of a computer because of the vague definition of a computer in the CMA 2011. Worse still, such conversation can be monitored under the RICA 2010. The net effect has been increased fear among journalists and a drastic reduction in critical journalism and a retreat among many media houses into safe journalism genres such as plain information and entertainment.
3.5 Dumbing down by leading media

A producer with a leading radio station explained why most pioneer stations did not report violations by state agents against their journalists in 2017. This is what he had to say.

‘For major media houses, UCC or security officers just call the owners and caution them against allowing their staff to engage in ‘offensive communication’ which is seen to be critical of government. They even call for a meeting at your offices and they come with a powerful delegation that intimidates management. They warn of dire consequences of non-compliance. Management has little option but to disallow content that is deemed to be critical of government. At other times, a telephone call to the media owners is enough to force consent.’

For journalistic practice, therefore, the violations against freedom of expression be latent and never reported. They are mainly manifest in the general dumbing down on critical voices across media houses and media platforms.
CHAPTER FOUR

Human Rights Violations and Abuses Against Journalists and Media Houses in 2017

Introduction

The main objective of the PFI 2017 was to document the state of media freedom and freedom of expression in Uganda in 2017. More specifically, one of the objectives was to expose cases of violations and abuse against journalists and media houses as reported to HRNJ-Uganda over the year. It should be noted that there could be other human rights violations and abuses which were never reported and as such those are not indexed here. At least 113 cases of violations and abuses were reported in 2017, down from 135 incidents documented in 2016. These abuses are broken down in the following categories:

Figure 1 Type and frequency of violations

- Switched off: 2
- Suspension: 4
- Police Charge: 8
- Other Threat: 3
- Kidnap: 1
- Death Threat: 1
- Damage to Equipment: 7
- Closed Media House: 1
- Break-ins: 3
- Assault: 27
- Arrest/Detained: 45
- Access Blocked: 11
Arrests and detention of journalists were the most prevalent abuses reported against journalists with 45 cases followed by assault with 27 cases reported. The abuse of blocking journalists from accessing news locations came in the third place with 11 cases reported while incidents of malicious damage to journalists’ equipment came in fourth place with ten cases registered. There were also very serious violations, but fewer in number. These included two cases each of switching off radio stations on the orders of the Uganda Communications Commission (UCC) and of breaking into media houses; four cases each of threatening violence against journalists and of journalists suspended from work, again on orders of UCC; and one case each of issuing a death threat and of kidnap and of a media house being closed.

### 4.1 Perpetrators of acts of violence

#### Figure 2 Institutions Where Perpetrators Belong

<table>
<thead>
<tr>
<th>Institution</th>
<th>Cases</th>
</tr>
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<tbody>
<tr>
<td>UPDF</td>
<td>3</td>
</tr>
<tr>
<td>UNRA</td>
<td>2</td>
</tr>
<tr>
<td>Unknown</td>
<td>4</td>
</tr>
<tr>
<td>Uganda Police</td>
<td>83</td>
</tr>
<tr>
<td>UCC</td>
<td>6</td>
</tr>
<tr>
<td>Private Security</td>
<td>3</td>
</tr>
<tr>
<td>Parliament</td>
<td>3</td>
</tr>
<tr>
<td>Mob</td>
<td>1</td>
</tr>
<tr>
<td>Media House Management</td>
<td>1</td>
</tr>
<tr>
<td>Judiciary</td>
<td>4</td>
</tr>
<tr>
<td>Community</td>
<td>3</td>
</tr>
</tbody>
</table>

The Uganda Police Force was the leading violator of media freedoms accounting for 83 cases out of 113 (73%). UCC came a distant second with six reported cases (5.3%) while the Judiciary was in third position with four reported cases (3.5%) tying with Unknown violators who also accounted for four cases. Private security companies were in fourth position with three reported cases (2.6%).
Although violations by the Police fell below the levels of the previous two years (See Table 2), Police still remained the leading violator for the ninth year running. Outstanding violations by the Police include 45 cases of arrests and detention of journalists on duty; 21 incidents of assault and seven incidents of malicious damage to journalists’ equipment including cameras and recorders while they were out on duty among others. In some cases, Police committed violations working/along with crime preventers.15

Judiciary

The Judiciary is mainly accused of blocking journalists from accessing court sessions in July 2017 to report on a case where a city lawyer Hassan Male Mabirizi had sued the Kabaka (king) of Buganda and his administration for ordering tenants on the king’s 350 square miles of land to register for lease titles under a promotion campaign popularly referred to as kyapa mu ngalo. (Have your land title in hand).

15 Crime Preventers are civilians recruited by then IGP Kale Kayihura in the run-up to the 2016 general elections to work with Police in preventing election related crimes. Their legal status remains vague and at one time Police administration disowned them.
The judge hearing the case blocked several journalists from covering court sessions arguing that the media had manifested bias in their reporting of the case.

Although courts may for some reason—often on grounds of indiscipline, national security matters or need for privacy of certain individuals—order the removal of persons from court, it is a violation of the Constitutional right of Ugandans to have access to information held by government and its agencies.\textsuperscript{16} Moreover, courts and parliament have traditionally been the leading privileged arenas where journalists had considerable latitude to report as events happen.

The rationale for the Freedom of Access to Information enabling laws and guidelines is that it has the ability of that information reaching mass audiences. Information can only hold currency in society only when it can be accessed. The media are just vessels for that information and they should not be blocked, especially by institutions of justice.

On 21\textsuperscript{st} April 2017, court ordered journalists and media houses to refrain from publishing any news about the murder and investigations of the former Uganda Police Force Spokesperson, Assistant Inspector General of Police, Andrew Felix Kaweesi.

The ex-parte interim order was granted by the High Court Civil Division Deputy Registrar, Joy Kabagye Bahinguza in the presence of State Attorney, Geoffrey Madete. This followed a request by the Inspector General of Police Gen. Kale Kayihura in sworn affidavits where he argued that ‘the continued coverage of Kaweesi’s murder investigations was “injurious to the investigations underway, national security and prejudicial to the workings of the security agencies of Uganda.’

