Broadcasting governance and development in 'Museveni's Uganda'

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BROADCASTING GOVERNANCE AND DEVELOPMENT IN 'MUSEVENI'S UGANDA'[1]

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ABSTRACT

Despite recent developments in technology and globalisation, the broadcast and print media in many countries still run on separate tracks. This article, which is based on qualitative research carried out between 2012 and 2014, examines the governance and development of media in 'Museveni's Uganda' (1986-), with specific reference to broadcasting. The aim is to explore the extent to which legislation and the regulation of broadcasting have affected its development in Uganda. The key question is: How has broadcasting governance affected broadcast media development in Uganda during the Museveni years? The main approach was content analysis of relevant legislation and policies, and key informant interviews with major stakeholders. The key finding is that in the period under examination, Uganda adopted a piecemeal approach to legislation, and to a great extent relied on laws rather than policies to govern broadcasting. Broadcasting diversity and independence remained elusive, and little development of the sector beyond growth in numbers (multiplicity of outlets) was experienced. There is a need to review existing frameworks.

Keywords: broadcasting governance, legal and policy frameworks, media development, media policy, 'Museveni's Uganda', regulation

INTRODUCTION: BROADCASTING AND MUSEVENI'S UGANDA

Broadcast media governance is likely to dominate scholarly debate for some time, owing to the perceived capabilities of radio and television as well as rapid technological changes. Since 1986, the broadcast media in 'Museveni's Uganda' have become a point of focus due to their proliferation after liberalisation in the early 1990s, and the political hegemony of the National Resistance Movement (NRM). Radio pioneered broadcasting in Uganda in 1954 when the Uganda Broadcasting Service (UBS) was established under the Ministry of Information and Broadcasting, while television followed a decade later (Foundation for Human Rights Initiative [FHRI] 2007). The study focused on the Museveni years, which is longer than all the post-independence regimes put together. The Museveni regime, according to Chibita (2010) is the one that came with the renaissance of the media.

RESEARCH AGENDA AND SCOPE

The article explores the role that the legislation and regulation of broadcasting have played in its development. The key question is: How has broadcasting been governed, and what have the implications been for broadcast media development in Uganda during the Museveni years? The governance and development of broadcast media in Uganda are addressed by interrogating the legal and policy frameworks from 1993 (when the first private FM radio station emerged) to 2013 (when a change in legislation merged broadcasting and telecommunications at both the regulatory and institutional levels). Telecommunication is not examined in this article, because until 2013 its legislation and regulation were independent of broadcast media, which would then require a separate analysis of the 20-year period.

This study examines the contradictions embedded in the policy and legislative frameworks, as well as the regulatory and institutional frameworks, both in definitional terms and in practice. Also critical are areas of competencies and neglect in the policy frameworks. The article is located in a global liberalisation agenda within the confines of a polity that remains strongly traditional, marginally repressive and hybrid (Tripp 2010). Importantly, the ultimate role of these frameworks and governance in enabling broadcast development is questioned. The assumption is that for the governance of the media to facilitate its development, it must be good. The comprehensive analysis of legislation and policy making across two decades helps to establish whether the Museveni government has been disingenuous and deliberate in governing broadcasting, or whether the sector's slow development is a product of a serendipitous piecemeal approach to legislation adopted since 1995.

The article focuses on broadcasting because (1) Uganda's policy trajectory has left print and broadcast media running on separate tracks; (2) the institutional framework for governing broadcast media is different from that for print; (3)

broadcasting has expanded more than print; and (4) its legislation and regulation are more responsive to technological convergence. Uganda's case is important, because its political development differentiates it from that of many other regimes. For instance, Uganda's broadcasting liberalisation occurred before political liberalisation owing to the no-party political system (due to a ban on political party activities) in practice at the time; in the 20 years under study, the nation's leadership did not change; government introduced diverse legal and policy frameworks to govern the media; and Uganda opened up its broadcasting space without a well-articulated legal and policy framework for the liberalised media until 1995.

The study of broadcasting is critical, because as Ruth Teer-Tomaselli (2011, 414) rightly asserts, '[n]ational broadcasting, either in the classic form of public service broadcasting or in the more openly regulated form of commercially based broadcasting, is a daily record of the concerns, obsessions, ethos, and values of the society that produces it'. Uganda's broadcasting evolved from being subservient to the ruling regime (Kakooza 2012), to serving public interests though commercial enterprises after 1993. In this period, '[t]he media […] played an essential role in exposing undemocratic practices and the areas where the executive and military have overreached' (Tripp 2010, 195). The challenges for broadcasting remain enormous, with FM radio stations' growth marked by quantity rather than quality (Kanaabi and Kibazo 2007) and with the public broadcaster failing the test of public broadcasting (Mwesige and Balikowa 2008). These studies of quality in broadcasting do not focus on the nature of its governance due to legislation and policy making – factors which are critically examined in this article.

