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Review Article
Research on national communication policy in Africa and Tanzania

By Joseph Matumaini

Abstract
The challenge of communication policy in Africa is to liberate its media institutions from a tendency toward centralized, statist, elite control inherited from the colonial past and at the same give the stimulus of freedom to entrepreneurs, movements of the civil society and religious traditions in a way that encourages accountability and responsiveness to the culture, society and aspirations in Africa. This can be done only in a process which brings together all the major sociocultural, political and ethnic tradiitons in a mutual dialogue and allows all to put forward their perspectives but seeking, as a prime goal, to create communication institutions that embody the common aspirations and needs of all in a given region or nation.

Key words: African communication policy, media convergence, media concentration, self-regulation, media ownership

Introduction:

The African media landscape took on a new configuration in the 1990s because of the increased cry for multi-party democracy and the privatization of media. Until the 1990s policy was dominated by national development goals guided by the state. The technological, political and economic shifts taking place in the 1980s and 1990s heralded, for many, a new paradigm in communication policy. Policy decisions now are dominated by the concepts of convergence and interlinking of different forms of media, concentration of ownership, self-regulation, diversity in the patterns of media ownership, universal information access in the digital age and globalization.

Many question, however, whether there is a real transition to multi-party politics and solid "democratization" in most African countries,

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Also questioned by many is whether the 1990s mark a real watershed in national communication policy formulation (Hyden & Bratton, 1992, p. 51; Tomaselli & Dunn, 2001, pp 1-7; Bratton & Van de Walle, 2002, pp. 6-13; Bratton, Mattes & Gyimah-Boadi 2005, pp. 15-33; Nyamnjoh, 2005; Blankson & Murphy, 2007, p. 31). The present article seeks to sift through the various discussions of communication policy in Africa over the last twenty years to find central themes.

Part I: The challenges of formulating communication policy in Africa

The lack of a systematic approach in policy analysis

Communication policy in Africa has been treated by a wide range of institutions and scholars: Ugboajah (1979, 1980, 1982, 1985); UNESCO, Yaounde, 1980); Boafo (1986); Uka Uche, (1989); Wilson (1987, 2005, 2008); Blake (1997); and especially Njamnjoh (2005). The study of communication policy in particular countries has been extensive: Nigeria (Ugboajah, 1980); Ghana (Karikari, 1994; Alhassan, 2004); Cameroun (Ngwainmbi, 2002; Nyamnjoh, 2005); Zambia (Kasoma, 1990) ;Botswana, Lesotho and Swaziland (Kasoma, 1992); Tanzania (Kivikuru, 1990, 1994); South Africa (R. Tomaselli, K. Tomaselli & Muller, 1989; Louw, 1993; Horwitz, 2001). There also has been extensive discussion of policies regarding the deployment of new communication technologies (Noam, 1997; Mustafa & Brand, 1997; Ben Soltane, Fluck, Opolo-Mensah, & Salih, 2004; Etta & Elder, 2005; Guislain et al, 2005; White, 2009).

However, with the complexity of the concept of communication policy one finds quite different methodological approaches in different authors. Each tends to deal with different issues which are vital in communication and development. Perhaps the one central theme in all of them is that Africa cannot continue to be dependent and exploited by the rich countries in the sector of communication (Wilson, 1987). On the other hand, no country in Africa has a holistic and integrated communication policy. The general trend is to have pieces of regulations, laws and guidelines on electronic media, print media, film, news agencies, and telecommunication, communication training and government information (Boafo, 1986, p. 39)

The current trends in media analysis and communication policy in Africa pose several pertinent questions: why there is tension between

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liberal rhetoric and sociologists revealing the lack of free democratic participation in African society? Why is there tension between African governments and media? (Nyamnjoh, 2005, p. 254). What is the future of public service broadcasting, commercial broadcasting, community media, alternative media and the new digital media? Are there realistic prospects that African nations will develop coherent communication policies?

Cecil Blake's (1997) prototype policy framework for Africa rests on an optimistic view of promoting democracy in Africa. His model has as essential dimensions the liberalization of media and allowing the ownership of all subsectors of communication; access to information by all parties; encouraging investments and competition, setting up independent regulatory bodies, and providing training institutions to prepare personnel for both public and private sectors on a "free" basis. (Nyamnjoh 2005, p. 269). Nyamnjoh argues that the main problem in Africa is forming an independent communication authority. The governments should cease attempts to maintain monopoly over media houses, public opinion and professional training (Nyamnjoh, 2005, p. 271). Also, the continual attempts of political leaders to coopt journalists and other leaders in public opinion is a threat to media freedom. For instance, the government of Nigeria frequently attempted to "buy off" the outstanding journalists in the country to silence them. Again, the Nigerian government adopted the policy of appointing influential critics from media to top posts within the government. This trend is found in many governments in Africa (Uka Uche, 1989, p. 137). The future of communication policy will depend on how the African states form policies for economic development, promotion of public interests and opportunities for private concern (Uka Uche, 1989, p. 273).

However, forming a regulatory body is not enough. What is important are the representation of all major actors related to the mediain decisions and fair procedures of appointment. There must be clear definition of the roles of the regulatory agencies, the powers, goals, and to whom it is accountable. Moreover, to insure that the communication policies are created with clear purposes, the process of formulation must be open to a balanced combination of economic, political, social and technological capacities among expert consultants. (Hills, 2003, p. 39; Freedman 2008, p. 1; Guislain et al., 2005, pp. 11-12; Soltane et al, 2004, p. 50).

The diverse processes of policy formulation in Africa

It is difficult to describe the historical factors and political processes of communication communication policy because the contexts are so different. The tendency of some scholars to ignore the legacy left by colonial administrators. especially overlooking the legal and institutional framework left by colonial governments, leaves the history weak and incomplete. In fact, if one is to trace the history of communication policy, one must find in colonial government official publications the genesis of African communication policies.

The print media and broadcasting were established in the colonial period primarily to transmit news, information and entertainment programs to colonial rulers. The aim was to enable Europeans in Africa to maintain links with the metropolitan countries (Boafo, 1991, p. 105; Kilimwiko, 2009, p. 65). Even today much of the colonial regulation and legislation, often quite repressive, is still operative. Much of the early legislation after independence was a continuation of the colonial policy, and most of the communication and media policies today are modeled and structured on the colonial heritage (Wilcox, 1975, pp. 1, 134; Davidson, 1992, pp. 318-319; Umeh & Andranovich, 2005, pp.161-162). The broadcasting, in many instances, continues to be state-owned, government-subsidized and urban based. All major newspapers and broadcasting are usually emanated from the capital cities which were the seat of colonial government (Bourgault, 1995, p. 42). Most colonial press systems are still modeled on the colonial structures and attitudes. In fact the colonial governments of France, Belgium, Spain, Italy and England introduced a kind of authoritarian press philosophy by suppressing the development of indigenous press (Wilcox, 1975, p. 134).

The Yaounde Declaration (1980), a major policy reference point which we will discuss more in detail, states that the major problem in policy is that African media institutions are the outcome of the colonial heritage, and communication structures and still conform to the old colonial patterns, ignoring the needs and aspirations of the people, Indepenence has not always been followed by a decolonization of cultural life, mode of thinking, and communication structure. The current communication structure still conform to the old colonial patterns and not to the needs and aspirations of the African people (Yaounde Declaration, 1980, p.1)

In this colonial legacy, there are six different information communities: South Africa, Portuguese Africa, British East Africa,

British West Africa, French West Africa and Magreb regions. Part of the differences in these regions, for example, the press laws, can be traced back to different colonial regimes (Churchill, 1991, pp. 21-22). Also separating these information communities are the four major language groups of Africa - English, French, Portuguese and Arab - which often imply major differences in media traditions, Added to this are the influences of the transnational languages such as Swahili, Hausa and Yoruba. Underlying the language differences are ethnic differences, cultural heritages, different histories and cultural-literary traditions. All this is an inheritance which somehow must be respected in national communication policy.

The plurality of languages can be a platform for mutual enrichment through modern communication media. South Africa is an example of a nation which has incorporated language differences into national communication policy. Thus, the plurality of languages must be given full weight in establishing any rational network of communication in societies where ethnic diversity often necessitates the use of more than one language (Yaounde Declaration, DG/80/18).

Religion is another component which influences communication policy in Africa. For instance the activities of the churches have established both national and transnational communication centres. The Nairobi-based communication department of the World of Council of Churches is an example. It prepares radio programs and newspapers and sends them to different parts of Africa. The churches and Islamic organizations manage media production houses which are responding to the cultural and educational needs of the people, especially the marginalized poor, in a way that no other institutions are able to do (Churchill, 1991, p. 23)

Technical capability is another component influencing communica-tion policy. The African continent lacks modern technical facilities such as satellites. There are not enough highly trained technicians and engineers for maintenance of equipment. The dependence on donor agencies for technical support is never without its political, economic and cultural conditions and maintains a form of colonialism (Churchill, 1991, p. 23). As the NWICO debate brought out, the transnational news agencies must be dealt with in shaping media policy related to the political and cultural integration of different nations. The present media organization tends to serve a relatively small urban elite. The *Standard* group, based in East Africa, has had a transnational influence. After independence it started by operating from London and circulated

in about thirty countries in Africa. Indirectly, this tendency formed a common conscience and aspirations (Churchill, 1991, p. 24).

African nations cannot simply copy policy guidelines from the developed nations or even from other nations in the developing South. Every African nation must base its policy on its own traditional cultural forms, its cultural values and its national development goals. National, social and cultural integration has to be a fundamental goal. The exclusion of vast numbers of rural people from significant access to information and communication must be taken into consideration.

Some of the major problems with current policy formumations

Kwame Boafo has pointed out some of the major difficulties that need to be dealt with (Boafo, 1986, pp. 40-41):

(1) Many communication policies are, at best, a random accumulation of official directives, ad hoc legislation, decrees aimed at specific problems or even pronouncements of traditional rulers who insist on being heard. Policy seems not to be based on any comprehensive research, analysis of needs and comprehensive planning.

(2) Some communication regulations and policies have been introduced in response to hurried reaction to some events or crsis.

(3) The approach has been piece meal, compartmentalized and norms of professional responsibility and goals.

(4) Many communication policies have not been formulated on the basis of careful deliberations and broad consultation with individuals and agencies expected to implement or be affected by the policies.

(5) There is a growing tendency of communication policy to be based on the personality cult of powerful political leaders.

(6) There is little effort to incorporate communication strategies and processes into national development and planning.

(7) Hardly any policies have been devised in any African country to systematically integrate the traditional means of communication with the modern telecommunication systems and policies do not encourage use of traditional communication media.

For a national communication policy to overcome these problems there must be a united effort of all major stakeholders, especially those

who are involved with communication planning, communication professional groups and those involved with major media institutions.

Concept of Communication Policy

There is very little agreement on the concept of media policy in the major publications in this area. Media policy includes all kinds of proposals and strategies used by governments, media corporations, international policy institutions, as well as organizations and individuals in the media sector. Moreover, media policies written in official documents might not be the ones that are actually carried out, for example, by regulatory agencies. Malm and Wallis suggest that there are two basic types of policy: those formulated and policies actually practiced (Malm & Wallis, 1992, p. 21).

Communication policy entails every aspect of communication systems: media, interpersonal communication, traditional means of communication, content of the message, audience and all economic, social and political and technological factors. The history of the concept of communication policy can be traced back to 1920 with the emergence of the electronic media. Before this era, the printing press and traditional media existed but nobody worried about the ownership, control and benefits to the society. The underlying logic was that anyone could establish a press and say whatever he wanted. In this period there were some guidelines that were informal but accepted by the people. In so doing they agreed on some guidelines, such as freedom of the press, but depending on the authority of the area.

Most authors would agree that there are three main phases in the evolution of media policy. The first is the emerging communications industry policy (1920s to 1945). This is the phase of transition from a period of virtually no official guidelines except a general policy of media freedom. It was dominated by the collection of ad hoc measures to facilitate the services of technological innovation especially radio and television. This period was technologically oriented rather than by the nature and impact of the message on the public. The second phase commenced in 1945 to 1980/90. This is the public-service-media paradigm. Scholars and media practitioners started to question the role of media because politicians, dictators, propagandists misused it as a catalyst for the Second World War. This phase is dominated by socio-political factors. The third phase is the searching for a new communication policy model. The present phase, dating from the 1990s, is characterized by convergence and interlinking of different

forms of media, concentration of ownership, and increased toleration of monopoly. The future is uncertain because of the new social phenomenon in communication policy derived from advancement in technology and the impact of globalization (McQuail, 2000, pp. 21-32).

The current general goal of communication policy is still the same as has emerged since the 1930s, to serve the public interest. However, the content of public interest has changed. The economic welfare has become more important in comparison with political, socio-cultural welfare. There are questions which need to be addressed worldwide but particularly in Africa (McQuail, 2000, p. 32):

(1) Whether to promote market dynamics or stability.
(2) What balance to maintain between the roles of public and private sectors.
(3) How to finance different aspects of the public sector.
(4) Which policy instruments to use for what purpose.
(5) Whether and how far to direct policy and control the content and structure of media
(6) Whether to seek a coherent policy for all sectors or to redraw the map in a completely new way.
(7) Whether to concentrate or disperse regulatory power (and policy making itself).
(8) Whether to maintain the national policy or to enter into wider international regulation agreements.
(9) How to maintain ultimate political control without government intervention.

The history of communication policy is a process of gradual, sometimes barely perceptible, moves towards integration, that is, toward the perception of coherent systems in communication. The "official" description of communication policies outlined during a meeting of experts on communication and planning under UNESCO held in Paris in 1972 states " communication policies are a set of principles and norms established to guide the behaviour of communication systems" (UNESCO, 1972). The orientation of policy is fundamental and long range, although policies may have operational implications of short-term significance.

Communication policies are the outcome of the society's general approach to communication: political ideologies, social and economic conditions and values. Communication policies exists in every society, sometimes they are latent and disjointed rather than being clear and harmonized.

This concept of policy was the introduction of a general move by UNESCO in the 1970s and 1980s to promote the development of communication policies in Africa. UNESCO commissioned a series of national communication policy studies in Zambia (Kasoma, 1990, 1992), Nigeria (Ugboajah, 1980) and in other African countries. The attempt to promote policy making in the developing world, especially in Latin America and Africa, was at the heart of the debate regarding the New World Information and Communication Order (NWICO). The promotion of policy making by UNESCO largely ended with the end of the NWICO movement.

Part II: The process of formulating communication policy in Tanzania

Although the above general discussion of communication policy in Africa might draw out various lines of the "dos" and "don'ts" of communication policy in this continent, perhaps the best way to comment on communication policy is the evaluation of the process in Tanzania - a process that I am most acquainted with. In many ways, the problems of communication policy in Tanzania are those of many other countries.

Back to the roots: the pre-colonial and the colonial

One of the great mistakes of all analysis of policy in Africa is to assume that history begins with the independence movements or even the colonial period. For the African imagination, building community and communication goes back to the most remote ancestors. But we can conveniently think of communication policy in Tanzania in terms of changes in the structural conditions imposed by global economic and political power. Thus the analysis of communication policy can be best analysed in terms of the pre-colonial era, the colonial era and post-independence era.

Underlying all policies is a set of values, a concept of what constitutes good communication. In the pre-colonial era Tanzania, then Tanganyika, was long exposed to trade, contact with many different language groups and the mobilization needed to build the political regimes of the time. The intercommunication to build social consensus included meetings, discussion groups, classes, mass rallies and public displays of particular interests (Ng'wanakilala, 1981, p. 79). Also, there were traditional means of communication such as drums

dances, songs, plays, poems and music (Mrutu, 2003). The central values and "policy" emphasized loyalty and cooperation in the community especially in the form of life-transition rituals. In this, there were principles and norms of a particular group, village or tribe guiding communication. For instance, it was not expected that anybody could carry a drum and go around the villages beating it because that would mean there was an important message from the chief. The drums were beaten to tell people about a death of a village man, expelling a stubborn village leader, the birth of an abnormal child, a war breaking out against another village or tribe and the like. The communication policy defended the village/ tribe against the invaders; to mend the broken behaviour of villagers and to safeguard the welfare and ethics of a community.

Prior to colonialism, communication already began to be influenced by traders, explorers and missionaries. Before these predecessors of colonialism there was informal communication policy, that is, there was neither documented records nor written texts.

Colonial Era

Although much of the pre-colonial communitarian communication values continued into the colonial period - and still continue today (Faniran, 2008) - the major changes were the structure of formal social control that the colonial governments introduced through the regional and district commissioners and the forms of indirect rule. The major influence on the communication values were the educational sytems introduced by the missionaries and to some extent by the colonial government. The peoples of Africa quickly saw that, in the new socio-political-economic dispensation, education and literacy was the key to well being and power for one's person and one's family. With literacy came the recognition of the value of the printed word.

The Anglican Universities' Mission to Central Africa (UMCA) established the first newspaper *Msimulizi (The Story Teller)* in 1888 in Zanzibar; it lasted for two years and was followed by another newspaper *Mtenga watu* in 1890 which was followed by *Maarifa Magazine.* In the mainland, *Usambara* quarterly magazine started at the end of 1892 and the newspaper *Habari za Mwezi* was introduced in 1894. The policy in these newspapers was to accustomed the native people to the communication of the printed word, but the missionaries largely controlled the content.

The missionaries generally worked with the colonial policy of pacification, especially when they were of the same nationality as the colonial power. Part of the objective was to prepare natives for civilization and the rule of law as that was imposed by the colonial power. The missionary press made easy the colonization process by soothing the hearts of the natives in the face of the harshness and repression of the colonial occupation. For instance, according to Sturmer (1998), one newspaper had the following heading based on the statement made by a bishop;*"The peace of the country cannot be restored before the last Masai has been exterminated"* and another one contained the following statement *"You Christians pray for our governor in order that he will live long. God may be willing to give him strength and health; and all problems may disappear from Africa forever"*

In the colonial era, apart from the missionaries' papers the government used newspapers to defend their interests. The contents of the papers included weather forecast news, news from their home country with their European neighbours and local news from Tanganyika and Zanzibar. The first paper under, German rule was *Deutch Ostrafrikanische Zeitung* (DOAZ) was introduced in 1899 and later, *Deutch-Ostrafikanische Rundschan* (DOAR) to counteract the effects of the former. It was alleged that the DOAZ carried the governor's news which were too human to natives and which could jeopardize the home country economic situation. The German Kaiser Wilhelm introduced the press law in 1912. One of the sections of the law stated that the journalists could be prosecuted as criminals if they were not able to prove their absence during any violation.

Under the British rule more than 150 papers were introduced, and the radio broadcasting station *Sauti ya Dar es Salaam* (Voice of Dar es Salaam) began in 1951. During this period the nationalists were fighting for independence and were mobilizing people but were constrained by poor communication and transport infrastructure. On the other hand the colonial government used its newspapers and the Tanganyika Broadcasting Corporation (former *Sauti ya Dar es Salaam*) in counteracting nationalism and fostering colonial continuity (Matumaini, 2009, p. 53). Again, the nationalists under Tanganyika National Union (TANU) established the newspaper, *Sauti ya Tanu*, in 1957. Other newspapers were *Mwafrika* and *Ngurumo*. However, the colonial government supported newspapers, *Mwangaza*, *Baragumu* and *Mambo Leo*, which in fact worked to jeopardize TANU. The

government advocated the colonial interests in the name of the "indigenous party", the United Tanganyika Party(UTP).

Communication Policy in the Post-Independence Era

Immediately after independence, the parliament renamed the Colonial Public Relations department the Tanganyika Information Service (TIS) which was under the prime minister's office., In fact, Nyerere wanted to use media to foster unity and development. But, initially, there were only uncoordinated guidelines for the media to support the government's policies. Soon, however, the government sought to control the media to serve the development goals it was setting forth. The mass media could not be allowed to operate freely under an umbrella of the freedom of press without considering the national pressing needs (Ng'wanakilala, 1981). The dailies, *Mwafrika*, *Tanganyika*, *Standard*, *Ngurumo* and *Daily Nation* were owned by private enterprises. TANU established Mwananchi Printing and Publishing Co which published *Uhuru* and the *Nationalist*. The aim was to build the nation through the Swahili press while the English papers were for international politicians and economists to understand the country's problems and support the state's newly adopted policies. The only medium of national importance was TBC (Tanganyika Broadcasting Corporation); the government renamed *Radio Tanzania Dar es Salaam* (RTD) in 1965. RTD supported the development vision through its programs such as adult literacy and it mobilized people for liberation movements in Africa.

Communication policy during the period of the Arusha Declaration in 1967 was subordinated to promoting the goals of Ujamaa and self-reliance. Criticisms through media were highly discouraged by the ruling party and the government. Nyerere stated that freedom of opinion should be subject to more important political goals such as eradicating disease, poverty and ignorance. The government established the *Standard Charter* in February, 1970 and nationalized the *Standard* and its sister, the *Sunday News* owned by the London-Rhodesian Company (LONRHO). Nyerere appointed as editor the South African journalist, Frene Ginwala, a dedicated nationalist, and the editor was directly responsible to the president. Nyerere, himself, directed the editorial policy and employment policies. When the *Daily News* was established in 1972, with the aim of mobilizing, educating, informing, inspiring the people and disseminating socialist ideas and

ideology, the editor received guidelines directly from the president. Also, *Uhuru* and *Mzalendo* newpapers, owned by the ruling party, TANU, were inaugurated the same year, as mouthpieces of the official party line.

Nyerere used to have monthly meetings with the heads of *Daily News, Uhuru*, RTD and Information Service (MAELEZO) for briefing on development in Tanzania. However, he stated what he didn't like to appear in the media. A survey carried out in 1982 among working journalists, shows that all respondents admitted that there was a authoritarian force pressuring them. Again, they claimed that the press was not accessible to every one. Although the press declared itself to be the voice of the people's aspirations in fact it favoured the interests of the ruling party (Kilimwiko, 2002). Many journalists, trained to follow norms of professional journalistic honesty, found it difficult to work in these circumstances, and there was much "self-censorship".

In the 1970s, the newspapers and RTD continued to support the development vision of Ujamaa and Self- Reliance. For instance, RTD ran campaigns such as *Kupanga ni Kuchagua* (Planning is to Make Choices), *Uchaguzi ni Wako* (The Choice is Yours), *Wakati wa Furaha* (Time for Rejoicing), *Mtu ni Afya*(Man is Health) and *Chakula ni Uhai* (Food is Life). The programs were supported with study groups and books. In 1970 RTD reviewed its objectives and redefined its broad-casting policy with emphasis on defending the nation's independence and dignity, following a non-aligned policy and maintaining world peace and justice.

 The rural press was established in 1974 focusing on helping the peasant farmer population develop reading and writing skills. About seven Swahili monthlies were established on the mainland and one in Zanzibar. These papers didn't last long due to lack of committed and competent journalists in rural areas and poor distribution infrastructure.

The ruling party, TANU, in its first mass media seminar in November, 1973 held in Arusha, agreed to establish a Tanzanian news agency, and Shirika la Habari Tanzania (Tanzanian News Organization) (SHIHATA) was established on November 12th 1976 under the first director, Benjamin William Mkapa. One of its major objectives was to undertake the collection and distribution of news as a public service for newspapers, broadcasting services, news agencies, and members of the public, whether in their individual or representative capacity (Sturmer, 1998, p. 159). But SHIHATA suffered because of poor

infrastructure in rural areas, lack of competent reporters, and lack of good management.

One of the most debated government actions of the time has been the Newspaper Act of 1976 which included many restrictions against editorial and journalist freedom. For instance, the law contains a section which states that the Minister of Information, Culture and Sport has the mandate to ban any news paper if it seems to endanger the national security. The Newspaper Act of 1976, continually criticized as intolerable by media professionals, is still in force.

With the introduction of a multiparty system in Tanzania in the 1980s, there was a cry for liberalization of the airwaves and other media. Many argued that economic and political liberalization could not function if there was not a general atmosphere of open public discussion (Luhanga, 1999, pp. 113-114).   Training of media professionals was in its infancy in Tanzania at the time, and critical media research was almost non-existent. For example, there was no university-level degree program in journalism in the country. Thus, on the eve of the multi-party system, discussion by media scholars and practitioners in Tanzania on the role of the media in a multi-party situation was almost non-existent.

Discussion of media freedom by legal experts and political scientists was more mature. On February 1992, the Nyalali commission's report indicated that the Newspaper Act of 1976 and the Zanzibar Newspaper Act of 1988 contradicted Article 18 (1) of the Constitution. The report continued to state that there was a need to amend the Tanzania News Agency Act of 1976 in order for SHIHATA to have the right to gather, distribute and disseminate news but without preventing other agencies or persons from doing the same. Also, the commission suggested the establishment of a press council which would not be controlled by the state but by the journalists, newspaper editors and publishers themselves.

In the early 1990s an independent commercial press began to develop. Initially, there was repression by the government of public press criticism of government actions. But the pressure of public opinion and other international institutions, gradually brought the leaders in the dominant party to accept increasing degrees of press freedom (White, 2008, pp. 312-314).

The year 1992 is generally understood as the turning point in the history of mass media in Tanzania and the beginning of a policy of allowing media liberalization. This led to the Broadcasting Act of 1993,

the establishment of the Media Council of Tanzania in 1995 and the Information and Broadcasting Policy of 2003. Since then there has been debate on the strengths and weakness of these Acts and the communication policy in Tanzania.

The Strengths and Weaknesses of Communication Policy in Tanzania

The development of communication policy in Tanzania has not been researched in-depth, and there has been little clarity regarding the responsibilities of the various stakeholders in the media world. This has led the media to follow the whims of some people especially politicians, businessmen and government's leaders. There has been a gradual development of major media entrepreneurs in Tanzania, each controlling newspaper, radio, television and other media. These media houses, in some cases, put economic profit (or survival) as a priority over the social responsibilities of the media, and are open to collusion with major political forces. With such concentration of ownership, the problem of media monopoly is still not resolved. This calls for new communication policies to define government-media relationship in Tanzania and to establish the social responsibilities of the media (Moshiro, 2010).

The current questions facing media and communication policy leaders in Tanzania are the following:

(1) What are the social responsibilities of media ownership in Tanzania?

(2) What is the demarcation between state-owned media and government-owned media?

(3) Do the community media and commercial media providing community information services have a promising future?

(4) Why is it so hard to deregulate and re-regulate media in Tanzania?

(5) Does the media legal framework facilitate media services in Tanzania?

(6) Why do the media scholars, practitioners and professional associations continue to work with relatively little cooperative discussion and without a common vision?

(7) What are the roles of the Ministry of Information, Culture and Sports, Tanzania Communication Regulatory authority (TACRA), the media houses, schools

of communications, and the government information service, (MAELEZO) in reviewing media policy?

There are many "pieces of law", guidelines and attempts at policy affecting the communication sector in Tanzania: *Standard Charter*, 1970, National Security Act No 3 of 1970, Film and Stage Play Act, 1976, News paper Act 1976, Public Corporation Act, 1992, Broadcasting Policy 1993, The Tanzania Intelligence and Security Act No 15 of 1996, Communication policy 2001, Information and Broadcasting Policy 2003, and the two current bills/acts on information and media service.The crux of current communication policy lies in the 1980s and 1990s move/transition to a multi-party political system and a public culture of open debate about major national decisions. As was noted above, there has been relatively little systematic research and public expert discussion on the role of media in the process of democratization in Tanzania. In 1992 the Nyalali commission pointed out that the News Act of 1976 should be amended. The News Act of 1976 and other strands of legislation reflected the policies of Ujamaa, self reliance, TANU control and Afro-Shirazi's ideologies which were at odds with the civil society developing in the 1990s. It is very strange that till today political leaders are not showing a keen interest in following up the recommendations of the Nyalali commission..

The amendment of the Tanzania constitution in 1992 provided room for greater journalistic freedom, competition for providing better services as well as media pluralism. The general trend has been toward less control by the dominant party and wider democratic participation. But today, after 20 years, the cry for freedom of expression and freedom of information laws is even stronger. Why? There are four factors to be considered:

(1) When there are some changes in the process of democratization, naturally there should be a constitutional change for the recognition of human rights in the new order.
(2) The greater freedom of expression has brought revelations of scandals, corruption, management crises, open injustices and violation of human rights..
(3) The gradual acceptance of the principle of freedom of information stimulates a demand for a flow of information for an increasingly educated public.

(4) International pressure for freedom of information laws coming from the Bretton Woods agencies, the many donor agencies and the embassies.

Tanzania's information and broadcasting or communication policies can't be isolated from the the influence of the world wide search for new communication policy paradigms:

(a) The choice of policy instruments between economic measures, regulation, and self -regulations.

(b) The need to seek a coherent set of principles and a framework of regulation for all sectors.

(c) In the procedures to define and pursue a Tanzanian national media policy, who is supposed to govern the process? The Ministry of Information, Culture and Sports? Information Service (MAELEZO), TACRA? The unit of information education? Who are the major stakeholders of information flow: Media Owners Association of Tanzania (MOAT)? Media Institute of Southern Africa - Tanzania (MISA- TAN), the Tanzanian Journalist Association (TAJA), the Editors Forum, the asociated schools of communication? Or the public?

(d) The need to balance freedom of communication with the information demands of the society poses some central questions for reflection:

1. Should the media cover anything profitable in the effort to enforce democracy?

2. Should a journalist defame anybody simply because the donors would defend them or to be in line with the interests of the few?

3. Should the government restrict press freedom under the guise of protecting the national interest?

4. What are the roles of advertisers? How shall we balance the global commercial media market and the local market?

The areas that need reform

The current 2003 information and broadcasting policy statement needs to be overhauled. But the process cannot be done without systematic research on the current problems (such as the exclusion of the vast majority from information access), the adoption of new digital technologies and consultation with all stakeholders. Following the

whims of the few will endanger not only the success of a communication policy but the peace in Tanzania. In general, Tanzania communication policy is based on the Anglo-American liberal legacy. However, when looking at the current communication scenario one must take into consideration the whole historical process of formation of communication institutions in Tanzania. More than one might realize the communication institutions in Tanzania are rooted in the historical-political and socio-economic scenario stretching back into the pre-colonial period. Some would argue that the communication policies from 1961 to 1984, the period of Ujamaa and Self-reliance, did not take into consideration the initiatives and information needs of the diverse regions and subcultures of Tanzania and the interchange with a larger world. Tanzania in this period was a closed society in the information sector. The government and the ruling party, with a monopoly of media, published the *Daily News* as an official government newspaper and *Uhuru* as the party newspaper, but together their circulation rarely surpassed 20,000 (Kilimwiko, 2002). Thus, the urban middle-class ruling elite, expanding with the rapidly growing state bureaucracy, shared in this monopoly and privileged access to information while the vast peasant farmer sector remained without newspapers and with little or no information entering into rural villages. The RTD did not reach all sections of Tanzania beyond the capital Dar es Salaam so that the rural population was often even without radio. The campaign to build rural schools faltered after 1978 and illiteracy increased significantly in the 1980s and 1990s.

Ali Hassan Mwinyi, replacing Nyerere as president in 1985, faced all these problems of communication development, but also severe economic problems due to the failure of the state-centered development approaches from the 1960s to 1980s. New policies encouraged the shift to response to the initiatives coming from the people and this led to a demand for economic and political liberalization. The IMF, the World Bank and other bilateral donors insisted on liberal market-economy reforms as a condition for aid to cover the growing fiscal deficits. The Structural Adjustment Programmes (SAP) of the 1980s and early 1990s signalled the shift from state-shaped society to market-shaped society (Mushi, 2001). This led to the introduction of commercial newspapers, television and radio which now had to survive in the information market.

According to McManus (1994) there are four impacts of market-driven journalism that policy making should be aware of:

    (1) Consumers are likely to learn less from the news because the mass media directed to a general audience is more superficial, do not analyse consequences and do not facilitate learning;

    (2) Given the superficiality of the tabloid-tending press, readers may get insufficient background and may be misled.

    (3) News sources may become more manipulative and

    (4) The audience becomes more apathetic about politics that appears to be played by insiders in the media, government and big business.

Media liberalization in the 1990s brought a rapid expansion of commercial, advertising-supported newspapers, radio stations and television stations. This tended to favor the urban, educated elite, but the expansion of radio also brought more media access to rural and urban lower-status groups. Media in Tanzania is presently in the hands of seven prominent media companies, six of them based in Dar es Salaam:

    (1) One of the largest is The IPP Media Limited. This media house owns print and electronic media. Among them are Independent Television (ITV), Radio One, The East African Radio and a number of newspapers under the subsidiary company, *The Guardian* Ltd.

    (2) *The Business Times* Ltd (BTL): This owns Radio Times FM, and two newspapers, *Majira* and *Dar Leo*.

    (3) The Habari News Corporation Ltd (HCL) does not possess any type of electronic media but a number of daily and weekly newspaper such as *Mtanzania* and *The African*.

    (4) The Media Communication Ltd (MCL) owns *Radio Uhuru* and two newspapers in partnership with the Kenyan Nation Media Group.

    (5) Mwananchi Communication Ltd, owned by Nation Media Group Company in Kenya, does not have any type of electronic media but several newspapers such as *The Citizen, The Sunday Citizen, Mwananchi (*perhaps the largest circulation daily newspaper*), Mwananchi Jumap*ili and *Mwanaspoti.*

    (6) Global Publishers owns the newspapers, *Uwazi, Risasi and Ijumaa.*

(7) The Sahara Communications and Publishing Company Ltd is based in Mwanza, Tanzania's second largest city, and owns *Star TV*, *Radio Free Africa* and *Msanii Africa*.

All of these media are subject to the regulatory control of TACRA, but the major "regulation" comes from the competition to gain an audience and advertising revenue. Also a challenge is to remain independent of political, advertising and proprietory pressures--being a truly independent media which will not be partisan, parochially politicized nor superficially personalized.(Aga Khan (2010).

In the new context of commericial media and the rapid rise of public relations offices in all governmental and private enterprise organizations, some of the older state-related media services are questionable. For example, the role of Maelezo, the official government information service, is not clear since now most government offfices have their own information services. On the other hand, the state radio and television service has become an important player as a public service broadcaster and by extending its services into the rural areas.

Legislation Currently Governing Media in Tanzania

The major problem with legislation is that the laws governing media in Tanzania are still not always in tune with the democratic expectations associated with the ongoing changes in political and economic culture (Ogbondah, 2002, p. 73). For example, the laws which can be applied to "punish" a critical journalist are still on the books.

There are two categories of laws which govern media in Tanzania: The first category of laws are those which regulate directly or limit freedom of expression in the media industries. The second category are those enacted for the purposes other than regulating media but have direct consequences for the freedom of expression.

1. Laws restricting freedom of expression (First type)

1.1 *The Newspaper Act No 3 of 1976*

The newspapers Act No 3 of 1976, originally known as the newspaper ordinance of 1928, has a provision for registration and regulation of newspapers and other matters relating to it. The provision empowers the registrar, the minister responsible for information, the magistrate and the police to interfere with the publication and

distribution of a newspaper, whenever they are of the view that such newspaper has contravened the provisions of this Act.

Section 5 (2) empowers the minister responsible for information to exclude any newspaper from operation either absolutely or subject to conditions as he may deem fit. Subsection (5) forbids any publishing or printing of a newspaper unless the proprietor, printer and publisher has previously signed and sworn before a magistrate and registered in the office of the registrar. The section contains several conditions that one has to meet before restoring a newspaper. The registrar has also the power to register any newspaper.

Moreover, section 22(i) empowers any police officer to seize any newspaper wherever found, which he reasonably suspects to have been printed or published in contravention of this Act. Section 25(i) empowers the minister to ban any newspaper if he deems it necessary to do so to maintain peace and order or for public interest. In addition Section 27(i) empowers the president to ban importation of foreign public publications, wherever he deems necessary to do so for public interest.

Furthermore, section 31 of the Newspaper Act makes sedition a criminal offence. This offence is regarded as being inconsistent with freedom of expression because it is left to the authorities to determine whether the intentions are seditious or not. Section 38 makes it a civil offence to publish or utter defamatory remarks against any person. Defamation in this regard is taken as any remarks made public, that tends to lower the reputation of a person, putting him/her in bad light. Usually, a person who claims to have been defamed must prove the following:

(a) The remarks were published
(b) The remarks were injurious to him/her. The defamatory remarks are divided into two categories, first, words that prima facie are defamatory; secondly, libellous per quod or defamation per quod (or innuendo).

It is easy to see that these laws can be used in very vindictive and arbitrary ways as the following cases show.

Examples of cases under the Newspaper Act of 1976
1) One of the recent victims of the Newspaper Act of 1976 is the *Mwanahalisi* Newspaper which was suspended for three months by the Minister of Information for what they considered publication of seditious information.

2) A former parliamentarian who filed a libel suit against the *Shaba* newspaper was awarded Tsh 25 million as the compensation for damages by the High Court.

3) In Zanzibar the Chairman of the Zanzibar Electoral Commission (ZEC) was awarded Tsh 30 million damages each from Majira Business Printers and Professor Ibrahim Lipumba, Chairman of the Civic United Front Party by the High Court.

4) In another case involving the same newspaper, but this time being sued by the former President Alhaji Aboud Jumbe, for publishing a defamatory article implicating him in promoting and funding Islamic fundamentalism. The newspaper was fined Tsh 40 million as compensations for damages amounting to Tsh 250 million (Rioba: 2000; Kilimwiko: 2002).

The Broadcasting Services Act No. 6 of 1993

The Broadcasting Services Act No. 6 of 1993 makes provision for the management and regulation of broadcasting and related matters. Among the sections which restrict the freedom of expression is a section 9(1) prohibiting any person from transmitting or receiving and transmitting or otherwise operating a broadcasting service, deal in broadcasting apparatus or permit anything to be done for which a license is required under this Act, unless he is in possession of an appropriate license. This prescribes a list of conditions prior to obtaining license under section 1 (2).

Section 11 (3) empowers the Commission to determine conditions in as far as frequencies and geographical broadcast locations are concerned. Under section 12, the Commission has the powers to revoke a license, as it deems fit. Also section 25 (1) and (2) empowers the Minister responsible for Information to order any license holder to broadcast forthwith or within any time in any manner specified. These powers include allowing a person to control more than one broadcasting service or more than one radio station, one television station which have common coverage or distribution area.

Even today the electronic media in Tanzania are not allowed to broadcast in tribal languages. There is a fear among Tanzanians that this may lead to disunity. But there is no research or scientific explanation justifying this concern. This condition could be modified to allow for translations of swahili messages into the vernacular languages. When people are allowed to think in their languages they can participate more in the process of development.

The Registration of News Agents, Newspaper and Books Act No. 5 of 1998

The primary purpose of this Act is to provide for registration, deposit and printing of newspapers and books in Zanzibar. A part of the Act deals with registration of newspapers and contains a number of onerous provisions regarding the print media.