Kaweesi was gunned down on 17\textsuperscript{th} March, 2017 with his driver, Godfrey Mambewa and bodyguard Kenneth Erau, by unknown gunmen. The late Kaweesi was leaving his home in Kkulambiro, a Kampala suburb.

The implicated online media outlets include The Investigator, Chimp Reports Media, The Ugandan, and the print and online versions of the Red Pepper Publications, along with their respective owners and the chief news editors. The proprietors named in this case include Stanley Ndawula of The Investigator, Giles Muhame of Chimp Reports and Dickson Kagurusi of The Ugandan, along with their respective individual editors and editors- in-chief.

The role of the media is to provide information and also to stimulate informed debate over issues of public interest and security agencies should not use courts to curtail freedom of expression and of the media especially in discussion of matters of public interest.

**The Uganda Communications Commission**

The Uganda Communications Commission (UCC) had six cases of violations reported. These included ordering the suspension by radio station owners of four journalists in cases related to alleged non-observance of minimum broadcasting standards. Two other cases involved UCC closing two radio stations. The moves by UCC have become more disturbing especially the way it applies the powers provided under the law in an increasingly elastic fashion. A separate section in this Index discusses the application of laws and administrative instruments by UCC as a new worrying trend to curtail media freedoms.
Private Security Firms

Cases of abuse of journalists by individuals from private security firms are equally disturbing. Three cases involved malicious damage to equipment and one case of assault. In one incident, guards at Qualicell Bus Terminal in Kampala beat up a journalist who was on duty reporting about an incident there. The guards also damaged the journalist’s cameras.

Unknown attackers

HRNJ-Uganda received four complaints where journalists were attacked by unknown people. One quite frightening incident involved a female journalist working with NTV in Kampala. The journalist was picked up by unknown people who were trailing her from a car along Nile Avenue in Kampala while on her way to NTV offices on the same street, one of the safest places situate in upper class zone of Kampala.

Gertrude Uwitware, who covers health issues for Nation Television (NTV), was on 8th April kidnapped by a man and a woman who forced her to get into their car at gunpoint. After gagging her, they drove her to an isolated spot several kilometres outside the city, where they tortured her.

Suspicious Burglary at the Observer Newspaper

In another high profile attack on media, on April 1st 2017, unknown people broke into the offices of the Observer Newspaper at Plot 1Tagore Crescent, Kamwokya in Kampala and made away with vital equipment and information. The security guard on duty was missing and his gun was found abandoned within the premises.

“Eighteen computers –some belonging to the editors, marketing executives and reporters, flash discs, a camera lens, cell phone, internet modem, and some confidential information and materials were stolen by the attackers. They also took a couple of news stories which were being worked on at the time. All drawers in the newsroom and marketing room were broken.” Tumusiime said.
The break-in at the Observer was the latest in attacks on independent media and civil society organisations over the last three years. Human rights activists suspect the attacks are deliberate and meant to cripple critical voices and to access vital information.

There was reduced number of violations from the Uganda Prisons Services, Members of Parliament, and from ordinary members of the community.

Gender and category of journalists offended

In 2017, the gender percentages for reported cases of journalists offended were slightly lower than in 2016. 12% of females and 83% of males faced attacks in 2017 up from 12% and 88% respectively the previous year.

The figures show that women have maintained a presence on the front line of journalism especially with radio and television reporting. But violence against female journalists took an uglier turn in 2017 with the kidnapping of one of them as described above. In another incident, several female journalists were brutalised by Police while covering a fire break out at Katwe Police residential quarters in Kampala. In all cases, perpetrators were never apprehended.
<table>
<thead>
<tr>
<th>NAME</th>
<th>MEDIA HOUSE</th>
<th>DETAIL OF VIOLATION/ABUSE</th>
<th>DISTRICT</th>
<th>PERPETRATOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Name with held</td>
<td>Bukedde TV</td>
<td>Arrested covering opposition politician</td>
<td>Kampala</td>
</tr>
<tr>
<td>2</td>
<td>Name with held</td>
<td>NBS TV</td>
<td>Assaulted by Officer in Charge Station, Bushenyi Police Station. Her camera was confiscated and the stand destroyed.</td>
<td>Bushenyi</td>
</tr>
<tr>
<td>3</td>
<td>Name with held</td>
<td>NTV</td>
<td>Kidnapped, tortured and later dumped outside Kampala</td>
<td>Kampala</td>
</tr>
<tr>
<td>4</td>
<td>Name with held</td>
<td>New Vision</td>
<td>Arrested while covering opposition political party Democratic Party meeting in Lukaya, a Kampala Suburb.</td>
<td>Kalungu (Central Region)</td>
</tr>
<tr>
<td>5</td>
<td>Name with held</td>
<td>The Observer</td>
<td>Blocked from recording at Parliament</td>
<td>Kampala</td>
</tr>
<tr>
<td>6</td>
<td>Name with held</td>
<td>Open Gate FM</td>
<td>Arrested, charged with defamation and sectarianism</td>
<td>Mbale</td>
</tr>
<tr>
<td>7</td>
<td>Name with held</td>
<td>NBS TV</td>
<td>Blocked from covering Kabaka land case</td>
<td>Kampala</td>
</tr>
<tr>
<td>8</td>
<td>Name with held</td>
<td>Urban TV</td>
<td>Blocked from covering Kabaka land case</td>
<td>Kampala</td>
</tr>
<tr>
<td>9</td>
<td>Name with held</td>
<td>Kingdom TV</td>
<td>Brutalized by Police while covering fire break out at Police quarters</td>
<td>Kampala</td>
</tr>
<tr>
<td>10</td>
<td>Name with held</td>
<td>Daily Monitor</td>
<td>Brutalized by Police while covering fire out break at Police quarters</td>
<td>Kampala</td>
</tr>
<tr>
<td>11</td>
<td>Name with held</td>
<td>Delta TV</td>
<td>Brutalized by Police while covering fire outbreak at Police quarters</td>
<td>Kampala</td>
</tr>
<tr>
<td>12</td>
<td>Name with held</td>
<td>URN</td>
<td>Assaulted while covering opposition Age Limit meeting</td>
<td>Soroti</td>
</tr>
<tr>
<td>13</td>
<td>Name with held</td>
<td>Nenah FM</td>
<td>Sacked after complaining of sexual harassment</td>
<td>Moroto</td>
</tr>
</tbody>
</table>
Category of victims

The bulk of victims of violence were field reporters accounting for 89 cases of all incidents. 12 cases of editors were indexed reflecting nearly 11% of all violations. The editors in question included a number from the Red Pepper Group.