The Museveni years are categorised based on specific political and ideological shifts. They are: (i) 'the initial years, 1986–1995' (pre-1995 constitution); (ii) 'the 'no-party' years, 1996–2005' (broad-based political system in which all citizens belonged to the national resistance movement); and (iii) 'the multi-party years, 2006 to date' (shift to multi-party politics post the first multiparty elections in 2006). Focusing on the Museveni years helps to avoid the tradition of assessing Uganda's development largely in comparison to its turbulent past (Collier and Reinikka 2001) and places Uganda's media freedom in comparative historical perspective (Robins 1997). Contrary to policy coherence logic in long-term regimes, changes have occurred on both the broadcast legislative and the regulatory terrains, as well as in terms of political ideology. The 20-year period has also been characterised by a piecemeal approach to legislation, the consequence of which has been a fluid legal regime.

METHODOLOGICAL CONSIDERATIONS

The methodology adopted for carrying out this study was qualitative research, guided by content analysis of the relevant legislation and policies. Key informant (KI) (in-

depth) interviews were held with major stakeholders in Uganda's broadcasting governance, totaling 18 respondents from 14 institutions. The qualitative content analysis (a systematic reading of the text guided by identified principles of diversity and independence as indicators of media development) was adopted to examine the nature of each piece of legislation and policy. Aspects of plurality; diversity of ownership; views and content genres; technical excellence; fairness; editorial independence; cultural, political, economic information; and empowerment formed the basis for content analysis aimed at examining which areas of competencies the Ugandan policy framework fulfills or neglects, and why. The KI interviews (whose respondents were purposively selected) were relevant for explaining the impact of frameworks on broadcast media development, how these relate and their practical reach. Few previous studies have done comprehensive content analysis against set principles of media development, although a study of the historical evolution of media policy has been done (Chibita 2010).

THEORISING MEDIA POLICY: TOWARDS LEGAL AND POLICY FRAMEWORKS

The notion of legal and policy frameworks is adopted in this research as opposed to media policy, an umbrella term that encompasses various mechanisms for shaping media systems due to porous conceptual boundaries. This section highlights the definitional challenges these pose for the application of media and communication policies to broadcast development.

Media policy is the governing instrument of mass communication. Most studies loosely define the term to include sets of laws and other official or unofficial mechanisms to shape media systems in a country. It is generally agreed that 'the media and policies are products of the political contexts in which they are developed' (Opubor, Akingbulu and Ojebode 2010, 61) and that '[d]ifferent political and economic contexts produce different media policies' (ibid, 63). This argument stems from the logic of long-term regimes fostering policy coherence; yet the media policy trajectory of the Museveni years betrays this logic, since the period witnessed several legislative and regulatory changes in broadcasting.

The definitional challenge has led to suggestions that media policy be identified by the recognition of certain elements, such as its goals and objectives (Opubor et al. 2010); media policy be extrapolated from the content of media laws (Chibita 2010); that 'no policy' be considered as a policy position (Barker 2001); and that policy be defined by 'the ways in which public authorities shape, or try to shape, the structures and practices of media' (Garnham 2000, 210). Though these suggestions are problematic, the view also exists that the central characteristic of media policy

> [i]s not where it is made (a venue-based approach) or about the specific tools developed (an instrument approach) or the results achieved (an ends-driven approach). … Media policy

> should be defined in a more dynamic way as a process that concerns the interaction between different actors, the institutional structures within which they work and the objectives that they pursue. (Freedman 2008, 13)

This suggests that media policy is a continuous process rather than a product, involving complex interconnections and political manoeuvering among various political players. Media policy has recently come to be considered as an aspect of communication policy (Van Cuilenburg and McQuail 2003) and is thus defined as '[t]he sets of principles and norms established to guide the behaviour of media systems, which are informed by the political ideologies, social and economic conditions in place' (Unesco 1980, 11). It is 'a collective term for all policy aimed at the establishment of the system of public communication also referred to as mass communication' (Bardoel and Van Cuilenburg 2008, 5).

The notion of legal and policy frameworks is adopted here in order to avoid the conceptual and definitional conflation of laws and policies (Maractho 2014). Policy is purposeful and refers to 'positive sounding matters such as planning and strategy' (ibid, 6), with clearly articulated aims, means and time-frames. Media policy, therefore, stretches to and includes mechanisms for regulation that are non-core, such as those targeting national security. Thus, legislation and regulation require looking beyond broadcast-specific laws and policies in order to appreciate the scope, context and depth.