Section 8 provides that before any newspaper is published or printed in Zanzibar, the publisher, editor and proprietor are required to have a sworn affidavit before a magistrate (and delivered to the Registrar). This must contain the name of the newspaper and a description of the building in which the newspaper is intended to be printed. The names and places of residence of the proprietor are amendments to the above. Furthermore, the section 7(2) allows the Minister of Information to exempt any person or institution from the registration requirements. Also, section 31 allows the Minister to suspend a newspaper (on the advice of those responsible for censorship) or order a suspended newspaper to cease publication if in his opinion it is in the public interest or in the interests of the peace and good order to do so. Moreover, part III of the Act deals with the deposit of newspapers in terms of No 14 of the Act. "Copies of newspapers published in Zanzibar shall, on each day of the publication, be sent to the Registrar by registered post".

The Second Category of Laws: Indirectly restrict freedom
The Films and Stage Plays Act, 1976

Under the Films and Stage Plays Act, 1976 (Act No. 476), under section (30) the Minister responsible, in this case the Minister of Information, Culture and Sports, is allowed to revoke a permit, license or certificate of approval issued to the holder. The circumstances in which the Minister can do so again fall under the public interest of the nation. Furthermore, section 3(1) prohibits any person from taking part or assisting in making films unless he is granted permission by the Minister, while section 3(2) restricts the making of films by a person for his own entertainment or private exhibition to his family or friends. All the sections above minimize the personal freedom and enjoyment of the public and have created difficulties for the running of the film industry.

The Prison Act 1957

The Prisons Act of 1967 (Act No. 34/67) restricts people from going to prison yards. Section 83 creates a penalty for loitering in the vicinity

of a prison or any other place where prisoners may be in the course of their imprisonment and the responsibilities thereto. The section further doesn't allow communication with any prisoner, making sketches or photograph of a prisoner within or outside the prison. It is also an offence under that section for a person to cause any sketch or photograph of any prisoner or portion of a prison to be published in any manner. Moreover, the Act covers the behaviour or experience in prison of any ex-prisoner or concerning the administration of any prison without taking reasonable steps to verify such information (Kilimwiko and Mapunda, 1998). All sections mentioned above restrict the freedom of the media by making it cumbersome for journalists to get information or stories on prisons that are of public interest.

The Tanzania Communications Regulatory Authority Act No. 12, 2003

The Tanzania Communications Regulatory Authority Act No 12 of 2003, section 48(1) spells out the consequences for those who do not perform in compliance with the Act. It states that, "any person who contravenes or fails to comply with the provisions of the Act commits an offence and shall be liable on conviction to a fine or imprisonment or both". However, the broadcast media, particularly TV, are still kept under strict controls by the government through the Tanzania Communications Regulatory Authority (TACRA). These controls in many ways limit the freedom of media, for example, in the language use.

The Public Corporations Act, 1992

The Public Corporations Act of 1992 makes provision for the establishment, operation and management of state-owned corporations and specifies the terms under which the state's broadcasters operate. The Act applies to public corporations and, therefore, has a major effect on companies such as the Tanzania Broadcast Corporation (TBC 1) and state-owned newspapers such as *Habari Leo, Daily News* and *Sunday News*. Section 4 (1) of the Act allows the President to establish a state corporation by order, while section 6 states that the government is the sole shareholder of a corporation. The responsible Minister may give the Board of Directors of that company such as TBC directions on performing its functions. Moreover, section (1) allows public corporations such as TBC1 or the *Daily News* to operate its business according to sound commercial principles. Thus, sound commercial principles means the attainment of a real rate of return on capital

employed of at least five per cent or such other figures as are approved by the government.

Some may consider it odd, however, to insist on a particular rate of return for a public corporation such as a state broadcaster. Requiring the state media to contribute particular profits to the national income (GNP) can undermine a number of important social goals of broadcasting, such as ensuring an appropriate amount of local content, good quality news and current affairs programming. Moreover, section 8 (1) provides for the establishment of the Board of Directors, which shall be responsible for the policy, control, management and commercial results of the affairs of the Public Corporation. Section 8 (2) mention the duties of Board of Directors, who are appointed by the Ministers, while the Board Chair is appointed by the President on the advice of the responsible Minister.

The Records and Archives Management Act No. 3 of 2003

The Records and Archives Management Act No. 3 of 2003 provides for the proper administration and management of public records and archives. The Act is intended to assist public offices to create adequate records of their actions and transactions. It also empowers the Ministers responsible for Records and Archives management to require records from private organizations. The sector of the media governed by the Act is section 16 which permits access to public records after thirty years from their creation unless a shorter or longer period has been prescribed by the Minister. A longer period than thirty years may be imposed.

The National Security Act No. 3 of 1970

The National Security Act No. 3 of 1970 is designed to protect national security interests. It provides protection against espionage, sabotage, and other activities prejudicial to the interests of Tanzania. Section 3 prohibits any person from approaching, inspecting, passing near the vicinity or entering any protected areas. The president in an order published in the gazette can designate such areas. The Act also prohibits any person from obtaining, collecting, recording, publishing or communicating to any person any code password, article or information likely or intended to be useful to a foreign power or disaffected person. This offence is punishable by life imprisonment. Section 4 makes it an offence to communicate to any unauthorized person classified information or classified matter. Classified

information or matter is defined as any information or matter declared as such by an authorized officer appointed by the Minister responsible for national security.

Under section 13(i) a person suspected of any offence specificied by the Act can be arrested without a warrant. Section 19 denies such a person the right to bail. The prohibitions pertain even to journalists who need to go to a so called "protected area" for the purpose of reporting a matter of public interest. The Act blocks access or use of information from a document stamped "confidential", "secret" or top secret. The classification of material as secrect can be extended to documents of specified authorities such as a local district or regional authority, to parastatals or leaders of the official party, Chama Cha Mapinduzi. In spite of the present multi-party provisions, the ruling CCM is still protected.

In 1997 the newspaper, *Shaba*, was a victim of this law when the paper ran a story accompanied by a copy of classified information. The newspaper, *Majira*, was also a victim of the national security Act when it published a story revealing government embezzlement of Tsh. 850 million in a deal to purchase a "radar" military system. Although there has been much corruption in the procurement of military equipment, it is an offence to disclose any military-related information. In this case, the editor and publisher of *Majira* were arrested as violating this law (Rioba, 2000).

On February 28, 1977 the late Adam Mwaibabile, a local stringer from Songea, was convicted and sentenced to 12 months imprisonment for being found in possession of a letter stamped "Confidential". The letter to the town director was written as an order of the Regional Commissioner and signed by a local official on his behalf (Rioba, 2000).

The Tanzania Intelligence and Security Service Act No. 15 of 1996

The Tanzania Intelligence and Security Service Act No. 15 of 1996 which establishes the Tanzania Intelligence and Security Service does not deal specifically with media regulation, but sections 16 of the Act provides for restrictions on published and broadcast information. It prohibits any person from publishing in a newspaper or broadcasting by radio or television, the fact that any person (other than the Director General of the Tanzania Intelligence and Security Service) (the service) is a member of the service or is connected in any way with members of the service.

The Penal Code, which establishes a Code of Criminal Law

Section 55(1) makes a punishable offence any publication with seditious intentions. Seditious intention under this section is defined as an intention to bring into hatred or contempt or to excite disaffection against the lawful authority of the government. It is also an intention to promote feelings or ill will and hostility between different categories of the population (Kilimwiko, 2002). In practice, any criticism of government is looked upon as implicitly "seditious". This sets up an atmosphere in which self-censorship is rampant.

The threat of contempt of court and forced disclosure of sources

Journalists in Tanzania can be imprisoned for contempt of court and for refusing to disclose to the court their sources of information. There is no privilege protecting a journalist from being forced to disclose her or his sources of information in court as there is for advocates or witnesses. It is held that any conflict between the journalist's code of ethics and obedience to the law must be resolved in favour of the law.

Contempt of Parliament

It is also a criminal offence for a person to make defamatory statements about members of parliament, proceedings of parliament or its committees, about a member's conduct in parliament or in committees. It is also a criminal offence to disclose details of parliamentary committees' investigations before the committees has reported to parliament.

To what extent do these legal prescriptions inhibit media's "Watchdog" role?

The formal convictions of journalists for violation of these may be relatively few, but the influence is greatest in terms of self censorship. The occasional convictions with their costly litigations may be few, but they are enough to create an atmosphere of caution. Every public criticism must be weighed and studied. The overall impact is to create a journalism of restraint. Only when it is clear that the powers that be have given the green light to investigate and reveal is there confidence that some law may not be invoked.

The way forward

The discussion above has indicated many areas where communication policy in Tanzania is not responding to the development needs of the country. But there are certain priorities that can no longer be postponed. The final part of this article suggests areas of special focus.

Special areas of Focus

The criteria for designating certain priorities is whether it is clear that that these are areas in which the political, economic and cultural development of Tanzania is suffering because of communcation policy.

a) Freedom of Expression

For the media in Tanzania to develop and play its role, the essential condition is greater freedom.

There are two fundamental questions. To what extent is there freedom of expression? What are the indicators that there is freedom of expression in a nation? Articles 19 of the Universal Declaration on Human rights states:

> Everyone has the right to freedom of opinion and expression; this right includes the right to hold opinions without interference and to seek, receive and impart information and ideas of all kinds regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of his choice.

Article 9 of the African Charter on Human and Peoples' rights states:

> Every individual shall have the right to receive information.
> Every individual shall have the right to express and disseminate his opinion within the law.

Article 18 of the Constitution of the United Republic of Tanzania states:

> 1. Every person is entitled to freedom of opinion and expression. That is to say, the right to freely hold and express opinions and to seek, receive and impart information and ideas through any media, regardless of national frontiers and interference with his correspondence.
> 2. Every citizen has the right to be kept informed of developments in the country and in the world, which are of concern for the life of the people and their work and of questions of concern to the community.

The right to freedom of expression should not be absolute. The international laws and national laws define parameters. The interference, however, must be provided for by the law; must pursue a legitimate aim and the restriction must be necessary to secure one of those aims. It is imperative that there be no such thing as an absolute freedom of expression. In other words freedom of expression should be moulded with responsibilities.

b) Access

Freedom of communication and equal access are related to the question of who is in control of the actual communication process. They are also legitimated by objectives and norms that derive from the spirit of democracy and ideas of citizenship. The fundamental, democratic principle that justifies or legitimates media regulation is the objective of ensuring that a diverse, high-quality range of media are made available to all citizens in the interests of avoiding social exclusion. Access to information has been debated a lot in Tanzania. The time has arrived to draw up a clear set of guidelines regarding what the citizens can get access to and what they cannot.

c) Control / Accountability

The element of control in future policy in Tanzania requires justification by an appropriate definition of both the "public interest" and also private or personal rights, both individual and collective (Buckley et al, 2008, pp. 6-9). It has also to be consistent with the definition and reality of communication. Control over access to communication is control over deciding who gets access to what communication resources, when, where, how and under what conditions.

d) Public Service Broadcasting

Media pluralism is of vital importance in the process of development of any nation. In fact, media pluralism is the rationale for public broadcasting. In the current media situation in Tanzania, there are mixed feelings as to whether the Tanzania Broadcasting Corporation (TBC) is a public broadcasting institution in the strict sense or not. Public service broadcasting should have the following characeristics:

   (1) Provide quality, independent programming that contributes to a plurality of opinions and an informed public;

   (2) Provide comprehensive news and current affairs programming, which is impartial, accurate and balanced;

   (3) Provide a wide range of broadcast materials that strike a balance between programming of wide appeal and specialized programs that serve the needs of different audiences;

   (4) Be universally accessible and serve all the people and regions of the country, including minority groups;

   (5) Provide educational programs, especially programs directed towards children; and

   (6) Promote local program production, including through minimum quotas for original productions and material produced by independent producers. (www. Global Campaign for Freedom of Expression, 2004, London, article 19, org.tanzania information and broadcasting policy, 15/02/2010)

Public service broadcasting should be independent of the government and commercial interests. Thus, there should be editorial independence and institutional autonomy. Also, it is recommended that the board of directors should be appointed in an open and pluralistic manner to make sure that there is no risk of political or other interference. The Information and Broadcasting Policy of 2003 as it stands should be amended to respond to the following concerns:

   (1) Internet is not a broadcast medium, it goes beyond it. Also it does not rely on the public frequencies and broadcasting licensing is not applicable to Internet. Therefore, the policy should be restricted to mass media only. The idea to regulate Interndet should be reconsidered.

   (2) The government of Tanzania should reconsider media concentration for the sake of the public common good.

   (3) The regulation of broadcasting and print media should be under one ministry. Currently, broadcasting is under the Ministry of Science and Technology and print media is under the Ministry of Information, Culture and Sport through the Information Service (MAELEZO).

   (4) The information and broadcasting policies should be consistent with the development policies in Tanzania .

   (5) Promote better quality and more in-depth investigative journalism.

(6) The national policy should focus on both government, state, public, community/institutional and commercially owned media.

(7) Support research and publication in the area of media in the African and Tanzanian context.

(8) Formation of a body to supervize the implementation of the information, broadcasting and printing policy.

Communication policy in Tanzania is at a crossroads. In Africa, there are major changes in the socio-political scenario, the economy and the development of technology to such an extent that refusing to deregulate or re-regulate media is killing media services.

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Digital domains and new development strategies: Revisiting ICT policy-making in the Global South

By Hopeton S. Dunn and Kwame Boafo

Abstract

National communication planning in Africa must incorporate the latest generation of information technologies, but planning must aim at concrete development results in terms of employment and incomes. For the technology to generate the best results it must be based on institutional changes such as improvement of literacy levels and a type of basic and professional education which requires active reaching out to get information to develop personal knowledge systems. Planning requires multi-stakeholder cooperation involving educational, entrepreneurial, political and community cooperation. Regulation and investment/entrepreneurial opportunities need to be far more flexible and user-friendly. Access to information in government, research centres and other institutions needs to be far more open, available and inviting.

Key words: ICT policy and planning, ICT and development, education for ICT, ICT investment and regulation.

Introduction:

We are at a another crossroads in communication policy-making globally. This presents new challenges and opportunities for countries of the global south in the on-going processes by which new and conventional media have been converging to create advanced digital applications, especially on the Internet. The key challenge of policy is now to help ensure that these processes are extended to create greater popular access to information and communication technologies (ICTs) in order to maximize business and the development opportunities.

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Reference to access here connotes not a uni-dimensional concept, but one that is multifaceted and multilayered. Critical to the success of new communications policies is the notion that effective access to the communications technologies goes beyond an individual's physical reach or proximity to particular technologies. We must recognize and validate people's capacity to use and to benefit from the financial, social, institutional, content and cognitive dimensions of ICTs. The current juncture is characterized by advanced levels of exploitation of information and converged technologies, especially in urban centers of the North and South. It is also marked by pervasive forms of mobile communication, virtual social networks, web logs (blogs) and interactive media. New externalities, both negative and positive, are associated with these technologies, as are new industry configurations, which carry significant productivity implications for national economies. New Media generate pressing demands for new approaches to training, content delivery, industry regulation, career choices and professional practice.

Another transitioning aspect of contemporary communication policy-making features the rise of next generation networks (NGNs) with their fast-paced broadband capabilities. It is NGNs that enable platforms such as Web 2.0 (second generation of the World Wide Web) for new Internet-based media which are now gaining in popularity. These networks have forged an unassailable union between the conventionally separate categories of users and creators of content. In what has been described as the "wiki world", the user and the content providers can converge into being one and same individual, posing challenges for old "editor-driven" formats. Already there are indications of a transitioning from the Web 2.0 platform to the "semantic web" or Web 3.0, which aims to make the Internet "smarter" and more intuitive. Presently, the Internet consists of data and applications which respond in a literal manner to requests for information or actions by individual users. The objective underpinning Web 3.0 to confer greater intuitive powers to web responses will enable the recognition of data or the interpretation of commands in ways that seek to automatically interpret and in turn make more accurate and valid suggestions and solutions to the demands of Web users.

At an abstract level, we may say that this increased use of artificial intelligence epitomizes Neil Postman's concept of a "technopoly" in which the machines and related applications are regarded as capable of playing a commanding and even overwhelming role in the daily lives

of human beings (Postman, 1992). But, even while taking on board this cautionary injunction, one senses that the new forms of techno-interaction promise to be more nuanced. The emerging communications technologies, while challenging conventional human societies, are yielding new hybrid forms of citizen media and improved human productivity as they become increasingly symbiotic, dialectic and intuitive.

For many developing countries, the challenge is for Internet users to become more active contributors to the global digital storehouse of knowledge, instead of continuing as net down-loaders. If we are to redress, in the Internet age, the long-standing North South imbalance in information flow, our policies should now more proactively promote a culture of uploading of content and of mutual sharing of information where appropriate, within the framework of the emerging open source and the creative commons movement. Where commercial content is being uploaded, individuals and countries should be developing a greater command of the key tenets of e-commerce transactions, intellectual property protocols and the routes to circumvent cyber crimes by enacting or supporting the necessary legislation and driving public education. While some countries and geographical regions are not yet in the full throes of this open and more liberalized transformation, the transition is rapidly advancing globally and no realistic communications policy maker can ignore these technological innovations and protocols and their implications for future national development planning.

If the previous century has taught us anything, it is that communications policy making should not be primarily driven by the inexorable roll-out of technological innovations. Policy should be needs-based and should emanate from conscious critical analyses of the strategic needs of people within their policy environments. In this regard, Stephen Miller in his still relevant 1996 book "Civilizing Cyberspace", reminded us of the imperative of designing policies to meet the economic and social requirements of specific societies.

> To serve the full range of human needs, we have to create an infrastructure that doesn't simply fall into the easiest paths to profit but one that consciously promotes values that short-term profit seekers do not always support. This is not a rejection of markets, but it is a recognition that markets are created by humans, that we must shape our markets to serve our desired goals and that we must be prepared to use non-market activity when needed. Sitting

back and waiting for the good times to roll will not work. There is no invisible hand that will automatically bring us what we need or even what we want. (Miller, 1996, p.15)

It is against this background that this article examines development approaches to policy making, especially in the global South. In so doing, we will seek to outline a corresponding strategy and research agenda that may be adapted to inform policy-making. As part of this discussion we track certain transitions in media and communications policy-making and concept development from early perspectives to the current scenarios derived from converged technological platforms. We advance a humanist perspective on the rights of people to access and use ICTs, and the potential of ICTs to enhance good governance and democracy while guarding against technology enslavement. The conclusions are derived from both the shared and differing global experiences of the authors in analyzing and tackling ICT policy and human development challenges across continents.

Vision, Policy, Strategy

Like corporate entities do in their business plans, countries have to define their communication goals and attendant policies, and match them against available resources and time-lines to be competitive. The success or failure of public policies in the area of new media and telecommunications depends on this approach which often determines the performance of ICT businesses and of the whole economy, thereby impacting successive generations of ordinary citizens. While some approaches confine public policy making to governmental actors, our approach is to include within that framework all actors that have a significant impact on the delivery of economic and social services to the public. The implications of public policy making therefore become embedded not just in government's direct activities but also in the actions and collective impact of companies associated with these services, as well as of universities and other social, civil and corporate actors within industry and society. A crucial first step in ICT policy development is evolving a multi-stakeholder vision and identifying shared strategic objectives through consultation and dialogue. This multi-stakeholder approach was successfully employed to good effect in global policy arenas such as the World Summit on the Information Society (WSIS) and subsequently the Internet Governance Forums (IGF). These multi-stakeholder processes involve non-state actors from civil society and the business sector on an unprecedented scale. Roles

once reserved for multilateral government actors are now being carried out by consortia of private and civil society operators. Institutions such as the Internet Corporation for Assigned Names and Numbers (ICANN) also reflect increased responsibilities for technical communities and for expert individuals. Local policy making is thus often strongly infused with non-governmental voices in line with global institutional processes and research outcomes. It is a process of deepening collective choices and generating the capacity to pursue the choices made. The policy making process in each country is often assisted by the development of a network of techno-specialists with a coordinating hub led by an agency or industry champion. This, with a parallel strategy to promote both indigenous innovation and inward investment, can sometimes successfully drive the expansion of human capacity and encourage local entrepreneurship. Dunn and Duggan (2006) comment:

> While technologies and policies may change rapidly we should establish a stable ICT management process that includes (1) education to provide a baseline for continuous ICT knowledge-acquisition; (2) environmental scanning and innovation adoption to promote awareness of emerging technologies in order to reduce the elapsed time between awareness and adoption; (3) informed policy and infrastructure development and maintenance to encourage prudent adoption and diffusion of relevant technologies. (Dunn & Duggan, 2006, p. 49)

All national stakeholders have a role to play towards achieving these and other goals aimed at accelerating ICT development. In this regard, it is important to promote cultural integrity while adapting and integrating national communications policies that emanate from people's social, cultural and economic development needs.

> The developing world's fixation on reducing the digital distance with more developed countries has become a strategic imperative for global competitiveness. However, while the focus on the digital divide is new, the phenomenon is not. For various reasons, several technological innovations, such as applications of artificial intelligence and group support systems (GSS), that support knowledge management and business intelligence, though not as consequential as the Internet and the World Wide Web, have been unexploited by developing countries in the past. We must ensure that we maintain the focus, instead of several sporadic attempts at closing the existing gap and continue to expand our strategy to move

> beyond awareness and readiness to creativity and contribution.
> (Dunn & Duggan, 2006, p.49)

As shown in Figure 1, Dunn and Duggan (2006) identified a core set of variables, described as the roadmap, that are critical to the building of a multilayered ICT sector at the national level. This indicative framework includes the foundational infrastructure for education as well as provisions for research capabilities, policy enablement, content creation, business development and institutional development components.

FIGURE 1: ROADMAP FOR STRATEGIC ICT DEVELOPMENT

Figure 1: Roadmap For Strategic ICT Development

Source: Dunn and Duggan (2006)
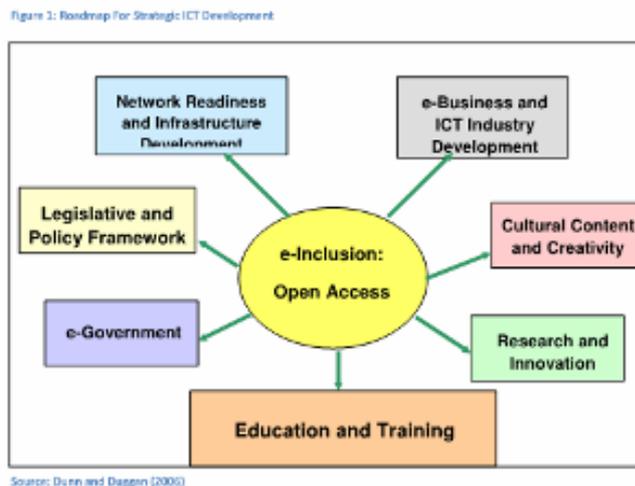
In this framework elaborated by Dunn and Duggan, it is effective inclusion and popular involvement within the information society that should consume the greater portion of efforts to articulate national information and communications strategies. Whatever the expectations, without effective e-inclusion and access, the outcomes of these efforts will be characterized by mere corporate infrastructural investments and technology elites, without the sustainable development compact which countries seek. One way of gauging the level of development, growth and sophistication of ICT deployment is to analyze the innovations and range of applications that they can facilitate over time. For instance, as Figure 2 demonstrates, global communications technologies have grown astronomically from the

innovations in the plain old telephone systems (POTS), to the now emerging next generation networks (NGNs). Less clear, however, are the development linkages between these technologies and the economic and social spheres of societies particularly in developing countries.

FIGURE 2: TECHNOLOGY TRANSITIONING

Next Generation Networks
- IP Telephony
- Mobile Broadband
- WiMax
- GPS

Mobile Computing
- Smart Phones
- Laptops
- Bluetooth
- WiFi

Mobile Telephony
- Digital handsets
- Cellular Sites
- Satellites

Wired Technologies
- Plain Old Telephones
- Optical Fibres
- Telephone Lines

Source: Dunn (2008)
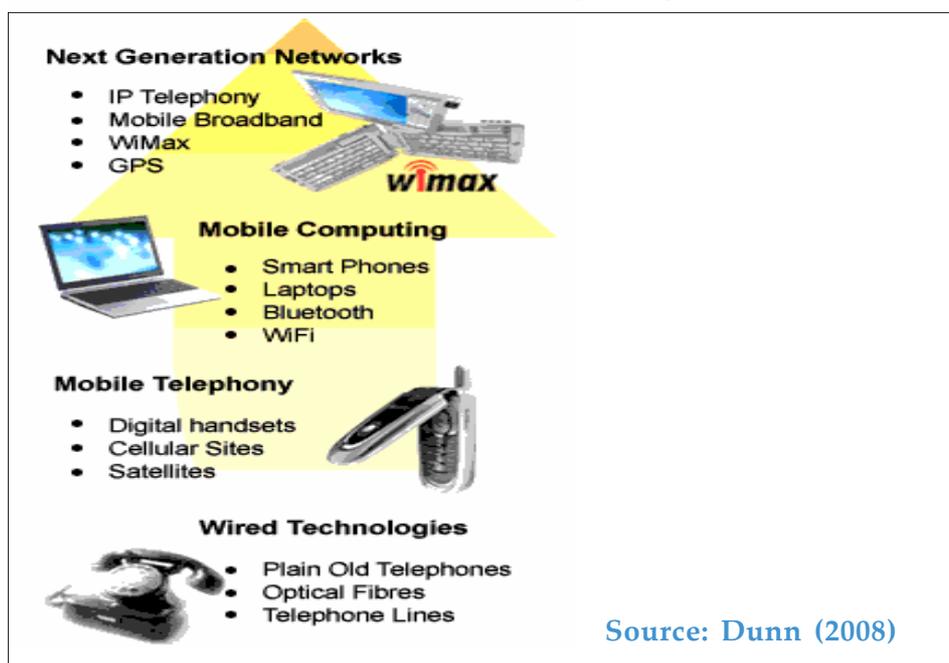
Concepts of Development

Oftentimes, there is confusion in policy-making circles between the notions of "growth" and development. This is one of the complexities that confronts development thinking in the ICT sector. We must carefully consider what really constitutes development and what is the extent of likely contribution of ICTs to development in given countries. The creation of significant employment opportunities and income generation are among the key measures of economic activity and growth. These are areas to which ICTs can contribute, particularly through the call centres and offshore data facilities that make extensive use of ICTs. It is noteworthy also that in many developing countries, it is the competitive mobile telecommunications sector that continues to

stimulate growth and employment even in times of economic downturn. But the critical policy question remains whether these activities represent development, even if they contribute to GDP growth.

Analysts once equated development with increases in gross domestic product (GDP) and other quantifiable economic variables. To contemplate alternative conceptions of development would have been considered anathema to the then canonical neoclassical and mechanical notions of economic development. Brinkman (1995) observes that up to World War II and a long time thereafter economic growth and economic development were conceptually conflated, and were often used interchangeably. He contends that the neoclassical notion of development was flawed, since it was clearly representative of abstract and illogical analysis. The Bretton Woods institutions – the International Monetary Fund and the International Bank for Reconstruction and Development, now one of the institutions in the World Bank Group –were the main institutional advocates of this flawed neoclassical ideology on growth and development.

These early conceptions of economic development and economic growth failed to explain the dynamics of transformation (development), and fell into what Brinkman (1995) described as static analysis. Outlining the distinction between static and dynamic analysis, he noted that "a static analysis deals with changes within a structure but does [not] relate to a transformation of the structure. By comparison, a dynamic analysis deals with a sequential pattern of structural transformation as a process through which one structure gives rise to the next" (p. 172). But even before Brinkman, other critical development thinkers proffered the view that the strictly neoclassical models of development were inadequate, imposed unrealistic assumptions, and thus could not explain development and growth in any society.

Simon Kuznets' seminal work *Toward a Theory of Economic Growth* (1955) and Joseph Schumpeter's works proved to be major boons for heterodox development thinking. Kuznet (1955) made an important contribution to the understanding of economic growth by noting that there are limitations to traditional economic conceptions of growth and advocated the establishment of alternative institutions. Syrquin (2005) remarks that "Kuznets maintained the impossibility of a purely economic theory of growth" (p.11). The central problem for Kuznets

was how to endogenize variables in growth models that economics mostly regarded as *a priori* or exogenously determined such as technological change, population growth rate, and institutions".

It is policy making that should transform the potential contribution of telecommunications and ICTs into measurable growth indices. The extent to which they contribute to education, to culture, to the improvement of people's social and material well-being and to the capacity of the state and non-state players to develop communities, would be key respects in which ICTs can go beyond job creation and voice telephony access. For policy to truly maximize this potential it would need to be informed by the non-traditional conceptions of growth and development.

Much of the potential of the ICT sector to contribute to development is generated through the introduction of competition and the infusion of innovation in the areas of management and technology. However, an important tenet of policy making for the sector is the recognition that *the introduction of competition is not in and of itself a measure of development.* It is the results or fruits of competition that constitute the basis for development and that, in any event, depends on how the returns are utilized. Investment in industry research and in information literacy and general education of the population would be key ways of fashioning ICT returns into development potential through innovative policy making.Technology-dependent countries may wish to monitor their development performance less by the intensity of telecommunications competition, or the ubiquity of the mobile phone, or even by the frequency with which they achieve approval by the International Monetary Fund. While these could contribute, it is their performance against key human development indices such as those set out in the UN's Millennium Development Goals (MDGs) that would be a better measure of ICT-assisted social progress and human development. Measuring this performance is however constrained by the research and policy-making challenges in gaining access to information and to global models to measure and disaggregate the extent of ICT therefore contribution to such development. Effective policy-making will be predicated on investment of resources to for applied research to generate policy relevant data and information.

Changing Constructs in Media Theory and ICT Policymaking

Some early media and communications scholars also articulated what they perceived as alternative pathways to development.

 Daniel Lerner's classic, *The Passing of Traditional Society* (1964), and Wilbur Schramm's *Mass Media and National Development* (1964), were two of the earlier academic publications to identify explicit roles for media in redressing underdevelopment in nation states, and in helping to transition these states into what has become the contested notion of "modernity".

Everett Rogers' influential work on the diffusion of innovation, published in 1962, argued that diffusing technical and social innovations promoted modernization. Others examined the link between literacy and cultural development, in which it was believed that mass media could help to teach literacy and other life skills. Still others argued that modernization could be achieved through the media's influence on national identity. McQuail (2000), in discussing variants on these modernist communication theorists, observed that media constituted an important strand within this first wave of contributions. While the modernist orientation of these early theorists has been severely criticized, an aspect of their merit is the insistence that there are alternative pathways to development, broadly; and that there is a role for media and communications. Schramm, in *Mass Media and National Development* (1964) probed the link between national development and mass media in greater depth. With the hindsight of decades, we might be inclined to concur that even in so-called traditional societies there are explicit information roles that are essential to the existence and safety of communities. Societies have become more complex and so too have the information and communications processes. At the level of governance Schramm notes that "the job of arriving at social consensus, establishing policy, and directing action has been given mainly to government, but such organizations as political parties and the mass media enter powerfully into the process of shaping public opinion and action." (1964, p. 39).

Schramm's major contribution seeks to enhance our understanding of the role of media (radio, television, newspapers) in social change. He outlines three important communications tasks that are most important for facilitating social change through media: (i) people must have information about national development; (ii) people must be able to participate intelligently in decision making; and (iii) people must have the skills to effectively participate in the process. In this digital and networked era, these references can easily be translated

correspondingly into (i) information access (ii) informed multi-stakeholder consultations and (iii) information literacy. In this interpretation, the essence of the policy goals of over four decades ago has not altered significantly since then.

Lerner and Schramm's (1967) *Communication and Change in the Developing Countries* was another important contribution that examined the link between communications and development. The ethnocentrism of western economic theories of growth and development was a central theme of the publication, but the point was also made that media systems are the critical forces that can help in the adaptation of western-oriented theories. Dube (1967) highlighted the situation whereby many developing countries were in the process of wresting their independence from mainly European colonial masters during the post World War II period. By the mid 1960s, many of the newly independent countries were in a desperate search for an identity and for a theory of development that reflected their unique challenges and constraints. It was in this context that mass media were seen as serving as both a mirror of society and as a transformative social institutions.

In the decades of the 1970s there was ongoing research on media's role in national development, paralleled by the emergence and growth of what could be described as a search for a global communications consensus. The launch in 1980 of UNESCO's MacBride Report, entitled *Many Voices, One World* (1980) was later seen as having been commissioned out of concern about " the dominance of the industrialized countries - and especially the United States - in the production and distribution of media content" (Mansell & Nordenstreng, 2006, p. 16). Leading industrial powers resisted the recommendations of the MacBride Report by withdrawing financial support from UNESCO. This was a measure of the intensity of the battle for global control of dominant media conceptions and the evident failure of the bid for consensus.The publication, four years later, of the Maitland Report began the inexorable process of refocusing communication policy to also address issues of carriage and not just of content. This report, which came to be called *'The Missing Link'* directed attention to important gaps in global access to telecommunications services, gaps that mirrored the antecedent battle for a new information and communication order and which also foreshadowed what has become known as the 'digital divide'.The convergence of infrastructural and content aspects of the global communications

industry gave credence to Marshall McLuhan's idea, concisely represented by the maxim "the medium is the message" (1964). This idea found expression in the battle for control of the channels through which both mass media content and personal messages travel. The ultimate "medium", the Internet, as the innovation encompassing the vast range of content on the World Wide Web, has further diversified already ambivalent perspectives on whether the predominant transformative role is that of the medium or of the message. With the emergence of narrow-casting, new delivery platforms and radical network reforms, the notion of "mass media" has been re-configured into ideas of disaggregated audiences, individual message reception and targeted niche marketing. Academic and training units have also mostly re-branded their institutions as offering "media and communication" services, with telecommunications and personalised ICTs acquiring a new centrality. Many government-owned, cash-strapped broadcasting organizations have failed to navigate the new challenges to public service broadcasting and those arising from more demanding audiences as well as from the privatization and liberalization lobby. Equally, the long-held (mis)conception of a natural monopoly as being essential in the delivery of telecommunications services has almost everywhere also been successfully dethroned.

A brave new world: Markets, wireless networks and mobility

Important structural and ideological changes in the global communications sector are also reflected in the exponential growth of mobile telephony particularly in the first decade of the 21st century. This trend has placed the "plain old telephone" on life support in many markets, as demand for personal and individual mobile access burgeons. ICTs, as they continue to advance, are changing the nature of communications processes and of media.   The technological platforms and capabilities, and the operational and functional shifts are reshaping the material basis of society as the network society is created. (Castells, 1996). Communication concepts and policy-making approaches are subject to these forces and accordingly must change to be relevant and effective in the current environment. Beyond inter-linkage, the social and economic externalities associated with increasing rates of access to communications services have helped the industry to become highly lucrative, generating for many governments significant revenues, such as those from the sale of telecommunications licenses, regulatory fees and spectrum auctions. India, for example, earned over US$14 billion,

from the sale of 3G licenses to Vodafone Group Plc and Bharti Airtel Ltd. [1] Vietnam, a fast- rising developing country, also gained significant revenues from its sale of four 3G licenses in May 2009.

To illustrate further, Jamaica, known globally for its rapid growth in mobile penetration during the first decade of the 2000s, received significant net foreign exchange earnings of approximately US $199.2 million between 2001 and 2005. Exports from its call centres were also significant, recording revenues of between US$300 – US$400 million from the 22 call centres operating in the island during the same period.[2] But, in addition to the positive economic outcomes, social benefits from the communications sector are also eminently desirable. In studies conducted in the Caribbean region, mobile telephony was documented as being critical to the livelihoods and overall social and economic existence of many low income citizens. According to a 2008 study:

> One resounding message out of the focus group discussions was the revelation that possession of a mobile phone among persons from disadvantaged communities was regarded as "a kind of passport to better opportunities". For many of these persons, the cell phone accords them an "address anonymity" which was advantageous in their telephone-based searches for jobs, schools and other upwardly mobile opportunities. (Dunn, 2008, p.33).

The important link between mobile telephony and people's dependence on overseas remittances was also underscored.Through the mobile phone, people were attending to each other's financial requirements across borders as part of the strategy to sustain their daily lives. With access to mobile phones many low income citizens were better able to negotiate their needs, as well as the uncertainties and complexities of a brave new inter-connected world. On the African continent, information and communications technologies found widespread applications across social and economic sectors as demonstrated through satellite downlinks and other unique innovations such as the tele-medicine programs that were being pioneered by the International Telecommunications Union (ITU), and the Economic Commission for Africa. These programs have assisted thousands of Africans from poor backgrounds, whose access to affordable and sophisticated medical care was impeded by distance and economics.[3] According to evaluative reports Ethiopia was among those countries that reaped some success in health care delivery through these programmes. Agriculture is another area in which ICTs are being

applied to improve the economic and social lives of many throughout the African continent. In his edited publication, *Tam Tam to Internet: Telecoms in Africa*, Ras-Work (1998) presented very interesting and insightful examples of the use of both traditional and modern communication facilities.

The use of mobile telephony in education is another area in which adaptations of information technology are supporting development in African countries. As an example, the "Dunia Moja" pilot project in which students pre-recorded lectures and lecture notes using mobiles, was implemented among undergraduates at Makerere University of Uganda, Mweka College of African Wildlife Management in Tanzania, and the University of Western Cape in South Africa with the support of Stanford University in the United States and local telecom service providers.

These initiatives would suggest that cross-cutting linkages between the ICT industries and other economic and social sectors transcend the intrinsic contribution of ICTs to economic growth. National communications policies should reflect these economy-wide linkages even while identifying the dedicated development contributions of the sector itself. More than any other technology, the mobile phone has been the technology of choice for the majority of people throughout the world. That the mobile phone is being increasingly applied in helping to solve social and economic problems reflects its core characteristic as a "disruptive technology". As Figure 3 demonstrates, the mobile phone essentially uproots other traditional communications technologies such as fixed telephony, largely as a result of its portability, decreasing computing costs, increasing software capacity and pent-up public demand for low cost voice communications.
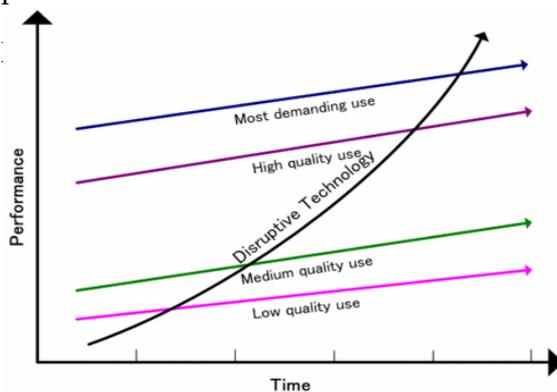
Source: Christensen and Bower (1998)

National Communications Policies – Key Components

The formation of policies to guide public communications has been a concern of most countries over decades. Boafo (1986) and UNFAO (2002)[4] outlined some of the basic tenets that should underpin a national communications policy and the objectives to be achieved. The main attributes of such model national communications plans can be abstracted as follows:

· Support of national development programs by facilitating systematic and effective use and coordination of communications and information strategies;

· Provision of a framework for the investment and integration of ICTs toward achieving national development objectives;

· Provide or outline a plan of action for enabling effective access to ICTs among all citizens in rural and urban areas;

· Help in the preservation of cultural identity as well as providing avenues for greater cultural expression and the development of artistic capabilities;

· Outline strategies for the building of human competences in ICT policy and engineering or general human resources development;

· Articulate an explicit role for indigenous knowledge systems and information channels; and

· Provide frameworks for greater involvement of citizens in national decision making processes.