Figure 3 Category of Victim Of Violence

Media Houses and Media Platforms

Table 4 Media Houses That Suffered Violations and Abuses
HRNJ-Uganda recorded violations against journalists from 37 media houses; many of them broadcast stations or media groups with broadcasting outlets. The table below illustrates the media houses that were affected by the violations.

Figure 3.4 above also presents some interesting observations. First, the victim media houses are from the traditional multi-platform groups such as the Vision Group, Nation Media Group and the Red Pepper Group or from one of many new broadcast or online stations. Second, the pioneers in private broadcasting when airwaves were liberalised in 1992 have not reported cases of abuse. These pioneers (with exception of CBS) include Capital Radio, Radio One, Sanyu Radio, Radio Simba, Super FM, Voice of Tooro etc. Thirdly, private religious broadcast stations owned by traditional religious institutions such as the Catholic and Anglican churches did not report cases of violations. These observations beg further examination on whether the traditional private channels are more professional or they have learned to be more conformist, and not to risk activities that might provoke a government backlash that might injure their business.

In terms of media platforms to which the offended journalists report, data shows that television stations suffered most at hands of media offenders (Fig 3.5). Attacks on TV journalists accounted for 39% followed by the print media at 31%; radio at 22% and online platforms at 8%.

**Figure 5 Share of violations and abuses by media platforms**

![Pie chart showing the distribution of violations and abuses by media platforms: 39% TV, 31% Print, 22% Radio, 8% Online]
Broadcasting has become more competitive in Uganda with over 40 television channels operational since the migration to digital broadcasting a few years ago. The TV business success revolves around innovative, aggressive and informative news bulletins with news on the hour backed up by prime time bulletins. Television is becoming the premier platform for visualised breaking news and that is where the battles of audience leadership are fought. The main English TV news channels—NTV of the Nation Media Group and NBS reported violence against their staff as did leading Luganda local language stations Bukedde TV of the Vision Group and Buganda Broadcasting Services (BBS TV) owned by the Buganda Kingdom. Several other newer privately owned TV stations also reported violations against their staff, although to a lesser frequency.

One station, ABS TV which is owned by a city pastor was temporarily switched off after the regulator accused it of breaching minimum broadcasting standards by airing what was termed as ‘indecent’ material. The closure followed procedures of warning letters to station’s management.

Newspapers came in second place in the number of violations reported. The New Vision newspaper topped with 11 violations suffered followed by the Red Pepper (8), the Daily Monitor (6) and The Observer (3) which suffered a break-into their offices during which the newspaper lost many computers and important documents.

Radio as a platform came in third place although majority of radio stations reported not more than two cases of violation against their staffs. It should be noted that on two occasions, UCC closed radio stations and often warned broadcast stations through what they called ‘guidelines’ against breaching the said minimum standards.

In October, UCC closed KBS radio accusing it of breach of the minimum broadcasting standards as set forth in section 31 and schedule 4 of the Uganda Communications Commission Act 2013, which calls for a broadcaster to ensure any program it broadcasts is not likely to create public insecurity or violence.

The KBS Radio Director, Charles Byaruhanga said “UCC did not tell us the exact reason for the closure. They alleged that we breached broadcasting standards, but when we asked them the exact problem, they did not tell us.” Byaruhanga told HRNJ-Uganda. It was closed a day after it hosted former opposition leader of the Forum for
Democratic Change party, Retired Col. Dr. Kizza Besigye, who at the time of the radio closure, was detained at Naggalama Police Station on claims of holding an illegal assembly in Western Uganda. UCC also instructed KBS management to suspend two of its staff including the Station manager Ronald Agaba also known as Mwene Ngaro and Desmond Kyokwijuka Misairi. The main violations suffered across platforms were arrests, assault and damage to equipment.

Regional Distribution of Abuses

Figure 6 Percentage Distribution Of Abuses By Region
The Northern Region is divided into West Nile, Northern Proper and North Eastern sub regions

Nearly half (47%) of all abuses occurred in Kampala District which is also the Capital City (see Figure 6). The Central region recorded the second highest number accounting for 21.6%. The districts most affected in this region were Wakiso, which surrounds Kampala, Mukono and Masaka in the south west of the region. The eastern region came third at 10% with incidents reported in Jinja and Mbale districts and the western region followed closely accounting for 9% of abuses. The northern region came fifth with 6% of cases while West Nile region suffered the least abuses reporting less than 1%.

The contexts of the abuses

As Figure 7 below shows, 39 (35%) of violations and abuses against journalists occurred during meetings convened by members of the Opposition to discuss proposals to amend Article 102(b) of the Constitution to lift the age limit of 75 years at which a person cannot stand for office of the President. This proposal was controversial in that it was brought as a private member’s bill, which the government decided to support and to force through Parliament. The proposal generated countrywide debate and considerable opposition from a cross section of the public.

Figure 7 contexts in which abuses occurred
In Parliament itself, opposition started early and at one moment it degenerated into nasty physical fight and throwing of chairs as the Opposition members attempted to disrupt Parliament business to prevent a private member of the ruling National Resistance Movement to table the motion seeking approval of Parliament to debate the Constitutional amendment. Elite members of the Special Forces Group (SFG) raided Parliament to arrest the protesting members of the Opposition.

Eventually, the motion was tabled and with the majority NRM members, Parliament allowed for the motion to be debated. A Bill to that effect was also presented to the Legal and Parliamentary Affairs committee after which MPs retreated for consultations with their constituents.