The manner in which these terms have been applied in Uganda has created room for a fluid (hence challenging) legal regime for broadcast media development in terms of the modernisation, expansion and strengthening of a diverse, independent and sustainable sector (Maractho 2014). I contend that a policy framework refers to policies that guide media development and legislation based on the goals and objectives they project. The complexity within media policy conceptualisation, noted above, lies in the use of governance and development, either as mutually exclusive or reinforcing. The current dependence on laws as opposed to clearly articulated policies for the development of broadcasting in Uganda stems from this conceptual and definitional challenge. This article is premised on the assumption that broadcasting governance matters, and is framed by political systems. Governance may enable or dis-enable media development, and should not be neglected in the study of media.

Neoliberalism and globalisation theory

The article is situated within neoliberalism and globalisation theory. The choice is influenced by late 1980s reforms in Uganda, which focused on structural adjustment policies (SAPs) involving privatisation, deregulation and liberalisation. Uganda was deemed a success story in post-conflict recovery (Collier and Reinnika 2001) in sub-Saharan Africa after the implementation of SAPs. Neoliberalism was adopted as

the dominant policy influencing political and socio-economic development in many parts of the world (Pickard 2007). Globalisation, the intensification of worldwide social relations linking distant localities in ways that local happenings are shaped by events occurring many miles away, and vice versa (Giddens 1990), is increasingly theorised in relation to the media (Rantenan 2005; Stohl 2005). However, despite suggestions that globalisation weakens the nation-state, necessitating a focus on the transnational public sphere (Crack 2008; McPhail 2011), national governments still make important policy decisions (McQuail 2000; Sreberny 2006). The application of globalisation to media governance and development is relevant in that

> [t]he globalisation theory's emphasis on plurality in numbers as a sign of a healthy media environment needs to be tested in the context of Uganda's liberalised media market, where proliferation of media outlets is not necessarily synonymous with depth and maturity of the sector. Ultimately, the use of globalisation as part of the theoretical basis for analysis is intended to interrogate issues of media diversity and independence through legislation and policy-making, over and above the proliferation of media outlets, espoused in the wisdom of neo-liberalism that once you open the market for competition, the rest is a matter of process. (Maractho 2014, 17)

The response of the Ugandan government to the growth of broadcasting (with a wide range of legislation implemented in a piecemeal fashion) undercut the assumption of competition in a media free market characterised by deregulation, 'the desire to reduce the role of, or remove entirely, the state from the regulation of media industries that ought to be controlled through the creative and dynamic play of market forces' (Freedman 2008, 47–48). According to David Makali (2003, 458), 'legislation is not an answer to every problem and press responsibility is one of those things that cannot be legislated'. This may not apply to broadcasting, for which special legislation and regulatory requirements are needed (Pool 1983). Francis Nyamnjoh (2005) posits that most African governments resort to piecemeal legislation in response to the perceived misbehaviour of the press, rather than formulating comprehensive policies. Uganda's piecemeal approach to media legislation is more than just a response to such 'misbehavior' – rather, it is a larger political manoeuvering response to the changing nature of the NRM and threats to its hegemony.

MEDIA POLICY AND THE DEVELOPMENT OF BROADCASTING

When the NRM captured power in 1986, the only operating local broadcast media were Radio Uganda and Uganda Television (UTV) that were deemed of little significance owing to their dilapidated condition (Chibita 2010). This changed with the liberalisation of broadcasting in 1992, which ushered in the first private radio station in 1993. Despite the FM station's noted lack of depth and quality, it offered

multiple platforms for voices coming into the public domain and increased access to broadcasting throughout the country.

The first broadcast-specific policy that emerged after liberalisation was the Draft Broadcasting Policy (GoU 2004). This is a good policy which meets international broadcasting standards (Chibita 2010), and, if implemented, is capable of transforming broadcasting into a diverse and independent sector (Maractho 2014). Yet it remains a draft, with only some aspects of it being implemented. For example, the need for a three-tier system of broadcasting – public, private commercial and community – first appeared in the draft policy, and has since been operationalised. The second is the transformation of the state broadcaster into a public broadcaster, via the *Uganda Broadcasting Corporation (UBC) Act* (GoU 2005b), which also first appeared in the draft policy and is now in place. Other policies relevant to broadcasting include the National Information and Communication Technologies (ICTs) Policy (GoU 2003), considered one of the most comprehensive policy attempts (Chibita 2010); and the Rural Communication Development Fund Policy (GoU, 2009) (reviewed 2009). In 2011, the Digital Migration Policy was also drafted.