Boafo (1986), also observed that any comprehensive national communication policies formulated in Africa should account for the increasing influence of international factors. These policies should seek to further national and regional partnerships among all communications-related agencies and sectors within and outside of the African continent. To be comprehensive, the 21st century national communications plan should also span the converging dimensions in the communications space: Internet policy, text, radio and television broadcasting and film, whether exhibited through traditional or new media. The transition of broadcasting from analogue to digital formats

should also be embodied in such plans, with appropriate decisions on the cut over timelines and technical standard to be adopted. These are indeed important considerations that should inform national communications policies through any era. In the discussion that follows we examine some other core issues relevant to the successful formulation and implementation of national communications policies, and development strategies in general. These are also important focal points for a global research agenda, including in countries striving for ICT-assisted economic and social development.

Restructuring and Strengthening Institutions

Successive World Information Technology Reports list the jurisdictions that are regressing in global ICT performance indices over recent years. Many of these countries have not built sufficiently robust internal institutions and operational capacity and the necessary protocols to compete globally. By institutional protocols we mean, broadly, the set of rules, norms and conventions that establish and govern standard behavior of the leading industry players in the particular societies. These norms and rules help to shape and structure incentives, and therefore can be determinants of economic and social outcomes. As it relates to national communications policy, references to institutions apply to "concrete organizations with names and addresses, as well as legal concepts such as the institution of property as conventionally defined" (Wilson, 2006, p.56).

To contextualize the role of institutions in ICT development and reform, it is pertinent to note Wilson's observation that "the information revolution is an institutional and political revolution more than a technical revolution. We open ourselves to profound analytical errors if we concentrate on the technical aspects of these epochal changes" (Wilson, 2006, p. 56). In other words, the factors that account for the inertia in some African and Caribbean communications industries following the rapid growth experienced during the earlier years of the first decade of the 21st century have less to do with technical innovations than with institutional and political constraints.

Education and training are core institutional requirements of development. However, inadequate planning and financing of education in the years between the start of communications liberalization to the present is combining with other societal factors such as the increased incidence of public corruption and cyber-crimes to constrain further ICT growth and development in many countries.

The neglect of education and training is best demonstrated through the overwhelming emphasis that is placed on supply side communications policies in the developing south. That is, the mechanistic and determinist notion that once people are given physical access to ICTs then there should be automatic transformations, leading both to the individual's intrinsic development and to national development. This was the primary mistake made by many of the diffusion theorists of the 1960s, mentioned earlier.

In large measure, the same mistake has now come to plague many developing countries that boast high levels of mobile penetration but a dearth of broadband and effective access. The result is sometimes very low levels of advanced ICT services in e-commerce, online education, and e-government services. The practical and policy limitations for the uptake of these advanced communications services are not just caused by low penetration levels and the expense of broadband access, but also by illiteracy, including the inability of large numbers of lo-income people to communicate using online narratives, educational data-bases and even SMS messaging.

Literacy and ICTs

As a practical case in point, Dunn's 2008 study disclosed that many Jamaican youth in poor inner city areas had an overwhelming preference for voice telephony because they were constrained by illiteracy in using SMS and other text-based communication utilities on their mobile phones.

> We found that an unusually high proportion of poor rural and inner city youth were opting to use voice calls instead of "texting". Further investigation indicated that illiteracy among these groups was a real impediment to use of text messaging. It would seem that while older users were put off by the manual dexterity required for texting, many younger users who would normally be expected to use this message delivery method were not able to do so as they could not read or write to the required standard for these text-based usages to become widespread. (Dunn, 2008, p. 109).

Public policy will need to address basic literacy and information literacies as a critical step towards information competencies and greater involvement of youth in the digital space. Achieving global competitiveness in ICT industries means building the inherent capacity of citizens to interact within the information economy at higher cognitive levels. National communications policies in the 21st century should, therefore,

articulate feasible and practical policy pathways for achieving universal education as a development goal even in the context of tight fiscal and other economic constraints. Additional research and pro-poor government policy interventions are needed to develop and advance initiatives that make the communicative link between oral and folk expressions among large numbers of citizens and economic sectors such as agriculture, tourism, information technology and education as an avenue for both training in formal literacy skills and for economic empowerment.

Regulatory Capacity and Governance

At the height of the liberalization movement that ushered in mobile telephony among all strata of society, there were beliefs among many policy analysts and communication researchers that mobile telephony could help developing countries to leap frog particular stages of growth and development. While there have been successes in terms of increased mobile telephony access for all social groupings and new innovations such as the Grameen Banking model in East Asia, to a large extent, the form of societal transformation and human development that was envisioned remains elusive. Effective regulation has emerged as being integral to moving countries into this further stage of techno-economic transition.

Progressing ICT Reform

Regulatory and legal reform of the ICT industry remains a pressing need in many countries including several in the Caribbean and Africa. In these countries existing telecommunications laws, as well as legislation on cyber crime and electronic transactions where they exist, are generally outdated, and the policy environments are particularly fragmented. According to the World Bank (2008) only about 35 per cent of incumbent telecommunication providers in Africa have been released from state ownership at the start of the second decade of the 21st century, and management remains a problem in these organizations. The Bank notes that:

> Governance remains the key challenge to ICT policy and regulation in the region. Institutional arrangements in many countries continue to make regulators in African countries highly dependent on governments for their operations and consequently they have limited legitimacy or autonomy. The market continues to be

> dominated by incumbents (fixed line now joined by mobile) and by information asymmetries between operators and regulators. There are few civil society organizations that are able to influence policy and regulation. (2008; p.14)

While regulators and institutions are fairly autonomous and independent in the Caribbean, the central challenge is the fragmentation in the regulatory space with the resulting uncertainty among investors and consequential under-investment in ICT infrastructures. The recognition of these challenges where they exist, the use of international bench marking and application of home-grown remedies are recommended. Strategic solutions must be reflected in national communications policies and in the research agenda in the affected regions.

Culture, communications and trade

For many developing countries, culture, as emanations of the creative imagination, forms an important part of national life. It is also a key marketable commodity that can accord competitive advantage in global trade. These prospects have been identified by the World Trade Organization (WTO). As the economic value of cultural products and services increase, developed countries and some developing countries are leveraging culture as part of building their competitive advantage. Most have also acknowledged the currency of ICTs in facilitating growth in cultural industries and adding value to cultural products and services. Extracting the potential economic value is often pursued through commercial and cultural exchanges as well as through regional trade agreements (RTAs).

The WTO notes that there has been a surge in RTAs from the 1990s to the present, with some 462 RTAs being notified to the WTO up to February 2010[5]. With the exception of the General System of Trade Preferences (GSTP) among developing countries, there are approximately 17 extra-regional RTAs involving individual African countries and the European Union. Within Africa, there are seven RTAs, five of which are customs unions and the other two are free trade areas. The Caribbean similarly has its main RTAs with the European Union, and one intra-regional customs union, the Caribbean Community (CARICOM).

Even though countries of the Caribbean and Africa share historical similarities, this has not been transformed into any systematic form of

economic cooperation to date. Instead, trade patterns still ape the entrenched triangular trade regime established during the era of European mercantilism. As an alternative approach, developing countries stand to benefit from repositioning and realigning their cultural and ICT strategies towards greater South-South co-operation. Such cooperation could be equated with Dunn's concept of"globalization from below" (2005), or the collective empowerment of subordinate players by enhanced collaboration, communication, trade and resource sharing. "The forces and technologies deployed in a process of globalization from below are effectively a countervailing culture, created to advance people's development goals" (2005, p. 358).

There are practical benefits for pursuing more harmonized policies globally across developing regions. Regions would have a stronger negotiating voice in international trade. In this way, the kind of balkanization or "divide and conquer" approach that was evident in the European Union and the African, Caribbean and Pacific (ACP) trade agreements could be mitigated in future trade negotiations, since each region would speak with a voice unified with others or at least all would speak from some common ground. In addition, benefits could possibly include new markets for some countries as well an increased contribution of the African diaspora to the continent's struggle for growth and sustainable development. This approach would advance trade generally and the culture and ICT sectors specifically.

Externalities: ICTs and the environment
While ICTs have been identified throughout this article and elsewhere as having possible beneficial impacts on sustainable social development and individual empowerment, these goals cannot be pursued without an appreciation of the potentially negative impacts of ICTs on the natural environment. The accumulation of e-waste such as old mobile phones, computers, scanners and printers, as well as the increasing demand for energy to feed power-hungry data centers and household ICTs constitute the main negative environmental effects of these technologies. Notwithstanding these negative contributions to environmental degradation, ICTs also hold significant promise for helping industries and individuals globally to mitigate the ill effects and reduce the size of the industry's carbon footprints. Applications such as telework, intelligent transportation systems and dematerialization are

just a few of the possibly helpful approaches. The environmental impact must constitute an indispensable part of the national strategy as societies move forward into another phase of the global information economy.

Conclusions

What we now glibly refer to as the global information and communications technology (ICT) sector is the result of a continuing process of change, bestowing increasingly new opportunities but also new challenges. The outward radiation of these technologies to increasing circles of access is a necessary but not a sufficient basis for developmental claims about ICTs. Forward-looking strategies must privilege not just access but effective access, including the know-how to manage and effectively use the technologies. An important impediment to this effective access is the challenge of literacy, among both the young and the older people, in developing countries. However, as we have seen, the technologies themselves can be deployed to enhance deficient educational systems that have created citizens who are dysfunctional in a digital age. Instructors have to be trained in both technology use and new approaches to pedagogy.

Many jurisdictions have adopted international mandates to liberalize their telecommunications and ICT industries, creating new investment opportunities and introducing competition into formerly monopoly-driven or government-controlled markets. However, competition must not be seen as an end in itself, but as a means to create human development and improve people's standard of living. Important as it is, more mobile talk-time or Internet access does not automatically translate into real development outcomes. These tools must be re-purposed to better address education, information literacy, enhanced cultural expression and improved economic conditions. And conditions such as improved literacy will not happen unless there are significatant changes in the power structure in Africa and a development process which responds to the initiatives of the grass-roots population.

These are the same values we recommend for inclusion in national strategic development plans. The extent of ICTs' contribution to societal change and development will depend on the degree to which communication strategies, facilities and processes are systematically and consciously integrated into overall national development plans. By way of process, the multi-stakeholder consultative approaches modeled

by global forums such as the WSIS and its offspring the IGF should find expression in regional and local ICT policy-making.

In these processes, the social impact and economic externalities of the industry cannot be left unaddressed. Environmental implications should become a more significant component of planning and licensing for the industry. The harmful detritus of a burgeoning carbon-consuming ICT industry must be mitigated before it becomes a millstone around the necks of future generations. Public policies for disposal and waste management as well as corporate and civic responsibilities should be invoked through legislation, regulation, incentives and public education. Applied research and product innovation are essential tools of renewal and re-invention.

For Africa and the Caribbean, as for all other global regions, the agenda of action is beginning to be more clearly defined. Whether through existing research, international co-operation or already defined national policy frameworks, the recurrent priorities include improving education, promoting effective technology access, driving information literacy, organizing switchover from analogue to digital broadcasting systems, empowering electronic commerce, combating cyber crimes, developing M-services for banking and trade, creating opportunities for e-learning and e-health as well as managing the effective disposal of digital debris.

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Broadcast media policy in Nigeria: Across many dispensations

By Alfred Opubor, Akin Akingbulu, and Ayobame Ojebode

Abstract

The present article traces the adaptation of media and communication institutions to the political, eonomic, ethnic and cultural realities of Nigeria from the colonial (very British) dispensation, to the military and finally to the civilian in the last ten years. The form of the adaptation very largely reflects the political interests of the group in power, but there has always been a negotiation with more prominant interest groups. Ironically, the military, though it defended its interests, tended to be less politically partisan than the civilial governments. The major weakness in Nigerian communication policy making is the absence of strong continuous public involvement and consistent private sector and civil society participation. Typically, a small group of unrepresentative experts prepares the documents and there is little transparent consultation with the public. This produces some adaptation, but with a media system that protects the reigning political power.

Introduction:

Mass communication policies are products of governments. Even in advanced democracies where the instruments of mass communication are largely held by commercial interests, and where policy makers are drawn from varied backgrounds and given substantial elbowroom to make policy recommendations, the final document as well as its tilt

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and biases often reflect the ideological preferences of the group in power. This is much more obvious in dictatorial regimes where policy makers are drawn from a narrow pool of government loyalists and where certain subjects are marked as "forbidden" even when such subjects require urgent policy attention.

Nigeria and its media have undergone three political dispensations: colonial, military and civilian. The country was subject of colonial Britain from 1861 , when Lagos was declared a colony, to 1960 when the country obtained political independence. During those years, most political decisions were made entirely by Britain with the participation of Nigerian politicians rising gradually as the nation approached independence. That period was significant in the history of broadcasting in Nigeria for a number of reasons. It was during that period that broadcasting began in Nigeria (in 1932) with a radio repeater station established in Lagos as an outlet of the British Broadcasting Corporation. It was also during that period that television broadcasting began in Nigeria with the establishment of the Western Nigeria Television in Ibadan in 1959.

The first attempts to regulate broadcasting also started during that period. Some of such attempts continued to influence broadcasting in subsequent dispensations. Since independence, Nigeria has moved between civil and military rule. Both of these are also significant in the history of broadcasting in Nigeria. During both dispensations, there was an upswing of government proliferation of broadcasting houses as well as attempts to make broadcasting serve national and public interests, however those were defined. Given the theoretical fromulations in mass communication, it is to be expected that authoritarian regimes in Nigeria (colonial and military) made policies that restricted the media and controlled them. It is logical to imagine that civilian regimes, on the other hand, made policies that developed and expanded the media. These have been the popular submissions (Dare, 2007). But these submissions require a more nuanced examination given some notable events that challenged these seemingly logical submissions. For instance, it was during the military governments that broadcasting in Nigeria grew from a one-tier to a two-tier regime in 1992. Not only this, the military also proliferated broadcast stations. In this article, therefore, we attempt to examine the trends in the policies governing broadcasting across the three

dispensations by observing the key elements of some of the policies in each dispensation.

Elements of a media policy

Different political and economic contexts produce different media policies. Yet, media policies, despite their differences, all possess a set of elements that define them as media policy. These are goals and objectives, values or criteria by which the goals are recognized and defined, content and communication services to which the policy applies, the different distribution services, and policy measures or means of implementation (van Cuilenburg and Slaa, 1994; van Cuilenburg and McQuail, 2003).The major objective or goal of a media policy is always to promote or defend "the overall public interest". This apparently simple goal assumes substantial complications when an attempt is made to define public interest. What constitutes public interest depends on who is defining it and to what end. As a less complicated leeway, the objectives and goals of a media policy may be viewed in terms of the substantive reality they address in a country. In that sense, policy goals or objectives may be political, social, and/or economic welfare. Each of these has underlying values and criteria. Theorists and scholars in democracy and political communication (Jacka, 2003; Post, 2005; Olorunnisola, 2006; Karppinen, 2007) tend to suggest that the objectives of a policy in a democracy will be backed up by values such as democracy, participation and freedom of expression. Policies in such climes will expand access to the means of communication. In neo-liberal democracies, policies are expected to be geared towards giving ascendance to private participation and reducing the involvement of government (Olorunnisola, 2006; Ojebode, 2009).

The Colonial Dispensation: 1932-1960

Broadcasting entered Nigeria as radio broadcasting in 1932. The British Broadcasting Corporation (BBC) launched its Empire Service which incorporated overseas monitoring stations in all British colonies. Nigeria was one of them; hence one of these stations was located in Lagos, its capital. The Nigeria Posts and Telegraphs Department had the responsibility of distributing the programmes from the BBC to Nigerian subscribers through what was called a re-diffusion box. Local demand grew and the service expanded rapidly to major towns and cities like Ibadan, Kano, Enugu, Abeokuta, and Port Harcourt. After World War II, the British authorities commissioned a survey which covered its West African colonies to determine existing needs,

report on methods of development and whether the existing facilities should be incorporated in any proposed new scheme. The report of the survey, called the Turner-Byron report, noted that the system had become popular and recommended its improvement and expansion in Nigeria. The colonial authorities in Nigeria responded to this report by converting the Radio Distribution System (RDS) into a full-fledged system of broadcasting. This led to the establishment of the Nigerian Broadcasting Service (NBS) in 1951. The NBS was run under the control of the Information Ministry.

Before long, the NBS ran into disfavour with the regional governments (West, East and North) which were then already headed by Nigerians. These alleged that it was an organ of the colonial central government. A motion moved and supported in March 1954 in the Federal House of Representatives led to the transformation of the NBS into a BBC-model organization by a 1956 law. The new organization was called Nigerian Broadcasting Corporation (NBC). The NBC was to operate independently. The Ordinance which established it provided for, among other things, a Board of Governors and three regional boards. The governors were to be responsible for the corporation's policies and activities, and were required to report on its stewardship to Parliament through a designated Minister.

Matters came to a head sometime in 1953, when Action Group (a political party) members led by Chief Obafemi Awolowo declared the Macpherson Constitution under which the country had been run, unworkable, and walked out of the House of Assembly. Governor Macpherson attacked Chief Awolowo and the Action Group members through the radio. Chief Awolowo and his followers demanded similar broadcast time to respond, but were denied by the government. Meanwhile, in the 1951 Macpherson (colonial) constitution, radio and television broadcasting were not included in the central government's exclusive legislative list. With the background of denial of right of reply to Chief Awolowo and his group and the rancour already generated, it was no surprise that the revision of the constitution in 1954 provided for broadcasting to be a concurrent subject, that is, within the competence of the central and regional governments. With this in place, the Western Region government established a broadcasting corporation in 1959. The television service started that year and radio services commenced in May 1960. Other regions (East and North) followed in the West's footsteps in the early 1960s.

The colonial dispensation had few policies and regulations for the broadcast media understandably because the media were still in their infancy then. Few as they might be, the policies effected important changes in broadcast sector: the policies developed broadcast stations in number and variety. The policies expanded the number of stations and also allowed regions (states) to establish and control broadcast stations. It also liberalized broadcast-related legislative processes by making it possible for states to legislate on broadcasting. Importantly, by creating the NBC and modelling after the BBC and putting its control off the hands of the federal government, the policies provided significant foundation for a strong public service system.

The First Civilian Dispensation: 1960-1966
The government commitment to the independence of the Nigerian Broadcasting Corporation (NBC) was short-lived. In 1961, barely one year after independence and five years after the NBC law was made, the central government went to parliament to seek direct control of the organization. It wanted power vested in the Information Minister to give general and specific directives to the corporation. The government got its request through in Parliament. McKay (1964, p. 69) reports that "the Bill to amend the NBC Ordinance was passed late at night on Monday August 28, 1961" and according to the Daily Express (August 31, 1961) "out of a total membership of about 300, there were only 137 members in the House – 104 Government and 33 opposition …" It is important to note that it was under the civilian regime of Nigerians that the Nigerian Broadcasting Corporation lost the autonomy designed for it during the colonial era.

The First Military Dispensation: 1966-1979
The Nigerian Broadcasting Corporation (NBC) retained its take-off size for about a decade. With the modernization of radio sets (and reception technology in general), radio became more available and affordable to listeners, leading to greater demand in all parts of the country. Not only this, twelve new states were created by the military rulers to replace the old four regions. Thus, there arose the need to expand the broadcast system in the country.

The first expansion policy was initiated from within the NBC.
According to Atoyebi (2001, p. 22), the corporation (NBC) made a bold move by presenting to government the need for the execution of a

comprehensive development programme for NBC … the management of the corporation specified its requirements and the Nigerian government contacted the Canadian government for assistance.

This led to the production of an assessment report, approved and made public in 1969, as well as the implementation of what government called "Radio Development Project". The process involved the establishment of NBC stations in all the 12 states. These increased to 19 when 7 more states were created in 1976. However, in 1978, the federal military government reversed this process. In 1967, the federal government-owned Nigerian Television Service (NTS) was integrated into the structure of the Nigerian Broadcasting Corporation (NBC) to become NBC-TV.

A new policy process which started in 1975 changed this arrangement. The then new military administration led by Murtala Muhammed pulled NBC-TV out of the NBC structure and elevated it into a full-fledged parastatal, then called the Nigerian Television Authority (NTA). Under the new policy, the NTA was vested with power to supervise all television stations in the country. The stations earlier owned by the states (including the African trail-blazer, WNTV) were taken over by the NTA. A military law, NTA Decree 24 of 1977, which took effect from April 1976 empowered NTA to be the sole provider of television broadcasting in Nigeria. Television thus became a federal affair. States could no longer own TV stations. All existing TV stations were to be controlled and maintained by NTA which was asked to set arrangements in motion for the establishment of new stations in state capitals where there were none.

This policy process did not appear to have gone well with several key industry practitioners, an indication that the policy process lacked wide consultation. According to Teju Oyeleye, former General Manager of WNTV (cited in Lasode (1994, p. 88), Ibadan Television (the first television station, property of the Western Region) lost a major battle by the takeover of state television services by the federal government. WNTV/WNBS ceased to exist after seventeen years of full service to the Nation. And with it passed away years of hard work, imaginative programmes, high technical standards, penetrating news production and managerial innovation.The out-going director of NBC at the time, Dr. Chistopher Kolade also cited in Lasode (1994, p.89) said:

> I must confess I have my doubts. The decision was taken in a great
> hurry, and I think it has some of the disadvantages of hurriedly

taken decisions. If the establishment of a separate television
authority was desirable, I think we should have been more careful
about taking over the state televisions into a new and separate
authority. We face the risk of duplication in   management manpower,
and in professional manpower

But Engineer Vincent Maduka, NTA's first director general, cited again
in Lasode (1994, p. 88) provided some insights into the government's
policy line:

> The takeover came at the crossroads between the creation of 19 states
> from the 12 states. One of the arguments of the federal government
> was that if 19 states developed television broadcasting services,
> especially where programming was concerned, Nigeria would have
> to earn foreign currency to procure TV equipment and the result
> would be non-standardization as well as duplication. The federal
> government also felt that there was not enough technical and creative
> manpower.

As the military rulers were preparing to return power to elected
civilians, they restructured the radio broadcasting sector again. The
name of the Nigerian Broadcasting Corporation was changed to Federal
Radio Corporation of Nigeria (FRCN). The FRCN was directed to hand
over all its stations in the 19 states to the respective state governments.
The FRCN itself was structured into four zones with the zonal stations
located in Kaduna, Enugu, Ibadan and Lagos. A military law, FRCN
Decree No 8 of 1978, was the key instrument which backed up this
process.

The policy also restricted radio stations in the states to transmission
on the medium wave, while the four linguistic zones stations as well as
the one in Abuja were to transmit on the short wave.

In September 1975, the new military government led by Brigadier
Murtala Muhammed set up a Constitution Drafting Committee with a
mandate to produce a draft constitution. This was part of the process of
returning the country to civilian rule. The committee submitted its
report to the Supreme Military Council one year later. Ugboajah
(1980, p. 29) noted that during the intense public debate to which the
draft constitution was subjected, one issue which aroused intense
public feeling was press freedom. Despite the vigorous debate of media
stakeholders, the Constituent Assembly felt there was no need for a
special protection for the press, on the ground that it could be
controlled and influenced by certain groups and was therefore not

immune to partisan politics. But in the process, the document finally accepted (which became the 1979 constitution) had opened a window for decentralized and private ownership of broadcasting. Prior to the making of this document, its predecessor, Section 25 of the 1963 Constitution, had simply said: "Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference". Section 36 of the 1979 Constitution added another sub-section which reads: "Without prejudice to the generality of sub-section (1) of this section, every person shall be entitled to own, establish and operate any medium for the dissemination of information, ideas and opinions. Provided that no person other than the Government of the Federation, or a State or any other person or body authorized by the President shall own, establish or operate a television or wireless broadcasting station for any purpose whatsoever".

This constitutional provision opened two windows. First, it allowed state governments to establish their own television stations, thereby erasing the monopoly earlier granted the federal government through the Nigerian Television Authority (NTA) Decree 24 of 1977. Second, private individuals, companies and organizations could then own and operate broadcasting stations through approval by the President. Shortly after the 1979 constitution became operational and political office-holders were inaugurated, the government of Lagos state exploited this new provision and established a television station. The federal government resisted this technically this by jamming the signals of the TV station, but this stopped after a while.

Broadcasting witnessed significant growth during the first military dispensation. There was an increase in the number of radio stations and states resumed control of radio stations earlier owned by the federal government. Television broadcasting was hijacked during this era—a setback for media development—but the process for reversing that trend began during this period also. The process of increasing broadcast media ownership from solely government ownership to a two-tier ownership status (government and private individual) was enshrined in the constitution that was produced during the period. It is noted, however, that some of these provisions remained only on the pages of the documents; they were not given practical implementation.

The second civilian dispensation: 1979-1983

After the elected civilian government took over from military rulers in 1979, the executive arm of the federal government sent a bill to the National Assembly asking to amend the 1978 FRCN Decree, to break up the four FRCN zones and establish a federal government-owned radio station in each of the states of the federation. According to Uche (1989, p. 54),

> The federal civilian government discovered that the structure the army had left for the nation incapacitated the federal might, especially, in those states of the federation where the party at the centre was not in control. Also the calculation was that if the party controlling the central government needed to be re-elected to power, it needed federal presence at the grassroots level of the society which the state government monopolized, assisted by their monopoly ownership of the broadcast industry in the states they administered. Opposition to the bill, mainly by northern state governments who did not want the dismantling of Radio Kaduna, led to its withdrawal.

Despite this, the federal government went ahead to establish and operate radio stations, first in the states controlled by the opposition parties and later in other states where the ruling National Party of Nigeria (NPN) was in power. Apart from this, during its short spate of existence, the civilian government did not make a policy that developed or controlled the media. It also failed to utilise the provisions of the constitution which allowed commercial broadcasting.

The second military dispensation: 1983-1999

The period between 1983 and 1999 witnessed the regimes of three military rulers and a brief interregnum led by a civilian. That period was noted for the multitude of its decrees and fiats. Several broadcast regulation and development decrees and policies were enacted. These are summarised in this section.

(i) Federal Radio Corporation of Nigeria (Amendment) Decree of 1988:

This is the first amendment to the FRCN Decree of 1979. It removes the commercialization restriction in the 1979 law by allowing the FRCN to generate revenue through commercial advertisement and sponsored programmes, participation in the commercial music industry, staging concerts and popular drama in theatres and charging fees for the use of its choirs. It also replaces Zonal Boards with national

stations which were to be located in Lagos, Kaduna, Ibadan, Enugu and Abuja.

(ii) Privatization and commercialization decree of 1988:

As part of the instruments of the Structural Adjustment Programme (SAP) era, this law provides for the privatization and commercialization of Federal Government enterprises and other enterprises in which the Federal Government has equity interests. It creates a body, the Technical Committee on Privatization and Commercialization, to administer the process / programme.

The law lists three government-owned media organizations for partial commercialization. These were the Federal Radio Corporation of Nigeria (FRCN), Nigerian Television Authority (NTA) and News Agency of Nigeria (NAN). This law defines privatization as "the relinquishment of part or all of the equity and other interests held by the Federal Government or its agency in enterprises whether wholly or partly owned by the Federal Government". It also defines commercialization as "the re-organisation of enterprises wholly or partly owned by the Federal Government in which such commercialized enterprises shall operate as profit-making commercial ventures and without subventions from the Federal Government". But it does not define/explain partial commercialization.

(iii) The national mass communicati policy of 1990:

This policy document addresses the broadcasting sector in its Chapter IV, which it titles "The Electronic Media: Radio and Television." Among the listed cardinal national policy objectives of the electronic (broadcast) media are the following:

a) To disseminate information to enhance the welfare of the people in all aspects of life.

b) To provide efficient broadcasting service to the entire people of the Federal Republic of Nigeria based on national objectives and aspirations.

c) To ensure that its programmes shall be a vehicle for mobilizing the rural population for national development and improving the quality of their lives.

d) To provide regular channel of communication between the government and the people

e) To ensure the effective coverage and reach of the entire nation

f) To place greater emphasis on the broadcast of news and programmes in indigenous languages so as to ensure direct relevance to local communities.

On the issue of ownership, the document says that "the existing policy in section 36(2) of the 1979 constitution of the Federal Republic of Nigeria is adequate," but that "the time is however not yet ripe for private ownership of the (broadcast) media". On implementation strategy, this document provides for:

- The establishment of a regulatory body
- A redress of the imbalance in information flow so that impulses shall also commence from rural areas and communities
- The carrying out of audience measurement activities in all the local community areas in the country to determine at all times the impact and the effectiveness of the subject area.
- The establishment of viewing and listening centres in all local communities.

(iv) Federal Radio Corporation of Nigeria (Amendment) Decree 1991.

This is the second amendment to the FRCN Decree of 1979. This amendment divests FRCN of its power of external broadcasting. (This was the take-off period of the Voice of Nigeria.) It also strengthens Ministerial control over the FRCN. This control was already in existence through section 14 of the Principal (i.e. 1979) Decree. It says:

> The Commissioner (meaning: Minister of information) may give the corporation directions of a general character or relating generally to particular matters (but not to any individual or case) with regard to the exercise by the corporation of its functions under this Decree, and it shall be the duty of the Corporation to comply with such directions."This 1991 amendment law provides that: "The Minister (of Information) may give the corporation directives of a general character or relating generally to particular matters with regard to the exercise by the Corporation of its functions under this Act and it shall be the duty of the Corporation to comply with such directives".

(v) Voice of Nigeria Corporation Decree 1991.

This law created an organisation to provide radio broadcasting services for global reception. This function was previously carried out by an arm of the FRCN. Other key provisions in this law are that:

- The corporation would have a Governing Board
      comprising a Chairman, the Director-General of the
      Corporation, and seven other members. Two would
      represent the Ministry of Information and Ministry of
      External Affairs. Another will represent interest not
      otherwise represented in the corporation, while the others
      would be persons with requisite knowledge and experience
      in Nigerian art and culture, the mass media, financial
      matters and engineering.
- The Chairman has a tenure of four years (renewable), the
      Director General - Five years (renewable) and other
      board members – three years.
- Board members are all appointed by the President on the
      recommendation of the information Minister, and
      removable by this same appointing authorities even
      before they run their full tenure.
- The corporation has a monopoly of "broadcasting externally, by
      radio, Nigeria's viewpoint to any part of the world".
- The corporation is forbidden from carrying commercial
      advertisements or sponsored announcements, except in
      cases of programmes approved for international
      broadcast by such United Nations agencies as WHO,
      FAO, UNESCO, UNICEF, ILO, ITU, etc.
- Its news bulletins and other programmes shall be in
      English, French, Fulfulde, Hausa, Swahili and other
      languages that it may deem fit from time to time.
- As in the case of the FRCN, section 7 of this law provides
      that "the Minister may give the corporation directives of
      a general character relating generally to particular
      matters with regard to the exercise by the corporation of
      its functions under this Decree and it shall be the duty of
      the corporation of comply with such directives".

(vi) National Broadcasting Commission Decree 1992.

This law was enacted in 1992; two years after the National Mass
Communication Policy said "the time is however not yet ripe for
private ownership of the (broadcast) media." It provided for the
establishment of a regulatory body, the National Broadcasting
Commission (NBC) and the licensing and operation of private

broadcasting stations in Nigeria. It also provided for functions/powers of the NBC which include:
- Advising the Federal Government on broadcasting matters
- Receiving, processing applications for ownership of broad-casting stations and recommending same through the Minister to the President. The President is the approving authority for license
- Regulating and controlling the broadcast industry
- Undertaking research and development in the broadcast industry.
- Regulating ethical standards and technical excellence in broadcasting station
- Determining and applying sanctions.

At the apex of the administration is a governing board comprising a Chairman, the Director-General and nine other members who represent the following interests – law, business, performing arts, education, social science, media and public affairs. They are all appointed by the President on the recommendation of the Minister. The Chairman and other members of the Board have a tenure of three years (renewable for one further term of three years). The Director General's term is five years, renewable for such further periods as the President may determine.

While board members can resign their appointments any time through a written notice to the President, they can also be removed from office by the President before completing their tenure, if he (the President) "is satisfied that it is not in the interest of the Commission or the interest of the public that the member should continue in office." As is the case in the FRCN and VON laws, Ministerial control also applies, in NBC. Section 6 of this law (a replica of Section 7 of the VON law) says: "the Minister may give the commission directives of a general character relating generally to particular matters with regard to the exercise by the commission of its function under this Act and it shall be the duty of the commission to comply with such directives". The law prohibits the granting of broadcasting licences to political parties and religious organizations. The law also provides for four funding sources for the NBC. These sources are:
- Fees and levy to be charged by the Commission on the annual income of licenced broadcasting stations
- Grants and loans from government
- Gifts, grants-in-aid, loans, testamentary disposition, etc.

- Other assets that may, from time to time, accrue to the Commission

(vii) Public enterprises (privatization and commercialization) Decree 1998.

This law was enacted to further the letter and spirit of the Privatization and Commercialization Decree of 1988. It creates a National Council on Privatization and the Bureau of Public Enterprises to implement the Council's decision. Within this law, two print media companies were listed for privatization. They are: *Daily Times of Nigeria* PLC plus its subsidiaries and New Nigerian Newspapers Ltd. The number of media companies for partial commercialization was increased to four. i.e. in addition to FRCN, NTA and NAN. This now includes the Nigerian Film Corporation.

(viii) The 1999 Constitution of the Federal Republic of Nigeria:

At least three of the provisions of this document are important for the media, especially broadcasting. They are:

(1) Under Chapter II (Fundamental Objectives and Directive Principles of State Policy), Section 22 provides that: "The press, radio, television and other agencies of the mass media shall at all times be free to uphold the fundamental objectives contained in this Chapter and uphold the responsibility and accountability of the government to the people".

(2) Under Chapter IV (Fundamental Rights), Section 39(1) says: "Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference".

Section 39(2) provides that: "Without prejudice to the generality of sub-section(1) of this section, every person shall be entitled to own, establish and operate any medium for the dissemination of information, ideas and opinions; provided that no person, other than the Government of the Federation or of a state or any other person or body authorized by the President on the fulfilment of conditions laid down by an Act of the National Assembly, shall own, establish or operate a television or wireless broadcasting station for any purpose whatsoever" (the highlighted portion is the only addition to

Section 36(2) of the 1979 Constitution)
(3) Under the Fourth schedule of the constitution, the following is listed as one of the functions of local government council: "collection of rates, radio and television licences".

(ix) The National Broadcasting Commission (Amendment) Decree of 1999.

This instrument amends the principal law, the NBC Decree of 1992. Among its provisions are:

(a) Extending the regulatory (including licence processing) powers of the NBC to cover broadcasting stations owned by government (federal, state and local).

(b) Adding more to the functions of NBC. These include: curriculum accreditation for broadcasting courses in tertiary institutions; arbitration of broadcast industry conflicts;

(c) Increasing membership of NBC Governing Board by adding representatives of agencies such as state Security Service and Federal Ministry of Information

(d) Making it "illegal for any person to have controlling shares in more than two of each of the broadcast sectors of transmission".

(e) Empowering the NBC to collect and disburse licence fees accruing from the ownership of radio and television sets.

(f) Increasing from one to two years, the grace period allowed broadcasting licensee to start operations.

The importance of the second military dispensation

The second military dispensation was important for the significant changes it brought to broadcasting. It moved broadcasting from the one-tier government broadcasting to a two-tier—government and commercial—broadcasting system. This is in addition to separating the external broadcasting, Voice of Nigeria—from FRCN. It was also during this period that the National Broadcast Commission came to be the Nigerian equivalent of America's Federal Communications Commission.

Government withdrawal from complete funding of government-owned broadcasting took place during this period. Government stations now had to search for funds by commercializing. This, it should be observed, has had devastating influence on the stations' commitment to public service and development (Ojebode, 2009).

Government withdrawal from complete funding did not mean any release of the political control of the stations because the government still maintained a tight rein on the stations.

The current civilian Dispensation: 1999 - 2010
Nigeria returned to democratic rule again in 1999 and witnessed the first civilian-to-civilian transfer of power in 2007. A number of broadcast policies have been introduced. The following is an overview of the policies:

(1) Review of Mass Communication Policy of 1990.
Government ordered a review of the 1990 National Mass Communication Policy in mid-2004. The 24-member review committee was chaired by former information Minister, Chief Ayo Ogunlade. It submitted its report in November 2004.
Under Electronic (Broadcast) Media, the report identified the following policy objectives for the electronic (broadcast) media:
- Media shall be made accessible and affordable to all Nigerians
- Conditions shall enhance national capacity for producing high-quality indigenous broadcast programmes.
- Efforts should be made to encourage an environment conducive to growth, profit   and service delivery.
- Conditions should promote the development of public and private broadcasting.
- Conditions should promote the convergence and consolidation of broadcasting and other communication services.

Under "Implementation Strategies", the report recommended, among others, that:
- There should be an equitable spread of the categories of population is denied access to information through the electronic (broadcast) media.
- The development of community broadcasting shall be promoted.
- The statutory Licensing/Regulatory Authority shall be an independent, non-sectional body with well-defined sources of funding.
- The regulatory body should be a product of convergence of broadcasting, telecommunication and other new media technologies.

- The regulatory body shall ensure that fees are not charged for news and news analysis
- All radio and television stations shall allocate at least 20 per cent of their programmes to rural activities while community-based media shall allocate 80 per cent to their immediate localities.
- Public service stations shall not be involved in commercial broadcasting. They shall be funded from sources such as set licence fees, grants and other industry charges.
- Private stations shall derive their funding from commercial activities
- Both public and private broadcasters may also be funded by other alternative sources.

(2) Community Radio Policy 2006.

The Federal Government also set up a 17-member Committee to design a National Community Radio Policy in 2006. Chaired by Prof Alfred Opubor, the committee submitted its report in December 2006. The report focused on eight key areas:

- Access, Participation and Ownership
- Licensing
- Programming, Content and Language
- Governance and Management
- Technical Arrangements
- Sustainability and Funding
- Research and Capacity – Building
- Monitoring and Evaluation.

Among the Committee's recommendations were that:

(a) The community radio idea should be popularized through sensitization and advocacy activities by the regulator and relevant stakeholders
(b) The licence for CR stations should be free, without prejudice to reasonable processing fees
(c) There should be a fixed duration for the processing and issuance of the licence to the applicants, which shall not exceed three months from the day of submission.
(d) Governance and management shall be accountable, transparent and responsive, based on efficient practices and appropriate tools.