Several developments characterised these consultative meetings with many ending in attacks on freedoms of expression and curtailment of media rights and freedoms. First, each MP was given Shs20 million to facilitate the meetings. Several opposition MPs rejected the money which they described as a bribe. Secondly, Police issued directives barring MPs from mobilising outside their constituencies. This followed a strategy by Opposition MPs to mount joint rallies to gather people against supporting the proposed amendments in a campaign termed Togikwato (Do not tamper with
Police disrupted many meetings organised by the Opposition and it was during these meetings that many journalists were arrested, assaulted and their equipment vandalised.

One such journalists included Siraje Kiberu of Kingdom TV who was badly beaten at Nsambya, in Kampala. He told HNRJ-Uganda that,

‘I was standing at the reception only to be beaten by a police officer, he boxed me in the stomach and I fell down, I stood up immediately and got out but he followed me up and continued beating me up’

Oguzu Alua Ronald of the New Vision was attacked and beaten by locals in Arua while on duty and lost his four front teeth. Oguzu, was manhandled, arrested and beaten by residents of Obbi Village, Nyio Parish, Vurra Sub County in Arua District while covering a reconciliatory meeting that had been called to help resolve land wrangles between two rivalling families- John Ondia Yosiya and Nabutu Yosiya’s family.

*Ronald Aguzu a journalist from Arua District who lost four front teeth after he was assaulted.*
In Lira town, the District Police Commander ordered the arrest of three journalists who were covering a political meeting by a group which was campaigning against the proposed amendments to remove the age-limit for holding the office of President (Age Limit Removal Bill). These journalists were Dennis Engena, a correspondent of NBS Television, Otwii Isaac of Daily Monitor and Robert Kalibongo of Unity Fm. They were manhandled, arrested and beaten by police officers and the District Internal Security Officer (DISO) of Lira District on the 26th September 2017. Apart from the meeting, there was a group of youths protesting against the amendment Bill on Oyite Ojok lane in Lira town. Their attempt to file a case of assault at police was failed by police officers.

Elsewhere, George William Tamale and Titus Jjemba both of BBS; Lawrence Kyambadde from SALT TV; Ronnie Bulegeya from Dream TV and Nelson Akatuhurira of B24 TV were arrested and detained at Wandegeya Police station in Kampala while they covered meetings of groups opposed to the Age-limit Removal Bill. In other locations in Kampala, Police sprayed pepper on journalists who were covering these meetings in order to violently disperse them.
In Mbale, a number of journalists from various media houses were also arrested for covering opposition meetings inspite of the fact that these meetings were legal and required consultative process before Parliament could vote on the matter.

All this happened against the background of elaborate provisions in Uganda laws and the Constitution on freedom of opinion, freedom of expression and access to information.

- According to Article 29(1a) of the Constitution, “everyone shall have the right to freedom of speech and expression which shall include freedom of the press and other media.”

- According to Article 41(1) “Every citizen has the right of access to information in the possession of the State or any other agency of the State”

Therefore, for state actors particularly the Police to prevent enjoyment of these freedoms and blocking journalists from accessing news events and sites is a gross violation of the fundamental provisions of the Bill of Rights.

When people freely express themselves on a matter in some fora, their views should be accessed and distributed to larger audiences where those views should be consumed. The consumption of such information should lead to an audience that further engages in the discussion of the matter and contribute to the democratic dispensation. The role of the State should not be to curtail the enjoyment of these freedoms; rather the State has an obligation to promote the rights to freedom of expression and of access to information.

The second highest context is where the reasons for the violation or abuse were unknown, which accounted for 14 cases (12%). In third position were violations that occurred during various government functions 11 cases (9.7%). This was followed by violations that followed publication of investigative stories as in the case of the Red Pepper editors. These accounted for 10 incidents or 88.8%. Other contexts in descending order were work place violations for a variety of reasons including sexual harassment (7.6%); media demonstrations especially on World Press Freedom Day May 3rd (7%) and community events-privately organised. Journalists suffered abuses in these contexts often being arrested and their equipment vandalised. Land matters and writing about the IGP each contributed 5% of violations. It is a worrying
development that 12% of violations against journalists and media could not be explained and perpetrators were not known.

For instance, Mathias Mazinga and Paddy Bukenya both of the New Vision newspaper were beaten by senior police officers and crime preventers attached to Nkozi Police Station in Mpigi District in central region during the 2017 Uganda Martyrs University graduation ceremony. The university is located in Nkozi. Police said that the journalists defied security guidelines of not entering the campus with their journalistic equipment and that they were forcing their way into the campus. But the journalists told HNRJ-Uganda that they had already presented their accreditations and press cards but police “just wanted to block” them.

![A journalist being manhandled by two police officers during the Nkozi University graduation ceremony](image)

**Actors and their abuses**

Table 2 below shows that an overwhelming majority of violations against journalists and the media were committed by state actors. These included the Police and all other government security agencies as well as public servants across government departments. This illustrates the wide ranging abuse of government offices and
facilities by office bearers and the little that government does to inculcate the culture of respect for freedoms of speech, expression, the press as well as freedom of assembly and association—all guaranteed in the Bill of Rights in the Constitution. In addition, many of the violations are breaches of established laws and as such offences that should ordinarily attract punishments as prescribed in the Penal Code.

Of the cases reported to HRNJ-Uganda, abuses by non-state actors were seven, mainly by private security agencies and other individuals; three were by mob action and two by politicians. One of these politicians was Abraham Byandala, then Minister of State for Works who assaulted a male journalist in the Anti-Corruption court premises where he was battling charges related to embezzlement in a major roads project contract. In 2016, the same Byandala assaulted a female journalist again outside court during an earlier hearing of his case.