There appears to be a lack of interest in pursuing the broadcast policy debate in Uganda, hence the reliance on laws for governance. No significant pressure has been put on the government to make public the draft broadcasting policy (despite its merits) since 2004. Media players in Uganda are not meaningfully involved in the policy process. In contrast, in South Africa, for example, the media policy debates of the 1990s demonstrated the deeper involvement of various players, such as academics, political parties and trade unions (Louw 1993), while Kenya's experience also indicates high engagement by industry players (Obonyo and Peel 2013). Lack of interest in Uganda's media policy debate signifies that it has been placed on the back burner in terms of government's policy priorities.

MEDIA LAW AND THE REGULATION OF BROADCASTING

The 1995 constitution sets the overall legal framework for media governance and explicitly pronounces itself on the media. Critics of the constitution argue that it lacks a commitment to media freedom, since the media are mentioned only once in article 29 (1) and there is no mention of the protection of journalists (Robins 1997). Despite this limitation, the constitution is considered progressive (Chibita 2010) and facilitative (Maractho 2014), with a strong bill of rights (Chapter 4) and complimentary provisions that enhance media freedom. For instance, Article 29 in its entirety hinges on the protection of freedom of conscience, expression, movement and assembly, and association. Article 29 1 (a) provides that '[e]very person shall have right to – (a) freedom of speech and expression which shall include freedom of the press and other media'. Articles 20, 41 and 51 support media freedom and

provide for fundamental and other human rights and freedoms; and the right of access to information and institutions for the protection of human rights, respectively. Nonetheless, the practical reach of the constitution remains a matter of debate in light of certain limitations.

The Press and Journalists Statute (GoU 1995), now the *Press and Journalist Act* (GoU 2000a) was the first media-specific piece of legislation and the most non-facilitative law for media in Uganda (Maractho 2014). The legislation created two institutions, the Media Council to regulate the media and the National Institute for Journalists of Uganda (NIJU), which is responsible for the registration of journalists. It is focused on professionalising the media, so much so that it threatens press freedom, defining a journalist as someone with a degree in mass communication and requiring the registration of journalists. The Electronic Media Statute (GoU 1996), now the *Electronic Media Act* (GoU 2000b), legislated the creation of the Broadcasting Council (BC) and provided for minimum broadcasting standards, although it maintained the code of ethics in the *Press and Journalists Act* (PJA 2000a). 'The law is largely focused on regulation of broadcast media and less so with ensuring diversity and independence' (Maractho 2014, 75). In 1997, the *Uganda Communications Commission Act* (GoU 1997) was enacted to cater for telecommunications and created the Uganda Communications Commission (UCC) to regulate the sector. For nearly a decade, there was no legislation for broadcasting. However, two major pieces of legislation were enacted in 2005 – the *Uganda Broadcasting Corporations (UBC) Act* (GoU 2005b), which promoted public broadcasting, and the *Access to Information Act* (GoU 2005a), which operationalised article 41 of the 1995 constitution on access to information. The practical reach of these laws remains to be seen several years later.

TOWARDS CONVERGENCE: THE *UGANDA COMMUNICATIONS ACT*, 2013 (GOU 2013b)

Until 2013, three regulatory regimes covering print, telecommunications and broadcasting existed, as Pool (1983) had envisioned. The most important legislative shift to have occurred in the 20 years is the merger of the *Uganda Communications Commission Act* (GoU 1997) and the *Electronic Media Act* (GoU 2000b) along with the institutions they created (Broadcasting Council and Uganda Communications Commission). The *Uganda Communications Act* (GoU 2013b) became the legislative framework for broadcasting and telecommunications. The new UCC became a one-stop centre for telecommunications and broadcasting regulation. As Ruth Teer-Tomaselli (2011, 424) points out, 'the boundaries between broadcasting, telecommunication, and data sharing have become, if not obliterated, at least so blurred that it no longer makes any sense to attempt to legislate for one without reference to the others'.

An analysis of the *Uganda Communications Commission Act* (GoU 1997) and *Electronic Media Act* (GoU 2000b) revealed that the *Uganda Communications Act* (GoU 2013b) is more responsive to media diversity and independence, although some concerns remain, as inherited from the laws it combined (Maractho 2014). The critical issues include the power of regulators, the appointment of board members, and the independence and autonomy of the regulator, among others. While the *Uganda Communications Act* (GoU 2013b) equally caters for diversity and independence of broadcasting, most of its responsiveness is in relation to telecommunications, rather than broadcasting. The goal is

> [t]o consolidate and harmonise the Uganda Communications Act and the Electronic Media Act; to dissolve the Uganda Communications Commission and the Broadcasting Council and reconstitute them as one body known as the Uganda Communications Commission; and to provide for related matters.