(e) The regulator should set aside 10 to 15 per cent of the FM broadcast frequency spectrum for community radio stations.

(f) For planning purposes, a nominal transmission power requirement of 100 watts Effective Radiated Power (ERP) may be assumed; However, higher ERP levels should permissible where the terrain and purposed coverage area justifies this.

(g) Community radio shall be registered as legal "not-for-profit" entities with ownership primarily (at least 60 per cent) drawn from people and organizations in the locality to be served.

(h) Community radio stations shall be permitted to raise funds through advertising, sponsorship, and other diverse sources. No single source should account for more than 50 per cent.

(i) Institutionalize a public-private-community stakeholder structure to propose a research agenda and supervise the provisions of this policy.

(3) Committee on Digitization of Broadcasting

Nigeria is expected to participate in the global program of migrating from analogue to digital broadcasting. The global deadline for this migration/transition is 2015. Apart from setting a local, country-specific deadline (at 2012) and approving December 2007 as the country's transition start-off date, the government of Nigeria took virtually no other step for some time. But in late 2008, the government inaugurated a Presidential Advisory Committee (PAC) to design a road-map for the digitization programme. It was chaired by a former Director of Engineering at NTA, Mr. Isaac Wakombo. The 27-member Committee submitted its report in June 2009. Since then, there has been no reported action from the government. While the report of the committee has not been made public, it gave insight into the document while submitting it to government. It said it recommended, among others, that:

- A new broadcast model which separates the function of the Broadcast Content Provider and the Broadcast Signal Distributor.
- An ownership structure of the Broadcasting Signal Distributor, taking into consideration such factors as the requirements for a quick realization of the project; financial muscle; service efficiency and national security.
- Restructuring of the licensing framework in the broadcasting sector, leading to two categories of licences

Broadcasting Content Licence and Broadcasting Signal Distribution Licence.
- Re establishment of the Public Broadcaster as a social institution, in the face of commercialization
- Management of the Spectrum Dividend that will result from the transition in a manner that brings the greatest benefits to the greatest number of people.
- Suitable infrastructural digital broadcasting standards that would ensure compatibility on both national and international levels.
- Accessibility and affordability of the general public to the new programming regime, through the traditional Set Top Box.
- Development of the content industry in Nigeria, as well as the closely related training and capacity development in the industry.
- A relentless consumer awareness campaign as well as consumer protection, including controls on distribution of consumer equipment.

(4) Vision 2020 working group on media and communications

As part of its activities in furtherance of its decisions to make Nigeria one of the world largest 20 economies by the year 2020, the government set up a series of National Technical Working groups in April 2009. One of them was the Media and Communication thematic Group, chaired by former DG of National Broadcasting commission, Dr. Tom Adaba. This thematic group submitted its report in July 2009. Government is still to announce the final document.This thematic group made such recommendations as:
- Instituting comprehensive policy and legal reforms
- Establishing community media in all communities in Nigeria
- Increasing media consumption habit among Nigerians
- Promoting more specialized media and communication training
- Providing state-of-the-art equipment in all media organizations
- Promoting open and accountable leadership at all levels.

(5)   Licensing of commercial radio and TV stations has continued in the past ten years.

Although the government has given many private commercial licenses, these are usually to entities that are allied with the dominant political tendency. The government has ensured that it dominates the broadcasting landscape through expansion of its own government - controlled stations. In an expansion programme started in 2001, NTA now has over 100 stations while, FRCN is working on adding 32 stations to its network.

(6)   Insecurity of tenure for chief executives of state broadcasters

Much of the control of broadcasting is at the state level. This is generally highly politicized and the conditions of tenure of executives of state-level broadcasting are most insecure, leading to high turnover of DGS. For example, NBC has had 5 *DGs, FRCN-6, NTA – 4.* This is part of the evidence of Ministerial control.

(7)   Commercialization has gone deep in NTA and FRCN such that news is now commercialized.

Twenty years after the privatization and commercialization programme was launched, the Bureau for Public Enterprises (BPE) appears unsure how to handle the "partial commercialization" of the NTA and FRCN.

(8)   NTA and FRCN still get grants from the government despite the heavy commercialization.

(9)   Local governments collect and spend radio/TV set ownership fees because the constitutional provision which supports them is superior to that of the NBC law which supports NBC as collecting and disbursing authority.

(10)   **The authorities have started to license radio stations on university campuses, but not in rural/grassroots locations.**

In 2000, the Federal government began an expansion programme for its radio and television organizations. Under the plan the FRCN was to build an additional 32 stations in the FM range. This was an exclusively executive branch affair without consultation with important agencies like the regulatory body, NBC. Indeed, the NBC has has itself

spoken out about the government's disrespect of its own laid-down procedures as one of the sources of frustration for its regulatory activities. In a 2004 critique of the operations and achievements of the regulatory body, one of its top officials, Awwalu Salihu, captured the dissatisfaction of the NBC with such situations as the approval of broadcast licences by higher government authorities before reference to it (the regulator) and the manoeuvres of such licensees to avoid compliance with regulatory processes. Salihu went on to say that "more recently, the decision by government to establish 107 or so new NTA stations and more than 35 new FRCN stations across the country … was reminiscent of that approach" About eight years after its take-off, the expansion process has not been completed.

Observations and conclusion

In Nigeria, broadcast media policies and their impact have not played out precisely in line with theoretical expectations as the authoritarian dispensations have brought greater diversification than civilian dispensations.

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The evolution of media policy in Uganda

By Monica Chibita

Abstract

This article examines attempts to put into policy or law the parameters of media freedoms in Uganda since the colonial period. Taking a historical approach, the paper identifies major trends in media policy in Uganda across different political regimes. The trends indicate a lack of consistent, clearly articulated and documented policy, a level of ambiguity in the wording of legislation, a tendency to retain outmoded colonial legislation and to recycle aspects of repealed laws, deliberate efforts to curtail editorial independence in the laws, inadequate provisions for converting the state broadcaster into a public broadcaster, the use of the protection of reputations to obscure the mismanagement of public affairs, and the often over-arching powers of the executive to intervene in the day-to-day regulation of the media. Methodologically, the article relies on in-depth interviews and legal documents. The article concludes that although Uganda has made some strides in the media policy arena, the situation is still "precarious" and the most recently proposed media bill does not bode well for media freedoms in the near future.

Key words: evolution, media, policy, press freedom, regulation, Uganda

Introduction:

The evolution of media policy and regulation in Uganda is inter-woven with the evolution of Uganda's turbulent political history. Some major moments in this evolution include the colonial era, the immediate post-independence period, the period following the 1967 constitutional crisis, the Idi Amin era, the era of transition between military dictatorship and democracy, the early NRM period and the post-1995 period following the assumption of power of Museveni's National Resistance Movement (NRM) and, finally, the enactment of Uganda's new constitution and new press laws. Any discussion of media policy also necessarily touches on the media's unrelenting efforts to secure their right to freedom of expression. Media policy embodies a

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government's thinking about the media, what role they should play, within what limits and set by whom. The state of media freedoms and freedoms of expression are often a barometer for the general status of democratic freedom. Thus, if the avenues for the expression of ideas are closed off, "the extent to which a government can be said to be respecting [sic] the overall ideals of democracy are [sic] necessarily limited" (Oloka-Onyango, 1999a, p. 16).

Ideally, policy should be formal and written down. However, this is not always the case. Sometimes not articulating a policy is in itself policy. In this regard, therefore, many of the laws that have governed the operation of the media in Uganda have not arisen out of clearly-articulated, written-down media policy, although it is assumed that some form of government policy gave birth to them. Even the broadcast policy that was drafted in 2004 and discussed and passed by the cabinet remains in draft form, as, according to the Chairman of the Broadcasting Council, it has "now been overtaken by events" and is in need of revision. As a result, one is left with few alternatives but to extrapolate the policy underlying these laws from the content of the laws themselves, from the political circumstances of the time, and from the political statements and actions of government officials relating to the media. As in many parts of the world, the broadcast media in Uganda have had more clearly articulated policy and been subject to more statutory regulation than their print counterparts. This notwithstanding, the policy of different governments regarding the media in Uganda in general has reflected a tension between them and the media. As H. Kanaabi, a veteran journalist puts it, "it's all about control" (personal communication, January 26, 2009). Ocitti (2005, Introduction) captures the essence of the nature of Uganda's media-government relations since independence when he says:

> From its earliest days at the start of 1900 to the beginning of the 21st century, the attempt by the press to assert itself as an essential …element, in the wider context of the struggle for social emancipation and democratic consolidation, has been met with a mix of pejorative government response to blithe dismissals by political leaders. With both sets of groups [sic] continuing to perceive the press at best as a social nuisance, and certainly [sic] not a critical element in the country's political transition over the decades, the gap between the two has continued to widen.

Ocitti (2005) concludes that the media in Uganda have been limited to only that freedom which comes from limits imposed by political or economic factors, rather than internal freedom, i.e. that which comes from the internal organization and policies of the profession (cf. Kunczik, 1998, p. 108).

Analyzing media policy in Uganda according to the different political phases of Uganda's history enables us to place in context media policy and regulation at particular periods and at the same time draw conclusions based on observable trends across these periods. This article, therefore, examines the major political phases discussed above looking at the main political happenings of the period, the attempts to put into policy or law the parameters of media freedoms and the application of these attempts. The article also extrapolates what appear to be the major trends in state/media relations in Uganda since colonial times.

An overview of Uganda' media history

The rise of the print media during the colonial era in Uganda was motivated by a mixture of political and religious factors. The emerging Catholic and Anglican churches saw the indigenous language press as crucial in shaping political thought. The Catholic Church in particular used the publications that the church leadership controlled or had influence over to mobilize followers. Later the colonial government set up media of their own to help them communicate among themselves as well as sell their policies (Gariyo, 1992, p.51; cf. Ocitti, 2005).

In the 1930s, Ugandans' escalating demands for participation in the economy and in the political affairs of their country were channeled through newspapers like *Gambuuze, Baana ba Kintu, Uganda Voice, Tuula Nkunnyonyole, Buganda Nnyaffe and Matalisi,* most of which were in Luganda, the majority indigenous language. These contributed to the political consciousness and action of the 1940s and 1950s that culminated in Uganda's independence on 9thOctober, 1962.

Broadcasting in Uganda was a state monopoly until the early 1990s. In the early 1990s, the NRM government liberalized the broadcast sector, opening up for numerous privately owned stations to be licensed. The former *Radio Uganda* and *Uganda Television* (the state broadcasters) were transformed into *Uganda Broadcasting* in 1995. The UBC is still fully government owned and controlled and to a large extent continues to operate as a state broadcaster (Lugalambi, 2009).

According to the Uganda Communications Commission, as of February 2009, there were 181 registered radio stations. Of these 123 were on air. Forty six of these are based in the capital city, Kampala, and the rest in a few of the other metropolitan centers throughout the country. Most of the privately owned FM stations broadcast either in English and/or Luganda, or one of the major, commercially viable languages from the region that they serve.

The newspaper market is dominated by the *New Vision* in which the government holds 53 per cent shares and the *Monitor* where the Nation Media Group is a majority shareholder. The *Vision* Group has various subsidiary, local language papers including *Bukedde, Etop, Orumuri* and *Rupiny* covering the major regions of the country, while the *Monitor* also has the *Saturday Monitor* and the *Sunday Monitor*. Other major publications include *The Observer, The Red Pepper* and *The Independent.*

The evolution of media policy in colonial Uganda (1894-1962)

According to Gariyo (1992, pp. 6-8), while the local press in the early 20th century started as avenues for evangelism, they later became actively involved in criticizing the Buganda government and the central (colonial) government. Generally the Kingdom of Buganda collaborated with the British and aided the subjugation of the rest of present-day Uganda to colonial rule. Initially, while the Buganda government attempted to muzzle "unfriendly journalists" and newspapers through intimidation and lawsuits, the colonial government tolerated them for purely instrumental reasons: to enable the colonial government to communicate their policies and actions to their Ugandan subjects, and to sell the British colonial project abroad. Thus in the earlier years of the colonial era, privately owned print media were allowed to flourish along with the government owned media. However, towards the 1950s, as Ugandans became more aware of their oppression, they started to express their dissent more openly in the newspapers. The print media, for instance, were instrumental in mobilizing Ugandans for the strikes of the 1940s and 1950s protesting against various aspects of Indirect Rule including economic oppression and bad land policies (see Gariyo 1992, pp. 21-22; Ocitti 2005, pp. 14-26).

In the wake of these civil disturbances, according to Gariyo (1993, pp. 18-20), the British colonial administration banned publications including *Mugobansongaa, Munnyonyozi* and *Uganda Star* and jailed their editors. Also suspended in 1954 under emergency laws were *Uganda Post, Uganda Eyogera and Uganda Express*. As a result, a new

breed of less critical and more opportunistic newspapers came up. In addition, the colonial government moved fast to establish and promote its own vernacular publications such as *Kodheyo*, (Lusoga), *Apupeta* (Ateso), *Agafa e Bukedi* (Luganda), *Amut* (Langi), *Lok Awinja* (Lwo), *Lok Mutime* (Lwo), *Busesire* (Runyankore), and *Wamanya* (Runyankore). These were established under the central government's supervision with the objective of countering the independent indigenous language press. This move reflected the colonial government's recognition of the potential power of communicating with the local people in their own languages through the media and to support efforts to de-politicize the people.

A committee chaired by the Earl of Plymouth had been set up to look into the viability of broadcast services in the British colonies in the 1930s. The Plymouth Report of 1937 had indicated that radio was enabling the Colonial Office to communicate on issues like agriculture and health in the colonies. The British thus established the *Uganda Broadcasting Service* (radio) which went on air in 1954. The report of another committee chaired by Gervase Huxley (1958) confirmed that the privately owned media in the colonies could no longer be relied upon to sell the colonial project and that the broadcast services and particularly radio were the best avenues for influencing public opinion in the colonial government's favor.

In dealing with the media, the colonial government had at their disposal a number of key laws to draw upon, notably those in the Penal Code Act (1950) criminalizing publication offenses such as libel, defamation, sedition, publication of false news, and embarrassing foreign princes and dignitaries. The scope of these laws was so broad that it was difficult for a journalist to be certain about what was and was not safe to publish, creating what Oloka-Onyango has called the "invisible line" (1999, p. 16). In addition newspapers and publishers were required to register details of their publications with the govern-ment which ensured that not only journalists but also publishers were kept on their toes. Journalists in particular lived under the scepter of prior restraint. The government of Buganda that collaborated with colonial rule in the early years of the colony regularly made examples of individual journalists. For instance, Elvis Basudde, the editor of first *Ssekanyolya*, then *Munnyonyozi*, had several run-ins with the Buganda establishment in the early 1920s because of his critical publications. Yusufu Bamutta was also harassed by the Buganda government with the Protectorate government's connivance and was finally jailed on

charges of rape in 1928. On release from prison, he abandoned journalism (See Ocitti 2005, pp. 10- 13).

As demands for independence escalated, the colonial government invoked increasingly harsh laws against the media. The number of newspapers in print was reduced considerably due to constant harassment and heavy financial sanctions. The few that survived to see the Union Jack come down saw little reason for existence after this event and also closed.

Media policy after independence: Euphoria gives way to paranoia (1962-1966)

At independence Uganda had two English-language newspapers and three private local language newspapers in addition to the government owned vernacular newspapers (*Kodheyo*, (Lusoga), *Apupeta* (Ateso), *Agafa e Bukedi* (Luganda), *Amut* (Langi), *Lok Awinja* (Lwo), *Lok Mutime* (Lwo), *Busesire* (Runyankore), and *Wamanya* (Runyankore)). It is important to note that a section of the private press was allied with the powerful Buganda Kingdom headed by Kabaka Mutesa (II) who was also the ceremonial president of Uganda. The political significance of this arrangement was not lost on Prime Minister Obote. At independence Obote's UPC had cut a deal with the pro-Mengo2 Kabaka Yekka (KY) party to form a coalition with Obote as Prime Minister and Kabaka Mutesa as President. The alliance however was short-lived and the relationship between Mengo, the seat of the Buganda government, and the central government grew increasingly tense following independence.

Other papers came up that were allied to specific political interests such as the Democratic Party and eventually the UPC. Partly because of the high expectations raised by the attainment of independence, the papers set the bar high for the Obote government and were critical of his every move. There was expectation in the media that after years of restraint, the media could now operate unhindered by government.

Officially, Obote's major concerns were the integration of Uganda's ethnically diverse peoples and rapid national "development." His expectation of the media therefore was that they would be partners in this effort. Obote's address to the nation on May 29, 1962 gives the first clear indication of his policy stance towards the media and what he saw as the real goals of freedom of expression. Consistent with colonial media policy, Obote in this address argues that a higher premium should be placed on radio than on the print media because it is more

 likely to serve the majority illiterate rural folk. Obote's government subsequently escalated investment in the broadcast sector, leading to the establishment of the Uganda Television (UTV) in 1963, and expansion of radio's geographical and language reach.

Obote constantly expressed discomfort with the muckraking tendencies of the private press which he saw as inconsistent with his idea of development. He also implied on several occasions that the private press was being used by neo-colonialist forces, urging them to "talk development" rather than politics (Tabaire, 2007, p. 195).

Like the colonial government, the Obote government saw fit to increase the number of government publications to counter the private press. So his government set up *Omukulembeze* to serve the central and eastern region; *Dwon Lwak* to serve the northern region, *Mwebembezi* the West and *Apupeta* the North East. They also increased the number of indigenous languages on radio from three to 16 by 1966. In addition, the ruling UPC established the Uganda Press Trust under the Milton Obote Foundation and under this, *The People* newspaper in 1964. Obote at this point still tolerated criticism in the privately owned press and in *The People* newspaper. However, as Ocitti (2005, p. 33) observes, "…the threat of censorship served to restrict criticism."

At independence the Obote (I) government (Obote's first period in power is referred to as "Obote I") had inherited all the colonial media laws and largely left them intact. Thus the UPC's seemingly calm approach to the regulation of the media belied the true motives of the regime. By the mid 1960s, a political crisis was developing around suspicion that the Buganda government was undermining the central government and sabotaging national integration efforts. In 1964 Obote signaled his government's intention to adopt a socialist mode of governance. In a paper presented in Lira (Northern Uganda) on January 8, 1964, Obote introduced this position and argued for a one-party political system. None of this was well received by the Mengo government.

The regulatory environment under the first UPC government (Obote I)

Among the colonial media laws the UPC government had inherited was the Penal Code Act of 1950. This contained sections such as criminal libel, defamation, sedition, publication of false news, and embarrassing foreign princes and dignitaries. The UPC government

adated these to its own purposes or enacted other legislation that directly inhibited the practice of journalism and the enjoyment of media freedoms. This included The Television Licensing Act of 1963; The Deportation Ordinance; The Press Censorship and Correction Ordinance of 1964; The Newspaper and Publications Act of 1964; The Emergency Powers Act of 1966; The Official Secrets Act and The Public Order and Security Act of 1967.

These laws had far-reaching consequences for access to information and for the freedom of journalists who worked for the government. The media were not able to exercise full editorial freedom and both local and foreign journalists were not able to live up to professional standards. They were frequently called in for disciplinary action and sometimes they were harassed, intimidated or silenced. Even though several of the laws have since been repealed, the restrictive intentions have been retained in some form or another in newer laws (see Oloka-Onyango 1999b, p. 18, cf. Kakuru 1999, p. 25; Tabaire 2007). In many ways it is these laws that have formed the template for media policy under subsequent governments.

The legal regime under Obote made it difficult for journalists to challenge those in leadership as they could be charged with sedition and could be subjected to criminal sanctions. Similarly the laws made it difficult for journalists to scrutinize foreign relations and international affairs as they could be charged under section 53 of the Penal Code Act that relates to embarrassment of foreign princes and dignitaries. As scrutiny of Obote's government escalated, the government developed a harsher stance towards the foreign press which he now saw as agents of "capitalism." His office kept a record of their activities. Obote took particular exception to investigations into his governments' business dealings with neighboring countries, a concern that is discernible in subsequent governments' policy towards the media. A *Time* Magazine correspondent, Peter Forbath was expelled on January 10, 1965 for probing supply routes to the Congo (East African Standard 1965, January 11-14 as cited in Ocitti, 2005, p. 35). If he had been a

 local journalist he would probably have been charged with sedition.

The response to this new stance towards the media was self-censorship. Increasingly, Radio Uganda and UTV concentrated on playing praise songs, entertainment and covering presidential functions, steering clear of any explicit political debate. The print

media leant towards what Jjuuko has called "sanitized stories with no names."

On February 22, 1966, in the escalating crisis between the central government and the Buganda government, Obote suspended the constitution and ordered the arrest of five of his ministers on suspicion of involvement in "subversive activities." A new constitution was introduced in 1966 which among other things postponed the elections that were slated for 1967. Historical accounts (Karugire, 1980, Ocitti, 2005, Tabaire, 2007) have it that the 1966 constitution was not debated by parliament but rather handed to them to rubber-stamp. Obote declared himself president and abolished the position of Prime Minister.

Two months later, Mengo demanded that the central government vacate Buganda land. Seeing this as a declaration of war, on May 24, 1966, Obote as President, acting on intelligence information indicating that Mengo was stockpiling weapons with the assistgence of some foreign powers, ordered the army to move in on the Kabaka's palace. The Kabaka was forced into exile. A state of emergency was declared in Buganda and later extended to the rest of the country. The state of emergency obtained until Obote was overthrown in 1971. As a way of consolidating political power at the centre, the semi-federal status of Buganda and other Kingdoms was withdrawn in June 1967. What followed was a period of extreme tension and uncertainty for the media, particularly those allied with the Buganda kingdom (Karugire 1988; Kabwegyere 1995).

During the same period, the government strengthened UTV which had been established on the eve of the first independence anniversary. The station's reach was extended to all four regions of the country. An agreement was also signed with the Japanese government to improve the performance of the state broadcasting over the next five years (Kirevu & Ngabirano, 2005). Its hours of broadcasting were increased from 10 to 17, and a dedicated educational channel was opened up.

As in the colonial days, the Obote government used the Penal Code Act provisions on libel, defamation, sedition and publication of false news to make examples of individual journalists and media houses. For instance, Abu Mayanja was arrested and detained in 1968 for the publication of an article alleging that the UPC government was reluctant to appoint indigenous judges and that nepotism motivated this delay. Rajat Neogy, the editor of the magazine was also arrested and both were charged with sedition. Neogy fled the country upon his

release the following year. Mayanja was not released until Obote was overthrown three years later (see Gariyo, 1992, 1993; Ocitti, 2005 and Tabaire, 2007 for a comprehensive list of other arrests and detentions of media personnel under this first Obote regime.

In 1969, Obote introduced a document entitled "The Common Man's Charter", as part of his political "move to the left". This move towards socialist ideals was intended to speed up national integration and development. The Charter was accompanied by four implementing documents (Kabwegyere, 1995). Among other things, the charter aimed to end the privileged position of areas such as Buganda which had benefited from a special status bestowed upon them by the British in return for their collaboration in subjugating the rest of Uganda. It also sought to de-tribalize Ugandan politics (Karugire, 1985; cf. Kabwegyere, 1995). Finally, point number 8 of the Charter stated that that the state reserved the right to nationalize any property "in the interest of the people." This opened up the media houses to possible arbitrary confiscation by the state. Obote was able to contain any media criticism that emerged in reaction to such drastic announcements by using the Emergency Powers Act of 1963. The regulations permitted detention without trial for six months after which the detention order could be renewed. Nelson summarizes the atmosphere in which journalists were operating during the first UPC government:

> … [it is] a brave man, indeed a reckless one, who will publicly doubt what government says, even if he knows it is wrong and it is designed as a cover up operation. Government's word is becoming infallible and that is disturbing."(Transition 35, cited in Tabaire, 2007, p. 200).

Obote was overthrown in a military coup led by His Army Commander, Major General Idi Amin Dada, on January 25, 1971.

The role of militarism in the evolution of media policy in Uganda (1971-1979)
By the time Amin took over power from Obote in 1971, Radio Uganda and UTV had been turned into complete government mouthpieces along the lines of other emerging socialist leaning countries. Their programming was dominated by praise songs for the ruling party with little critical or no political content. There were only a a handful of newspapers operating, the most visible being *The People*,

the UPC paper, and the *Uganda Times*, both government controlled. The media had largely lost their critical edge, and many concentrated on non-controversial content for their safety.

Amin's ascent to power was legitimized by Legal Notice No.1 of 1971. The Legal Notice suspended Article 1 stating the supremacy of the Constitution. Amin thus became the supreme law, solely responsible for the amendment of the constitution. All powers to make laws would similarly rest with Amin through the promulgation of decrees.

Amin listed 18 points to justify his military take-over among which was "lack of freedom in the airing of different views on political and social matters." Indeed, Amin's stance towards the media in the first few months gave the impression that he would reverse Obote's uncompromising policy towards media freedom. He established a school of journalism at the Institute of Pubic Administration (IPA) for the training of journalists working with the Ministry of Information and showed willingness to dialogue with the media. Although he revoked many sections of the 1967 constitution, he left the Bill of Rights intact. However, Amin's general contemptuous attitude towards the law and the judiciary was a signal that he also would not tolerate media criticism.

Within one year of his rule Amin issued decrees banning parliament and political party activity, and expelling Asians and other foreign nationals. Much of his policy towards the media was embodied in The Newspapers and Publications (Amendment) Decree. No. 35 of 1972. The one page decree in section 1 permitted the Minister of Information to prohibit the publication of any newspaper "in the public interest" provided he/she was satisfied of the need to do so "for a specified or indefinite period of time." Journalists found in contravention of section 1 were liable to a fine or to imprisonment for up to three years. Given that Amin's was a military government, this in effect introduced the military into the regulation of Uganda's media. In the period following the issuance of the 1972 decree, Amin held frequent press conferences and issued warnings and threats against anyone challenging him, including the media, referring to them as "confusing agents" (Ocitti, 2005, p. 51).

According to Barton (1979), within one year of Amin's ascent to the presidency, the media in Uganda had been beaten into submission. The newspapers run by opposition parties, including *The People, Citizen* and

Munnansi, were all closed within the first two years of his rule. Journalists working for both the government and privately owned media regularly received instructions from the president's office on editorial matters. Amin's regime was characterized by intimidation, harassment and execution of perceived political opponents. For a detailed account of these, see Kyemba (1977). Ocitti (2005) notes that no-go areas for the media in Amin's time included his personal life, his policy towards the Middle East and his relations with neighboring Tanzania which he perceived as sympathetic to Ugandan exiles.

In a move to consolidate his control of the media, Amin nationalized the *Uganda Argus,* a privately owned paper, on November 30, 1972 saying it did not properly represent the views and policies of government (Ocitti, 2005; Gariyo, 1992). He renamed it *Voice of Uganda*, and all its staff were absorbed into the Ministry of Information and Broadcasting. He invested massively in the development of the broadcast media, particularly television, introducing color television in 1975. He also established the Presidential Press Unit (PPU) within the Ministry of Information to ensure that all presidential activities were comprehensively covered in government and private media alike. All subsequent governments have retained the PPU and used it as a mouthpiece. The current government has a separate Press Unit for the Vice President and Prime Minister as well.

By 1973, there were three major papers left: *Voice of Uganda, Taifa Empya* and *Munno. Taifa Empya* and *Munno* regularly received threats from government (Ocitti, 2005). According to Barton (1979), all three were expected to cover presidential activities regularly and comprehensively.

Amin elevaged he persecxuion of journalistgs to a new level. As K. Kakuru (personal communicagion, August 26, 2009) puts it, "It [had] nothing to do with laws. . .I don't think if you wrote a defamatory article during Amin's time the needed to sue you for sedition; they would just arrest you". That is, if you were lucky. On January 17, 1973 1974 alone Amin ordered the deportation of Reuter's Phillip Short and *The Voice's* Malcolm Whitnell for "maligning the name of Uganda" and the editor of *Munno,* Fr. Clement Kiggundu was found dead. He is believed o have been murdered by government operatives after he had repeatedly been accused of being a confusing agent, a liar, and agent of the imperialists (standard labels for people with differing opinions in Amin's time). He was to be one of a long list of journalists believed to have been murdered by the Amin regime including John Sserwaniko

and Jimmy Parma. This appeared to be Amin's preferred way of ddealing with criticism, and underscored his policy towards the media.

Like Obote, Amin was intolerant of the foreign press. They were largely *"persona non grata"* unless expressly invited by him. Thus, in 1974 alone Amin ordered the deportation of Reuter's Phillip Shjort and *The Voice*'s Malcolm Whitnell for "maligning the name of Uganda" and banned four Kenyan papers before finally banning all foreign press (Ocitti, 2005). The fact that the local media were muzzled and the foreign media closed out created a dangerous situation where Amin committed atrocities with little opportunity for scrutiny. The local media dared not report these happenings.

A new Information Minister, Col. Juma Oris, was appointed in 1974. Oris directed all local papers to print Amin's speeches verbatim and regularly print photographs of him on their front pages. As evidence of his paranoid attitude towards the media and his desire for absolute control of information, Amin replaced the editor of the *Voice of Uganda* at least five times (there were three Editors in Chief at the *Voice of Uganda* between 1972 and 1975 alone) and frequently reshuffled his Ministers of Information.

Amin was eventually overthrown in 1979 leaving behind a subdued media. The state broadcasters' equipment had fallen into disrepair and the war that saw him out was followed by massive looting which also affected the radio and television installations.

Media policy in volatile political times: 1979-1985
It should be noted that all institutions of government fell with Amin's exit. Soon the system started to self-destruct and in the years that followed, chaos reigned. Karugire (1985, pp. 86-95) provides a compelling account of this period in Uganda's history. Amin's government had badly shattered the economy. He was succeeded by the Uganda National Liberation Front (UNLF)4 headed by Yusuf Kironde Lule. Lule was forcefully ousted after 68 days and was succeeded by Godfrey Lukongwa Binaisa. Binaisa's government lasted nine months and was succeeded by a Military Commission, an organ of the Ugandan National Liberation (UNLF) which ostensibly worked under a Presidential Commission of three civilians. The UNLF had been formed at the "Moshi Conference" where 22 Ugandan groups in exile came together to plan the removal of Amin and their country. The UNLF was the political wing of the group that, with the help of the

Tanzanian Peoples' Defence Forces (TPDF), drove Amin out of power in 1979,

Since political party activity was still banned in 1979 and the government maintained a monopoly over broadcasting, newspapers still seemed to be the major avenue for diverse political expression left to Ugandans. The UNLF government was eager to appear different from its predecessors in terms of respect for media freedoms, so they initially gave the press free reign. According to Ocitti (2005) there were at least 30 newspapers and 40 journals in Uganda by the mid-1980s, up from the one newspaper that Amin had left. Among these were papers that subscribed to the ideology of the Democratic Party (DP) like *Munnansi, Mulengera, The Citizen and The Exposure. Munno* and *Taifa* which had a strong Catholic base were also inclined towards the DP. *The People* which had been a UPC mouthpiece since the mid 1960s and *Ngabo* which spoke for Mengo loyalists on the opposite side of the political spectrum were also back on the streets. It looked like honeymoon time for the media.

The Military Commission, headed by Paulo Muwanga, organized an election in 1980 which is widely believed to have engineered the return of Obote to power. Obote's second attempt at the presidency (known as "Obote II"), however, was constrained by guerrilla movements which, due to widespread dissatisfaction with the status quo, had started operating around Kampala. His rule lasted until 1985 when he was overthrown by a section of his army headed by General Tito Okello Lutwa.

Underneath the chaos of this period lay simmering tribal tensions. At one level the "returnee" Baganda were pitted against the "Westerners" both of whom felt it was their turn to take over the reigns of power from the "Northerners" who they perceived as having dominated Ugandan politics for over three decades. At another level, the animosities were between the Bantu ethnic groups mostly based in the central, east and west, and the Nilotic and Sudanic groups mostly from Northern Uganda. Those Ugandans who had not gone into exile, in the meantime, had endured nine years of brutal military dictatorship and were ready to finally enjoy some freedoms. They had high expectations that the "returnees" would bring these about. Yet with the incessant power struggles, there was no firm central control and a power vacuum developed. The private media took advantage of this vacuum.

In terms of regulation, there was no constitution, and law enforcement mechanisms were weak and unstable. Idi Amin had emasculated the judiciary and the army and police were in disarray (Karugire,1980). The National Consultative Council (NCC), a body composed of diverse political interests mostly from among Ugandans returning from exile, served as the legislature. However, the entire arsenal of laws governing the media put in place by Obote in the 1960s were still in place as was the Penal Code Act.

The media honeymoon did not last very long. In 1980, Albert Picho-Owiny, the Minister of Information, issued a by-now-all-too-familiar warning: government would only tolerate "constructive criticism" from the media. The media, he argued, should not use their new-found freedom to abuse government which after all had "given it to them," a phrase former governments liked to use (Ocitti, 2005, p.76). In the same year several journalists including Bob Odongo Naenda who worked for the government broadcaster were murdered. Ilakut Ben Bella, the editor of the *Uganda Times* (the former *The Voice of Uganda*, renamed by Amin), the government paper, was arrested. Also arrested in May 1980 were two other journalists, DP-leaning Roland Kaooza Mutale (of *The Economy*) and James Namakajo (political advisor to president Binaisa). The two were caught up in bickering between the forces of Obote's UPC and the UNLF. The charges against them were not clear. On the orders of the Minister of Internal Affairs, Paulo Muwanga, backed by the Public Order and Security Act of 1967, a number of newspapers including *The Citizen, The Economy* and *Ngabo* were banned. In September 1980, Muwanga issued one of the most open threats to the media to date, saying there was still plenty of room in the prisons for irresponsible journalists (Ocitti , 2005, p. 79).

Milton Obote was returned to power in 1980 following elections based on widely disputed results(Karugire, 1980, Kabwegyere, 1995, Ocitti, 2005, Tabaire, 2007), and the media openly discussed dissenting public's views on the results. Obote's information minister, David Anyoti, accused the media of "irresponsibility." He adopted a particularly harsh stance towards the foreign media (Ocitti, 2005, p.82-83). Eight foreign journalists were expelled. According to Maja-Pearce,

cited in Tabaire, 2007, p. 203), by 1982 alone, the government banned seven newspapers including the highly analytical and critical *Weekly Topic* and *Aga Africa*. In January 1982, the government announced new rules on the accreditation of foreign journalists which required

foreign media to open up bureaux in Kampala rather than use stringers. The charge of sedition was frequently brought against local journalists. Among those charged under sections 39 and 40 of the Penal Code Act were Anthony Ssekweyama, a DP stalwart who edited the sister papers *Munnansi* and *The Citizen*, Francis Kanyeihamba who worked with *The Pilot* and Drake Ssekkeba who worked with *The Star.*

The political chaos in the country continued. Human Rights reports about Uganda became increasingly negative and media space continued to shrink as more papers folded. Thus the Okello government that overthrew Obote in May 1985 did so amidst heightened social strife as there were several armed groups jostling for power. Okello's short-lived government's policy towards the media was, not surprisingly, uncompromising. Among the key measures they took was the setting up of a Press Security Committee on January 2, 1986 composed of representatives from the army, the police and the media. This was to serve as a censorship committee, drawing on the censorship legislation handed down from colonial times. However, the committee did not last long as the Okello government was overthrown by the NRA three weeks later.

Coming to grips with a liberalized media
Following the capture of state power by the National Resistance Movement (NRM) of Yoweri Museveni on January 26, 1986, there was the semblance of a new, more open policy toward the media. Private newspapers like *Mulengera*, *Ngabo*, *Weekly Topic*, *Economy*, *The Star*, *Saba Saba* and *The Champion* which had been banned by the previous government resumed publication. For a few months, these were able to critique and challenge the actions and policies of the new government with apparent impunity. The only operating local broadcast media, *Radio Uganda* and *UTV,* however, were of little significance as they were in a dilapidated condition.

It should be noted however that Legal Notice No. 1 of 1986 that legitimized Museveni's ascent to power also banned political party activity. The reasoning behind this was that the traditional political parties were based on ethnicity and religion and had therefore contributed to the polarization of the country. Museveni introduced what he called the "Movement System" (which some have called a "no-party" system). Under the system, political leaders would be elected not on the basis of a party platform, but on "individual merit." Museveni, however, unlike his immediate predecessors, signaled a

more open policy towards the media. Some have argued that he saw the media as a safe avenue for people to vent pent-up political opinion as he consolidated his own political base (Mwesige, 2004; Tabaire, 2007). Early in his reign, however, Museveni defined limits for the media that would inform his policy towards them in subsequent years: "We want freedom of the press, but we cannot have enemy agents working against us here." (*The Guardian* (London) (November, 1986), as cited in Tabaire, 2007, p.207).

Like the UNLF in 1979, Museveni took over power in a near regulatory vacuum as the constitution had been suspended and the judiciary had broken down. However, again, like previous leaders, he had the old media laws to draw upon. The NRM's ascent to power was greeted with widespread jubilation as the NRA had waged a five year war during which they built up a popular support base at the grassroots. The NRM had also paid particular attention to building an image of a benevolent liberation force that would bring about a "fundamental change" rather than "a mere change of guards." However, the NRM was faced with a complex balance between keeping up this image in the local and public media, and at the same time decisively silencing opposition in the Eastern and Northern region of the country. The NRM was particularly keen not to appear like it was perpetuating historical ethnic divisions between the Bantu and the Nilotic groups. More than any other regime in Uganda's history they seemed to have a good understanding of the role the media could play in protecting their largely positive image and selling their policies at home and abroad.

Museveni's arrival thus seemed to usher in a renaissance of media freedoms. Even though *Radio Uganda* and *UTV* remained under the control of government, *The Uganda Times* was renamed *The New Vision* to signal a change in policy and direction. It was placed under the Management of William Pike, a veteran journalist who had worked for the South magazine in London and had covered the NRA's guerilla campaign comprehensively. Even though it was a government newspaper, *The New Vision* in its early years enjoyed great editorial freedom and was in many ways as critical of the NRM regime as the privately owned papers when it was necessary. However, it should be noted that the government's hesitation towards giving the media unlimited freedom was built into *The New Vision Printing and Publishing Corporation* Act of 1987. It was policy that *The New Vision*'s reporting should help build a positive image of the incumbent

government at home and abroad and as much as possible be non-controversial. This was consistent with the policy of all the regimes that preceded the NRM's. Section 18(b) reads:

> In the carrying out of its functions…the Board shall have as its editorial policy to voice public opinion and criticism of a given Government policy in a fair and objective manner without becoming an institutional opponent to the government or its interests [Author's emphasis] (The New Vision Printing and Publishing Corporation Act, (1987)).

18 (d) further reads:

> …to propagate news and comment truthfully, honestly and fairly without jeopardizing peace and harmony in the country.