### TABLE 2 TYPE OF VIOLENCE METED BY PERPETRATOR CATEGORY

<table>
<thead>
<tr>
<th>TYPE OF VIOLATION</th>
<th>CATEGORY OF PERPETRATOR</th>
<th>Non State Actor</th>
<th>State Actor</th>
<th>Unknown</th>
<th>Grand Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access Blocked</td>
<td></td>
<td>11</td>
<td>11</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Arrest/ Detained</td>
<td></td>
<td>45</td>
<td>45</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assault</td>
<td></td>
<td>5</td>
<td>22</td>
<td></td>
<td>27</td>
</tr>
<tr>
<td>Break-ins</td>
<td></td>
<td>3</td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Closed Media House</td>
<td></td>
<td>1</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Damage to Equipment</td>
<td></td>
<td>1</td>
<td>6</td>
<td></td>
<td>7</td>
</tr>
<tr>
<td>Death Threat</td>
<td></td>
<td>1</td>
<td>1</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Kidnap</td>
<td></td>
<td>3</td>
<td>3</td>
<td></td>
<td>3</td>
</tr>
<tr>
<td>Other Threat</td>
<td></td>
<td>8</td>
<td>8</td>
<td></td>
<td>8</td>
</tr>
<tr>
<td>Police Charge</td>
<td></td>
<td>1</td>
<td>3</td>
<td></td>
<td>4</td>
</tr>
<tr>
<td>Suspension</td>
<td></td>
<td>1</td>
<td>3</td>
<td></td>
<td>4</td>
</tr>
<tr>
<td>Switched off</td>
<td></td>
<td>2</td>
<td>2</td>
<td></td>
<td>2</td>
</tr>
<tr>
<td><strong>Grand Total</strong></td>
<td></td>
<td><strong>7</strong></td>
<td><strong>102</strong></td>
<td><strong>4</strong></td>
<td><strong>113</strong></td>
</tr>
</tbody>
</table>

The culture of intolerance towards media, while predominantly manifested by agents of government, is also manifest to some degree even among private individuals including politicians.

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17 Chapter 4 of the Constitution of Uganda
According to Figure 8 above, the reported violations and abuses against the media were the least since 2013. However, as Table 3 below elaborates, the Police remains the leading abuser. Previous state actors such as Prisons, local governments have not featured in 2017. Instead a new category of violators, including UCC have come up.

**TABLE 3: Breakdown of Violation by Actor over five years**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Police</td>
<td>85</td>
<td>40</td>
<td>107</td>
<td>83</td>
<td>83</td>
</tr>
<tr>
<td>Prisons</td>
<td>-</td>
<td>-</td>
<td>1</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>UPDF</td>
<td>-</td>
<td>8</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Private Individuals</td>
<td>1</td>
<td>21</td>
<td>25</td>
<td>24</td>
<td>3</td>
</tr>
<tr>
<td>MPs</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>5</td>
<td>3</td>
</tr>
<tr>
<td>Private Security Guards</td>
<td>2</td>
<td>-</td>
<td>1</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Media House/Employer</td>
<td>2</td>
<td>6</td>
<td>3</td>
<td>8</td>
<td>1</td>
</tr>
<tr>
<td>K.C.C.A</td>
<td>5</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Political Party</td>
<td>2</td>
<td>-</td>
<td>2</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Local Council</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Judiciary</td>
<td>1</td>
<td>39</td>
<td>-</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>UCC</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>6</td>
</tr>
<tr>
<td>Mob</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>UNRA</td>
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<td>-</td>
<td>-</td>
<td>2</td>
</tr>
<tr>
<td>Unknown</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>4</td>
</tr>
</tbody>
</table>
CHAPTER FIVE

Observations

This chapter considers observations made from the analysis of data captured in the Index; from interviews with selected journalists and from examination of regulatory instruments issued in 2017. Seven salient observations are presented here as shaping the trends for media freedoms and rights.

5.1 Struggle for control of cyberspace

Cyberspace is a new territory which government is striving to control. But a careful reading of the recent laws introduced to regulate cyberspace indicates that government is not fully prepared to regulate this space in a democratic manner. Recent laws added to the legal regime were crafted broadly with vague provisions whose interpretation can be stretched to create desired offences against journalists.

As a result, the frontline in the war on freedoms of expression, including of the press and other media, is shifting from physical spaces to cyber space. In addition, journalists and the media have to contend with a new breed of ‘big brother’ type of police who try to monitor all private activity. This is in addition to living in the fear of other security officers as well as an all-powerful regulator whose power was bolstered by an amendment in the law to allow the line minister make regulations for the media without parliamentary approval. This assault on freedom of expression in cyberspace has produced a climate of fear among journalist netzens leading to increased self-censorship and a decline in robust and critical journalism.

5.2 Competitiveness in the television medium

It has also been observed that with respect to struggles for freedom of expression in physical space, television has become the medium of choice, exploiting the opportunities provided by digital migration. There are just over 70 television channels active in Uganda at the time of writing this report. The programming of majority of
these channels is either religious or entertainment in nature. A much smaller number offer a mix of news and talk with entertainment interludes. Increasingly, however, more stations are joining the news business, because that is what attracts big budget advertisers. These stations send out young, brave reporters and camera crew many of whom are neither professionally trained nor properly equipped for the challenges at news scenes particularly in politically charged situations. The Index shows that television journalists suffered most violations in 2017. The competitiveness in the broadcast media in general leads employers to hire cheap and often untrained persons to work as journalists. In some cases unethical and unprofessional practices expose these journalists to dangerous situations, which would otherwise be avoidable.

5.3 Impunity of the perpetrators

In spite of existing laws and organs established to ensure discipline and enforce standards in the security agencies especially the Police, offenders continue to busk in impunity. Most of violations committed by Police are punishable under the law, but few if any are ever brought to account.

5.4 Litigation as a tool countering oppression

Tireless efforts by HRNJ-Uganda and other stakeholders to use courts of law to seek redress over several pressing issues have proved a powerful method of fighting for freedom of expression and access to information. It was this activism that saw two senior police officers, both Divisional Police Commanders of Wandegeya and Old Kampala Police Stations, face the full force of the law for acts committed against journalists. Julius Caesar Tusingwire who was charged in 2014 with detaining, slapping, unlawful search, unlawful arrest and assault of Mulindwa Mukasa officially apologised to the journalist and compensated him in a consent judgement reached in 2017. Both parties agreed to a settlement and the Police Officer officially apologized and compensated the journalist. Joram Mwesigye, another Police officer, was fined Shs 1 million and ordered to pay compensation of Shs 5 million to Andrew Lwanga a journalist whom Mwesigye had assaulted and beaten to incapacitation in 2015.
5.4 Uganda Communications Commission: the emerging tower of media control

It is observed that there have been and are increased attempts by UCC as the regulator to coerce broadcast stations and to stifle freedom of expression through several actions. These include banning persons deemed critical of government from appearing as guests for radio talk shows; banning MPs that had been suspended from Parliament from appearing for radio and TV debates; ordering the suspension of journalists from media houses; constant warning of ‘breach of minimum broadcasting standards’ and others outlined earlier in Chapter 3. Four things are specifically noteworthy here:

First, the way UCC now deals with the media is contrary to the principles of natural justice and democratic practice. It is the complainant (or appears to be); it is the judge; and the enforcer of compliance.

