




Ending impunity and protecting journalists in Uganda



Keynote Address at the event to mark the international Day to end impunity for
crimes against journalists. Dr. Emily Comfort Maratho

Salutations

- **Hon. Dr. Chris Baryomunsi, Minister of Information, Communications Technology and National Guidance**
- **H.E. Attilio Pacifici, European Union Ambassador to Uganda**
- **Ms. Rosie Agoi, SG, Uganda National Commission for UNESCO**
- **Representative of International Partnerships (DG INTPA) or European External Action Service (EEAS)**
- **Mr, Muthoki Momo, CPJ Nairobi**

I am honored to be invited to speak to this issue of ‘ending impunity and protecting journalists in Uganda on this day to commemorate ending impunity for crimes against journalists’. It is one of the things I am particularly interested in.

But each time I think about these commemorative events, I wonder of what practical value they are. Should we gather every year to talk about these things that rarely seem to change for better?

Still, I want to believe that these events serve very useful purposes - to remind us of our duties and responsibilities to humanity, for equality and justice.

The questions for me are:

- Who is a journalist and why does journalism matter?
- What is impunity and why does it persist?
- How can we end impunity and protect journalists?

I will start by attempting to define who a journalist is, despite much scholarly-industry differences on the subject.

Who is a journalist and why does journalism matter?

Obonyo and Nyamboga (2011), in their book *Journalists and the rule of law*, suggest that professional journalists are those on the payroll of a journal or electronic media house; they report for their paper/radio/television station, or write features or editorials or edit, or shoot news pictures/photographs.

They go on to add that, in media houses where their services are hired, they are known as - reporter, writer, correspondent, special correspondent, feature writer, photo-journalist / photographer, sub-editor, chief sub-editor, process leader, assistant editor, sports editor, political editor, crime editor, courts editor, business editor, provincial news editor/ bureau chief, city editor, deputy news editor, news editor, revise/rewrite editor, senior editor, associate editor, senior associate editor, managing editor, deputy managing editor, editorial director, editor in chief/chief editor.

As such, journalists deal with facts and these facts are expressed in words.

Accuracy, honesty and sensitivity to news are universal assets journalists should possess. It is these assets, that often put them in harm's way, where honesty and truth may not serve some interests of those in power.

This distinction, Obonyo and Nyamboga have argued, is very important in this era of new media where professional journalism and amateur/citizen journalism is often conflated to mean the same thing. With social media, it has become difficult for most people to distinguish between the work of [professional journalists](#) [those who have had training in particular fields and perhaps received certification from duly recognised institutions and work regularly for the scores of newspapers, magazines, journals and house organs, television and radio] and [citizen journalists](#)

[those who pen their articles on own blog or blogs hoisted by others]. For the most part, in the discussion of crimes against journalists, we are referring to professional journalists.

Journalists and journalism are used in broad terms to define activities associated with news making and the people who engage in them. This is where the citizen who engages in news making is considered a [citizen] journalist.

Why, is protecting journalists an important goal?

Journalism matters, because journalists give people information with which to understand the world, and make decisions about their lives. Consider the journalist who reports about a broken bridge ahead that helps a driver takes a different road, averting a possible accident. Whether we treat journalism as a profession, institution or set of practices, the role of the journalist despite changing circumstances remain very important. And we need to protect them.

Yet, journalists and journalism are visibly under threat. We are told (according to the concept note), while killings are the most extreme form of media censorship, journalists are also subjected to countless threats - ranging from kidnapping, torture and other physical attacks to harassment, particularly in the digital sphere. We also know, that threats of violence and attacks against journalists in particular create a climate of fear for media professionals, impeding the free circulation of information, opinions and ideas for all citizens.

What is more disturbing about these issues, is we are told that globally, over 1,200 journalists were killed around the world, with close to 9 out of 10 cases of these killings [remaining judicially unresolved](#). In Uganda, in 2020 alone, that the Human Rights Network for Journalists - Uganda (HRNJU) documented 174 cases of human

rights violations and abuses against journalists and media practitioners. Most of us remember these incidents. Just think about this number, and paint the picture. As is often the case in disturbing situations, women journalists face increased risks as a result of doing their work, even in Uganda.