It soon became clear that even with the NRM, the military was a "no-go area". More and more Human Rights reports indicated that the NRA was engaged in human rights abuses in the areas where there was still resistance to the regime, notably in the North and East. In 1986, the *Focus* newspaper was closed down after publishing a story that portrayed the NRA on the losing side in the struggle against rebels in the Eastern and Northern region. Sully Ndiwalana, the editor, was detained for three days, then charged with sedition. In June of the same year, the *Weekend Digest* was banned after it published a story suggesting that elements in the DP with support from the German and Italian governments were plotting to overthrow the government. The editor of *The Citizen* which was affiliated with the DP was also detained.

The Citizen ceased operation for a while and when it resumed, its deputy editor John Baptist Kakooza, was also detained twice, charged with sedition. Some of the privately owned papers at this time sometimes did not cross-check their stories and therefore published some inaccuracies. However, it was becoming clear, as Mwesige (2006) notes, that President Museveni was beginning to equate these journalistic errors with an orchestrated opposition campaign to discredit his government (cf. Tabaire 2007, p. 206). In February 1987, Museveni issued the following warning:

> I am putting journalists on notice: that if they malign the good name of the NRA, they will be locked up under the detention laws (Amnesty I nternational, 1989, p. 41).

Museveni referred to laws such as the Public Order and Security Act of 1967 whose Section 1.1 (a) reads:

> Where it is shown to the satisfaction of the president that any person has conducted, is conducting or is about to conduct himself as to be dangerous to peace and good order in Uganda or any part thereof, or that he has acted, is acting or is about to act in a manner prejudicial to the defence or security of Uganda or any part thereof; and (b) that it is necessary to prevent such person from so conducting himself or so acting, the president may by order under his hand and the Public Seal, direct the restriction or detention of that person.

This law further provided in section 2

> Where a person is detained under or by virtue of the Emergency Powers Act and the president is satisfied that in the interests of public order, security or defence of Uganda …the continued detention or restriction of such a person is necessary… the president may extend the period of restriction or detention.

This law gave sweeping powers to the president over journalists and put them in direct confrontation with him. It could be argued that its retention on the books signaled the NRM government's unwillingness to leave anything to chance as far as the maintenance of the NRM/ NRA's "good image" was concerned. The Public Order and Security Act was invoked in the arrest of Lance Sera Muwanga in 1987 for comparing the NRA's Human Rights violations in Northern Uganda to those committed under Idi Amin. Within a year, therefore, the NRM had made it clear that their policy with the media would be open, but on the government's terms.

Apart from the laws that had aided the Obote government to curtail media freedoms in the 1960s and later in the 1980s, the Museveni government amended the Penal Code Act in 1988 to introduce section 37, "Publication of information prejudicial to national security." This section severely proscribed reporting on the military, their movement or their conduct. It, like many other legal provisions intended to control the media, had a relatively vague clause, 37 (c): "A person who publishes or *causes to be published*" any material about the military which is "*likely to disrupt* public order and security." Such a clause left plenty of room for interpretation in the hands of the government or the

military and was bound to introduce a level of restraint among journalists that was detrimental to the full exercise of their freedoms. The NRM government has subsequently invoked this section as well as the Penal Code Act provisions sections 39 (seditious intention) 40 (seditious offences), 41 (promoting sectarianism), 50 (publication of false news), 51 (incitement to violence), 52 (incitement to refuse or delay payment of tax), 53 (defamation of foreign princes) and 179-186 (defamation), all of which carry criminal sanctions, to arrest journalists and arraign them before courts of law. Also on the books is the Anti-Terrorism Act of 2002, which restrains journalists' contacts with suspected rebels and publication of rebel movements and activities. Contravention of 9(1) b of this law attracts the death sentence. For a comprehensive discussion of individual cases and rulings related to these laws, see Gariyo, 1993; Ocitti, 2005, pp. 114-136; and Tabaire, 2007.

Between 1991 and 1994, the government attempted to introduce a press bill which, among other things, sought to set a university degree as the minimum qualification for a journalist to be able to practice in Uganda, and a requirement for journalists to demonstrate an understanding of the country's political history. The bill also gave sweeping powers to the president to ban publications "in the public interest." The minister and the Media Council (the proposed regulatory body for the media) were vested with extensive powers to control the media. Even though embarrassing foreign princes and dignitaries was already an offense under the Penal Code Act (Amendment) 1988, it was included in the Press Bill as well. The bill also sought to incorporate a section that placed a degree of liability for what was published in newspapers on publishers (This was drawn from the Newspaper and Publications Act of 1964). The Uganda Journalists Association rejected the bill in its totality. However in 1994, when it seemed clear that the government was determined to enact a law to restrain the media, with or without the journalism fraternity's input, a section of the journalism fraternity decided that it would be more pragmatic to talk to government into a compromise bill than to reject the bill altogether. The resultant bill, which was passed in 1995 according to Onyango-Obbo (1999, pp. 8-9) was a much better version because apart from leaving out many undesirable provisions like the liability of publishers and vendors for editorial content, it repealed the Newspapers and Publications Act and the Press Censorship and Correction Act both of 1964 which gave sweeping powers to the government to censor, to

confiscate publications and to close down a paper "in the public interest."

Media Law under the NRM government

Apart from the constitution, there are two major pieces of legislation enacted under the NRM government that merit specific attention here: The Press and Journalists' Act (2000) and The Electronic Media Act (2000). These are discussed below, in the order in which they came into being.

The Press and Journalists Act (2000)

This is currently the main law governing journalistic practice in Uganda. It came into being in 1995 as the Press and Journalists' Statute shortly before the Constitution of the Republic of Uganda (1995) was promulgated. The Act establishes the Media Council as the custodian of professional standards in the media. It guarantees the right of access to information, subject to other provisions relating to "national security, secrecy or confidentiality of information." While these are important provisions they may be subject to the interpretation of an interested individual controlling the release of the relevant information. The bill further sets the minimum qualification for being registered to practice as a journalist having a degree in Mass Communication, or a degree in any other field, with a postgraduate qualification in Mass Communication and one year's experience.

This law also provides that every journalist should be registered with the National Institute of Journalists of Uganda (NIJU), a statutory body established by the same law, and this license will be renewable every year. Few journalists have complied with the requirement to be licensed and renew the practicing license every year and enforcement has been poor. On the positive side, though, many Ugandans have pursued formal journalism training at degree level, and hopefully this has improved the overall standards of journalism. This law has, as one of its schedules, a code of ethics for journalists. This is linked to the establishment of NIJU and the minimum qualification in the spirit of professionalization. One notes, however, that in journalism, codes of ethics tend to be more effective in the context of self-regulation. Self-regulation efforts in the media fraternity, though, have so far not made much progress. Finally, the law provides for the registration of video operators, which has advantages in terms of order and discipline in the video sector. However, this is not linked to any provisions on important

issues like developing local talent or generating local content in the law, and could also be invoked to close out politically undesirable entertainment content.

The Electronic Media Act (2000)

This is the main law governing the broadcast media in Uganda. The law seems to have been developed as an afterthought to the Press and Journalists' Statute which it cross-references in some instances (e.g. on issues of ethics, professionalization and discipline). This law for the first time establishes a Broadcasting Council, laying out its composition and functions. The composition of the Broadcasting Council, however, is dominated by government appointees. The law stipulates minimum broadcasting standards which focus more on protecting public morals than on promoting diversity.

Thus the Electronic Media Act is on the whole a weak law with regard to broadcasting. Its motivation was clearly to legitimize the liberalization of the media rather than to regulate their operation. The liberalization of the broadcast sector in Uganda, which had preceded both law and policy in the early 1990s, had been influenced by pressure from entrepreneurs rather than concerns for freedom of expression or diversity and pluralism (see Ogundimu, 1996, pp. 165-166). F. Jjuuko thus concludes:

> What is liberalized in Uganda is freedom to invest in the media, not freedom of the press. The civic political content has never been liberalized. If you look at the number of stations, you have missed the point (personal communication, December, 2009).

It is important to note also that the Electronic Media Act makes no mention of the different tiers of broadcasting. All its provisions are blanket (covering state media, commercial media and community media). Neither does it acknowledge the different needs, mandates, support mechanisms etc. of community broadcasting, or its relevance to a society such as Uganda's. It does not explicitly address issues like ownership, advertising, local content, new media, human resource development and democracy and good governance, for instance, which are major policy concerns in the modern media environment. There is no differentiation in licenses in the Electronic Media law, although the law empowers the broadcasting council to manage the frequency spectrum.

The Constitution of the Republic of Uganda

The current constitution of the Republic of Uganda came into being after The Press and Journalists' Act and The Electronic Media Act which were enacted as statutes in 1995 and 1996 respectively. In 1995 the National Resistance Council (NRC) promulgated a constitution which for the first time in Uganda's history specifically guaranteed freedom of the press in the Bill of Rights. Article 29(1) (a) reads: "Every person shall have the right to freedom of speech and expression, which shall include freedom of the press and other media." Unlike previous constitutions, this one does not contain claw back clauses, even though article 43(1) sets the limits for the enjoyment of all freedoms. With regards to the media, 43 (1) c is significant. It states that there will be no limitation on the rights and freedoms guaranteed by the constitution "…beyond what is acceptable and demonstrably justifiable in a free and democratic society." It is important to note also that "the public interest" is clearly defined, thus taking away one of the weapons that governments have used since the colonial days. Article 2 also states that the constitution "shall be the supreme law of Uganda." Finally, Article 41 guarantees access to information and provides for the enacting of enabling laws.

Although the provisions in the 1995 constitutions are a great step ahead in the evolution of media policy, there are still enough laws on the books to enable the government to exercise a great amount of restraint and control over the media. Consequently, and like previous governments have done, the NRM government has made examples of individual journalists and media houses as a warning to the rest using these laws.

One section of the Penal Code Act that the NRM government has invoked frequently relates to the offence of "publication of false news". This provision, though ostensibly intended to safeguard "truth" in reporting, has generally been used to prevent journalists from going too far in their scrutiny of the actions of government.

The provision is complicated not only by the fact that "truth" is difficult to define, but also that the avenues for journalists to get to the "truth" are still limited by laws like the Official Secrets Act which imposes a possible jail sentence of 14 years on a government official who divulges official information that comes to him/her in the course of his/her duty (Uganda. Official Secrets Act, section 4, 1964). A most recent example involves Charles Onyango-Obbo and Andrew Mwenda, then of *The Monitor*, who reproduced a story from *The Indian Ocean*

Newsletter alleging that President Laurent Kabila of the Democratic Republic of Congo (DRC) had paid the Museveni government in gold for military support they had rendered the DRC in their fight against rebels in the East of the country. President Museveni had ordered Ugandan troops into the Eastern DRC without parliamentary approval. Onyango-Obbo and Mwenda were charged with publication of false news. The two made 33 trips to court, and had to secure 33 bail extensions between October 24, 1998 and February 16, 1999 when the case was finally dismissed (Onyango–Obbo, 1993). ((For a more comprehensive discussion of how this section of the Penal Code Act has been applied, see Kakuru,1999; Ocitti, 2005, pp. 113-136 and Tabaire, 2007.

 Onyango-Obbo and Mwenda's plight has been that of several other journalists who have dared criticize the actions of government and had the misfortune of erring in fact in the process. The Museveni government has applied the Penal Code Act much more regularly than they have the two laws enacted in 1995 and 1996. Onyango-Obbo thus reflects on the import of criminalizing publication offenses for the work of a journalist in Uganda.

> Going through that made our lives very difficult. I found that we carefully lest it lead to an application by the state to cancel our bail or to pile on new charges (Onyango–Obbo, 1993, p.206).

Journalists like Teddy Sseezi Cheeye of the *Uganda Confidential* who have been charged with defamation and lost the cases have had to pay heavy fines and in a few instances their papers have folded. The rulings in these cases, according to F. Jjuuko, have historically favoured government officials and other "big shots." Public figures have no reputations to lose anyway, so civil defamation has been used to prevent discussion on how public affairs are run rather than protecting reputations (F. Jjuuko, personal communication, 2009).Because the awards have been so big, the rulings have resulted in self-censorship. "The rulings also undermine the financial base of the papers," Jjuuko adds. Jjuuko also observes that in some ways civil defamation and sedition are mutually reinforcing making it doubly difficult for journalists to do their work without fear of falling foul of the law. It is instructive to note that little here has changed here from colonial times as the same tactics were used to silence "troublesome" journalists.

 The NRM government has also used arrests to reign in journalists.

Journalists have been arrested for reporting on corruption, the social life of public figures, and relations with foreign government. In each instance they have been charged either with defamation, sedition, publication of false news or a combination of these. Most journalists have ignored the requirement in the Press and Journalists' Act for them to register and annually renew their practicing licenses. However, often when a journalist has been arrested they have also been asked to demonstrate that they are registered and therefore have a right to publish! According to Tabaire (2007), between 1986 and 2004, more than 24 journalists were arraigned before the courts on various publication offences rendered criminal by Uganda's laws enacted prior to the 1995 constitution.

The NRM government has on occasion employed stringent financial sanctions against the media as a way of restraining them. In 1993 for instance, government instructed all its departments to stop advertising with *The Monitor.* This ban lasted four years and affected *The Monitor'*s revenues considerably. This is another tactic reminiscent of colonial policy in the 1940s and 1950s where heavy fines were imposed against "errant papers" with the aim of silencing criticism (See Gariyo, 1992). The big contradiction: progressive constitution vs. retrogressive laws Oloka-Onyango (1999, pp. 18-20) highlighting contradictions between the progressive 1995 Ugandan constitution and various retrogressive laws says:

> Notwithstanding the limited reforms introduced to the law in the above [Press and Journalists' and Electronic Media] statutes, the most daunting threats to a vigorous and liberated print and broadcast media in Uganda is the imposition of criminal sanctions for the work that they do. …[t]he litany of fines and prison terms in the media laws… have a chilling effect on free expression.

Oloka-Onyango likens what journalists in Uganda have labeled the "obnoxious" provisions in the Penal Code Act to the medieval ages and concludes that they are inconsistent with the 1995 constitution

> Because recourse can always be made to them once the government deems it expedient, it is essential that they be expunged from the penal law, or at a minimum modified in order to meet the exigencies of a society that is governed the democratic ethos. This is because even if such offenses eventually reach our courts, the issue of their constitutionality is either never confronted, or it is simply dodged… (Oloka-Onyango, 1999, p.19)

A crystallizing of media policy under the NRM

The NRM government has come closest to a concrete, written down policy on the media since the colonial times. While the Press and Journalists' Act and proposed new laws are the written expression of the NRM's policy towards the print media, the NRM government's stance on the broadcast media is currently contained in the Draft National Broadcasting Policy of 2004. Two things to note about this document is that it was drafted nearly a decade after the Electronic Media Statute, and it was preceded by another draft document, the Communication White Paper of 1998 (discussed below), which was later subsumed under the National ICT Policy of 2003.

The Draft Communication White Paper

In 1999, seven years after the liberalization of the media and three years after the Press and Journalists Statute and the Electronic Media Statute (later to become the Press and Journalists Act of 2000 and Electronic Media Act of 2000 respectively) came into being, the government of Uganda developed a White Paper on regulating the broadcast sector. The Draft Communication White Paper was the result of a relatively wide consultative process both at the national and local levels. It was intended to pave the way for a revision of the existing broadcast law to bring it in conformity with international standards. The Communication White Paper (1998, pp. 20-21) does recognize that gaps exist between the urban and rural populations in terms of access to the media. Thus the White Paper proposes the decentralization of broadcast services and ensuring that public interest messages are delivered in appropriate languages and at suitable times for their target audiences "but not to the detriment of their national roles" and "maintaining sight of associated national aspirations." The latter additions further underline government's intrinsic discomfort with the media that is reflected in policy, both written and not, since colonial days.

The White Paper also lays a foundation for the establishment of a public broadcaster and decentralized public broadcasting services. There is a reluctance in the policy to put public service conditions on commercial broadcasters, possibly for fear of upsetting the industry or losing revenue. Instead government proposes to make these contingent on the latter's profitability. Thus, for instance, commercial broadcasters would be free to broadcast in English, Kiswahili or any language that

they may deem commercially viable, but more importantly, they would be free not to broadcast in any language that does not fall within their commercial priorities. For a linguistically heterogeneous country like Uganda, and in the context of globalization, this is problematic. From the above, a number of issues emerge. Firstly, as recently as the 1990s, the government of Uganda appears to view information and communication in a traditional, linear way, from government to "the masses." There is not much emphasis therefore on strengthening the media as arena for debate. Government is also hesitant to encourage people to freely express their "local" identities through the media for fear that this will undermine national unity. Thirdly it would appear that the NRM government sees the local level as such a powerful site for the formation of public opinion that it needs to be checked to stave off or weaken possible political opposition. This has been demonstrated in the frequency with which local radio stations have been taken off the air by the Broadcasting Council sometimes ostensibly for failure to pay their license fees, holding shows in un-authorized venues or violating some other aspect of their license conditions, but more recently for more overtly political reasons like "inciting the public to violence." The National Information and Communication Technology (ICT) Policy Current technological developments have created inevitable links between the telecommunications and broadcast sectors.

The National ICT Policy is the first comprehensive formal policy relating to the media in Uganda. All other communication "policy" to date is in the form of White Papers, ministerial policy statements or draft documents or to be gleaned from existing laws. The ICT policy was deemed to have subsumed the concerns of the draft Communication White Paper "in the spirit of convergence." Notwithstanding the fact that the policy seeks to guide both the traditional telecommunications and the broadcast sector, the emphasis of the National ICT policy is clearly not the media but telecommunications.

The Rural Communication Development Policy
This policy, revised in 2009, which could be seen as a sub-set of the national ICT policy, aims to provide access to modern communication services within reasonable distance to all "underserved people of Uganda especially the rural communities" on a "sustainable basis" to enable them to "participate in in the information society for their social

and economic development." (Uganda. Rural Communications Development Policy 2009, 2.2). Its focus is on telecommunications, but this has a bearing on broadcasting, especially because interactive programs have become extremely popular, and they depend on access to especially mobile telephone facilities. While access to a telephone is tied to income, government's initiative to have a policy that brings services closer to the people is a positive development. Needless to say the policy has some economic benefits for both government and investors as well.

The Draft National Broadcasting Policy

The government of Uganda in 2004, a decade after the broadcast sector was liberalized, initiated the formulation of a broadcasting policy, the first attempt at comprehensively documenting government's thinking on the broadcast media in light of international best practices in broadcast policy. In this policy, government admits that the Electronic Media Act (CAP 105) of 2000 which is still the principal legislation for the regulation of the electronic media, is "not in tandem with modern concepts of holistic broadcast management." Therefore, the draft policy stipulates that "… a clear and comprehensive broadcasting policy is essential for the preparation of new legislation to effectively address sectoral concerns" (2004, p. 16).

The Draft Broadcasting Policy's objectives are noble and largely in tune with international best practices in broadcast policy. They include promoting liberalization, ensuring a balance between profit and the fulfilment of public service obligations, establishing a framework that takes into account the convergence of technologies, ensuring that the broadcasting system contributes to unity and patriotism by safeguarding, enriching and strengthening the cultural, social and economic fabric of Uganda, and ensuring pluralism and diversity in the provision of news, views and information (2004, p. 17). With regard to diversity, the Draft Broadcasting Policy proposes specific regulation to address the establishment of three distinct tiers of broadcasting and to promote community broadcasting. It also proposes to regulate ownership and content in the interests of diversity. The policy further seeks to harmonies the role of the broadcast regulator and the telecommunications regulator with regard to the management of the broadcast frequency spectrum. Although the draft policy highlights the importance of all stations, and particularly the public broadcaster offering substantial amounts of local content, it steers clear of any

discussion on language and its use in the media per se. It only states that license holders will be required to be "linguistically relevant" to their areas of operation. The Draft Broadcasting Policy appears to have the potential to improve the atmosphere for media diversity and therefore opportunities for participation in the broadcast media in Uganda. This (draft) policy has been hailed as "liberal and forward-looking" (F. Jjuuko, personal communication, 2009). However, the policy remains on the shelves and has not been given a chance to influence a review of existing laws.

Future policy

The future policy of the NRM government points towards a firmer stance towards the media and media freedoms. This seems to have taken on a particular urgency not only because the political space has become more competitive, but also because of technological developments. The latter make the old approaches that focused on controlling media content futile. For instance it is no longer practical to prohibit the importation of particular types of publications as provided for in the Penal Code Act (Amendment) of 1988, sections 34 and 35. Future policy is therefore now more likely to concentrate on controlling journalists.In this regard, the Minister of Information and National Guidance in March 2010 presented a Press and Journalists Bill that appears to be the synthesis of the NRM's current media policy. The law it proposes seeks to,

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

According to sections 4, 5 and 9 of the bill, the new law will require all newspapers to be registered and licensed by the Media Council. Operating a newspaper without licensing it with the Media Council will attract a fine equivalent to 500 US dollars or two years in jail. Section 6 introduces a clause to "ensure that what is published is not prejudicial to national security." It should be noted that the Penal Code Act was already amended to include a similar provision in (section 37) of 1988.

The number of scholars in Mass Communication on the council will be reduced from two to one. Similarly, there will be one representative of the media industry instead of a possible four. The Bill further reduces the number of journalists on the Media Council by proposing that the two members representing the public in the Council are not journalists. It proposes that the representative of the legal fraternity on the Council be appointed by the Minister in consultation with the Law Council rather than simply nominated by the Law Society. According to section 8 of the Bill, the Chairman of the Media Council will no longer be elected from among the members but will be appointed by the Minister in charge of Information as is already the case with the Broadcasting Council.

The overall import of the above proposed amendments seems to be to increase the control of government over the composition of the Media Council and reduce the likelihood of challenging government decisions with regards to media regulation. This is consistent with the policy stance towards the media government has taken since 1986, notwithstanding the constitutional provisions of Article 29 (1) (a) and 41 and the liberalization of the broadcast sector and the enactment of the Press and Journalists' Statute in 1995.

The bill also proposes changes in the functions of the Media Council. While in the Press and Journalists' Act (CAP 105) 2000, the role of the Media Council is largely a regulating one, the proposed role of the council in the bill leans more towards one of outright control. The bill proposes that the Council register newspapers in addition to their being incorporated as companies, and license them (just like radio and television stations). Newspaper proprietors would have to prove qualification or experience. The Media Council would be empowered to prescribe other details to be supplied before licensing which could leave the approval of a license open to abuse. People seeking to have a newspaper licensed would need to demonstrate "adequate technical capacity" and "social, cultural and economic values of the newspaper." Neither of these is clearly defined. More significantly, licenses would be renewed annually. There would be sanctions for any publication that amounts to endangering relations with neighbouring countries, economic sabotage or the contravention of other license conditions, in most cases amounting to a fine of 500 dollars or two years in jail. The bill also seeks to re-introduce government's power to revoke a license, particularly in instances linked to endangering national security. Most

of these proposals are relics from colonial laws, some of which were repealed by the Press and Journalists' statute in 1995. They therefore, in many ways, represent a step backwards and are inconsistent with the 1995 constitution.

The bill seeks to amend the existing press law to make provisions for regulating investment by foreign print media owners in the industry. Finally the bill seeks to consolidate the minister's control over the media by proposing that the Minister's powers to increase financial penalties will now be endorsed by the cabinet rather than the legislature.

This spirit of the proposed amendments seems to constitute an about-turn, making it extremely difficult for journalists to fully exercise their journalistic freedoms. It however seems to be the crystallization of government policy on the media in Uganda as it appears to incorporate most of the restrictions contained in various media laws from colonial times, and from the time the NRM assumed power in 1986. While the world over, the broadcast media have been subject to more government regulation than their print counterparts, this bill puts the print in exactly the same position as the broadcast media in terms of government restriction and surveillance, as well as totally disregarding the possibility of self-regulation.

According to G. Mutabazi, Chairman of the Broadcasting Council, the government is attempting to merge broadcasting and ICT policies and laws to match trends in technological and regulatory convergence (2009). "What we are going to change now in [the] electronic media is to create convergence, whereby we can regulate all content coming via mobile phones and computers." In this connection cabinet recently passed the Regulation of Interception of Communication Bill. The resultant law will allow for "lawful interception and monitoring of certain communication in the course of their transmission through a telecommunication, postal or any other related service or system in Uganda" and provides for a Communication Monitoring Centre. Other relevant bills in the offing are the Computer Misuse, and Electronic Transactions Bill. The Computer Misuse Bill seeks to regulate the use of online services for pornography or in ways that threaten national security, both perennial policy concerns in Uganda's history (H. Muliira, personal communication, August 27, 2009).

Journalists' response to media policy

Ugandan Journalists have attempted on several occasions and with varying degrees of success to change the direction of media policy. For instance on November 14, 1999 there was a protest by journalists against diminishing media freedoms organized by NIJU. On another occasion journalists declared a media blackout on parliament after their access to MPs was severely curtailed. On several occasions individual journalists or media advocacy groups have gone to court challenging specific laws. Perhaps the most significant one was: on February 2004, two journalists working for *The Monitor Publications* (Andrew Mwenda and Charles Onyango-Obbo) won a landmark case in the supreme court (Constitutional appeal no. 2 of 2002) in which they had challenged the constitutionality of section 50 of the Penal Act (Publication of false news). The section was scrapped from the books. Another petition, against the section on sedition, is still before the courts. The journalism fraternity in 2009 officially launched an Independent Media Council chaired by veteran journalist Kintu Musoke. In February 2010 they launched the Article 29 coalition (named after Article 29 in the 1995 constitution) that brings together different media associations and media advocacy groups to fight for media freedoms on an ongoing basis. Non-profit organizations such as the African Centre for Media Excellence (ACME) are involved in ongoing advocacy efforts for media policy reform as well.

Conclusion

Media policy in Uganda has made major advances since colonial times, with the promulgation of a new and progressive constitution that guarantees freedom of the press and access to information, and with the enactment of laws that specifically address the practice of journalism. However, this is not yet to be taken for granted. This article examines attempts to put into policy or law the parameters of media freedoms in Uganda since the colonial period. It identifies major trends in media policy across different political dispensations, namely a lack of consistent, clearly articulated and documented policy, a level of ambiguity in the wording of legislation, a tendency to retain outmoded colonial legislation and to recycle aspects of repealed laws, deliberate efforts to curtail editorial independence in the laws, inadequate provisions for converting the state broadcaster into a public broadcaster, the use of the protection of reputations to obscure the

mismanagement of public affairs, and the often over-arching powers of the executive to intervene in the day-to-day regulation of the media. Not only are the Press and Journalists Act of 2000 and The Electronic Media Act of 2000 wanting, there are still too many other laws that can be called upon to unreasonably restrain the media. One would therefore agree with Oloka-Onyango that "despite the considerable advances of the past decade, the situation of free expression ...remains in precarious condition." This is more so because over the years, governments have concentrated on enacting laws to deal with short term concerns rather than articulating policy for the long term, and have left the interpretation of the limits of media freedom in Uganda to individual journalists. This forces journalists to self-censor. The situation has been complicated further by the commercialization of the media where media owners side with government to keep "errant" journalists in line or get rid of them to safeguard commercial interests. Contrary to the promise of the 1995 constitution, therefore, indications are that there are tougher times ahead for the media in Uganda

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Media policy making in kenya

By Absalom Mutere

Abstract

The major weakness of media policy making in Africa and in Kenya in particular is that the beneficiaries are always left out. In Kenya at independence, elites who gained educational and organizationa capacity through the colonial regime, took over the state apparatus and have generally moulded government policy and media policy to their own interests. The present article traces how the government of Kenya has systematically ignored, marginalized and coopted Kenyan policy form- ing study groups, leading policy experts in Africa and civil society intgerests with a divide and conquer approach. This article supports Bergers contention that the basic problem (or intended strategy) of media policy making in Africa the failure to make a clear distinction between public policy, laws and regulations, and appropri- ate agencies to act in these areas. The result of this divide and conquer strategy is ethnic and religious strife such as happened in Kenya and is happening in other African countries such as Nigeria

Key words: government control of the media, lack of media policy in Kenya, Absence of the civil society from policy making, Paul Ansah, Shermit Lamba, P.L.O. Lumumba

Introduction:

A major weakness of policy making in Africa lies in the way beneficiaries are always left out of important decision making processes. This article looks at how communication and more specifically media policies failed to take root in Kenya as an outcome of such tendencies.

It recognizes that such failure is not unique to this country. It is an African problem. In the 1980s, in the Yaounde Declaration, entitled after the UNESCO-sponsored intergovernmental confrence held in Yaounde, Cameroun, a conscious decision was made by African governments to adopt policies for each country that would promote development (Yaounde Declaration, 1980). Amongst the

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recommendations made at the Intergovernmental Conference on National Communication Policies in Africa was the need to involve all sector of the society in this dialogue.

The Yaounde Declaration failed because no government was willing to engage with its people. Kenya was no exception (Mutere, 1997). From lessons learned, the message was clear – if you do not involve all stakeholders in decision making processes, the end product will not take root. Instead, you get a less than ideal policy-making format which negatively affects development processes. Rulers come and go and policies change at the whims of whoever comes into power. Herein lie the weaknesses which undermine sustainability.

This paper looks at the weaknesses of Kenya's policy formulation exercise from the following standpoints:
- It was principally driven by a government that was bent on maintaining absolute control over policy-making processes;
- While paying lip service to media freedom it maintained all statutory provisions in law that had violated freedom over time. Government was challenged by a Kenyan Think Tank called Sayari to review these statutes. Elements of the discussion are represented in this paper (Sayari Group, 2003)
- The freedom of information act, a fundamental pillar of any meaningful democratic enterprise, has yet to be passed in parliament.
- At election time, the true intentions of the ruling party were laid bare with the passing of a media bill which was designed to enable government to act against any media institution that it deemed to be "challenging law and order".

Parliament has yet to endorse a constitutional process that got as close as any African country has towards achieving the ideal of involving all citizens. In a referendum held in 2005, the people emphatically rejected alternative drafts which were sponsored by government. The anatomy of a regime fearing for itself in the face of the people it rules is ably represented by P.L.O. Lumumba in his analysis (Lumumba, 2008) The devolution of power from central government is what the people wanted. Alternative draft constitutions put together by lawyers and legislators did not give them this. Instead, they aggravated a conflictive melee that represented contending interests and unresolved issues. Shermit Lamba's insights offer an explanation for such an outcome by suggesting that the political system is still in the throes of a colonial order which it has not shaken off

(Lamba, 2000). He proposes philosophically based options for moving forward while Paul Ansah argues for certain structures that need to be in place if media is to play out a meaningful role in an evolving democracy (Ansah, 1991).

Finally, Guy Berger's study on media legislation in Africa offers very useful insights into the reasons why countries like Kenya have media policy vacuums. He traces part of the problems to hidden and poor policy making, and to an absence of clear distinctions between public policies, laws and regulations and the appropriate agencies to act in these areas. The lack of public awareness about government commitments to international accords is also cited as a problem (Berger, 2007). Starting with the fall of the Berlin Wall and the end of the Cold War, a battle ensued that was to reflect the underlying problem that afflicts media policy making in Kenya. It is represented under the heading below.

Libertarian versus authoritarian regimes

The fall of the Berlin Wall in 1990 marked the end of Communism and a Cold War which had preoccupied Western powers for the greater part of the 20th Century. It also marked the beginning of a Western onslaught on the rest of the world aimed at getting global society to adopt libertarian policies which they favored as a pre-condition for building new alliances and economic relations. Democracy, liberalization, transparency and accountability became watchwords as well as yardsticks for promoting such cooperation. By liberalizing the airwaves and guaranteeing press freedom, African countries were able to improve their standing in the eyes of Western donor countries. Kenya fell in line with this rigidly revised global order reluctantly. The regime in power under former Kenyan President Daniel arap Moi figured it could play along and even gain by farming out radio licenses to political cronies. Those who, like The Nation Media Group, were seen not to be pro-government were denied despite repeated requests and court petitions.

The Nation saga revealed a version of the true intentions of government. Ultimately, its liberalization policies had more to do with maintaining control over the airwaves than opening up the field for other players under a genuine democratic dispensation.
Such tendencies manifested themselves again indirectly through the office of the Attorney General. Alarmed by growing sensationalism, especially on the pages of alternative media outlets, Attorney General

Amos Wako hinted loudly that if the media could not regulate itself, the Government was "willing and able to come in and assist". The hint did not go unnoticed by the media fraternity. In haste, they put together a committee under the Media Owners Association (MOA) to develop structures which, short of government intervention, would manage the regulatory needs of a free and independent fourth estate.

This was in 1993. The committee was composed of representatives from the print and broadcast media as well as Media NGOs, the Kenya Union of Journalists (KUJ), media training institutions, media owners, the alternative press, the Editors Guild of Kenya and the Kenya Correspondents Association (KCA)(Media Industry Steering Committee, 1993). They launched a code of ethics and professional conduct which came to be known as "The Code of Conduct and Practice of Journalism in Kenya, Third Edition". They also formed what came to be known as the Media Industry Steering Committee (MISC). The code was meant to be the cornerstone of a self regulatory system and policy framework to which the industry made a binding commitment to uphold.

Editors and media owners had to ensure that the code was observed rigorously, not only by their staff but also by anyone who contributed to their publications and broadcasting outlets. Very early on in the code, it is noted:

> That free and independent media are the fundamental pillars of democracy. They have always been elusive in nascent democracies such as ours. Throughout history, governments have sought to muzzle the media through legislation under many guises, including regulation. The desire to gag the media stems partly from the fact that the media performs the crucial function of public information. Indeed, informing the public of the goings on in government and the society at large without fear or favor is one of the cardinal and solemn duties of media practitioners."...................(ref) "The Code establishes the foundation for self regulation and in so-doing, keeps government out of media operations.

The code addressed accuracy and fairness, independence, integrity, accountability, opportunity to reply; issues regarding unnamed sources, confidentiality, misrepresentation, obscenity plagiarism, discrimination, coverage of conflict, privacy, protection of children, election reporting etc (Media Industry Steering Committee, 1993). At all these levels of policy formulation, the media industry was basically saying no to the Attorney General's offer for help. It however fell short of constituting

an ideal policy framework. Industry assumed that a code of conduct and ethical practice which could contain an agitated Attorney General would be good enough for the people. They went further to establish an independent Media Council of Kenya (MCK) in 2002. By design, the Council offered aggrieved parties the opportunity to complain and obtain redress against journalists and media houses that had harmed them unprofessionally.

   Operations of the Council were to be without any political or other bias or interference. It was to be wholly independent and separate from government, or any political party or nominating authority. However, the inevitable happened. Government began hacking away at its viability. Without statutory backing said government, "it was a toothless bulldog". Relying as it did on media industry subscriptions, how, asked the government, could the Council manage a case that was brought up against its main subscribers?

   Kenyans were equally skeptical. In public forums held by MCK, a recurring theme harped on the issue of MCK's "enforcement" capabilities and the lack thereof (Media Council of Kenya, 2007). How was MCK going to enforce any ruling that it made against a media house that was contributing significantly to its operations as a paid up member? Why, asked the skeptical public, was the media coming to them so late in the day to propose such a partnership? What could such a partnership achieve against a government which was still very much in control? Why do certain media houses take positions regardless of the "perceived" truth? Why weren't the public consulted earlier?(Media Council of Kenya, 2007).

   An astute Minister of Information called Mutahi Kagwe exploited the same line of questioning.   "How do you hold accountable a member of the Council who makes the greatest financial contribution to your organization?" He went further to suggest that the Council, by going statutory, could attain "teeth". Hence the move towards making MCK a statutory body with "all the independence it needed". Consultants were brought in from State University of New York (SUNY) to work with the Ministry of Information and the media fraternity to begin the process. Media owners, wary of the government, played along hoping to ensure that the best deal was brokered.

   Government sat with arch rivals on opposite sides of the table hammering out was what was perceived to be a media policy containing statutory provisions that guaranteed media freedom. Both

imagined that a subsequesnt Media Bill after it was ratified by parliament could be managed by the Council (Media Council of Kenya Bill, 2006). The issues raised in several forums which were held over the better part of two years reflected mistrust between four estates of power, the legislature, the judiciary and the executive, each wanting to reign in an unwieldy fourth estate on their own terms.

Legislators grumbled about the way in which media coverage addressed their political issues. Lawyers imagined that litigation could fix everything including deviant politicians and wayward media houses (Chairman of the Board of Trustees of the Media Council of Kenya, No Date).

All of them could have benefitted from hearing about the experiences of other countries that were on the self regulation course but none of them cared to find out. Had they done so, they would have learned that next door in Uganda, efforts had been made to get a statutory media council up and running. However, government interference and amendments to the media bill passed through parliament eroded viability and the council's credibility as an independent regulatory body. Indeed, members of the fourth estate abandoned the statutory version and opted for a self regulating alternative. Uganda now has two media councils each battling to gain recognition over the other in a less than satisfactory regulatory environment.

Borrowing heavily from the experiences of other media councils around the world, MCK imagined that complaints, alternative dispute resolution mechanisms and systems of imposing sanctions on its members could work. It discovered that a need for such a mechanism had been felt for a long time elsewhere both by the authorities as well as the press itself. The first Press Council known as the Court of Honor was set up in Sweden in 1916. The idea gained quick acceptance in other Scandinavian countries and later in other parts of Europe, Canada, Asia, Australia and New Zealand.

The basic concept of self-regulation in which Press Councils and similar media bodies all over the world were founded upon was articulated by Mahatma Gandhi who was an eminent journalist in his own right thus: "The sole aim of journalism should be service. The newspaper is a great power, but just as an unchained torrent of water submerges the whole countryside devastating crops, even so an uncontrolled pen serves but to destroy. If the control is from without,

it will prove to be more poisonous. It can be profitable only when exercised from within" (The British Columbia Press Council, 1983).

Our lawyers and policy makers did not want to hear of such logic. They wanted to exercise control from the outside. MCK set up an elaborate format for receiving complaints from any person aggrieved by the media. It provided for peaceful resolution of conflict through, arbitration, conflict resolution and healing processes. It recognized that litigation as an option was there but that most Kenyans could not afford to hire a lawyer to battle out issues in court. The MCK policy alternative was offering it for free.

The Press Complaints Commission sitting in the United Kingdom (UK) received 3,649 complaints in 2003. Of the complaints that were specified under the terms of the Code of Practice, approximately four out of ten were about accuracy in reporting and approximately one in three related to intrusion into privacy of some sort. All complaints were investigated under the editors' code of practice which binds all national and regional newspapers and magazines. The UK Code – drawn up by editors themselves – covered the way in which news is gathered and reported. It also provided special protection to particularly vulnerable groups of people such as children, hospital patients and those at risk of discrimination (Media Council of Kenya Document, No Date).