In terms of content, not much changed. Examined in light of non-core media laws with provisions relevant to the media, such as the *Anti-Terrorism Act*, 2002, the *Regulation of Interception of Communications Act* (GoU 2010a), and the *Public Order Management Act* (GoU 2013a), the gains of the *Uganda Communications Act* (GoU 2013b) are limited. In addition, legislation for new media saw the enactment of the *Computer Misuse Act* (GoU 2011a), the *Electronic Transactions Act* (GoU 2011b) and the *Electronic Signatures Act* (ESA 2011c). The range of legislation is ever-growing.

The tone of legislation during the multiparty years changed from professionalising media during the movement years to punishing and direct regulation. Increasingly, government is falling back on supplementary legislation and reinforcing piecemeal legislation. Some of the supplementary pieces of legislation have had chilling effects for journalists. The emergence of some legislation coincided with certain political developments, such as elections and public demonstrations. Both the Press and Journalists Amendment Bill (GoU 2010b) and the *Regulations of Interception of Communication Act* (GoU 2012a) preceded the 2011 general elections; and the Public Order Management Bill (GoU 2011e), now the *Public Order Management Act* (GoU 2013a), alongside the three computer-related acts mentioned earlier, came in the wake of the 2011 elections and the resultant 'walk-to-work' protests led by some opposition politicians.

The Museveni government increasingly calls on legislation to pre-empt 'misbehaviour' by the media and society. This piecemeal approach to legislation and consequently tight regulation can be interpreted as (i) legislating out of fear; (ii) legislating retrospectively (seeing what is happening and responding); (iii) legislating without adequate research; (iv) legislation that is 'cut and paste' from other countries; and (v) legislation which has no intelligent approach to addressing future challenges based on current trends (local or global). Broadcasting legislation

and regulation thus seem disingenuous and deliberate, rather than a serendipitous consequence of the piecemeal way in which they are developed. The result is a fluid legal regime and a plethora of laws, riddled with gaps, governing media and weakening media institutions, with implications for broadcast media development.

IMPLICATIONS OF GOVERNANCE FOR MEDIA DEVELOPMENT

This section presents the views of those interviewed who have been in the industry for several years, and those in senior government positions or civil society stakeholders involved in media development. Their views are organised around the five key issues that dominated the discussions, as areas which the frameworks either fulfill or neglect, namely ownership; legislative frameworks; regulatory regimes; media content and institutional frameworks. The study findings concur with Guy Berger (2007) that, for most countries in Africa, the legal, policy and regulatory environment is a challenge.

Ownership regimes and broadcast development

Media ownership was singled out as the most critical challenge to media freedom and development, as opposed to direct government restrictions. Yet, legislation is silent on ownership. Within the government, the concern is for foreign ownership and cross-ownership: it is feared that if something bad happens on one platform, it will have a spillover effect on other platforms. The policy goal for government is to define the stake a company can hold in one type of media, when they already hold a stake in another. However, there is even greater concern over local ownership of radio stations in particular, which rests with current ownership regimes that seem to promote or lock out certain views and persons. One respondent noted the need for ownership policy:

> We need to get a policy on media ownership, before we even get into issues of how they are managed. For instance, there has been the issue of conglomeration, you find one media owner buying out a number of say radio stations or newspapers, building his empire ... So they [media] may keep serving the interest of the private owner who may be a politician inclined to the ruling party, or business people who are only bent at making sure they are in profit. (Programme Manager, media development organisation, May 2013)

These concerns have been a reality and appear in the literature (ACME 2011; Kobusingye 2010), but have not directly captured policy attention yet. The licensing and operation of the three tiers of broadcasting are also of concern, as they fail to meet their mandate. In contrast, enormous attention is paid to media ownership in global media policy debates (Doyle 2002; McQuail 2010; McQuail and Siune 1998). The silence of Uganda's legislation on ownership regimes beyond the three tiers demonstrates that national media policies may not be responsive to global policy

goals. The implication has been broadcast growth without development, multiplicity without diversity, and freedom without independence.

Regulatory framework: Is broadcasting overly regulated?