Secondly, UCC through its range of actions diverts the media from its cardinal roles of monitoring those in power and providing a platform for debate. Instead the regulator is forcing the broadcast stations to sacrifice freedom of the press for political considerations.

Thirdly, the broadcasting licence has become a tool the regulator uses to demand compliance. Many broadcasters operate but without the physical licence in hand. But the licence should not be used to arm-twist a station; it should have a set of responsibilities attached including responsibility to be fair and balanced and to pay workers; it should allow the licensee to compete in the market.

Lastly, UCC is not the independent regulator it is supposed to be because the line Minister commands a lot of power to direct what the regulator does. Several actions that UCC has undertaken attest to the invisible hand behind its decision making systems.

It is observed that the methods and spirit of media regulation by UCC goes against a number of international instruments on media freedoms and interpretations by different courts in other jurisdictions that have enriched the interpretation of laws that relate to freedom of expression and of the media.
5.5 The Mystery of Traditional media coping mechanism

One observation in this Index is the absence of victims of violations from major pioneer private broadcast stations or overt actions by the regulator against these stations including media affiliated to the major traditional religious faiths. Most of the radio stations that were the masters of news and talk shows in the 1990s and 2000s are still on air but do not feature in this Index. How do they keep out of trouble? But as one of interviewees observed, 'the pressure is not applied to the field reporter but to station owners who often comply in order to protect their other business interests. Would it be opined that they have been co-opted or acting safe-essentially through self-censure?
Recommendations

Basing on the findings of the Index and observations noted, HRNJ-Uganda recommends as follows:

1) Police
   a) The Uganda Police Force (UPF) must take measures to ensure that police officers that perpetrate violations against the media are disciplined. The Police authorities should also collaborate with the Director of Public Prosecutions (DPP) by surrendering those with criminal offences to the DPP and other prosecutorial bodies for further action over human rights violations.
   b) For transparency and accountability purposes, the Police authorities must also report periodically to the public what action they have taken against errant and abusive police officers and any prosecutions undertaken.
   c) Human rights defenders should engage the Police Administration to develop a training module for the Police training schools in media rights and the role of the media in society.
   d) The development partners’ community is urged to tailor support to the Uganda Police to human rights observance.

2) Internet freedoms
   Human rights defenders and media activists should develop a robust advocacy strategy for internet freedoms to allow public enjoyment of freedoms of expression and access to information in this internet age.

3) Media Regulation
   Parliament should review the mandate of the communications regulator-the Uganda Communications Commission- with the objective of separating roles.
a) Specifically it is recommended that a new Press and Broadcasting Council be created to assume the role of regulating media content and practice with a view of promoting more self-regulation of the industry and UCC to deal with the purely technical aspects of spectrum and broadband management.

b) That a Tribunal be set up to handle complaints against any party before any other course of action is enforced. Section 60 of the Uganda Communications Act provides for such a tribunal although it has not been established to date.

c) UCC must stop interfering in the enjoyment of freedoms of expression and of the media.

4) Media Managers

a) Media owners and managers should provide necessary equipment, support and protection of journalists in course of their work. In particular, media managers should ensure that their journalists enhance skills in media ethics and professionalism in order not to fall victim to avoidable violence in the line of duty.

b) Media houses and journalists should show solidarity with colleagues and join hands in the struggle for media freedoms.

5) Public Engagement on Press Freedom

Media organisations should sensitisethe public and leaders to appreciate the relevance of media freedoms to national development, and that these freedoms are not mere abstract and selfish ideals of media workers.
This chapter highlights efforts of various actors to advance freedom of expression especially for journalists and media houses through various mechanisms.

The Judiciary and judicial activism

This Index scored the Judiciary third in violating media freedoms following an incident in which a single judge blocked journalists from covering a land case against the Kabaka (king) of Buganda. It is, however, observed that the judiciary has also made a tremendous contribution in dispensing justice where journalists have appeared before the courts either as defendants or as complainants. A number of cases have been decided in favour of the journalists as a result of objective adjudication and also the judicious interpretation of the law by the judges. Below is a summary of cases that were concluded in courts in 2017.

1. **Uganda V Ronald Nahabwe and 4 others**

On 16\(^{th}\) March 2017, the Buganda Road Chief Magistrate, Jameson Karemani, acquitted four journalists of criminal defamation and convicted the source of defamatory information Ssegawa Tamale to four months in jail. The journalists had reported, based on information provided by Ssegawa, that two city property moguls were trying to grab a piece of land that belonged to Ssegawa’s relatives. Ssegawa later disowned the journalists, prompting them to tell court that he had been the source of the information. The magistrate ruled that although they had not verified the information, he could not hold them guilty of criminal defamation. He instead convicted the Ssegawa, the source of the information.

Madina Nalwanga and Patrick Tumwesigye of New Vision and Benon Tugumiisirize, Ronald Nahabwe formerly of Red Pepper were found not “criminally liable” for what was published and had no intention to defame the complainants Ephraim Ntaganda and Drake Lubega, both renowned property moguls in Kampala.
In his judgment, the magistrate noted that whereas the four journalists published the story without verifying, he could not criminally hold them liable. He said that the complainants can seek redress in the civil court.

This judgment is deemed by HRNJ-Uganda as a major contributing factor in administering justice for journalists in Uganda that are often accused of criminal libel. This offence remains in the Penal Code after the Supreme Court elected to maintain it there. Press freedom activists including HRNJ-Uganda consider this law an unnecessary encumbrance to freedom of expression.