The UK Council's main aim with any complaint which raised a possible breach of the Code of Practice was always to resolve it as soon as possible. Because of its success in this, the Commission had to adjudicate only 23 complaints in 2003 – the lowest ever in number. It recognized that not as a weakness of self regulation but its strength. All those which were critical of a newspaper were published in full and with due prominence by the publication concerned. As well as dealing with complaints, the UK based institution dealt with a substantial number of calls from members of the public about its services and about the Code. In 2003 it dealt with approximately 8,550 enquiries by telephone, fax and email. This was an encouraging sign of the accessibility of the Commission to members of the public (Media Council of Kenya Document, No Date)

It noted that legal controls would have been useless to those members of the public who could not afford to pay – and would mean protracted delays before complaints received redress. Such attributes of a self regulatory process did not make any impression on the minds of Kenyan lawyers and legislators.

Their contribution to discussion on such issues was "maybe it works in the UK but this is Kenya!!" They managed to convince members of the Media Owners Association that a statutory Media Council of Kenya Bill was the only way to go. The statutory bill was agreed upon in 2006. The necessary compromises and promises "safeguarding" everyone's interests were made. However, one major detail that was required by law before passing the bill to parliament was omitted -an actual media policy.

On recognizing this, the Permanent Secretary in Ministry of Information, Bitange Ndemo hurriedly slapped one together (The Draft Kenya Media Policy, No Date). It gave all the lip service required of a government which wanted to be seen promoting media freedom. The Media industry was dragooned into a one day makeshift stakeholders' conference at the School of Monetary Studies to ratify and legitimize the document. This they did for what can be considered self serving interests.But at no point were Kenyans consulted as a people. They were overlooked by a government that was clearly not interested in consulting. In its scope and objectives, the policy claimed to:

(a) Promote the existence of a free and pluralistic media which reflect a diversity of ideas and opinions.
(b) Sustain an atmosphere free of censorship and arbitrary controls on the flow of information;
(c) Ensure that access to information and the means of communication and services and effectively used for the common good.

That is the document government pushed through parliament in 2007. In 2008, a newly elected government which was struggling to be seen as legitimate paradoxically passed a media bill through parliament which empowered it to invade any media house which "threatened the security of the nation, and confiscate anything that endangered the same. "   The paradox betrayed the true nature of an authoritarian regime. When push came to shove, it resorted to the only measure it knew how to effectively wield, - force.

The circumstances in 2008 were extenuating. Following the election of President Mwai Kibaki for a second term, the results were challenged. The fallout translated into a civil war driven along ethnic lines. A peace keeping effort undertaken by former United Nations Secretary General, Kofi Annan succeeded in brokering a compromise that quelled ethnic violence. Media policy along with the philosophical

debate regarding press freedom fell by the wayside in the wake of the violence. The statutory landscape, an outcome of old authoritarian policies, was left intact.

The statutory landscape remains authoritarian

To this day, the statutory landscape of a pre-libertarian old order remains intact. This was was the subject of much discussion held under the auspices of a Kenyan think tank called Sayari. Aspects of the discussion are represented in this paper to show how much more work still needs to be done to move away from an old state-centered to a newer people-centered order (Sayari Group, 2003).

On the constitution of Kenya

Section 79 of the constitution provides that no person shall be hindered in the enjoyment of his freedom of expression except by his own consent. The freedom of expression includes freedom to hold opinion without interference, freedom to communicate ideas without interference, and freedom from interference with his correspondence. The provision does not grant a right of access to information. Section 79 (2) of the constitution imposes exceptions of the freedom of expression on the basis of interests of defense, public safety, public order, public morality, or public health; protection of reputations, rights and freedoms of persons; or imposes restrictions on public officers. The Sayarigroup took exception to this. It suggested that the section should provide that every person has the right to freedom of expression which includes freedom of the press and other media, freedom to receive and impart information, freedom to hold opinion, and right to access information held by public authorities and private entities performing functions of public character.

On Penal code, Chapter 63

Section 194 to 200 of the penal code provides that any person who unlawfully publishes any defamatory matter concerning another person with intent to defame, that person is guilty of criminal libel. The section has been used in the past to intimidate journalists and deter them from engaging in investigative reporting. The Sayari discussions noted "we should eliminate the use of criminal sanctions to remedy tortuous libel actions which can be redressed through civil proceedings for libel instituted in court.

Official secrets act, Chapter 187

The act provides for non disclosure of information relating to government affairs in the custody of public servants. Ministers are empowered to declare information classified under the provision of the act at their discretion. Disclosure by any public servants of such classified information can attract criminal sanctions.

Sayari called for the act to be repealed and the enactment of the freedom of information bill. Such a bill it argued would make the constitutional provision operational on the right of access to information held by public authorities. The premise of such law is that all information is public unless there is a legitimate aim that justifies non-disclosure. There must be a clear criterion for justifying exemption of certain classes of information from disclosure which must be on a case by case basis.

The decision to exempt certain information must be reviewed by an independent body. The freedom of information law should contain provisions for protecting whistle blowers and public servants who disclose information in good faith. The law is very effective in promoting transparent governance structures and in fighting corruption within government. The law would enhance the access of the press to information held by the government and act as a check on corruption and other wrongdoing.

Book and Newspapers Act, Chapter 111

Section 7 of the act requires the print media publishers in Kenya to submit two copies of any of their publications to the Registrar of Books and Newspapers on the day of publication. Under section 8 of the Act, publishers are required to file returns annually. Failure to comply with these provisions attracts criminal sanctions. Furthermore, it is an offense for distributors and vendors of newspapers to sell any newspaper or publication which has not complied with these provisions for a period of 14 days.Section 11 of the act provides that each publisher must execute, register and deliver to the registrar a bond of one million Kenya shillings with one or more sureties, as security for possible payment of penalty upon conviction of an offense under the act. Failure to comply with this section constitutes a criminal offense. Sayari contended that it was not realistic to require publishers of newspapers to submit the copies of their publications before circulation. "What is the rationale of the requirement other than possible censorship by the registrar?" Incidences of alleged defamation

should be redressed under the civil proceedings, not censorship. How are vendors to know which newspapers have complied with the provisions? Sayari argued that the section must be repealed. It has stifled competition and growth of community and small scale publishers who cannot afford to execute the bond. Any penalties under the act or ordered by the courts should be recovered through the usual civil recovery methods. What is the justification for having a separate recovery method against the media?

Defamation Act, Chapter 36
    The act fixes the minimum damages payable for defamation, thereby fettering the discretion of judges in awarding rulings for libel. This provision has led to unnecessarily high awards of damages by the courts for claims of defamation.
     Sayari contended that this section should be repealed. The courts should be allowed to develop their own standards and common law and defamation without this unnecessary fetter from the law. Each court case must be considered by the courts on its own merit. The common law relating to other aspects of tortuous liability has developed on its own. Why not law relating to libel?

Judicature Act, Cap 7 and Common law on subjudice and contempt of law
    The law on sub judice has been used in the past to prohibit the press from covering court proceedings. Though courts have been reluctant to take action against the government under this rule, journalists have been warned in the past not to publish stories relating to on-going cases since they would violate the rule against sub judice. Similarly, court orders have been obtained in a number of cases preventing media houses from commenting on certain issues. Sayari felt that Cap 7 and the common law relating to these issues should be reviewed to reflect the modern trends. Commenting on court cases should not be outlawed unless the objective of the comment is to influence the decision. If the analysis done by the media is in good faith and carried out objectively, then it is unlikely to influence the decision of the court. In any case, judges and magistrates are well trained in law and all their decisions should be based on sound legal reasoning and not press reports.

The Kenya Broadcasting Act, Chapter 221
Section 8 (g) of the act provides that the corporation has a duty to ensure observation of standards of broadcasting and commercial advertising. The corporation is the only entity which has been granted licenses covering the entire country, yet it is funded by the state. Sayari felt that this section should be repealed as it is an outdated provision. The corporation cannot exercise unbiased supervision over its competitors. The monopoly of KBC needed to be reviewed.

Kenya Communications Act
Section 36 of the Act provides that the Communication Commission of Kenya (CCK) may on application grant a license authorizing any person or specified class of persons to establish or use any radio communication station. Though the provisions of the Act are progressive, the implementing agency which is the Commission has not been given a free hand in executing its mandate. This was clearly demonstrated through the dissolution of its board on 7th March 2005. The licensing procedures for radio and TV should be centralized. At present, the CCK regulates frequency allocations while the Ministry of Information and Communication issues broadcast licenses.
The CCK should be given adequate capacity to process the pending applications for licenses as well as license competitors in all sectors, including Internet services.

Sayari felt the Act should be amended to entrench the independence of CCK and reduce the role played by the minister in its activities. The Commission was a victim of untold interference by political forces. Possibly the officials should be nominated and approved by the National Assembly for fixed terms to secure their independence, impartiality and confer security of tenure to the officials. The Communications Appeal Tribunal should also be given autonomy under the law to determine issues referred to it impartialy and independently. The presiding officials should also have security of tenure.

The tendering processes at the Commission have also been fraught with endless wrangles which are a further indication of dependence of the Commission on third parties to make decisions.

The legislative melee
Without a freedom of information act that guarantees access to all Kenyans, the county will probably, for years to come, wallow in a

legislative melee which sees legislators and lawyers forever clashing with members of the fourth estate at the expense of a meaningful media policy.

The discussion regarding the freedom of information bill remains just that - a never ending discussion. A bill was developed in 2006 under the auspices of the International Commission of Jurists (ICJ) which President Mwai Kibaki promised he would adopt (Maitho, Ndung'u, 2006). To this day, it has not seen the light of day in parliament. The bill recognizes Article 19 of the Universal Declaration of Human Rights which provides that everyone has the freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media.

 It recognizes the fact that Article 19 of the international Covenant on Civil and Political Rights provides that everyone shall have the right to freedom of expression; this shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally or in print and other media; Article 9 of the African Charter on Human and Peoples' Rights provides that every individual shall have the right to receive information and express and disseminate opinions within the law. Kenya as a state is party to both the International Covenant on Civil Rights and Political Rights and the African Charter on Human and Peoples' Rights. Both documents recognize the need to foster a culture of transparency and accountability and actively promote a society in which people have access to information that enables them to more fully exercise their rights and participate in the governance of their country.

The Kenyan government is stalling over the freedom of information bill despite all its professed good will. So too are other African governments that are under pressure to transform their democratic institutions.

This behavior may not be incidental. It may be part of a political system grudgingly and very reluctantly undergoing transition. The Kenya Human Rights Commission (KHRC) argues that Kenya is not yet a democracy (Kenyan Human Rights Commission, 2005). It notes that at the heart of a true democracy and human rights for all is an open, honest and accountable government. In support of these objectives, it notes, a government should commit to ensuring that people can realize their right to freedom of information as a key mechanism for participating in the democratic process.

The Commission says although the Kenya human rights project achieved a significant milestone with the ascension to power of the NARC government and the ousting of former president Danial arap Moi's KANU party, there was still dire need for the reform of public institutions and government – citizen relationships if civil liberties and human rights were to be truly promoted and protected.

KHRC notes that Kenya's history is scarred with abuses that have occurred in the absence of public scrutiny into the conduct of government.

> Kenya's governments have yet to honestly accept that an informed citizenry is necessary for any democratic country to function properly………Kenyan experience in policy making is replete with many examples of top – down processes that have failed to provide opportunities for citizen participation.

Although it is essential for the public to participate in policy decisions that the government makes, mechanisms for citizen feedback have yet to be institutionalized. KHRC notes that meaningful debate, participation and the public's role in the shaping of policy continues to be a dream because Kenya is a country without access to information.

Shermit Lamba's "Post-Colonial Theory of Justice" looks at some of these anomalies from the standpoint of social contract theory, a body of knowledge that is probably best known for its attempt to give meaning to state building or state creating (Lamba, 2000). The protractors of such schemes usually attempt to understand at a base level what gives legitimacy to the existence of the state. It is a science that is designed to give reasons for why sovereign power should exist, and the greater populace should become subject to principles of governability. Social contract theory has even gone as far as to provide concrete limits to power, and even explicitly notes when and where popular and individual dissent is deemed appropriate. At the most base levels it provides the framework to what may become fundamental principles of governance in society, and lays the foundations for the basic structure of the government – and its associated processes.

It taps the thinking of philosophers like Thomas Hobbes, John Locke, John Mill and European enlightenment philosophy (Lamba, 2000, pp. 9-10). In varying ways, they each believed in the superiority of the human race above all other life forms. By extension, they imagined that such superiority in "a state of nature" gave man the right to exploit and own. With knowledge came the unrestrained and

unhindered expansion of commercial activity. Colonialism, in "a state of nature", brought a dose of "civilization" to the continent of Africa.

The civilizing mission manifested itself in the creation of administrations; administrations that were the holders of the new order; administrations that supposedly delivered Kenya into a new era of "justice." In the melee, a bone of contention may be the way such notions of justice are unable to move on to the next level. It was British imperialism and large scale trading firms that established the colonial state in Kenya. They determined its fundamental notions of legality. As the argument goes, they still do (Lamba, 2000, p. 43).

That is why the state has a problem with satisfying the minimal basis for attaining social trust which, in Lamba's analogy, include the following requirements:

- **T**he state is obliged to furnish equality in the assignment of basic rights and duties.
- The state is obliged to engineer a program of redistribution to those considered "worst off" in the form of economic goods, social infrastructure, as well as representation within the state, and the institutions of civil society.
- During the writing of the constitution, participants who take part in the negotiations and the drafting of the constitution cannot run in the next general election.
- Electoral rules must be completely re- written, and electoral boundaries be completely redefined at the instance of constitution making.
- At the time of constitution making, the Public Service Commissions that preside over the office of the Attorney-General, and the Greater Judicature, should come under the sole control of non-political-identity-based-solidarities. These solidarities should be responsible for electing members of these commissions that would in turn select a new Attorney-General, and assemble a greater judicature.
- Upon the completion of the drafting of the new constitution, the state is obliged to facilitate the presentation of a plurality of referenda.
- As per the fulfillment of the social contract, It is the responsibility of the Public Service Commission presiding over the judicature to furnish it with judges that are capable of the following: interpreting the legal norm; having the conviction to take suffering seriously; being instrumental in the process of justice as

a check – both in the action of the state as well as in the processes occurring within society.

Philosophically, Kenyan legislators are not there. They cannot and will not commit to the above.   Years of a national clamor for a constitutional review to make it a better instrument in the service of Kenyans have passed (Lumumba, 2008). There had been dissatisfaction with the way in which valuable sections of the independence constitution were changed and power concentrated in the presidency. Indeed the many political, social and economic problems facing the country were attributed to deficiencies in the constitution.

Demands for a systematic review were made as early as 1990 (Lumumba, 2008). Amendments that had caused concern were one-party rule, detention without trial; removal of security of tenure for judges, the Attorney General, the Auditor General, and the weakening of the principle of separation of powers.

The pressure for a review heightened as the movement for the restoration of multi-party politics started in the early 1990s, led by the Citizens' Coalition for Constitutional Change (4Cs) and religious organizations.

A large number of organizations, religious and secular, NGOs and political parties joined the movement. Immense pressure was also brought to bear by women's organizations for provisions on affirmative action to be adopted during negotiation and review.

Some groups unsuccessfully demanded comprehensive reform of the constitution before the general election of 1992 (Lumumba, 2008). The demand gained momentum after that election when it became apparent that the e-introduction of pluralism in politics was by itself insufficient in realizing democracy.

A proposed new constitution entitled "Proposal for a model constitution" was prepared and circulated by the Kenya Human Rights Commission, the Law Society of Kenya and the International Commission of Jurists (2), Kenya Chapter (Lumumba, 2008). This constitution formed the basis of expensive consultations and workshops.

In January 1995, the government announced plans to invite foreign experts to draft a constitution for consideration at the National Assembly. However, this proposal came to naught and civil society pressure for review through a people's convention heightened. Mass action led to violence and deaths.

In August 1997, reacting to stagnation, political parties formed their own forum, the Inter-Parties Parliamentary Group (IPPG)(Lumumba, 2008).

It agreed on a number of reforms to be implemented before the General Election of 1997. These included the independence of the Electoral Commission; repeal of a number of laws restricting civil and political rights such as freedom of association and expression and annulment of the offence of sedition that was being used to clamp down on people who agitated for their rights (Lumumba, 2008).

These were only interim reforms to ensure fair elections after which a comprehensive review would be undertaken. As part of the IPPG package, the Constitution of Kenya Act (1997) came into force as the machinery required to meet the goals of a post election constitutional review but it did not satisfy all interested parties. It was viewed by some as a self-serving government mechanism. Opposition politicians and civil society demanded an opportunity to participate in the review process.

Consequently, negotiations with a large number of stakeholders were entered into at Nairobi's Bomas of Kenya and the Safari Park between June and October 2008. The aim was to identify an acceptable framework for the process. The result was that the act was amended in 1998 to reflect the consensus reached during these negotiations. The salient features of these amendments were provisions for:

(1) A review commission made up of twenty five members nominated proportionately by stakeholders, not by the president;

(2) A time-bound procedure for nominations;

(3) Appointment of nominated commission members by the president;

(4) Implementation of a one third policy for representation of women; and

(5) Structuring of the review process to reflect the "bottom-up" approach, a people driven constitution making process (Lumumba, 2008).

The Constitution of Kenya Review Commission (CKRC) was finally established in November 2000, but it could not placate the melee between government and the people which continued unabated. CKRC Chairman, Professor Yash Pal Ghai was to be forever negotiating between competing interests and power plays even within the Commission itself. A draft "Bomas Constitution" was finally drawn up. Using a "bottom up approach", it reflected to a large extent the wishes

of Kenyans. Devolution of power from the presidency and central government to the provinces was core to continuing battles and power plays. Government worked very quickly to offer alternative versions which were labeled "The Wako draft" and the "Naivasha Draft". Put together by legislators and lawyers, both drafts attempted to maintain the powers of the presidency in a centralized administrative arrangement.

However, a 2005 referendum shot them down in favor of Bomas. The defeat spelled a vote of no confidence in President Kibaki's government. In response, he dismissed his cabinet and appointed a new one that could supposedly broker another compromise. Between that response and a power sharing arrangement that Kofi Annan had to broker to get beyond an election crisis, the melee continues.

Harnessing the wind of change

Wind of change which blew over the continent and other parts of the world offered new opportunities for Africa to establish democratic institutions which could create the climate for orderly development. The increasing recognition and gradual acceptance of the "right to communicate" as well as the emphasis on participation as an essential element in the development process, which presupposed the right to free expression, helped create the atmosphere for a flourishing free press. The African Charter on Human and Peoples' Rights which guaranteed freedom of expression (Article 19) was ratified by most African countries, including Kenya.

Basing themselves on what Paul Ansah called an outmoded, materialistic concept of development, African leaders had argued that in the face of the pressing problems of hunger, disease, illiteracy and other ills which called for rapid solutions, freedom of expression and other fundamental human rights associated with a democratic system were a luxury that Africa could not afford. The proposed sequence was thus enunciated as "development first and democracy later" (Ansah, 1991).

In the 1990s, the new concept of development saw humans as the centre and subject as well as the object of development with considerable emphasis being placed on dignity and the active involvement and participation of people in processes. The new concept saw human rights as an integral part of human development and

implied that economic and social rights could be pursued concurrently with political and civil rights.

Freedom of the press was called "the first freedom" because an assault on fundamental human rights often started with an attack on the right to free speech and a free press. Once this freedom was curtailed or denied, other freedoms could be trampled upon with impunity because interference with people's rights of movement and assembly or of conscience would most probably go unreported. But important though freedom of expression (and of the press) was, says Ansah, one could not fight for its establishment and recognition in isolation from the general political system. He said a constitution which had provisions for checks and balances, which respected the separation of powers and the rule of law and which guaranteed the independence of the judiciary was the only one that could constitute an appropriate atmosphere for a free and pluralistic press in Africa (Ansah, 1991).

The independence of the judiciary was essential for the protection of all human rights. In addition to an independent judiciary, one needed a legislative assembly which could contain a recognized opposition. Said Ansah, it would be pertinent to refer to the African Charter on Human and People's Rights. In the Charter, Article 9(1) states that every individual shall have the right to receive information. Article 9(2) states that every individual shall have the right to express and disseminate his opinion within the law. The real test of the value and effectiveness of any charter or convention on human rights lay in the enforceability of its provisions. On this issue, noted Ansah, the African Charter on Human and Peoples' Rights had a major weakness (Ansah, 1991). Unlike the European and American Charters on Human Rights which made provision for international legal institutions to which appeals can be made in cases of violation of human rights, the African Charter only envisaged diplomatic settlement of cases without the possibility of recourse to judicial arbitration.

Article 59 stated that "all measures taken within the provisions of the present Charter would remain confidential until such time as the

Assembly of Heads of State of Government would otherwise decide".
Ansah recommended that measures be taken to set up an African
Court of Human Rights and extensive publicity be given to cases of
violations, otherwise the Charter would only have theoretical or
cosmetic value.

Window dressing is very evident in African constitutions. Going by
the constitutional provisions alone, one would conclude that there is
really no problem about press freedom in Africa. All constitutions
recognize and guarantee freedom of expression. But the stark reality
is that there is hardly any country on the continent where press
freedom has not been trampled upon.

Where there was no friction between governments and the press,
posited Ansah, the only valid explanation was that through bitter
experience, journalists had learned the art of survival through
acquiescence, sycophancy and self censorship.

Another document worth mentioning is the African Charter for
Popular Participation in Development and Transformation which was
adopted at a conference held in Arusha, Tanzania in 1990. Attended
by more than 400 participants from all over Africa, the conference
identified the lack of popular participation in decision making as the
primary cause of Africa's crisis. It called for an opening up of political
processes to accommodate freedom of opinions, tolerate differences,
accept consensus on issues as well as ensuring the effective
participation of the people and their organizations and associations
(Ansah, 1991).

Elements of a policy vacuum (Guy Berger)
One major factor affecting media anywhere is public policy.
Professor Berger did a critical analysis of factors contributing to media
legislation in Africa (Berger, 2007) . Out of the ten countries he
covered, half, including Kenya, had outdated media policies. They
were either outdated or not explicitly articulated or developed in final
form by respective governments.The absence of such explicit public
policy has repercussions in terms of "patchy" and inappropriate media
laws. The general logic, says Berger, should be that media policies

follow within the values of a country's constitution, and in this way serve to guide legislation to enable its governance in accordance with provisions.

The Kenyan melee that has been described in this paper reflects a larger problem. Kenyans have been strapped with successive political regimes that do not respect the input of citizens in policy formulation. The draft "Bomas" constitution was what the people wanted. They said as much in the 2005 referendum in overwhelming numbers. Today it has become part of the series of compromises which warring political parties have made in a dysfunctional power-sharing agreement. Kenyans are expected to ratify the same in yet another referendum which hopefully will be conducted in 2010.

Without a social contract that most people respect, everything else about the legislative environment becomes suspect. The melee continues in Kenya while elsewhere it is increasingly being accepted that especially as regards to media issues, governments should concentrate on policy development plus drafts of law, and parliament on debating and amending laws. Without the constitutional platform everything else comes undone.

The Berger study suggests that the actual implementation in the form of regulation (and micro-policy) be delegated to a separate and independent authority. This institutional and functional separation is warranted for several reasons. "One is the nature of communication as encompassing basic human rights to be enjoyed by all, and the corresponding need in a democracy to have a diversity of voices rather than all being under the control of government." Another reason, the report says, is that very often governments are also players in the communication arena as media owners, and if they act as referee ate the same time, it can distort fair competition within the media sector as a whole.

The situation in many of the countries surveyed fell short when compared to international best practices. Governments are too deeply involved in both law making, regulation and, especially, operational implementation. This is particularly a relic of governments wanting direct ownership and political control on the major levers of mass communication" (Berger, 2007).
More specifically it reflects a lack of appreciation of media pluralism in a society and resistance to the necessity for independent regulation for fostering investment in the media.

Berger's report highlights other problem areas that typify Kenya's media policy landscape. Low public awareness of international commitments constitutes an import issue of concern. Kenya's policy and legislative environment does not match up to the international standards it has signed up to. The public is not aware of this. Nor is the media. "Knowledge levels are even lower in regard to developments such as the African Court of Human and Peoples' Rights even though this particular institution will be critical in enforcing compliance." It is not enough that conventions are agreed upon. They need to be accompanied by plans of action that engage governments, the private sector and civil society groups.

There are problems regarding discussions around broadcasting pluralism. Even though state monopoly has ended, Kenya Broadcasting Corporation (KBC) is still the only national medium. Details of its role in a multi-cultural and multi-lingual country are lacking. Public broadcasting is simply equated with KBC.

The rationale for licensing has not been thought out. There are vacuums regarding the generation of local content. Minimal attention has been given to concentration of ownership. In Kenya, several cross media companies have emerged. In the interests of pluralism, this has become a problem.

The list of policy issues continues and it will grow in an IT driven world that is seeing communication technologies converge. Suffice it to say, borrowing from Berger's thought, that a legacy of colonialism and post-colonialism remains the preponderant role of the state in seeking to determine all activities within its borders. This appears in areas of life that could be better left alone as purely civil matters (Berger, 2007). The melee will continue in a media policy vacuum so long as such mindsets prevail.

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The politics of communication policy making in Ghana

By Osei Kwadwo Adow

Abstract

The present article analyses the historical process of communication policy making in Ghana from the perspectve of theories of poilitical science in Africa. The state in Ghana, in its formative stages, was grasping at all forms of power because, with its roots in the colonial state, it lacked legitimacy in the eyes of the people. This study focuses on the role of civil society in challenging the state in the area of media policy, but then working out a process in the form on the media commission and other groups studying and developing policy strategies in cooperation with the state. Particularly important were the University, the legal profession,associations of journalists and media owners, women's groups, etc. The civil society challenged the state on its legal basis, namely the area of consonance with the constitution, the guarantees of human rights in the constitution, and the guarantees for freedom of expression in the constitution. Thus, the civil society set up a process of dialogue and negotiation over major issues of freedom and responsibility in the media. The civil society actually helped to strengthen the state, buit through its role in guaranteeing legality and human rights.

Key words: Civil society and media policy, media professionals and media policy, national media commission, theories of media policy making, politics of media policy

Introduction:

The political struggles in Ghana for the control of the state apparatus have focused on the media because the media are the point where the state's monopoly of coercive power and the people's power of civil society meet. Even during colonial rule, when Ghana was not a state as it is today, the colonial govwernment created a pseudo state, that placed great restrictions on the press and other forms of public communication. This "fear of public criticism" has been central in the politics in Africa, and Ghana has been no exception. As in other post-colonial societies of Africa, the media became a focus of political contention

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and forms of media policy became central in politics. The few years before 1992 are paticularly significant for the formulation and implementation of communication policies in Ghana, because of the role played by civil society in the transition from the last military rule led by Rawlings to the Fourth Republic.

Conceptually this paper looks at communication policies from two view points. One point of view is the authoritarian manner used by certain actors in their bid to control the state apparatus to determine how communication "ought to be" - the statist view. The other point of view is how the rational bond between communications and society is reflected within the context of state-society relations, namely, the area of actors of civil society.

The focus of this paper is on the political struggles in the development of rights and freedoms in Ghana in the four epochs of governance that Ghana has pased through since colonial rule. The first spans the colonial period between 1800 and 1956. The second covers the reign of Nkrumah; the third period deals with the era of militarism; and the fourth epoch represents the few years just before and after 1992 and into the Fourth Republic.

This article draws on documents and laws such as Colonial Ordinances, Acts passed by the Colonial parliament, statutes, regulations and common law positions, executive and legislative Instruments, Constitutions, as well as speeches and statements made by political leaders. This approach is meant to ascertain the origins, intentions and operation of specific policies that affect communications.

Concepts in the analysis of the politics of communication policy: Politics

The definitions of politics are many and there is no commonly accepted one. One view defines the political as activities ranging from persuasion to force, a use of power resources which the parties to a political action may employ in the desire to make their preferred objectives prevail (Afari-Gyan, 1991, p. 14). Lasswell, (1936) defines politics as who gets what when and how, and Easton (1953) sees politics as the authoritative allocation of values in society. Dahl (1963) defines politics in the normative sense, as existing wherever there is a persistent pattern of relationships that involves to a significant extent power, rule or authority. What is common to these views is that they

see politics as dealing with values concerning what ought to be the preferred approach to organizing communication in society. Defining policy making in media as a political process makes central to the analysis (1) the competitive use of power resources, (2) the conflict of interests in a society, (3) the different concepts of the normative ideal for the media and (4) the confrontation of the apparatus of the state with the resources of groups in the civil society.

Civil society

For the purpose of this analysis we shall see the term within the context of political participation. According to Chazan (1992) civil society as distinct from society in general refers to the segment of society that interacts with and influences the state, and yet is distinct from the state. Drah (2003) says civil society is essentially made up of voluntary associations of individuals such that people choose the intermediaries that by personal will or interest they prefer.

The voluntarist-pluralist perspective denotes civil society as the presence of an array of strictly non-governmental civil associations voluntarily and independently established to pursue their own interests without necessarily ignoring those of society as a whole. Thus, their objectives are at once private and public {Drah, 2003, p. 119). In the political perspective of Jean-Francois Bayart (1986) civil society is the process by which society seeks to counteract the "totalization" unleased by the state. It exists only in so far as there is self-consciousness of its existence and of its opposition to the state.

These civil society organizations, according to Drah, (2003, p. 120) have four characteristics. Firstly, they are involved with meaningful participation in the democratic internal structures and processes, with substantial autonomy from the state and its agencies. Secondly, they see themselves in varying degrees as constituting countervailing centers of power to state power and confront it as and when necessary. But thirdly, they realize the need to cooperate with the state without compromising their autonomy. Fourthly, the state accepts, respects and protects their rights and entitlements. And finally in pursing their own interests they are aware of the welfare of the society as a whole. It is within this context that political participation is seen as the involvement of society in the process of policy formulation and implementation generally and in particular communications policies.

Policy formulation and implementation

Policy, or preferably public policy, has also been defined variously though the definitions represent different approaches to the same phenomenon. Dye (1998) sees public policy as what governments do, why they do it and what difference it makes whatever governments choose to do or not to do. Anderson (1997) also defines public policy as a purposive course of action followed by an actor or a set of actors in dealing with a problem or matter of concern. This definition seems too broad and could be used to refer to any group of actors in society including government and its administrators. There are three aspects or "issues" fundamental to the policy process: that the issues appear on the public agenda, that there are institutions that deal with the issues and there are levels of government that address these issues. Indeed, policies typically involve the interplay of many actors and organizations and the working out of complex relationships between them (Hogwood and Gunn, 1984, 22).

For our purpose here, though the term has been defined variously, it is clear that these definitional approaches imply a set of decisions and actions taken on the basis of a constitution and by constitutional bodies whose responsibilities include making and implementing guidelines for societal action. Anderson (1997) and Dye (1998) see policy formulation as the development of pertinent and acceptable courses of action for dealing with a public problem, and policy implementation as the application of the policy by the government administrative machinery to the problem. Also, and in a moderate sense, it is of importance to note that perfect implementation may not be attainable because of external circumstances that may impose constraints on the implementing agencies. There may not be adequate time and resources. There may arise misunderstandings and disagreements on objectives with the possibility that tasks are not fully specified in correct sequence. There may also be imperfect communication and coordination among actors (Hogwood and Gunn, 1984, pp. 196-208).

Political science agrees generally that policy deals with the overall methods for the organization of society, the modes of creating and distributing benefits and obligations, and in general the best ways of ensuring fairness and order in society (Bluwey, 1993, p. 7).

Communication

For the purposes of this historical analysis of policy in Ghana we see communication in the broadest sense as all those forms of interaction

in a society in which meanings of situations are created - interpersonal, small group, community and organizations. Historically, however, communicatioin policy focuses on the deployment of technologies that enable complex organization to produce and transmit public messages that are directed at large, heterogeneous and scattered audiences. Policy deals with forms of mass media: the radio station, TV station, newspapers, books, magazines etc. (Dominick, 1993, pp. 18-28). Here we are dealing with communication that is the heart of social life, fundamental to social cooperation, the context for the production of culture and also the leaven of language (Ampaw, 2004, p. 3).

A NOTE ON THE STATE AND COMMUNICATIONS

There are good grounds for attempting to examine communications policy as an aspect of the political, and in ways that are different from mainstream research on communications. To focus on the problems of mass communication policies from the point of view of the political enables us to understand the historical, economic, societal and even the political roots of communications and its related policies in Ghana. A clearer picture of communications policy in Africa is seen within the trajectories of state development in the historical/colonial processes African societies passed through before achieving the status of nation states.

Peter Ekeh (1994), James O'Connell (1967), Mahmood Mamdani, (1995) and Drah, (1992) have tried to grapple with the factors underlying the nature of the state in post-colonial African countries and hold in common that the development of rights is central and the basis of the social contract. Of great importance are the ways that some of the first nationalist leaders used the state for their development projects. While rights theory developed in the West through social movements, this was not the historical experience in Africa. In the West issues of communication policies developed in a context very much different from what has existed in African countries today.

Ekeh supports the thesis that colonial rule instituted a weak state that dislocated the state and its policies, including communication policies, from society. The colonial state had virtually no support in society and the state in Africa continues to have relatively little grounding in the social contract and rights. His assumption is that the involvement of the state as the most public of all institutions in society largely determined the make-up of collective public spaces and set up a conflict with rights. In an appendage to this assumption, he argues

that the evolution of civil society in the West, including especially the relatively harmonious relationship between the state and society, yielded the outlines of a public space with which individuals identified. He concludes that the weaknesses in the relationships between the state and society in Africa – arising principally from the imperatives of the externally imposed eras of colonialism foisted on Africa - creates a public realm in which the individual remains alienated.

According to O' Connell (1967, p. 181) alienation sowed the seeds of political instability in contemporary independent African countries, and the constitutional settlement at independence was the source of later alienation. He supports his argument, firstly, with the evidence that the colonial independence settlement was artificial and fed into a power struggle to rectify the imbalances in the politics of independence. Secondly the quality of politicians who emerged had attitudes toward power which were formed in agitational politics with little hope for capable leadership in the work of governing.

In the view of Mamdani (1995), the attempts to bring the fragments of colonial society together created a pluralism in African societies that had a political but not a social coloring and created a weak foundation for multi-party politics and civil society. This has had a lasting and injurious effect because it engendered single-party states just as colonial reform threw in a wedge between political and social movements. He argues that while political parties flowered, social movements wilted. Professional politicians organized regular electoral contests for state positions only to carry on into the final conclusion of the single party regimes that emerged in post-independence Africa (Mamdani, 1995, pp. 51-53). He concludes, regarding the post colonial African experiences, that the supervision and control through legal registration which was extended from social organizations to the popular media and particularly for newspapers, while echoing the same language of "public interest" and "good governance", instead, undermined pluralism in the ideological sphere. Thus, the very reforms that looked like a political opening, which allowed multiple parties to contest for state elections, turned into a closure from a social and ideological point of view (Mamdani, 1995, p. 55). Citing Shivji (1990, p. 17) on Tanzania's communications policy, Mamdani, holds that legislation in Tanzania empowered the registrar to refuse to register a publication in the interest of peace, order and good government and also to cancel registration for the same reasons while the president could also prohibit a publication in the "public interest".

Drah (1992) observes, looking through the lenses of the Jacobins in revolutionary France (1789-1794), that Nkrumah in the course of mapping out the outlines for the state in Ghana in the immediate aftermath of colonial rule, opted for Rousseau's radical democracy with its major characteristic that acknowledges only a single party (or something approaching it). In that case, that group or party of the "saintly" or the "virtuous" or the "incorruptible", who alone are purported to be able to discern and express the people's sovereign will, must logically terrorize and suppress all opposition, and concentrate all power in the hands on the people's behalf. Indeed, Nkrumah could not see why any sane person should ever think of putting any obstacles in the way of the people's sovereign will – implying, of course, his own will. It was with this way of thinking that Nkrumah molded his one-party state structure in which he embedded communication policies. By so doing, the closures from a social and ideological point of view revealed themselves both in theory and in practice, forming the strategy the first head of state adopted towards the state.

Ghana's fair share of militarism forms part of the general political instability that the African continent experienced. The role of the military (down to Gerry Rawlings) in the construction of the post colonial state has been very questionable even if some value has been recognized. Valenzuela (1985), cited in Hutchful & Bathily (1998) observes that, "ironically, the most lasting contribution of the "scientific" literature on the military in the Third World is the analysis of its impact on policy making with its far-reaching normative implications. Mike Oquaye (1987) agrees with Hutchful & Bathily (1998) that the contribution of militarism towards the development of the state in Ghana is found mainly in the praetorian nature of the post-colonial African political environment which saw the intervention of the military in the context of institutional breakdown. These researchers recognized, however, that the military inter-ventions tended to further weaken the state-society relation but, ironically, so roused the embers of the civil society by radical violation of human rights that they contributed, through their policies, to the new democratic wave.

Quaidoo (1987), describing the communication of the state and society, posits the idea of a symbiotic relationship emanating from the character and nature of the particular regime in power. Within this paradigm, he provides three scenarios for looking at this relationship. First, he assumes that conflict is an inevitable character of all societies,

as a result of the social interest which both the government and the media will want to protect. He then posits that the proclivity to protect the social interest is what generates the relationship between the media and government.

To him, social interest means 1) the security of the nation and individuals, security of the right to property; 2) security of domestic institutions, religious institutions, political and economic institutions; 3) security of morals and ethical customs of society; 4) the freedom and ability of individuals and groups to develop their human potentials and the pursuit of economic associations without interference; 5) the individual's right to self assertion in social matters without undue constraint.

Following from this he argues that it becomes the duty of the mass media, within the limits of the law, to spotlight deviations on the part of the government or interest groups. Three situations emerge from this. The first is the "equipollent contenders situation" in which both government and the mass media lay equal claim to the societal interest for the general benefit of society. To him this relationship is possible with the presence of a strong private ownership of the media and with additional government ownership or party ownership/sponsorship of some media. The important factor characterizing this relationship is that each media unit would be independent of the other in terms of finance and management so that there is free competition for the interpretation of the "social interest". The second is the "voluntary conformist situation" which occurs whenever there is an issue which is of interest and relevance to government causing a co-operative partnership to come into play. The third is the "forced subservience situation" in which the media in most cases are compelled through the use of state power to conform to the government in interpreting the general "social interest", with notable controls and interference with media content, prohibition of newspaper circulation, enactment of harsh press laws to enforce self-censorship, harassment of journalists, discrimination in the rationing of newsprint and other media production inputs.

Both state and media may be pursuing the same objective of protecting the social interest but applying different methodologies. This may be an extremely conflictual situation. Amegatcher (1998), Brobbey (2000), Ashie Kotey (2000) Quaidoo, (1987) all recognize the courts as important arbiters with the capacity to apply the laws of libel, sedition, obscenity, etc to handle the likely conflict.