The relationship between the media and the regulators came under intense scrutiny. One of the possible reasons for this, is that at the time of data collection, the *Daily Monitor* and *Red Paper* newspapers, and two radio stations, were closed over the publication of a story deemed prejudicial to national security. This incident revealed the nature of both the media and regulation. There was consensus within the media, civil society and government that the media are, in general, disorganised, rarely speak with one voice, and lukewarm in showing solidarity when attacked or under pressure from government, while regulation is considered to be strong and too much. A respondent noted:

> *I don't see a persistent, consistent approach to deal with this [government pressure]. I see occasional alliances between the media and civil society to address particular events like the closure of the Daily Monitor, I see us occasionally come together to deal with particular aspects of law, for instance during the debate on the Public Order Management Bill or there is an attempt to merge different legislations like Electronic Media Act and Uganda Communications Commission Act. I don't see a consistent continuous approach. As a result, matters of policy and legislation are left to the government.* (Radio manager, May 2013)

The regulator is also accused of being an extension of the Museveni government, with its officials acting as cadres of the regime and abusing the law while regulating broadcasting. The case is made of when, in 2009, the Central Broadcasting Station (CBS) was closed by the UCC, among others. A respondent narrated:

> *I have listened to the tapes of what the CBS people were accused of doing, there was in one case a bit of innuendo, you know, but I don't think government can prove that people came to the streets because of CBS,[2] you can't prove that cause and effect. It was a spontaneous thing. ...A lot of the things we are talking about come down to the rule of law.* (Media manager,[3] Nation Media Group [NMG], June 2013)

Statutory regulation is deemed to be very tight. The competence of broadcasting regulators emerged several times in the interviews, as did over-regulation. The UCC and the Ministry of ICT were accused of lacking the requisite technical expertise to regulate broadcasting content, the main reason for the closure of radio stations in Uganda. The Ministry views its role as concerned with providing broadcasting infrastructure, while the UCC is responsible for broadcasting regulation. The UCC mandate has traditionally been telecommunications, while in the respondents' view broadcast regulation is still a grey area, and highly politicised. A respondent from UCC pointed this out:

> *Regulation of content is something new to us as UCC because you know previously that was the mandate of the Broadcasting Council ...the two bodies came together and this merger was approved this year [2013]. We retained the name UCC. It is Broadcasting Council that got submerged into UCC.... So the role of regulating the broadcasting sector now falls with us, and that includes content. The new law [UCA 2013] is encompassing, which is better but it is new to UCC which formerly did not concern itself with regulation of content and only focused on the telecoms. Some of these things tend to be politicised.* (UCC, May 2013)

The legal framework has left loopholes which are often exploited by non-designated regulators such as the Resident District Commissioners (RDCs), the police and the public. The RDCs exercise executive powers over radio stations, particularly upcountry, and have been instrumental in locking certain voices out of radio, despite the fact that media regulation is not their mandate. This abuse of law and overstepping of boundaries is symptomatic of a fluid legal regime. Contrary to global trends towards autonomous and independent regulatory agencies, Uganda's legislation has left its institutions with little independence and autonomy.

There was consensus that regulation is necessary, especially for broadcasting, but the manner in which government handles it and the nature of the specific laws were questioned. While the policy goal has been clear in terms of what development is desired, too much regulation derailed it. The fluid legal regime comes close to what Dirbaba and O'Donnel (2012, 304) call 'manipulative liberalism' in Ethiopia's case, which is 'speaking the rhetoric of press freedom while at the same time intimidating, harassing and destabilising critical journalists'. In examining the legal framework, Uganda qualifies as a hybrid regime promoting civil rights and political liberties and, unpredictably, curtailing those same rights and liberties (Tripp 2010) with negative consequences for the broadcast media's growth and development.

The model of broadcast media regulation: Statutory or self-regulation?

Media regulation remains thorny when held against the media's responsibility and the need for regulation. Self-regulation is not addressed in any law or government policy, but some industry players and government officials believe it is the way to go. Opinion among those in government is divided between acceptance and rejection of self-regulation. The proponents of self-regulation, the Independent Media Council of Uganda (IMCU) and organisations that funded the project believe it is the best way. They argue that they are not opposed to statutory regulation per se. One of the founding members noted:

> *We studied the whole process, it took us eight years, and eventually 42 media organisations came together, and we came up with the media code of conduct. The code of conduct now we*

> *take it as the guiding principle of journalists' conduct ... Then we also developed a system which takes care of the people who are injured by media excesses. Self-regulation we are dealing with morals, the sin and it is purely an ethical issue whereas the law deals with the crime .... People are confused because they have never taken keen interest to understand what self-regulation is all about. The belief is that journalists are running away from the law, but they are not running away from the law, people can still sue the media.* (Independent Media Council of Uganda [IMCU], May 2013)

Neither the Media Council nor the IMCU has been effective. Both struggle with funding and especially acceptance issues – the former by an industry that does not respect it, and the latter by a government that refuses to acknowledge it. There is no sign that the issue will be resolved in the near future. According to Levi Obonyo and Clayton Peel (2013), Kenya's hybrid model implies that there is a third way that falls between the statutory and the self-regulatory models. South Africa continues to review its regulatory practices and has settled for co-regulation that, unlike Kenya's hybrid model, emphasises public participation through third-party complaints for the press (Reid 2014); its broadcasting has also undergone significant legislative and regulatory changes since 1990 (Teer-Tomaselli 2011). Kenya and South Africa thus offer important lessons on the model of broadcast regulation that promotes a balance between freedom and development. The dual system of regulation in Uganda needs to be studied further, and the voluntary system employed in Tanzania provides lessons for voluntary regulatory systems in Africa.