2. Edward Bindhe Case

On 12\textsuperscript{th} May 2015, Edward Bindhe, of Uganda Radio Network (URN) was allegedly assaulted by a senior ruling NRM party official, Rogers Mulindwa, in Masaka during the launch of the NRM members’ registration exercise officiated by the party Secretary General, Justine Kasule Lumumba. The journalist was denied access to cover the events but opted to stay in the hotel lobby to complete some prior assignments. Rogers Mulindwa, himself a former journalist, however took offence at the fact that the journalist did not completely leave the hotel premises. He then allegedly assaulted Bindhe.

The case was decided on the 20\textsuperscript{th} of July 2017 and the accused, Rogers Mulindwa was acquitted. In the judgment, it was noted that the investigations had been done poorly.

3. Andrew Lwanga

Andrew Lwanga was assaulted on 12\textsuperscript{th} January, 2015 at Florina bar and guest house on Namirembe Road in Kampala, as he and other journalists were covering a march by unemployed youths who were taking a petition to IGP Kale Kayihura, and carrying placards reading, “We want jobs.” He was assaulted, beaten and kicked by the Old Kampala Police Divisional Commander Joram Mwesigye. Lwanga was badly injured and he is now partly paralysed. He cannot walk unaided. He can no longer work and needs help even for personal care. His condition has also affected his family life in many ways.
On 10th March 2017, The Chief Magistrates Court at Buganda Road found the former Division Police Commander (DPC) of Old Kampala, Joram Mwesigye guilty of assaulting a WBS Television journalist, Andrew Lwanga. He was fined one million shillings (USD 282), and five million shillings (USD 1,409) compensation to the assaulted journalist which he was to pay in 30 days. If Joram Mwesigye failed to make the payments within 30 days, he would serve one year in prison. The journalists present at court reacted angrily to the sentence, describing the process as lenient.

The Buganda Road Court Grade One Magistrate Gladys Kamasanyu acquitted Joram Mwesigye on two other counts of malicious damage to property. Lwanga had accused Joram Mwesigye of damaging his camera whereas Ssetimba of Bukedde TV had accused the Police Commander of tearing his trouser.

Magistrate Kamasanyu based her conviction on the evidence of four prosecution witnesses that included three journalists, a television librarian who tendered in a video footage and a Doctor that examined Andrew Lwanga. The magistrate said that she reviewed the footage tendered by the librarian of NTV and ruled that there was absolutely no reason why Lwanga was assaulted since he was properly identified in his blue WBS TV T-shirt, busy doing his work. She said that the journalists properly identified Mwesigye as the one who was wearing a Kaki police uniform with his name on it, holding a stick that he used to beat up Lwanga.
4. Sula Mukiibi Case: Taking on Abuses by Private individuals

On 4th June 2015 a woman identified as Rose Naluwa beat up Mukiibi Sula, a Sauti FM journalist who was going to cover a story of a land wrangle. Mukiibi who, was on his way home at about 6:30 pm, found people gathered by the roadside at Kyampisi Village, Kayunga District. He sought to inquire from four ladies who were seated across the road to ascertain what was happening. It was then that Naluwa meted out anger at the journalist and beat him up. On 15th March 2017, the Magistrates’ Court at Kayunga convicted Naluwa Rose sentenced her to one year in prison for assaulting the journalist.

‘I have critically analysed the evidence submitted by the prosecution and the defence and therefore find the accused person guilty of assault occasioning actual bodily harm,’ Grade Magistrate One, Akello Irene, told a fully packed court.

“Since the convict is a first time offender, this court will not sentence her to the maximum sentence provided by law but instead to a one year custodial sentence,” Akello said. However the convict has since appealed the conviction and sentence in the High Court circuit of Mukono.

5. Uganda V Sadat Waligo [Criminal Libel as a deterrence to critical reporting]

Sadati Waliggo was on the 21st June, 2016 charged with criminal libel and remanded to Kakondo prison in Lyantonde. Prosecution alleged that Sadati posted on his Facebook page defamatory statements against the then Resident District Commissioner (RDC) of Lyantonde, Sulaiman Tugaragara Matojo. The alleged statements are said to have been uttered by Diana Kategaya, a widow of the late Eriya Kategaya, the former Deputy Prime Minister of Uganda. The widow made the said statements during a press conference in her home in January 2016 accusing the RDC of conniving with people to steal her cows and entering her house while she was in a bathroom naked. The judgment was delivered on 18th September 2017 and the journalist was acquitted of the defamation charges. Lyantonde Grade One Magistrate Taddeo Muyinda in his judgment acquitted Sadat Waliggo saying that the complainant failed to adduce substantive evidence to make their case.

6. Jakisa Mungu Richard [The perils of moderating political talk shows]

On 13th February 2016, Mungu Jakisa Richard and four others allegedly defaced
President Yoweri Kaguta Museveni’s election campaign posters. They were charged with defacement of notices and posters contrary to section 78(2) of the Presidential Election Act.

On 08th June, 2017- Lira Magistrates Court dismissed for want of prosecution the case against Mungu Richard Jakisa, a Radio North journalist in Lira District. This was after the Human Rights Network for Journalists-Uganda Advocate Kenneth Ntende prayed to court to have the matter dismissed.

Mungu was moderating a show where he had hosted four politicians who were analysing issues arising from the presidential candidates’ debate held in Kampala on 13th February 2016, five days to the voting day. One of the politicians that had been hosted returned from the commercial break and told Mungu that police officers had raided the radio station. They were arrested from the radio station and taken to Lira Central Police Station where they were detained for four nights. They were later were charged with defacement of notices and posters contrary to section 78(2) of the Presidential Election Act.

Mungu Jakisa (left) and the HRNJ-Uganda legal team of Kenneth Ntende (2nd left) and Gracie Smith a fellow from New York University and a colleague rejoice after the dismissal of a case where he was accused of defacing President Museveni’s campaign posters.

On 4th, March 2016 Kigongo Ssebalamu a Vision Group journalist was attacked and brutally assaulted by a mob of NRM Party youths led by a one Tebandeke while covering the Entebbe Local Council elections. He sustained injuries and his camera was damaged. On the same day he filed a case of assault and malicious damage to property.

