

Media Legislation: A Litmus Test for Democracy In South Sudan

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By Beny Gideon Mab

January 19, 2013 - Long overdue media legislation in the Republic of South Sudan has for the first time in eight years seen light of the day in what I may described as a serious policy and legislative developmental process. The completion of Media Authority Bill 2012, Right of Access to Information Bill, 2012 and Broadcasting Corporation Bill, 2012 respectively was a great job well done.

The Bills are already securitised by the line institutions and other relevant stakeholders and in particular private media houses, advocates and civil society organisations. The public hearing organised by the Specialised Committee of Information in the National Legislative Assembly laid a foundation for teamwork and the heated debate shown the importance of media legislation in South Sudan. As a result, the Bills are now before the Honorable August House for deliberation and of course a gesture of goodwill that the beneficiaries are now waiting the birth of media legislation in South Sudan.

The public hearing forum was so important not only for the media legislation but should be adopted a practice in all subsequent legislation because it is the only platform that brought all views and witnessed the legal form and content of the Bill in order to satisfy all users before it is tabled before the National Legislative Assembly for deliberation and would-be enactment into law. If the National Assembly passes these media law quickly, it will mark a cornerstone for young nation in its promise of constitutional governance. However, the action of the government is expected to be within the ambit of the law and above all practice of democratic principles which started with fundamental freedoms. The absence of media legislation may discredit this promise and urge the government to turn over a new leaf

Article 1 (5) of the Transitional Constitution of South Sudan 2011, says "South Sudan is founded on justice, equality, respect for human dignity and advancement of human rights and fundamental freedoms. In other word, such freedoms are mandatory and must be realised by the implementation of Article 24 (1) of the same constitution which states "every citizen shall have the right to the freedom of expression, reception and dissemination of information, publication, and access to the press without prejudice to public order, safety or morals as prescribed by law". And finally, "all levels of government shall guarantee the freedom of the press and other media as shall be regulated by law in a democratic society".

The three Media Bills hanging in the balance are the media laws which are missing in our society. It is very unfortunate that there is legal vacuum on media industry in South Sudan and therefore a serious violation of the constitution and the law. Yet, it is not too bad that we now receive the news of media laws though at late hours. I hope the relevant stakeholders will not regret but rather take courage and urge the National Assembly to pass media laws. This has always been the notion for instance a tailor wears shattered clothes despite being the maker. The line institutions and private media houses despite their rich experiences and expertise knowledge fails since 2005 to date even to pass a single legislation on media, leave alone lack of unifying body to follow up issue of media and journalists concerns.

In a three day hotly debate on the said Bills from 1st November to 3 November 2012 ; the failures clearly came up as a result of conflicting interest over ownership of the law between the government and private media industry. The latter wanted to own and independently run the media industry but the former strongly resisted and wanted to be the regulator. Indeed, we ended up somewhere with comprises from both institutions and the actual referee shall be seen when the law comes into force.

Last but not the least, the protection of freedoms of expression, association and assembly remain very weak due to lack of legal framework and low enforceability of existing national legislation such as Political Parties Act 2011; the Human Right Act 2009 and the Transitional Constitution of South Sudan, 2011 to mention a few. However, the Press freedoms amongst other rights are more specifically fundamental because it is the very right that triggered violations from the government worldwide. It embodies right to information, right of access to existing information, and finally the right to enjoy public broadcasting services, which are covered now under the media Bills, yet to be seen on unknown date.

According to the United Nations Human Rights Council Report on South Sudan in its Twenty-first session dated 29 August, 2012, paragraph 27 of the report, the Council said "that Journalists and human rights defenders in South Sudan face intimidation and arrest in the conduct of their activities. State security forces have been reported to subject journalists to harassment, arbitrary arrest and detention for publishing stories critical of the Government". In reality, the report is not out of blue since there is no smoke without fire. The UN report is supported with some topical examples in South Sudan. The cold blood murder of late Diing Chan Awuol pen-named Isaiah Abraham; the kidnapping of Advocate Ring Bulebuk and Civil Society Activist Deng Athuai Monywaair, all cases in Juba dated 5 December, 2012, 22 December 2012 and 4 July ,2012 respectively confirmed the UN Human right report. It is very sad news and the government of South Sudan at all levels must

clean its face quickly to prove the contrary in the field of human rights and specially allow the press freedom. The said incidences may not be directly known or sponsored by the government as the case may be, but lack of absolute security provision is accountable to the government.

Finally, we are all aware that without media laws in place and strong civil society that advocate for human rights and monitoring of human rights violations, yet there will be no any progress. Many civil society organisations tried their best to do the job but impacted by lack of training, expertise knowledge and resources to contribute to the process of democratisation and the advancement and protection of human rights as enabling component of media industry. Therefore, the Non-governmental organisations be the local, national and international bodies and the Government of South Sudan need to support civil society in order to deliver competent public services without fear or intimidation.

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