THE COLONIAL STATE AND COMMUNICATIONS POLICY

A major change that colonialism brought into Africa was the creation of the modern state which signified the beginnings of law and legality. As a matter of fact the quality or goodness of this modern state and its laws became a double-edged sword. The legality of colonial communication policies revealed a set of objectives meant to exploit the resources of the colonies. In the Ghanaian context this fed into the need to protect the colonial government and its legal inequities from resistance by the local people, a development which became the subject of politics in the then Gold Coast. Subsequently, the primary function of communication (the provision of information, education and entertainment) came to be premised on the legal framework of colonialism, a character which came to shape the bedrock of a weak state-society relationship and a weak state-media relationship.

By 1800 the channels available for the purposes of communication were print, the post office, the telegraph, books and newspapers, cinema, telephone, and wireless telegraph and they received extensive control and regulation. The main political issue during this era was the struggle to free the resources of the colony from the colonial master. The political agitations were communicated in various ways possible to the colonial masters both in the colony and Britain as well as to the people referred to as natives. The main laws received from Britain to control communications and political agitations were the Sedition Act, the Criminal Libel Act, and The Official Secrets Act. In Britain The Sedition Act was meant to keep the subjects of Her Majesties in the British realm from treasonable and seditious practices and attempts, most of which were in the form of sermons, pamphlets and speeches preached daily, printed and published with boldness defaming the person and government of Her Majesty in England. The law imprisoned or expelled any of the subjects of Her Majesty who would preach or publish any such material meant to depose, levy war against Her Majesty or incite strangers to invade the Realm.

The Sedition law was also received to control what the colonial authorities referred to as anti-colonial propaganda. The object of the law was to forestall communication that would promote confusion, troubles and disorders in the form of hatred against the colonial government or its officials and representatives. This law was hammered into the Criminal Code of the colony in 1892 and, though it was meant to check nuisances and obstructions in the streets and the like, it was mainly intended to control communications such as

writings in the form of placards, notices fixed on buildings, walls, fences, pillars even on the soil or through the post. These were media channels which the nationalists employed to communicate to the people in the colony in their struggle for self determination and nationhood. The law criminalized any utterances critical of government, and by 1936, it had become a veritable weapon against anti-colonial agitations pitched against the press. In West Africa it had two foreign journalists - Nnamdi Azikiwe, a Nigerian, and Wallace Johnson, a Sierra Leonean - thrown out of the colony for writing seditious articles.

Similarly, the Criminal Libel Act had as its objective the prevention and punishment of blsasphemous and seditious libel which intended to protect the colonial governor, his officials and representatives. The Official Secrets Act, also came in to check what it called wrongful communication or release of information by officials within the colonial government.

Clearly, these laws were invoked in a purely arbitrary manner to deal with any form of nationalist agitation or any other situation that the governor perceived to be a disturbance of the peace.   The agitations against the Crown Lands Bill passed in 1894 were directed against the attempt to turn most lands on the coast into the property of the British Crown. The nationalists fought this bill by sending their agitations through the available communications channels to the parliament in Britain.   In reaction to these struggles, The Wireless Telegraphy Ordinance was passed with the objective of regulating communication by wireless telegraphy. The law provided that no person shall establish or use any apparatus or installation for the purpose of communication by wireless telegraphy without license from the governor, and any such license may be granted on such terms and conditions as the governor may prescribe. The law further provided that a warrant from the Magistrate or District Commissioner could also be obtained by the police to search and seize any such apparatus from its operators. The Wireless Telecommunication Ordinance and its Regulations were subsequently passed to regulate transmissions and reception of messages from a wireless telecommunication apparatus installed at a wireless tele-communication station whether or not for purely personal purposes.

The governor from time to time made regulations on wireless telecommunications as he saw fit. The Telephone Regulations Ordinance gave the Post Master General the power to transfer,

remove, disconnect, or alter an existing subscriber's line or number. The law also gave the Post Master General powers to ensure that whatever messages were transmitted should be in the English language and not in any local language. Together, the effect of the laws and policies governing communications as regards the colonial state had a telling effect on the practice of politics which thrived on giving and sharing of information. The laws curtailed the rights of the local people to the supply and demand for information about their society and government. For a fact, most of these laws could not be tested and upheld in the courts.

Colonial policies on newspapers, allied communications and broadcasting

At the height of the nationalist struggle the main communication channels that were relatively developed were newspapers, the post office, wireless telegraph and telephone. Several newspapers had been established all of them waging scathing attacks on the status quo. The laws passed to regulate these form of communication were directed at their physical presence by restricting the rate of circulation of information in the society.

In 1894, the Newspaper Registration Ordinance was passed to provide for the registration and making known the names of proprietors and printers of newspapers. In the course of registration the law expected the following information: the title of the newspaper, the names of all the proprietors of the newspaper (printed on the newspaper) with their respective occupations, places of business and places of residence and the total average circulation per annum. Failure to provide this detailed information attracted a penalty. In similar form laws on the registration of books were also passed with the same effect and intention. With the passage of the Post Office (Registration of Newspapers) Regulations in 1923 it had become clear that newspapers had to be subjected to tax. Communication through the post office also came under similar treatment with the passage of the Post Office Ordinance in 1936. Under this law the Post Master had special powers to dispose of any matter found to contain advertisements of a fraudulent nature, withdraw postal articles in the interest of justice, to intercept postal articles in public emergency, to detain and open a mail bag and to withdraw from transmission prohibited articles.

Around 1935, the form of broadcast that first made its appearance in Ghana was radio, and due to the fact that its technological aspects lay way beyond the reach of the indigenous Ghanaians it easily became the monopoly of the colonial master and was also owned exclusively by the colonial government. The objectives for establishing a radio station in the colony were 1) to enable the British rulers and Europeans in the colony to maintain political and cultural links with Britain and the rest of Europe; 2) control the mind (public opinion) of the colonized people and to subjugate them; and 3) to counteract "obnoxious propaganda" (Ampaw, 2004, p. 23). Subsequently the Wireless Telecommunications Ordinance (1946) and the Wireless Telecommunications Regulations (1946) were passed.

The Ordinance provided that no person shall establish or operate any wireless telecommunication station in the Gold Coast except under and in accordance with a license granted by the governor. It further provided that in emergency situations and in the public interest the governor should have control of the communication of messages or make orders he deems fit in respect of possession, sale, purchase, construction and use of wireless telecommunication appa-ratus in any place. In effect, the policy ensured that communication by broadcast was placed under the control of the governor.The negative effect of these laws on the people regarding political activities added to the sources of political agitation culminating in the terminal phase of the turbulent independence struggles.

POST COLONIAL COMMUNICATIONS POLICY
Authoritarianism and communications policy
By independence all the political rights that were denied under the colonial administration had been freed and a social contract based on the national interest and grown out of local needs occupied the attention of the whole country and its elite. Politics had taken the meaning of a struggle between prevailing local social forces of opposing interests with the intent of securing control over the state or influencing it and getting their respective interests embodied in public policy. The national interest presented itself as an issue which later became confrontational matter looming large in the ensuing political activities that followed. The major political values centered around freedom to form political associations, hold and express contrary views and to hold public officers accountable for the relevance of their policies and public statements. The holding of elections also meant

people could choose between candidates on the basis of their perceptions and party programs. Between 1957 and 1960 Ghana could be said to be practicing democratic politics within the context of Western liberal political philosophy and norms. However by 1960 it had become evident that under Nkrumah, the first Ghanaian leader, democratic life would be snuffed out as the one-party monolithic political ideology took hold.

The channels of communication that existed at the time were the post office, the telegraph, books and newspapers, cinema, telephone and wireless telegraph. Film, telecommunication, radio broadcasting, and, later, state publishing houses, and the news agency were added by Nkrumah. The question to be answered was how to handle this national interest within the context of communications. While dictating his own policies across the board Nkrumah turned these communication resources into tools for nation building. The policy environment Nkrumah created for communications fell in line with the socialist system which emphasized the freedom and responsibility of the press to act as an instrument for the government in the transmission of social policy as defined by his party.

Accordingly, the important question regarding the management of communication was not to be found in the free market aspect of the structure of the press system but rather in who authoritatively owned it. Nkrumah's statement on media ownership spelt this out clearly: "It is part of our revolutionary credo that within the competitive system of capitalism, the press cannot function in accordance with the strict regard for the sacredness of facts and the press therefore should be owned be the state" (1963, p. 4). On the basis of this policy position Nkrumah controlled the demand and supply or information in order that the channels of communications would cooperate fully within his task of nation building.

The state acquired a degree of freedom unparalleled in the political and communications history of the country. This was a kind of autonomy that Nkrumah felt he needed to jet-propel the country into an industrial nation, and in this quest all forms of opposition views and information had to be fought and possibly driven off. The legality of Nkrumah's communications policies could only be understood within his concept of the one-party state philosophy. His relationship with the channels of mass communication can also be regarded as one of forced subservience in which the media were compelled to conform with him in communicating the general "social or national interest". Nkrumah

intervened in the communication processes by way of dictating content, prohibiting of newspaper circulation, enacted harsh press laws to enforce self-censorship, harassed journalists, discriminated in the rationing of newsprint and other media production inputs (Asante, 1996).

With a firm control over the channels of mass communications, Nkrumah established and incorporated the Ghana News Agency (GNA) in1960 to provide for the dissemination of truthful and unbiased news and to carry out such other activities as may be appropriately associated with the dissemination of news. The interpretation of the words "truthful" and "unbiased" would only be undertaken within his philosophy and contextualized within his idea of the "people". It was his view that the demand and supply of information must and must only be what is "good" for the people within his idea of nation building. By this, any view that opposed his concept of nation building was interpreted as biased and untruthful. His dictum "seek ye first the political Kingdom and all else will be added" is also instructive. His political kingdom has been interpreted as control over the state apparatus and by extension developing processes about how to protect the political kingdom.

Nkrumah employed the used of the law to control communications in the direction that favored his political agenda. The legality of such laws and policies relating either directly or indirectly to communications may be measured by the impact of such laws on the communication landscape. Nkrumah passed The Emergency Regulations, to regulate the publication of disturbing reports. The targets of this regulation were publishers of material likely to bring into hatred or contempt, or to excite disaffection against the government, or to undermine the authority of or public confidence in the government. The import of this regulation is also found as an attempt to prevent publications that would promote hostility between different classes of the populations of Ghana in the course of nation building. The period in which this regulation was passed was when the country faced a crisis of identity and integration, and an opposing political grouping the National Liberation Movement (NLM) seriously questioned the program of nation-building by agitating for a federal state and backed by threats of secession (Manu, 1991, p. 6). Nkrumah felt that in order to curb this looming crisis the state had to submerge all forms of parochial loyalties and traditional forms of identity.

With a view to managing the minds of the "people" in the country, and in a very radical manner and within his ideology of nation building, Nkrumah established and nationalized a number of communication- related concerns. The State Publishing Corporation was set up to print, publish, distribute and market books and other material for schools, higher educational institutions and the general public. The members of the governing body of the corporation were all appointed by the minister with the approval of the cabinet. The Managing Director's appointment could be approved or revoked by the cabinet chaired by Nkrumah. In addition to these the president retained special powers to carry out any action he felt was in the national interest. He was empowered to take over the control and management of the affairs or any part of the corporation by reconstituting the board, appoint, transfer, suspend or dismiss any of the employees of the corporation. In the same measure he established the *Ghanaian Times* and nationalized the already existing *Graphic Corporation* which was already a leading newspapers in the country. He then added the State Telecommunica-tions Corporation, the State Film Corporation, and The Ghana Radio and Television Broadcasting Corporation.

Indeed, Nkrumah's policies on communications had a telling effect on practice as the various communication institutions were forced into voluntarily conforming with his dictates.

MILITARISM AND COMMUNICATIONS POLICY

Militarism began with the overthrow of Kwame Nkrumah. Most research on the military (Hutchful and Bathily, 1998; Oquaye, 1987) discusses the military and militarism in Africa in the vein of political economy and praetorianism.   These studies have centered on the military bringing the state back in, in terms of its relative autonomy to rule, without consideration from other social forces.   When the military intervened in Ghana's political processes it did so on the basis of the following objectives: attempt to bring back political order into political decadence, providing national security, promote political transformation, and provide some form of management for the economic crisis and general social revolution without party political activity. Whether these goals were accomplished, continues to be debated by historians in Ghana.

The military, in their attempt to achieve these objectives, sought to activate the existing communication policies favorable to them and

introduce new ones. While broadcast and print were singled out, broadcast in particular was employed to give support to most of the interventions at the initial stages. It also became a prime security target which was not left in the hands of any independent body or persons. The military regimes that have ruled the country are the National Liberation Council (NLC) which ruled from 1966 to 1969, The Supreme Military Council (SMC 1&2) which ruled for 121 days, The Armed Forces Revolutionary Council (AFRC) which also ruled from 1979 to 1981 and the Peoples' National Defense Council (PNDC) which ruled from 1981 to 1992.

The national liberation council (NLC): 1966-1969

Most of the policy statements on communications came in by way of pronouncements, acts or omissions from the chairmen of the council or members of the council. For instance, Lt. Gen. Ankrah, chairman of the NLC (the first military junta) warned that if the press did not refrain from cheap sensationalism and over dramatization of trivial events, the "one who pays the piper will have to call the tune…and the press must not forget that it is the government that pays their staff" (*Ghanaian Times*, August, 1967, p. 6).

Basically the NLC treated communications policy within the framework of the authoritarian arrangements it inherited from Nkrumah, namely, that the media must be a tool for the use of government in its efforts to promote a national development agenda. The regime passed the Ghana Broadcasting Corporation Decree in 1968 with the attempt to orient culture, education, information and entertainment programs toward national progress and aspirations. What is significant about this policy is that it followed in the footsteps laid down by the previous Nkrumah regime by setting up a board whose chairman and members would be appointed by the head of state. However, and perhaps with the intention in mind to reshape the future of politics, the decree sought to distance the channels of communication (particularly broadcasting) from politics and provided that the chairman and members of the board should not hold any office or be a member of any political organization, should not indicate publicly their support for or opposition to any political parties or candidates and should not be involved in any political programs or such parties or candidates.

The duties of the corporation were, among others, to provide public, independent and impartial broadcasting services for general

reception in Ghana. The decree on the other hand retained the emergency powers of the previous Act governing broadcasting in which the head of state, in his opinion and in the interest of the public, would control broadcasting in the country.

The Supreme Military Council (SMC) and AFRC: 1972-1981

The SMC government, later christened the National Redemption Council (NRC), which ruled for 121 days, followed in the footsteps of its predecessors. These juntas sought to control communications through the channels of print and broadcast particularly those owned by the state. The law that covered these communications channels was the National Redemption Council (Defamation by Newspapers) Decree in 1972. The state was firmly planted within this decree in that no action for defamation or injurious falsehood shall be brought against the editors who had been appointed by the Council.

The NLC subsequently passed another decree, The National Redemption Council (Control of Publications) Decree in 1972 and banned two prominent private newspapers – *The Echo* and *The Pioneer*. The decree stipulated that it shall be an offence for any person to publish, distribute, sell, offer for sale, or circulate any of these newspapers. The reason for this step taken by the military junta was that the publications had launched a blistering attack on military interventions. This decree was replaced with the Newspaper Licensing Decree NRCD) in 1973 and cast in the mould of a similar colonial ordinance, the decree provided for the acquisition of a yearly license before publishing a newspaper as well as for powers that would suspend or revoke an existing license. The Prohibition of Rumors Decree, passed in 1973, was repealed and replaced by a decree in 1977 to control defamation and disaffection against the SMC or the NLC, its predecessor.

Regarding broadcasting, the SMC sought to control frequencies by passing the Telecommunications Frequency Registration and Control Decree in 1977. This decree contained provisions for a board whose chairman would be appointed by the SMC on the advice of the National Security Council. This decree introduced a licensing regime that would also control messages and programs. In effect, offenders of any of the provisions in the decree were to be prosecuted by the state under the Criminal Procedure Code. The Regulations that went with the decree provided that where the Board was not satisfied in respect of the matters stated in an application, it might refuse it and any person

aggrieved by the refusal had to appeal to the SMC whose decision on the matter was final.

Second Rawlings government (PNDC): 1981-1992

The intervention of Rawlings for the second time under a new regime name, the PNDC, is significant because of the austere Economic Recovery Program agenda this government sought to implement in 1983. Within this period party political activity was banned and there was tight control of public discussion of politics.

The policies were dominated by the Economic Recovery Program (ERP) and the Structural Adjustment Program (SAP) both of which came from the International Monetary Fund (IMF) and the World Bank (WB) as conditions for the grant of loans. With the implementation of these economic policies Ghanaian society experienced harsh conditions as subsidies on health, education and agricultural inputs were removed and the currency pegged to the international currencies. Indeed the economic policies bit into the very fabric of life, and by the end of the era of the PNDC, a new form of political awareness had emerged that demanded information on government activities which was not forth-coming. The media and civil society cried out against these policies and in order to nip this howling in the bud the regime passed the Newspaper Licensing Law in 1989 and the Newspaper licensing Regulations 1989, which required the registration and licensing of newspapers. In practice newspapers considered to be hostile to the regime were refused licenses and therefore could not operate.

The combination of the implementation of the ERP, SAP and the Newspaper Licensing Law created a void between the state and society while at the same time issues of human rights had began to surface. By 1990 The WB and the IMF had begun to put pressure on the PNDC government to reform most of its statist policies, demanding accountability and transparency in governance. Democratic move-ments and feelings had also spread throughout Ghanaian society and the general call was that all sides to an issue must be heard and not the side of the government alone. Calls for multi-party elections were also very strong. This came especially from academic circles and the civil society which campaigned insistently for a free media and a pluralist approach to the dissemination of information. Political information became very much sought after, and subsequently, politicians in particular and other private entities began a call for a new look at

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communications policies. Gradually, the previously statist imperatives inherent in communication policies which saw communication as a tool for national development began to give way.

ENTERING THE FOURTH REPUBLIC
Political pressures in the 1990s

In the late 1980s and early 1990s local interest groups began to move public opinion to challenge the PNDC military regime on a number of issues especially in the area of human rights and democratic participation. This led toward the elections of the Fourth Republic, multi-party politics and a much more confident civil society in Ghana.

In the late 1980s the growing number of university graduates and young professionals were increasingly dissatisfied with the repressive tactics of the military government.   Many of these began to form their NGO professional associations and movements such as women's gender-issue movements. From the coalitions that formed and a new "bargaining" stance, there was a growing demand for a return to a democratic political order with a new set of communication policies guaranteeing greater freedom. The interests were both political and economic: formed around shared concerns in the area of human and media rights, demanding economic and civil rights, and seeking the right to information. All these movements gradually took shape in forms of political representation to contest in multi-party elections and win a greater share of state power.   There was also the call to put the state on a short leash and to prevent it from being so despotic--as it had been the Rawlings era--and above all to seek to influence public policy making and its implementation (Drah, 1996, p. 3). These movements also sought greater representation in the media and an expanded media system in Ghana.

The steps toward new communication policies

The Association of Recognized Professional Bodies (ARPB) confronted the PNDC with the following message: "we are not saying that the PNDC deliberately made the people to suffer but it has not been able to make it any better than it was when it took over the reins of government" (Okudzeto, 1996, p. 117). This body exerted a lot of pressure on the government and in 1991 organized symposia on the 1992 constitution. The Trade Union Congress (TUC) and The Ghana Bar Association (GBA) also added their voice of dissent to the resistance

to the phenomenon of military rule in the country, advocating human rights and free speech. The Ghana Journalists' Association (GJA) demanded removal of newspaper laws that restricted their practice, and the Private Newspaper and Publishers Association of Ghana (PRINPAG) united with them in these demands.

All these organizations combined to bring pressure to bear on the government to return the country to constitutional rule. The government remained adamant till it eventually buckled under pressure and passed the National Media Commission Law in 1992 (PNDCL 299) bringing into the commission most of these civil society bodies. Although this law was not fully implemented, it represented an effort on the part of the regime to break with the past as far as the activities of the channels of mass communications were concerned and in particular with reference to the state-owned media.

Until 1992, although the economy had begun to be liberalized, there was little liberalization for journalists and little open debate of civil society issues in the media. There were only about 30 newspapers and magazines regularly produced and of these only four were dailies, owned by the state. The private newspapers appeared weekly or bi-weekly and circulated only in the urban areas, mainly in Accra, the capital. Professional standards were low both in terms of journalistic practice and technical considerations and the quality of information was low. Broadcasting, film, and the wire services within this period remained a monopoly of the state with private broadcasting virtually absent. Advertising and public relations remained on the sidelines.

The groups to confront this problem were civil society organizations both local and international. They found a space for open discussion in academia and in the new NGO think tank organizations to discuss media policy and the implementation of a new order of media in Ghana. The graduate School of Communications Studies at the University of Ghana took up the task of discussing the complex legal and technical implications for a fair access to the airwaves, the necessity to enact new legal instruments guaranteeing the protection of journalists as well as privacy and the demand for a national body entrusted with the management of broadcasting. The PANOS Institute and the Fredrich Ebert Foundation supported the gatherings of scholars and practitioners from Ghana and other parts of Africa to discuss broadcasting policy in Ghana.

By March, 1993 the Constitution of the Fourth Republic had begun to be implemented and its provisions became the framework for legal and and policy development. Again the School of Communications at the University of Ghana took the lead in making attempts to fill in the details of policy as the National Media Commission (NMC) and other regulatory bodies had not been set up by the constitutional instruments.

Particularly important was a national conference organized by the School of Communications on the promotion of privatization of radio and television broadcasting in Ghana. The conference reviewed all the existing laws and policies on radio and television broadcasting and raised the following issues: the constitutionality of repressive laws introduced during the military regime violating Article 162(3) of the constitution on freedom of expression; the transformation of the Ghana Broadcasting Corporation (GBC) to the status of a public broadcasting station independent of government control; the removal of monitoring of the operations of private stations; questioning foreign investment and partnership in local media; and the establishment of a radio frequency board to grant licenses for commercial and community radio stations.

The conference recommended the following: ownership guidelines to be drawn up by the National Media Commission which should include the financial standing of prospective operators, proof of technical and professional competence, and evidence of good character. Participants recommended further that the majority of shareholders should be Ghanaians and that the day-to-day management of a station be reserved only for Ghanaians. In terms of frequency allocation they recommended the setting up of a National Communication Commis-ion (NMC), a Frequency Registration and Control Board as a sub-unit of the NMC with a board to be appointed by the president on the advice of the Media Commission and not the National Security Council as in SMCD 71. They further recommended that procedures for applying for and allocation of the radio spectrum be made transparent with a right of appeal through a special tribunal to hear and review cases of denials, unfair allocation and public complaints. They agreed that Ghana Broadcasting Corporation, the state institution, should remain a public service funded by the government but through the Media Commission, not through the Ministry of Information as in the past.

The public deliberations and the permanent deliberative bodies set up in the early 1990s established a framework for the continued negotiating that has introduced a great deal of socio-political stability in Ghanaian public life. The fact that this deliberation is carried on by academic bodies, in research and think-tank organizations and in civil society movements has been important. Decisions tend to be taken on the basis of strong principles relevant for the common good, not just the short-term gains of interest groups. Indeed the Fourth Republic is the longest of all the Republics and has experienced three government successions – The Rawlings, Kuffour and current Atta-Mills' regimes. What is significant about these regimes is that together, and at the time of writing this article they have governed uninterruptedly for seventeen years under the 1992 Constitution.

Constitutional background to media freedom

The Independence Constitution of 1957 set down within the provisions of fundamental liberties the following principles: nondiscrimination on grounds of race; the expropriation of private property is permissable only with prompt, fair and adequate compensation; and freedom of religion and conscience. Generally, the common law position was that, subject to the general civil and criminal law, particularly those relating to defamation, sedition, obscenity and privacy, the media are free to publish anything (Kotey, 2000, p. 31).

But, at that time, the existing law was the colonial legacy of the Newspaper Registration Ordinance 1951 (Cap 125) which required the registration of newspapers. The 1960 First Republican Constitution promulgated by Nkrumah did not contain any bill on fundamental human rights but a solemn declaration in Article 13 which contained some moral aspirations not enforceable in the courts of law.

Following from the experience of the 1960 constitution and its aftermath of tyranny and deprivation of human rights, the 1969 Second Republican Constitution contained an elaborate and detailed bill on fundamental human rights and freedoms and provided for freedom of conscience and expression. It provided further that no person shall be hindered in the enjoyment of his or her freedom of expression and, for the first time in article 22, it stipulated that "…any person responsible for the dissemination of any kind of information to the public must be obliged to afford equal opportunities and facilities for the representation of opposing or differing views". This provision

was designed to loosen the grip government had held over the state-owned media both print and electronic (Kotey, 2000, p. 33).

The 1979 constitution was a great improvement over previous ones, providing a very elaborate legal foundation for general freedoms and freedom of the media. It guaranteed the following: establishment of a Press Commission, the abolition of censorship, prohibition of licensing as a condition for operation, registration of newspapers to be done by the Press Commission which alone and no other shall make regulations as may be deemed appropriate for the licensing of electronic media, non-discrimination by the state media on account of political opinion, creed, or religious persuasion and the required that state-owned media afford equal opportunity and facility for the expression of opposing or differing views.

The idea of placing the management of the mass media of communications in a Trust has been long standing.   Ansah (1977), with his understanding of Ghana's political history, proposed a communication governance structure with a membership representative of national institutions and associations including the Bench, the Bar Association, the trade unions, the houses of chiefs, the churches, the universities, the journalists' association the civil servants association, the chamber of commerce, the national council for women and development, etc. The rationale was that well-established national institutions and associations are reasonably independent of the government and that they can freely choose representatives who are sufficiently concerned about freedom to play a useful role. To make the Trust further independent from politics the idea proposed a funding arrangement similar to that of the universities which takes an annual grant from the budget and the disbursement is left to the universities or, alternatively, the governments grants the trust a working capital. When Ansah proposed the Trust idea he was mindful of the traditions of intolerance and ruthlessness established in several parts of independent Africa.
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INSIDE THE FOURTH REPUBLIC
The constitutional framework for communication policies

In formulating the 1992 constitution, the framers of the constitution recognized, firstly, the strong authoritarian political culture of the country rooted in colonial rule, the one-party state experiment, the various military regimes, and the two short-lived civilian regimes that existed before the Fourth Republic. Most of these regimes, particularly

the First Republican Regime and the Military Regimes, laid claim to the national interest but paid little attention to individual freedoms while all power was concentrated at the centre. The challenge that the framers faced was how to blend the two *in the African, Ghanaian context*--a workable, effective state and individual freedoms - and, in particular, which of them should have precedence over the other. This challenge also faced the strong civil society movments of the late 1980s and early 1990s demanding democratic political reform.

To avoid accumulating power in the hands of an individual or a few individuals the formulation insisedon a division of governmental power into three equal branches and, secondly, introduced a chapter on human rights, and another chapter on media freedom. The constitution itself answered the question as to which of the two claims should have precedence. It indicated that the constitution being the supreme law of the land rendered void any other law found to be inconsistent with any of its provisions. Most of the existing laws affecting communication were thereby repealed or modified. However, the implementation of this has, at times, proved to be problematic.

Specific provisions of the 1992 constitution
Chapter 12 of the constitution provided for the following:
Article 162
(1) Freedom and independence of the media are hereby guaranteed
(2) Subject to this constitution and any other law not inconsistent with this constitution, there shall be no censorship in Ghana
(3) There shall be no impediments to the establishment of private press or media; and in particular, there shall be no law requiring any person to obtain a license as a prerequisite to the establishment or operation of a newspaper, journal or other media of mass communication or information.
(4) Editors and publishers of newspapers and other institutions of the mass media shall not be subject to control or interference by government, nor shall they be penalized or harassed for their editorial opinions and views, or the content of their publications
(5) All agencies of the mass media shall, at all times, be free to uphold the principles provisions and objectives of this

constitution, and shall uphold the responsibility and
accountability of the government to the people of Ghana
(6) Any medium for the dissemination of information to the
public which publishes a statement about or against any person
shall be obliged to publish a rejoinder, if any, from the person in
respect of whom the publication was made

Article (163) Responsibility of the media:
All state-owned media shall afford fair opportunities and facilities for
the presentation of divergent views and dissenting opinions.

Article (164) Limitations on rights of Press Freedom
The provisions of articles 162 and 163 of this constitution are
subject to laws that are reasonably required in the interest of
national security, public order, public morality and for the
purpose of protecting the reputations, rights and freedoms of
other persons

**Article (165) Media rights and freedoms to be additional to
fundamental human rights:**
For the avoidance of doubt, the provisions of this chapter shall
not be taken to limit the enjoyment of any of the fundamental
human rights and freedoms guaranteed under chapter 5 of this
constitution

Article (166) National Media Commission
There shall be established by Act of Parliament within six
months after Parliament first meets and after the coming into
force of this Constitution, a National Media Commission
In sum the constitution recognized the shortcomings of the
statist approach to the formulation and implementation of
communication policies provided strongly for the existence of
the privatization of the media as a commitment to pluralist
democracy.

**Other Communications laws relating to the state and public
officials**
Although the 1992 Constitution seems to have freed the media from
control and the Criminal Libel Law has also been repealed, there are
still some laws on communication allowing the state and its officers

powers that could curtail free expression and could threaten human rights. These are laws on sedition, defaming the president and publishing false news which affects the reputation of the state. Other laws that can inhibit the freedom of the media are State Secrets Act 1962 (Act 101), which provides that offenders will be deemed to be guilty of an indictable offence; The Armed Forces Act 1962 (Act 105}; the Armed Forces (Court Martial Appeal Court) Regulations 1969 (L I. 622) which makes offenders guilty of treason and open to death or imprisonment for life or any less punishment; the Police Service Act, 1970 (Act 350); and The Police Service (Administration) Regulations, 1974 (L.I. 880) makes it an offence to divulge any information to a person not authorized to receive it without leave from a superior officer.

The Prisons Service Decree, 1972 (NRCD 46), Prisons Regulations 1958 (L.N. 412) also carries offences and punishments similar to that of the prisons. The Civil Service Law 1993 (PNDCL 327), The Civil Service (Interim) Regulation, 1060 (L.I.47) makes it a punishable misconduct to make unauthorized disclosures of classified and unclassified official information or documents both to a private person and to another public officer. These enactments affect any person including practitioners in the media.

However the constitution in Article 21(1) (f) avoids application of these statutes to justifiable journalistic activity by holding that "all persons shall have the right to information subject to such qualifications and laws as are necessary in a democratic society". There is also in the offing The Right to Information Bill which will provide access to official information held by government agencies and private bodies subject to some qualifications and conditions. Indeed, the essence of this law when passed is basically to promote transparency in governance, with the citizenry empowered to contribute to good governance and rapid development and progress of the country.

THE IMPACT OF IMPLEMENTATION OF COMMUNICATIONS POLICY UNDER THE FOURTH REPUBLIC

The main agency provided to implement the broad communications policy outlines of the constitution is the Naional Communication Commission (NMC). By statute, there is also the National Communications Authority Act, 1996 (Act 524) established to regulate communications, with a Ministry of Communications which is overseeing the implementation of the provisions in Act 524. The

Parliament of Ghana, through its committee on communications, also has oversight responsibility in the sector. The Ministry of Information, a government agency, also has a role in regulating communications through parliament. Civil Society organizations, including the media itself and other NGOs, are responsible for monitoring and evaluating as well as helping to implement the functions of some of these bodies, particularly that of the National Media Commission. The following internationally recognized standards and conventions now have some persuasive effect on the making and implementation of policies relating to communications in the country. These are: the European Convention on Human Rights and the International Covenant on Civil and Political Rights

Establishment of the National Media Commission

Pursuant to article 166 of the constitution, the National Media Commission Act was passed in 1993. The passage of this Act meant the repeal of the National Media Commission Law (PNDCL. 299) passed by the PNDC. Membership is made up of fifteen persons from recognized institutions and associations, representing a cross section of civil society. Included are the Ghana Bar Association, the publishers and owners of the private press, The Ghana Association of Writers and the Ghana Library Association. It also includes the religious bodies with Christians represented by the National Catholic Secretariat, the Christian Council and the Pentecostal Council, the Muslims by the Federation of Muslim Councils and the Ahmadiyya Missions. The training institutions of journalists and communicators, The Ghana Advertisers Association and the Institute of Public Relations of Ghana were also added. The rest are persons from The Ghana National Association of Teachers, two representatives nominated by the Ghana Journalists Association, two persons appointed by the President, and three persons nominated by Parliament. The commission elects one of its own members as chairman.

The functions of the Commission are as follows (a) to promote and ensure the freedom and independence of the media for mass communication or information, (b) to take all appropriate measures to ensure the establishment and maintenance of the highest journalistic standards in the mass media, including the investigation, mediation and settlement of complaints made against or by the press or other mass media, (c) to insulate the state-owned media from governmental control, (d) to take measures to ensure that persons responsible for

state-owned media are afforded fair opportunities and facilities for the presentation of divergent views and dissenting opinions, (e) to appoint in consultation with the president, the chairmen and other members of the governing bodies of public corporations managing the state-owned media, (f) to make regulations by constitutional instrument for the registration of newspapers and other publications, except that the regulations shall not provide for the exercise of any direction or control over the professional functions of a person engaged in the production of newspapers or other means of mass communication and (g) to perform such other functions as may be prescribed by law not inconsistent with the constitution. In an appendage, the Act provided that in carrying out its functions the commission shall not, by regulations or any other act, require any person to obtain or maintain a license as a condition for the establishment of a newspaper, journal or any other written publication.

The allowances of the chairman and members of the commission are charged on the Consolidated Fund and in accordance with Article 71 of the constitution which directs emoluments to be paid to the President and other high public officers.

In spelling out the communication policy details the Commission was influenced by national and global developments which called for pluralism and universal access, avoiding cultural impoverishment, avoiding marginalization of local languages, education and development, insuring technological competence, training human resources, promoting institutional capacity and public accountability. The vision of the policy was to include large segments of the population in the communication processes and to foster their participation in decision-making as producers and consumers. The rationale for this detail is that public interests and well-being are paramount and the desire to deregulate the broadcast media which used to be state controlled by promoting private investment in the sector. Out of this, three working categories of media were created: public service media, commercial media and community media.

For print the overall position of the National Media Policy was the removal of governmental control over the state-owned or public newspapers, allowing for the proliferation of commercial newspapers and providing the opportunities for non-profit making, non-sectarian and non-partisan community newspapers (in the District Assemblies and every school). For broadcast media, the policy stated that being a basic resource, the airwaves or the broad expanse of space belonged to

the people of Ghana and the broadcast media are challenged to hold it in trust and utilize it in a way beneficial to the Ghanaian economy and society as a whole. For film, the policy envisaged a National Film Board to oversee the implementation of the various policy proposals on the development of film in Ghana and in the areas of commercial and community film production. The same goes for the wire services, advertising and public relations.

The new dispensation created by the constitution introduced a kind of freedom never experienced in the country before. Practitioners got lost as to the boundaries of free speech and expression. The settlement and complaints committee of the commission has time and time again been called upon to settle a number of issues between individuals and between public officials and practitioners. The most significant of these has been matters between practitioners and officials of state. Between 1997 and 1998 the committee had settled out of court 47 cases involving the media and individuals, most of whom were present and past government officials. Some of the cases involved the main opposition political party which newspapers considered to be hostile to them.

The Commission has by a Constitutional Instrument passed the National Media Commission (Newspaper and Publication) (Registration) Instrument, 2003 C.I 39 into law which empowers it to register newspapers and publications. During the same year that the law was passed sixty–seven newspapers and publications were registered, and by 2006, the Commission had registered two hundred and six (NMC, 2006). However proprietors of newspapers are averse to the exercise claiming that it had the potential to curb freedom of expression. Internationally, the Commission is now represented on the World Association of Press Councils and also a member of the African Communication Regulatory Authorities Network (NMC,1999). In spite of its teething problems, the NMC has made some modest achievements. Based on Article 167(b) of the constitution which charged the Commission "to take all appropriate measures to ensure the establishment and maintenance of the highest journalistic standards in the mass media" it has produced the National Media Policy, Guidelines for Broadcasting Standards, Guidelines for Political Reporting and Guidelines for Rejoinders.

These documents were highly publicized through workshops and seminars and widely circulated among the media houses. The Publications were supported by the Fredrich Ebert Stiftung a foreign

German Non-Governmental Organization. Another supporting organization is the United Nations Development Program (UNDP) through its National Governance Program. The Commission has organized seminars for boards of state-owned media organizations and senior journalists as well as political parties on media relationship. It has also created a platform for an interface with talk show presenters, editors and program managers and producers (NMC, 2000).

The National Communications Authority, the Ministry of Communications, the Ministry of Information and Parliament

The National Communications Authority Act was also passed in 1996 to regulate communications by wire, cable, radio, television, satellite and similar means of technology for the orderly development and operation of efficient communications services. Among others the objectives of the authority were to ensure that communication services are responsive to customer and community needs, to promote fair competition among providers of communications services, and to protect consumers. A Ministry of Communications is also established with cabinet status to oversee the implementation functions of the National Communications Authority with the responsibility to advise the Minister for Communications and the Minister for Information on policy formulation, development of strategies for the communications industry, grant licenses, assign, allocate and regulate the use of frequencies in conformity with international requirements pursuant to any relevant treaties, protocols or conventions to which Ghana is signatory.

The Ministry of Information is established to facilitate a two-way flow of information between the government and the public and to assist in the development, coordination of communications policy in terms of monitoring and evaluation of programs and activities of the government sectors and agencies. The Ministry serves also as the government's major public relations organization both locally and abroad (*Ghanaian Times*, 2010, p. 12). Presently the Ministry is proposing a broadcasting bill as a comprehensive law to regulate broadcasting services in the country. Parliament also has an oversight responsibility to ensure that the provisions in the constitution and related laws are in tandem with each other while the ministries, bodies and agencies were established to account to the general public the achievements of the objects of the constitution.

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The politics of implementation

The implementation of the new policy environment has, indeed, been an arena of political battle. Within the time lag between the promulgation of the 1992 constitution and the passage of the constitutional instruments emanating from it, a struggle over frequency allocation emerged and the policy has been the subject of "politics": who gets what, when and why because as the then Minister for Information stated "the advent of private broadcasting is like opening a Pandora's box". Right up to the beginning of 1994 the government and the Frequency Registration and Control Board were still making references to the old SMCD 71 and were reluctant to make any movement in the direction of freeing the airwaves until some individuals broke into the airwaves and began test transmissions (Ampaw, 2004, pp. 30-31). The government at the time also rejected the application of the Christian council, the Catholic Secretariat and the Pentecostal council to establish radio stations, and no official reasons were given. With the potentially vast audience which such religious bodies can command, the government may have been apprehensive that the religious groups would use the broadcasting stations for other than religious purposes (Drah, 1996, p. 22). By 1996, however, it was becoming clear that the politics that hovered around communications policy had begun to crumble and private broadcasting was becoming a right and a reality.