Media content: At the heart of regulation

Content dominates the subject of regulation. As the study revealed, in Uganda regulation is not really aimed at ensuring that the media do a professional job or are developing. It aims to protect those in power and to ensure that content does not annoy such people. Journalists pointed out that whenever mistakes are made, if they do not touch powerful people in the Museveni regime, they get away with it. Policy-makers suggest that regulation should be about content and standards. Policy goals for broadcasting, they contend, should include local content and the classification of films to develop the sector. At the time of data collection there was some discussion around quotas for local and foreign content. The respondents argued that this was counterproductive, since the production of local content is very expensive for most private radio and television stations. They noted that '*if the content is actually available, you don't even need to put a quota, because they will find that they have the content and then they will air it*' (MoICT, May 2013). Content development will continue to be a policy issue closely related to media ownership. The current frameworks only address content diversity in relation to the public broadcaster in the *UBC Act* (UBCA 2005), neglecting commercial and community arenas.

Institutional framework: The challenge of coordination

The relationships between the institutions pose challenges for broadcasting. Policies are initiated within ministries. On the one hand, the Ministry of Information and National Guidance, located within the Office of the Prime Minister, is responsible for monitoring and correcting media messages pertaining to government policies, projects and programmes, and also supervises the Media Council, which is, in turn, responsible for print media regulation. On the other hand, the Ministry of ICT oversees the UCC, which regulates broadcasting. Coordinated efforts are needed in relation to the current institutional set-up. The Media Council claims to be sidelined in budgetary terms. It is evident that its role has been usurped by the better-resourced, more visible Media Centre, which resides under the Office of the President. The MoICT and UCC are also better resourced owing to the financial muscle of telecommunications. There is a need for realignment, as a respondent noted:

> There are cases where one institution wants to be an implementer and also a regulator. That has been the case. We need to have a holistic overhaul of the media industry, but also of the ICTs. Definitely like all other sectors, they need to realign but especially this one because they are very dynamic. It is not so many years when broadcasting was an independent industry out there, but even here in the Ministry we need to realign ourselves and actually address the developments in technology. (Ministry of ICT, May 2013)

Discussions with the Ministry of Information and National Guidance corroborated these concerns, especially regarding funding, mandates and coordination. The Media Council remains complaints-driven, which it argues is incapacitating because it cannot do anything unless someone complains. Funding problems also create a functional dilemma, which is more critical for the Media Council. There are institutional contradictions emanating from the laws, for example, the Media Council is concerned with print media but is uncertain how to regulate journalists who work across platforms owing to convergence. Some coordinating efforts exist, such as the signing of a Memorandum of Understanding (MoU) between the Media Council and the UCC on the classification of films as a national approach to marketing such films internationally. The dependence of the Media Council on government for funding is partly responsible for its low standing among the public, particularly within the media and academia. The dilemma is that there is no viable mechanism besides government to fund it. The question is: Does government funding necessarily mean a loss of independence and autonomy? The Media Council of Kenya (MCK), it is argued, is funded by government but retains its autonomy, and instead the concern is over media owners' influence (Obonyo and Peel 2013). This is an area for exploration beyond Uganda. Regulators' autonomy and independence are affected not only by the funding mechanism, but also by the composition of board members and recruitment practices.

Several observations can be made from these findings: (1) broadcast development has been minimal, although the proliferation of radio and television outlets is evident; (2) there has been an over-reliance on laws rather than policies; (3) there is no commitment to policy goals driving current global media debates; (4) a large number of non-core media laws with restrictive provisions for media exist, creating a fluid legal regime in the name of 'public interest'; and (5) while pioneering laws attempted to professionalise the sector, subsequent laws appear to coincide with certain political developments, such as elections and public demonstrations, signifying a deliberate stifling of broadcast media development. Most of the problems identified as militating against broadcast development – institutional, regulatory or managerial – emanate from weaknesses in the legislation. Other areas of concern, such as relevant training, remuneration and security of journalists, were also discussed.

THE CURRENT TYPES AND FUTURE OF UGANDA'S BROADCASTING

The media system is characterised by four types, as a result of the legislative and regulatory environment. These are based on broadcast ownership, legislation, regulation and the changing character of the NRM regime in the years under examination. The media institutions are (1) coopted; (2) coordinated; (3) competitive and (4) consolidated.