Ssempijja Godfrey a reporter attached to Bukedde FM who was together with Kigongo Ssebalamu was also assaulted by the same mob and his trousers were torn. Kakooza George William a reporter of CBS Radio was also assaulted during the same confusion. They all reported the assaults to Police.

On the 29th of March 2017, five youth supporters of the ruling National Resistance Movement (NRM) party were found guilty of assaulting the three journalists thereby occasioning them actual bodily harm and maliciously damaging their property contrary to sections 335 and 236 of the Penal Code Act respectively. The five were sentenced to a fine of three million shillings each on all the three counts of assault and a community service at the Court premises for two hours daily for a period of 30 days for the offence of malicious damage to property.
8. Mulindwa Mukasa

On 20th, May 2014, Mulindwa Mukasa a journalist working with the Associated Press filed an application at the High Court in Kampala challenging the arbitrary acts by the Divisional Commander of Wandegeya Police Station Julius Caeser Tusingwire of detaining, slapping, unlawful search, unlawful arrest and assault against him. Mulindwa also sought orders for exemplary damages, general damages and discharging Tusingwire from the police force. Both parties agreed to a settlement and the Police Officer officially apologized and compensated the journalist.

Cases at the Uganda Human Rights Commission

I. Gideon Tugume

Gideon Tugume a reporter with Capital FM was shot below his right knee and wounded by the bodyguard to the Inspector General of Police, General Kale Kayihura. The Attorney General and Gideon Tugume reached a consensus and the consent order was extracted with the Defendant acknowledging that the complainant was shot by one of its security agents and agreeing to pay the Complainant general and special damages finally bringing the matter to a close.
## Summary of Cases

Table 3 Table Showing cases Handled by the Legal Department of HRNJ

<table>
<thead>
<tr>
<th>No.</th>
<th>Journalists’ Name</th>
<th>Media outlet</th>
<th>Gender</th>
<th>District</th>
<th>Court/ Tribunal/ Police</th>
<th>Status</th>
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<td>1</td>
<td>Ronald Nahabwe</td>
<td>Red Pepper Publications</td>
<td>M</td>
<td>Kampala</td>
<td>Buganda Road Magistrates Court</td>
<td>Judgment delivered, Journalist acquitted of defamation charges.</td>
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<td>Edward Bindhe</td>
<td>Uganda Radio Network</td>
<td>M</td>
<td>Masaka</td>
<td>Masaka Magistrates Court</td>
<td>Judgment delivered, accused acquitted of assault charges</td>
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<td>4</td>
<td>Andrew Lwanga</td>
<td>WBS Television</td>
<td>M</td>
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<td>Buganda Road Magistrates Court</td>
<td>Judgment delivered, accused convicted on the charge of assault causing actual bodily harm</td>
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<td>Sula Mukiibi</td>
<td>Sauti FM Radio</td>
<td>M</td>
<td>Kayunga</td>
<td>Kayunga Magistrates Court</td>
<td>Judgment delivered, accused convicted on the charge of assault. Judgment appealed to the High Court</td>
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<td>6</td>
<td>Sadat Waligo</td>
<td>Red Pepper Publications</td>
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<td>Lyantonde</td>
<td>Lyantonde Magistrates Court</td>
<td>Judgment delivered, accused acquitted.</td>
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ANNEX II

Uganda Communications Act 2013

SCHEDULE 4  Section 31

Minimum broadcasting standards.

A broadcaster or video operator shall ensure that—

(a) any programme which is broadcast—

(i) is not contrary to public morality;

(ii) does not promote the culture of violence or ethnical prejudice among the public, especially the children and the youth;

(iii) in the case of a news broadcast, is free from distortion of facts;

(iv) is not likely to create public insecurity or violence;

(v) is in compliance with the existing law;

(b) programmes that are broadcast are balanced to ensure harmony in such programmes;

(c) adult-oriented programmes are appropriately scheduled;

(d) where a programme that is broadcast is in respect to a contender for a public office, that each contender is given equal opportunity on such a programme;

where a broadcast relates to national security, the contents of the broadcast are verified before broadcasting.
PUBLIC NOTICE
WARNING AGAINST IRRESPONSIBLE USE OF SOCIAL AND ELECTRONIC COMMUNICATION PLATFORMS

The Uganda Communications Commission was established under the Uganda Communications Act 2013, to among other things, monitor, inspect, license, set standards and enforce compliance relating to the. The Commission is also mandated to protect and safeguard the interests of consumers of all communication services.

Section 2 of the Act defines “Communications services” to mean services consisting of the dissemination or interchange of words, sound or data content using postal services or telecommunications media, data communication and broadcast broadcasting.

“Content” on the other hand is defined under the Act as “any sound, text, still picture, moving picture or other audio visual representation, written representation or any combination of the proceeding which is capable of being created, manipulated, stored, retrieved or communicated electronically”.

The Act further defines “data communication” to mean “all electronic representations of information or data”, which means that every message that is sent through any regulated communication platforms, including radio, television, telecommunication network or social and electronic communication applications, is regulated and must conform to the law and the standards set by the Commission.

While the Commission is happy about the increased use of social and electronic media to promote discourse and social cohesion, it is concerned about the increase in the reporting of hate speech, cutting public service and reducing the quality of information which is not only exposing the unsuspecting public to financial, social and emotional distress but also mounting national security concerns.

NOTICE OF SUSPENSION OF TELEVISION BROADCASTING LICENSE
Reference is due to the above subject.
Further reference is made to a Television program entitled "RSB EXTRA: ONE OR MORE WITH TAMALE MIRANGI" which lured on 8th September on 8th September at 5:30 PM.

RSB Televisions shall notify that on Thursday 30th December 2015, 8th September 2016 and 19th March 2017 the Commission suspended and finally revoked the licence for the non-payment of license fees, non-compliance with the broadcast standards.

The Uganda Communications Commission has suspended all these programming and the licensees are currently monitored by the Commission.

As RSB Televisions is very well aware, Section 20 of the Uganda Communications Act 2013, provides for the issuance of a broadcasting license by the Commission and the licensees shall comply with the standards and the conditions set by the Commission.

In light of the above, the Commission hereby issues notice to RSB Televisions to suspend all activities until further notice.