The role of the courts

In terms of implementation of communication policies in Ghana, the Courts have played its role in terms of interpreting the constitutional provisions as well as adjudicating on matters of human rights, free speech and expression within both the common law Tort of Defamation, secrecy laws, the right to information and statutory provision on defamation. Articles 163 and 55(11) associated with communication rights have been tested in the Supreme Court on political grounds as to who can communicate what, when and why.

In the case, The New Patriotic Party v. Ghana Broadcasting Corporation (GBC) 1993), the Plaintiff, New Patriotic Party (NPP) sought a declaration that it had the right to and the GBC a duty to provide fair opportunity and facilities for the presentation of its views. The NPP had accused the GBC of failing to comply with its constitutional obligations thereby violating the party's rights. The NPP therefore sought an order to compel the GBC to afford it fair and equal

opportunity to present its views on the national budget. The Supreme Court was drawn in to interpret Article 55(11) which states that the state shall provide fair opportunity to all political parties to present their programs to the public by ensuring equal access to the state-owned media.

The Supreme court explained "equal access" to mean the same or identical terms and conditions for gaining entry into the state-owned media for the purpose of presenting their political, economic and social programs to the electorat. This means that the same time or space must be given to each political party, and the officers of the state –owned media had no discretion in the matter. The facilities being a national asset, they should be available to all. The Court held further that under the new dispensation under the 1992 Constitution the GBC was to provide the NPP air time for the dissemination of its views similar in extent and scope as was accorded the government spokesman in respect of the national budget. On the few occasions that the courts have been brought in to interpret the constitutional provisions, they have boldly done so to favor the freedom of the media.

Effects of Policy

Since 1992, the trend has been that mass communications have been regarded as business enterprises and their increasing industrial and economic significance have been acknowledged. Currently there is widespread private involvement in the ownership of the mass media. Almost all the regions and districts in the country have several kinds of media, and many more individuals are applying for licences with the heaviest concentration being in the country's major capitals, Accra and Kumasi.

Generally, print media ownership is in the lead in terms of numbers, and the varieties include the political press, entertainment press, sports papers, business and economic publications, and the political party press. Radio and television broadcasting and other media, particularly the Internet service providers have followed, bringing in their wake some quantum of convergence. Records of the Ghana Post Office indicates that as of September 2002, fifty eight (58) newspapers had been registered. The national office of the Private Newspapers Publishers Association has also recorded 63 newspapers as of 2002. With television, the National Communication Authority (NCA) as of 2002 had approved 18 stations and radio 119 stations had been approved. There has not been any restriction in any form on entry and

ownership of the media to prevent monopolies or any form of integration or concentration. Indeed, this phenomenon cannot be ignored because of the effects it has on society and particularly on politics and the economy as well as social change.

With the policy on information communication technology (ICT4AD), the digital revolution has also opened up the borders of communication but rivalry between local and foreign actors is not clearly defined. The economic benefits resulting from this form of new ownership is also not very clear. Evaluation of communication policy in Ghana is generally embedded in issues of good governance within the context of the liberties and freedoms considered to be on the negative list. This is closely coupled with its interface with groups struggling over political resources and power, and this is true to the extent that, in the period under discussion, a type of civil society is emerging which is highly dependent on the right to the dissemination and reception of information. Economically, communications is also seen as having to operate within a market philosophy of supply and demand for information that is heavily influenced not just by what is sold, but by political differences arising mainly out of the management of the economy. The overall effect is that the change has encouraged participation of the citizenry in the fledgling democratic experiment in terms of the freedoms that it has provided a need for.

Challenges of the future

With the future in mind a couple of challenges readily come up. Firstly, when policy depends on so many actors and participants there are numerous possibilities of disagreement and delay (Ayee, 2000, p.51). Indeed, decision making is becoming complex as the National Media Commission, The Ministry of Communications, the Frequency Control Authority and its board, are all making inputs regarding their mandates and functions and in the process duplicating ideas and struggling for turf. In effect, implementation is scattered over several institutions giving rise to problems of coordination, and conflicts over jurisdiction is currently happening between the NMC and the Frequency Control Board in the allocation of frequencies. Under the current regime of legislation, the National Communications Authority has the responsibility to allocate frequencies for broadcasting. However when any media violates the principles of responsibility, the public tends to blame the NMC for the problems and looks to the NMC for direction. This does not sit well with the NMC which is

saying that it does not know the conditions under which licenses are granted (NMC, 2000).

Secondly, The Commission has virtually no power of enforcement. Consequently, compliance with decisions emanating from the settlement of complaints is largely voluntary and dependent on the goodwill of the parties. There have been problems whenever a party has decided not to comply with decisions of the Commission. Thirdly, the expenses of the commission are charged on the Consolidated Fund; however the monies for service activities and capital items are approved in the budget which are not regularly paid and in some situations drastically reduced. This tends to limit the operations of the Commission as it cannot renew itself institutionally (NMC, 2000)

Fourthly, some of these bodies and institutions are not quick to react to problems and also lack the ability to learn from past mistakes as decision-making techniques remain personal to directors (Ayee, 2000, p. 29). This is because, the governing boards of some of the communications related institutions and bodies, particularly the state-owned media are weak as membership is selected according to political affiliation and not expertise. Generally, and as regards development in the area of communications, there is less analytic description and explanation of causes and consequences of communication policies. This is not characteristic of Ghana alone but most African countries when it is said that the information that is available to policymakers may not be only inadequate but could also be highly unreliable both at the more objective, quantifiable level and at the subjective level of data concerning societal preferences (Saasa, 1985, p. 314).

However it can be said that there has been some modest achievements so far in terms of consolidating the gains that have been made in freeing the sector from the control of the state. And in addition it has become a matter of general knowledge that a change of administration will not affect the work of the mass media.

CONCLUSION

The struggle for political power and to hold on to it has been the basis for the formulation and implementation of communications policies in Ghana since colonial rule. Traces of this tendency are still present in the Fourth Republic but this has been brought under control largely by the 1992 constitution and the vigilance of civil society. With the development of laws and processes governing the sector some

sense of rational thinking has been injected into policy activities in Ghana with the state participating as one of the stakeholders, thereby considerably reducing its monopoly.

Finally, the ubiquitous nature of communications is now being reflected in democratic values which has led to a pluralism of communications channels. The 1992 Constitution has settled many of the basic questions relating to the policy making and implementation on communications, though there are teething problems lingering because of the large number of institutions and bodies involved in arriving at decisions. The future looks bright so long as the stakeholders involved in taking authoritative decisions divest themselves of political affiliations and wear the garb of national and social interest.

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Groping for a new national communication policy in Zambia

By Isaac Phiri

Abstract

The media industry in Zambia operated in an environment where there was no clearly articulated national communication policy from independence in 1964 to 1996 when the first attempt at policy formulation was made. During the "no policy" era of Kenneth Kaunda's 27-year one-party rule, the media was state-run and operated as an arm of the state. It was to the advantage of the government that there was no stated policy to which it could be held accountable. The media danced to the whims of those in power. Media executives were often hired and fired by the head of state at press conferences. The end of one party rule in 1991 stirred some hope that finally a national communication policy would be formulated and implemented. However, it took another six years before such a policy was launched. Although the stated policy direction had some promise, very little of it has been acted upon in the last 14 years. The government concedes that the 1996 policy goals, objectives and strategies have been overtaken by new developments in the state of the media industry and has since gone back to the drawing board to "review" the media policy. Zambia is again groping for a new national communication policy. It is déjà vu.

Key words: Zambia state media, policy formulation, media legislation, media regulation

Introduction:

Immediately British colonial rule ended in 1964, the newly enthroned African government of Kenneth Kaunda and his United National Independence Party (UNIP) began to move toward the nationalization of newspapers and all broadcasting operations in the country. Kasoma, in his history of the press in Zambia (1986) details how the independence government bought out the foreign-owned newspapers. These eventually became the present day *Zambia Daily Mail* (hereafter *Daily Mail)* and *The Times of Zambia* (hereafter *The Times*). The government went on to acquire the privately owned television broadcasting company based in the city of Kitwe, in the Copperbelt Province. This was moved to Lusaka, converted into a

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government broadcasting enterprise and re-named, by a 1966 Act of Parliament, Zambia Broadcasting Services (ZBS). Over the years, this organization has undergone a few name changes and is today known as Zambia National Broadcasting Corporation (ZNBC). More discussion of these media organizations follows later. The purpose for now is to understand why and how the Zambian government entered the media frenzy—a move that continues to haunt the policy formulation process to date.

It is apparent that the young Zambia government in the 1960s was eager and hungry to swallow the media. There was little or no deep and widespread reflection or introspection about the policy implications of these decisions. The driving force behind this direction was three fold. First, there was the understandable post-independence exuberance; it was time to lay claim to media enterprises that until then were foreign-owned, controlled and managed. Second, nationalization was the in-thing in the newly independent African states in the 1960s. The Soviet Union's state ownership of the media was a more appealing model than the Western capitalist idea of promoting free profit-driven broadcasting and newspapering. Finally, at the time Zambia was surrounded by hostile colonial and racist regimes in the south, east and west and by a not-so friendly military regime in what is now the Democratic Republic of Congo. Therefore, without a stated national position Zambia's immediate "policy" was that all major media would be state-owned and controlled. This would serve the interests of Kaunda's one-party regime by promoting national unity (implying no dissenting voices) and advancing national development through bland messages on agriculture, health, education and the like. In what was billed as a "Watershed Speech" in 1975, Kaunda stated his vision for the role of the media. He said:

> Zambian television must apart from disseminating information, express in depth the various cultural aspects of this nation apart from entertain. Radio [sic] to continue disseminating information, providing entertainment and education in all its important aspects. Any pressman or woman who does not see the role of the mass media worker as being what I have just defined should be honorable enough to resign, for if he or she does not, then the [UNIP] Central Committee will help ease him or her out of the job *(Watershed* Speech, June 30-July 3, 1975, p. 35-36, cited in Banda C., 2010 p. 26).

As far as Kaunda was concerned, Zambia's media policy was "what I have just defined"—nothing else. Any media professional who dared challenge this thinking would be "eased" out, though in reality the individual might be "booted" out. This remained more or less Zambia's unwritten policy until the rise of competitive politics in the 1990s.

The Movement for Multiparty Democracy (MMD) led by Frederick Chiluba swept Kaunda and the UNIP out of power and came in with promises to privatize the media. The promises were made with so much fervor that there was a feeling in the media fraternity that a national policy would be introduced that would eliminate state ownership and interference in the media industry (Phiri, 1999). It was not to be. The process soon got entangled in a labyrinth of economic, political, social, professional, academic and legal struggles. The new government made an about-turn on the earlier promises to unload state media enterprises; instead, it soon found itself in a combative relationship with the emerging private media community. In the light of these broken promises, it was difficult to come up with a legitimate national media policy.

This is not to say no attempts were made. The last major attempt at producing a policy statement by the government was in 1996. Although reference is made to the 1996 initiative later in this paper, the final document was such a substantively weak work that it has never been taken seriously as an enduring policy document. Even the government itself rarely makes reference to this report. The result is that, as of this writing, Zambia does not have a current national media policy that anyone can refer to. In the process of developing this research, inquiries were made with the Ministry of Information and Broadcasting Services (MIBS), which is responsible for the national policy formulation. The official response is that a policy document is being "drafted" and will be made public as soon as possible. With presidential and parliamentary elections slated for 2011, it is unlikely that the policy formulation process which includes cabinet approval will be completed any time soon.

Profile of the media industry in Zambia

The print media is dominated by three daily newspapers. These are the state-owned *Daily Mail* and *The Times* and the privately-owned *The Post Newspaper* (here after *The Post*). All three also have weekend editions. Although the three papers squabble over circulation figures, it

is apparent that *The Post* is in the lead and definitely more popular than the government newspapers. The interesting, (some would say sensational) stories, mostly featuring opposition figures have earned the paper a strong following compared to the relatively bland pro-government stories carried by *Daily Mail* and *The Times.* It may be mentioned in passing that it is partly the stinging reporting of the independent press that has contributed the virtual standstill of the policy formation process in the country. It is argued by this author elsewhere that the Zambian government is media phobic (Phiri, 2010).

Besides the three dailies, there are other less known newspapers that appear weekly and monthly or occasionally. Some are donor-funded experimental projects while others are initiated by brave entrepreneurs. Their circulation rates are small if not abysmal and their influence on public policy severely limited. Although public pronouncements by government officials are often spiced with promises to encourage a burgeoning private media industry, the reality is that these small newspapers are often more likely to be designated for the grave yard than for glory. From this brief outline of the state of print media, it is evident that a clear national media policy would greatly enrich the atmosphere in which print media in Zambia operate.

The broadcasting industry in the country more or less parallels the three Windheok classifications: public, commercial and community broadcasting. Public broadcasting is the domain of the government-run ZNBC. This broadcaster operates two television channels and three radio channels. At the time of this writing, there were many unanswered questions about its management. Officially, ZNBC has a board that appoints the top leaders of the organization but in reality, the Minister of Information and Broadcasting has absolute control over ZNBC. Last year, the information minister Rony Shikapashwa dismissed all top directors at ZNBC without consultation. Furthermore, the government is dragging its feet over the implementation of the ZNBC (Amendment) Act passed by parliament in 2002. To date, there is no movement toward the creation of an autonomous board, the core issue of contention. This behavior by the government has lead some scholars of media to question whether ZNBC is a real public broadcaster in the fashion of British Broadcasting Corporation or the South African Broadcasting Corporation or the state instrument it was during Kenneth Kaunda's one-party rule (Banda, 2010).

Commercial broadcasting is understood here to cover television and radio companies that survive by selling advertising. To do this, they

have to develop programming that attracts enough audiences to justify competitive advertizing rates. One such television broadcaster, founded by an independent entrepreneur and has cornered the private commercial market is *Muvi TV. Muvi TV*'s initial market—partly due to the then constraining licensing policies of the state—was Lusaka. *Muvi TV* outplayed ZNBC by introducing local language programs. All dramas, advertisements and even news items were shot in the poor townships of Lusaka and featured characters and stories that resonated with the urban poor. This was in contrast to ZNBC programs which often featured top government officials reading incomprehensible speeches and for entertainment, run outdated SABC dramas shot in Johannesburg. The result is that *Muvi TV* is now a strong competitor with ZNBC to the extent that the government about-turned on its unwritten policies and granted it a license to broadcast nation-wide.

There are other private television broadcasters that are attempting to follow the *Muvi TV* success story. *Mobi TV,* also founded by an entrepreneur, is still in its infancy but exhibits some promise. This broadcaster operates from a residence that was converted into a station, has a weak signal which often disappears and, and for entertainment, often offers reruns of Nigerian movies. However, by mid 2010, *Mobi TV* had began to show more innovativeness, despite apparent limited resources, by featuring on-air advice and counseling by traditional healers and local preachers. Other small television broadcasters are still in the embryonic stages are still awaiting government licensing.

The arena of broadcasting where there is more vibrancy is radio. Low capitalization demands and a more liberal licensing regime—whether by intention or accident, it is not clear—has allowed for commercial radio stations to sprout across the country (Banda, 2006). These radio stations garner audiences by airing popular music and live interviews with people with radical political views. Live call-in programs are also very popular. In Lusaka, for example, Radio Phoenix and Q-FM Radio are so popular that drivers of public buses often tune in to them to entertain their passengers. However, this is not to say it is all rosy for these radio stations. It is not unusual for the state to threaten them with closure when they feature newsmakers expressing divergent views.

Community radio is the latest type of broadcasting model to come into the country, but has turned out to be the most innovative, lively sector of broadcasting in Zambia. These stations are located in small communities across the country and usually broadcast in local

languages using local volunteers. Although they can tap into national and international outlets, their strength is the community connection and local content (Kasoma, 2002). Jere observes that community radio stations play a unique critical role as "an alternative source of information for poor marginalized communities in far-flung areas … Main stream media have been ineffective in serving such areas" (2010, p. 162).

However, again, due to lack of policy clarity, community radios too are often victims of interference by government officials and traditional rulers. Parliamentarians comprising the National Assembly's Committee on Information and Broadcasting Services "observed that most community radios had experienced one form of interference or other from traditional as well as political leadership and that there was no proper definition of the term 'community' by both the Ministry and community radio stations themselves" (Committee on Information, 2009, p.17). Jere provides an apt diagnosis of the reason for this harassment. The leadership "generally perceives community radio as a threat that could undermine its popularity within communities," (2010, p. 162). It is ironic that the Zambian government, which saw community radio as a smart way to avoid the debate over private nation-wide radio broadcasting now finds some of these very same small stations a potential threat to state hegemony. A well-developed policy on community media would help calm their nerves.

There are three other government information organizations that should be mentioned, albeit in passing. Zambia News and Information Services (ZANIS) is the official state news gathering and dissemination agency. It has reporters placed in government offices in all the regions and feeds the media discussed above with news about government events and other development in rural areas. Most news from rural areas that is broadcast on ZNBC Television and ZNBC Radio are wired by ZANIS. *The Times* and *Daily Mail* also rely heavily on content from ZANIS. The other two lesser-known government media operations are the Education Broadcasting Services (EBS) of the Ministry of Education and the National Agriculture Information Services (NAIS) of the Ministry of Agricultures and Co-operatives. While these two agencies produce critical information for the country's development, they often complain that they do not receive much attention from the media and MIBS.

Constraints on media expansion in Zambia

From the above overview of media in Zambia, it becomes clear that the media industry in Zambia, even by African standards, let alone the international market place, is very small. This diminutive state of the newspaper and broadcasting business in the country can be attributed to a variety of factors. One of these is population size. Zambia has a huge land mass but a small national population of about 12 million. In comparison, Nairobi is at five million, Kinshasa about eight million and for Lagos it is projected that the city's population will be beyond 24 million by 2015. Since Zambia's population is, by comparison, tiny, the implication is that the culture industry has to operate in a small market and growth opportunities are severely limited. The three dailies (two state-subsidized) scramble for the small urban readership. Returns are enormously difficult to get. Broadcasters work hard to penetrate each others' audiences and struggle to woo and retain desirable numbers. In these circumstances, it is difficult to justify competitive advertizing rates. Thus the industry has been a grave yard for many an entrepreneur.

Another factor is that of the weak or non-existent buying power among the populace. The dailies in Zambia generally sell at about US$0.75. Most Zambians earn about a dollar a day. The reason for limited sales becomes apparent. Broadcasters, too, struggle with the limited financial capacities of their listeners and viewers. It is difficult to attract large accounts—say distributors of high-end automobiles—when the buying ability of the known audience is severely constrained. The feeble buying power of most Zambians keeps the industry small as revenue generation is limited. To make things worse, operating media businesses in Zambia is expensive because equipment and materials have to be imported and are taxed heavily. Kasoma once pleaded with the government to "give tax and duty rebates on imports of mass communication machinery, spare parts and materials, particularly newsprint." Kasoma was concerned that "mass media products may soon be priced out of reach of the ordinary person thereby making a mockery of the very idea of mass communication" (1990, p. 99). The appeal fell on deaf ears. Participants at a July 22, 2010 MIBS strategy planning workshop attended by this author, newspaper publishers and broadcasters were still appealing to the information ministry to intervene on the taxation issues.

Then there is the whole issue of the repressive media laws that strangle those in the industry and keep the faint hearted far from attempting to establish newspaper or broadcasting enterprises.

The literature on media law in Zambia is patchy. Chanda and Liswaniso have provided a comprehensive and comprehendible handbook of media laws in Zambia (1999). Matibini (2006) has also detailed the media's struggle with the laws in the nation. Berger (2007) has also produced a methodical profile of media law in Zambia. The legal requirements to get registered as a newspaper or licensed as a broadcaster—though slow and tedious, particularly for broadcasting licenses—are not necessarily the most intimidating part of the process. What newspaper publishers and broadcasters are constantly anxious about are defamation claims and contempt of court or parliament issues.

However, the most debilitating component of Zambian media law has to do with national security and public order. The state can at any time invoke the pernicious 40-year-old State Security Act which has its origins in the British Official Secrets Act of 1911. This Act gives the state unbridled powers if and when state security is threatened. In March 1999, state agents rounded up all staff of *The Post* and shut down its operations because the newspaper had published a story in which it was said that Zambia was militarily weaker than Angola. Although this case was later litigated in the courts, its impact on those considering media entrepreneurship is irreversible. It is revealing that the government's 1996 document on the media (discussed at length below) commits to "reviewing laws that impede press freedom and hinder investment in the media industry" (MIBS, 1996, p. 17). Sadly, not much has changed since this statement was published 14 years ago.

Finally, a factor that is hardly examined in most studies of the media in Zambia but is a significant constraint on the industry's growth and expansion is state dominance. The government owns two dailies and has public resources to sustain these newspapers whether they bring in revenue or not. This makes it so hard for other players to enter the business as the market is already flooded with government subsidized newspapers. Zambian media people often look at Kenya with envy because the government there has stayed out of the newspaper business.The scenario in broadcasting is even worse. Not only do new entrepreneurs have to go through excruciating government licensing procedures, once they go on air, they have to compete with the dominant state-subsidized ZNBC. Therefore, the towering presence of

the state in the media circles has contributed to the constricted state of the industry. Nonetheless, despite its comparatively petite size, the media industry continues to strive for survival and to call for a more progressive national communication policy

The 1996 Policy Formulation Initiative
National politics and media policy formulation

Although critics of the Zambian government's media policy formulation processes, including this author (see also Jere, 2010), find the 1996 document wanting in certain areas, it has to be acknowledged that this was the first time that an attempt had been made at creating a policy. It also captures some ideals that should not be overlooked as Zambia gropes for a new communication policy. It is for this reason that the background and contents of the policy statement are given some substantive attention here.

The 1996 initiative was a belated outcome of the 1991 transition to competitive politics with the accompanying promises of liberalization of the media. The new Chiluba government came in with a zealous determination to change things. The hour had come for total transformation of the communications scenario in the country. In the new dispensation, the role of the MIBS was recast. It would no longer simply be a propaganda instrument in the hands of the state. Instead, its new mission would be to "promote and facilitate the growth of a sustainable media industry capable of enhancing free flow of information and freedom of expression for national development." All MIBS official publications, their website and even business cards proclaim this mission statement.

The early drivers of this new direction were the then MIBS minister Dipak Patel and Permanent Secretary Josephine Mapoma. In 1993, during his tenure as information minister, Patel called for the creation of a Media Reform Committee to revisit the role of the media in the country. Consultative workshops, seminars and conferences were organized as part of the policy formulation process. Even after Patel had moved from MIBS, the process continued. It included media training institutions, professional associations, faith-based organizations, political parties, and international organizations operating in the country. This effort over a few years culminated in Zambia's first articulated communication policy document entitled Information and Media Policy. Amussa Mwanamwambwa, who had by

then assumed the position of information minister, was elated. "The task has not been easy but I am happy that it has been accomplished," he stated (MIBS, 1996 p. iv).

The linkage between the political and economic transition and transformation Zambia was going through in the early 1990s and the media policy reform initiatives is visible. In other words the evolution of a national communication policy cannot be divorced from broader developments in the whole society. Effective media policy is nourished by a favorable political, economical and social environment. Many African national leaders are quick to say they favour liberating communication policies. However, in practice, the broader environment does not match the rhetoric.

In Zambia, at least in the first five years after the end of one-party rule, media policy efforts were in sync with broader positive governance initiatives. The document acknowledged that "the need for an information and media policy which sets out a clear vision, goals, objectives and strategies" was "now crucial following the re-introduction of plural politics in Zambia and the inevitable liberalization of the media" (MIBS, 1996, p. 1). There was a recognition by the Chiluba government that the Kaunda-style ad hoc approach to the role media ought to play in the country could not work effectively in the new pluralist environment. Hence the formulation and publication of the country's first policy document.

Information policy

According to this document, the government would have a two-thronged policy—information and media. The chapter that lists and discusses the policy goals, objectives and strategies is divided into two sections: information policy and media policy. The information dimension had to do with how the government would disseminate information about its work to the public and facilitate feedback opportunities from the people. The information goals were ambitious. They included such outcomes as: achieve country-wide coverage by radio and television by 2005, introduce and print local language newspapers in the provinces,channel opinions and suggestions to the government, eradicate voter apathy and promote popular participation and involvement in elections, promote the image of Zambia and its people internationally, promote tourism and investment opportunities in Zambia.

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The objectives were elaborate. The list included:
- to promote and safeguard people's right to information;
- to promote civic education on people's rights, duties and responsibilities in order to enable them to participate fully in the democratic governance of the country;
- to create public awareness of epidemics, disasters, HIV and AIDS and other life threats;
- to create awareness on environment, population and gender issues;
- to address information needs of the most vulnerable groups and persons
- to create a comprehensive human and material resources development programme to strengthen capacity in the information sector.

To achieve the above-listed goals and objectives, twelve strategic actions were to be undertaken. These included such actions as: establishing a country-wide communication support infrastructure by re-enforcing the current radio transmission with additional shortwave and FM transmitters at strategic locations in the country. The idea was to boost the quality of radio reception providing small presses and desktop publishing equipment in rural centers for local language newspapering reviewing laws that impede press freedom and hinder investment in the media collaborating with the elections office and NGOs in disseminating information about civic rights, duties and democratic participation collaborating with other government ministries in the dissemination of information and resources related to literacy, culture, community development, public health, agriculture, education, industrial development and environmental issues.

Media policy
The other thrust of this document had to do with the media—in this case understood as the mainstream newspapers and broadcasters. Two of the four goals, for better or for worse, were time bound. The other two sounded good on paper, but as history has proven, difficult to accomplish. The four goals were:to achieve country-wide coverage by radio and television by the year 2005
 (1)to establish provincial printing presses by the year 2000
       and to promote professionalism in the media;

(2)   to promote press freedom and the right to information

The objectives related to the media were at times too good to be true. Readers of this document years later wonder where and how these great propositions fizzled into the thin air. Some of the objectives were:

a) To create incentives for private investment in the media and
    media support industries;
b) To create an independent broadcasting authority;
c) To facilitate the creation of a self-regulatory professional body
    backed by law
d) To encourage diversity in media ownership;
e) To grant editorial independence to *Daily Mail* and *The Times*
    while maintaining government ownership;
f) To mobilize international resources for media development.

In terms of strategies, there was massive overlap with those related to the information component of the policy outlined earlier. The only two unique strategies had to do with licensing and censorship. There was a policy commitment to "granting radio and television licenses to investors." About censorship, the strategy was to rename and rebrand the Film Censorship Board. It would be renamed the Film and Video Classification Board. It is clear that at the time of the development of this policy position by the Zambian government, the environment within government was still favorable to a policy setting in which state media would play a more pronounced role as an avenue for democratic discourse.

There was some sincere desire—in retrospect, perhaps naivety—that both private and public media would be an open platform for communication that would nurture national political unity and advance economic development. The official position was that the policy set out to address three "needs:" (1) to increase media outreach and access to all, particularly in rural areas, (2) to pursue necessary and relevant legal reforms to enhance the people rights to information, freedom of the press and freedom of expression, (3) to encourage private investment in the media and media support industries (MIBS, 1996, p. viii-ix). But few, if any, of these policy proclamations have been accomplished and many of the goals and objectives are now antiquated.

Short falls of the policy

It was stated earlier that though the 1996 document is celebrated as Zambia's first articulated and published national communication policy, it was still wanting in substance. At least six weak points can be pointed out in the policy document. The first one is that in general the policy elevates the role of the government information and media apparatus while on the other hand there is a latent diminution of the private media. Although the then information minister Mwanamwambwa stated that the "major function" of his ministry "under the new climate of democratic governance is to provide an enabling environment for the development of both government and privately-owned media," reference to private media in the policy is sporadic.

The few times when private media is mentioned, it is mostly in reference to attracting investors. For example, in its "media policy" section, private media are only referred to three times: (1) "create incentives for private investment in the media," (2) "grant radio and television broadcasting licenses to investors," (3) "create incentives for investors in media" (MIBS 1996, p. 18-20). There is no discussion in the document concerning the broader role of private media in Zambian society. No guidance is given on expectations. Issues concerning ownership are not addressed at all. The policy does not tell the potential investor whether non-Zambians are given a different set of guidelines than nationals. More examples could be highlighted but it should suffice to say that the handling of private media in this policy was not well thought out.

Another issue that was not given due attention in the 1996 policy is the whole matter of public interest. Media owners, practitioners, regulators and consumers need to absorb the fact that media—both government and private—should operate in the interest of the public. Media that fail to serve the public interest but are instead entrapped either by the government in power or sell their souls to opposition politicking or lose their ethical compass because of market forces short-change the public they purport to serve. Therefore, a good communication policy should drive this point home. The 1996 initiative did not. One hopes as Zambia gropes for a new policy position, public interest will be brought back to the core where it belongs.

Technology and its impact on communications was hardly addressed. The policy-makers who drafted the document seemed to have been oblivious of the reality that new technologies were changing the way information is gathered and disseminated. The convergence of technologies has broken the divide between print and broadcast media. Information can be gathered and disseminated from one platform to another. The information heard on radio, can alo be seen on TV, on the Internet or by mobile phone. Therefore, to be relevant and current, an information policy must integrate technology. This was not done and it turns out to be a major omission.

The fourth aspect of the culture industries in the country that was left out is public relations (PR). In Zambia there is a tendency to overlook the fact that public relations is a critical part of the media industry. Public relations professionals (mostly trained in journalism and media studies) work with, and sometimes in the media, to accomplish public relations goals of their organizations. They face more or less the same ethical challenges that media practitioners have to deal with. For example, some PR people are sometimes compelled to buy publicity by bribing reporters. The policy should state clearly what the professional and societal expectations of PR people are. It should articulate professionalization standards and call for regulation structures to oversee public relations practices in the country.

Closely related to the above is advertising—the selling of products and services through mass media. The national communication policy Zambia needs is one that calls for and emphasizes the need for truth in advertising. For example, the Zambia Bureau of Standards has brought to the public's attention on many occasions that many electronic goods on sale do not meet the national safety or performance standards. But the same products appear in newspaper, radio and television advertisements. The policy should establish such values as cultural sensitivity, consumer protection and effective self -regulation in the advertising industry.

The film industry is the sixth on the list of policy issues not addressed by the 1996 policy statement. By film in this case is meant the motion pictures captured and stored on cellulose or video tape, disc for mass showing and distribution. There is no argument—the film industry in Zambia is still in its infancy, but it is emerging. Every year a few local films are produced and shown in theatres around the country. Others are shown on different TV channels or distributed on DVD.

What is desirable is a policy that looks at the future of this industry and provides direction and commits to levels of support those who work in this sphere of communication can expect from the government.

Finally, the communication policy in discussion was totally tight-lipped on media and culture. By definition a media policy is largely about cultural products that the populace will access. The tendency is to associate policy issues with politics, economics, legislation and regulation. But creative products offered by the media have cultural implications. Policy guidelines must be given that illuminate the cultural preferences of the nation. While the media should remain free to create content that suits and pleases their audiences and generates revenue they would also benefit from a communication policy that encourages cultural creativity but at the same time draws attention to value preservation.

A new national communication policy

Realizing that its 1996 policy propositions are now out of date and probably embarrassed that practically none of the lofty ideas have been implemented, the MIBS has gone back to the drawing board to produce another national policy document. The deliberations in the news tight offices of the MIBS have not yet been made public. However, some of the major issues the new policy will seek to address are not hard to envisage because they are connected to the omissions of the 1996 policy. One of the issues has to do with the laws that, as noted earlier, continue to repress media freedom. The new policy will most likely call for an amendment to the laws that constrain media practice. To be revisited is the part of the Penal Code which, along with criminalization of "obscene" material, also forbids "seditious" and "false news". A case in point was a news editor at *The Post* who was prosecuted for circulating an image of a woman giving birth outside the national hospital because the nurses and doctors were on strike; the state lost the case.

The creation of independent boards for ZNBC (called for by the 2002 ZNBC Amendment Act) and the Independent Broadcasting Authority (called for by the 2002 IBA Act) will be pursued as part of the policy implementation. MIBS Permanent Secretary Ngosa Chisuba appeared before a parliamentary committee on July 26, 2010 and promised a quick implementation of these Acts (*Daily Mail*, July 27, 2010, p. 2). A draft Freedom of Information Bill (FOB) was pulled out of

Parliament on the last minute in 2002. The official government position was that it could be used in ways that compromise national security.

The story now is that the government is studying how other countries that have enacted freedom of information acts to make sure such access is not abused. The new policy will have to address this matter as the call for greater transparency is on the rise in the whole country and is fueled by civil society organizations (Jere, 2010, p. 163-164). Another major omission in the 1996 policy statement was technology and its impact on the media industry. Nevertheless, the Zambian parliament has brought into law two Acts directly related to information and communication technology. The Electronic Communication and Transaction Act (2009) provides for a secure and effective environment for electronic transactions. It serves consumers, businesses and the government. It is coupled with the Information and Technology Act (2009) which addresses the issues of access and utilization of information and communication technology. It repealed the out-dated 1994 Telecommunications Act and Radio Communications Act. The Communications Authority was renamed the Zambia Information and Communication Technology Authority. The new policy is expected to address communication technology and to use these Acts as a starting point.

An information policy that glosses over cultural issues is severely flawed as media industries create and disseminate culture products. Government ministries that deal with community and cultures—traditional ceremonies, artwork, music and dance, theatre—look forward to a policy that will facilitate and further enrich their output. MIBS has the power to use its media to capture, publicize and store for posterity the culture products from many sources in the country. It also has the influence to encourage independent media to do the same. It is expected that the policy will deliver on culture promotion. Another extremely sensitive issue in relation to media policy in Zambia is gender. Government departments, academic institutions and civil society organizations concerned with gender-related matters point out many areas where the media undermines gender in development. Gender images in the media content tend to carry stereotypical messages about women and men. Information of special value to females is not given adequate space. Women's activities in society are not given enough coverage. Media ownership by women is practically inexistent. A Gender Links study found that women in the media are

paid less and often have lower level jobs (2009). The new policy is widely expected to delve into gender issues substantively.

Finally, one defect of the 1996 policy is that it did not include monitoring and evaluation procedures. There was an assumption that things would work out automatically. This was a gross oversight. Nothing worked. In order for the new policy to produce results, there will be need for continuous monitoring and final evaluation. Ministry officials say the new policy will be designed to last five years. Monitoring will need to be conducted throughout this period and a thorough final evaluation carried out after five years, before a revised or new policy is introduced. This will spare the country from groping for a national communication policy in the dark.

Conclusion: Challenges to policy formulation and implementation

While the government's announcement that it is drafting a new communication policy to replace the moribund 1996 document is welcome, this essay would shortchange media scholars and practitioners in Zambia, Africa and other parts of the world if it concluded without highlighting, albeit briefly, the bottlenecks to media policy formulation in the country. One major challenge to the media policy creation process in Zambia is the interference of partisan political rivalry. While the communication policy is supposed to be is a politically neutral guide for the media industry in the country, the whole idea is often viewed with suspicion by those in opposition to the ruling party. This mistrust is derived from Zambia's media history. No government since independence has been sincere in developing and pursuing a media policy that would lead to greater freedom of expression in the country. Two decades ago, in one of the earliest pieces of scholarship on media policy in Zambia, Kasoma was passionate in driving home the point that "there should be no attempt by the government to force journalists to toe a certain line under the guise of a communication policy." Political power should not become an albatross on the media. "Mass media … should have the freedom to operate; the freedom to choose what to disseminate and how to disseminate it" (1990, p. 100). Despite these appeals, the media policy formulation and implementation in Zambia has continued to be marred by petty politics."Policy-makers and legislators," advises Jere, "should realize the importance of their functions by formulating media policies and laws that represent the public interest rather than parochial interests. In this

way, they stand to benefit even after they have left office" (2010, p. 165). It is doubtful if anyone is listening.

Closely related to the above challenge is basically the lack of political will. Despite the short falls discussed above, the 1996 policy document did contain some positive propositions which if implemented, could have moved the media industry a bit further. But, for all practical purposes, little, if any, was pursued aggressively (Phiri, 1999). It is this lack of political will that sometimes discourages stakeholders from participating enthusiastically in the policy formulation process. After all, such a document will join many others gathering dust in government offices and archives. Again Jere provides insightful commentary:

In spite of the commitments articulated in Zambia's policy framework, and the new media laws and regulations introduced after the collapse of Kaunda's one party rule, the meaningful democratization of Zambia's media landscape has continued to be elusive. Notable, the new laws and regulation have been half heartedly implemented, if at all. This is mostly the result of lack of political will to implement these policies on the part of the ruling elites who wield power, and has been a common feature among all the succeeding governments since independence in 1964 (2010, p.166).

It is easy to place all the blame on those in power, but the media fraternity in Zambia is not an angel in this whole process. It was noted earlier that the media industry in Zambia is relatively small compared to other African states. One would presume that faced with such a scenario, the media organizations would form one national professional association to advance media interests. That is not the case. MIBS has a catalogue of media interest groups to deal with. These include The Press Association of Zambia (PAZA), the Society for Senior Journalists (SSJ), Zambia Union of Journalists (ZUJ), Zambia Media Women Association (ZAMWA) and the recently created Media Liaison Committee (MLC). Other players are the Media Institute of Southern Africa (Zambia Chapter), Media Resource Foundation and the Commonwealth Press Union. This list may not be exhaustive but the point is made: The media in Zambia are weakened by operating as a divided fraternity. This fragmentation allows the government to drive its own agenda which may or may not be good for the media. For example, the government continues to threaten to impose regulations and codes of ethics because the media community is divided over how

a media ethics body should be composed and what powers it should have.

The third challenge with media formulation in Zambia has to do with the levels of professionalization in the industry. Most print journalists and radio and TV broadcasters in the country lack adequate preparation for the profession. This is most serious in community radio stations where limited resources lead to the hiring of amateur people to go on air. Others may have had adequate formal training at government-approved institutions, but most lack substantive professional experience and insight simply because they are youthful entrants in the business. These young and promising people are enthusiastic about their work but when it comes to somewhat more sophisticated processes of media policy formulation where they have to interact with often more experienced government officials, their lack of comparative experience becomes a challenge.

Finally, the media industry in Zambia is not backed by a solid academic community to provide research-grounded reflection on media policy issues. The University of Zambia Department of Mass Communication which offers a Bachelors Degree in Mass Communication and MA degrees in communication for development and mass communication, needs to infuse more scholarly input into the life of the media industry. Limited resources—lecturers, researchers, funding, time, space, materials etc.—are often cited as one reason why UNZA, unlike say universities in other African countries, has not provided the much needed academic leadership in policy formulation. The result is the production of weak and half-baked policy propositions. The good news is that this situation is felt and seen by the Mass Communication Department faculty and efforts are gradually being directed to correct it.

For how long will Zambia continue to grope for a national communication policy? Is it not time this country put together a media policy that would stand the test of time and foster media growth and greater effectiveness? There is consensus in both government circles and in the private media fraternity that this fumbling for policy direction should end. For this to be accomplished, there is need for the government MIBS, the private media, the academic and training institutions and engaged civil society organizations to bring together their ruminations and deliver to Zambia an effervescent national communication policy.

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