Co-opted: Weak and fragmented media

The current trend of ownership, dominated by NRM members, regime cadres and their friends, has led to broadcasting being coopted. These media are focused on entertainment or propaganda. This ownership-related problem, on which legislation has remained silent, regards its potential to limit discussion of public issues and narrow opportunities for diversity. This narrowing of voices is well documented in past research. The implication of this cooption is that freedom of expression will remain elusive, despite being provided for in legislation. This trend may be reversed if legislative change occurs not only in the form of prescribing a favourable ownership regime, but also in addressing current concerns over the execution of regulation and the power of regulators. The cooption trend is not helped by cross-ownership, in which media owners with other businesses respond to the regime's demands over critical journalists in order to steer clear of risks to their other enterprises. Coopted broadcast media score low on both diversity and independence principles.

Coordinated: Small, confined, yet strong

Many broadcasting markets in rural communities are confined, yet strong. Broadcasting is typically owned by area politicians, religious organisations or 'sons and daughters of the soil' (influential members of that community). They enjoy considerable monopoly in those markets and are highly linked to other media as a source of news. In cases where they own more than one outlet, they are well coordinated. Their power is confined within those locales. Their management is less professional and thin on personnel, but links communities in such a way that they are powerful. Although these do not enjoy high independence, they do contribute to a decent level of diversity, as they create a platform on which those communities can be heard, and they are more likely to be inclusive of members of that community.

Competitive: Multiplicity of outlets, less diversity

In this type, competition occurs more in regards to entertainment, not in terms of who breaks the best stories. Competition and choice go hand in hand and may necessarily offer some degree of diversity, but there are no guarantees of independence. Such outlets score high on independence but low on diversity. As one respondent pointed out, '*weaker institutions are slowly by slowly being swallowed by bigger institutions that will not necessarily increase voices or create resources for these institutions but it will basically turn these radio stations further away from the primary roles of media*' (Radio manager, May 2013) as long as they make profit. As such, low diversity but high independence to decide how they run their business is possible. This is becoming common, but with intelligent policy interventions creating an enabling environment for investment in broadcasting by guaranteeing communication freedom, broadcast media development is possible.

Consolidated: A strong, diverse and independent broadcast media

Few media houses are consolidated. This has to be a result of intelligent interventions, informed by research. Consolidated media are balanced, they are the ideal type as they score high on both diversity and independence (and therefore sustainability). A consolidated media will ensure that rather than meaningless multiplicity, fewer broadcast organisations exist that are capable of meeting the diversity principles, but that they do so in an independent way. They are more likely to coordinate on certain issues and speak with one voice. This scenario is possible if current trends towards conglomeration and concentration continue. This should be guided by policy to ensure that consolidation does not lead to harmful effects, such as limited space for the discussion of public issues that are inimical to media owners' interests. Obonyo and Peel (2013) suggest that fear of government control is overstated in comparison

to control by media owners, who may ward off government interference and defend their own instead, at the expense of public interest.

CONCLUSION: THE QUEST FOR BALANCE

One fundamental question remains in the search for balance: How can government interfere, in an enabling way, to create the impetus for growth and development, while at the same time, in a meaningful way, allowing the private sector to continue with the momentum it has gained? How and to what extent broadcast media benefit from global trends will be the function of governance, based on appropriate legislation and responsible regulation. The gap in legislation and policy-making created media types that are neither diverse nor independent. If not well handled, current media types could leave behind broadcasting that further constricts freedom and limits space for the discussion of vitally important public issues. There is also the failure of neoliberalism practised in the context of manipulation of the market through legislative interference, political manoeuvering and neglect of important goals driving global media policy.

Although Colin Sparks (2007) rejects the relevance of globalisation theories in providing an accurate picture of the contemporary world, the notion of a networked society (Castells 1996) and the power of national governments in policy matters (Sreberny 2006) cannot be denied. The point is not that globalisation must provide a perfect picture, but that there is a need to continue to understand it and how it relates to different phenomena or contexts. The manner in which broadcast media are governed has a direct relationship with the media system that will emerge in terms of development and as an appropriate response to global trends. Legal and policy frameworks work together to ensure development, and due attention needs to be paid to their character, and the goals and objectives they pursue.

NOTES

1. The title borrows the term 'Museveni's Uganda' from the book *Museveni's Uganda* by Aili Mari Tripp (2010), to signify that in scope it is limited to this era.
2. In September 2009 there were riots in Kampala and four radio stations, including CBS, were closed, after being accused of fueling the riots.
3. All respondents remain anonymous, but the institutions they worked for are mentioned.

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