Years ago, I watched the movie, 'we were soldiers', an account of the Vietnam war and the narrative of the journalists that covered the war. It had the most chilling effect, and made me wonder what the role of journalists should be. Just imagine, that your work space is like a war zone as in the movie alluded to, or that because of the work you do, you could be killed, how would you be productive?

In answering the question of impunity, we are told that the cycle of violence against journalists is often an indicator of the weakening of the rule of law and of the judicial system. One might therefore add, that the reason impunity persists, is a weak judicial system and unstable rule of law. I do think, that a weak judicial system is symptomatic of other problems in a democratic framework - shrinking space for expression, intolerance of dissenting views, and disregard for rule of law.

So what is there to be done in a weak judicial system that cannot sustain a stable rule of law? Are there options for ending impunity and protecting journalists in a country like Uganda? In societies where the most fundamental values are betrayed, is it realistic to expect that ending impunity and protect journalists are possible?

UNESCO has done well to produce incredible resources that are informative and toolkits that would render a keynote address like this of little value. For that reason, I will in offering my thoughts on ending impunity and protecting journalists, focus on the influence of legislation, politics and institutions while drawing on practical works of advocates for justice. I propose:

1. A pursuit and protection of freedom

Most constitutions provide for freedom. Our Chapter four of the 1995 Constitution adequately provides for human rights. Why then do we continue to speak of impunity for crimes against journalists when there are legal frameworks for protection? The answer in part, is our lack of appreciation for freedom. To understand freedom, I look to Angela Merkel's concept of freedom.

It is said of Angela Merkel, that she would have not become Chancellor of Germany, if she had rigidly stuck to one position and had not shown flexibility in adapting to the views of both left and right. For Merkel, '[without freedom there is nothing!](#) Freedom is the joy of achievement, the flourishing of the individual, the celebration of difference, the rejection of mediocrity, personal responsibility'.

It is often clear, that the harassment and other threats against journalists, stem from an absence of or respect for freedom - freedom of expression, freedom of assembly and freedom of the press and other media, despite constitutional guarantees for these. In order to end impunity for crimes against journalists, we need to redefine our concept of freedom and to pursue and protect it with passion. Only then, can we speak of protecting journalists.

So Merkel suggests, freedom is concerned first and foremost, with responsibility, that on the one side stands freedom from something and on the other, freedom to do something, which means, we are always speaking of [someone else's freedom](#). Merkel further notes, that 'the secret for freedom is courage'. Courage, appears to be the missing link in most of our countries, in the demand for freedom and justice, great grounds for breeding impunity. One hopes, that citizens may have the courage to pursue freedom, and the state, the responsibility to protect it.

Without this commitment to freedom, it will not be possible to end impunity or protect journalists.

2. Tempering regulation and positive media/communication policy

My work around media regulation has often made the case for media/communication policy that enables regulation to work for the industry. That means, it cannot be only regulation to minimize harm, as is often the case in security concerns. In essence, we are dealing with an over regulated system, where one might think there is a law for everything. By 2013, I studied media laws, policies and bills in Uganda, including others like the anti-terrorism Act, and ended up analyzing dozens of legal and regulatory frameworks. It was astounding. We should ask ourselves, what really motivates our regulation or laws?

Robert K. Massie in his riveting account of Catherine the Great, an obscure German Princess who became one of the most remarkable, powerful, and captivating women in history, transforming herself into Empress of Russia by sheer determination, tells the story of her unlimited power. Asked about the blind obedience with which her will was fulfilled everywhere, of the eagerness and zeal with which all tried to please her, Catherine the Great had this to say:

In the first place, my orders would not be carried out unless they were the kind of orders which could be carried out. You know with what prudence and circumspection I act in the promulgation of my laws. I examine the circumstances, I take advice, I consult the enlightened part of the people, and in this way I find out what sort of effect my laws will have. And when I am already convinced in advance of good approval, then I issue my orders, and have the pleasure of observing what you call blind obedience. That is

the foundation of unlimited power. But believe me, they will not obey blindly when orders are not adapted to the opinion of the people. (Massie, 2011. Pp 572-3).

The key issues here being, the motivation for the law, the consideration of the impact it might have, and consultation of those it will affect. Ofcourse, Catherine the Great had to deal with domestic rebellion, foreign wars, and the tidal wave of political change and violence brought by the French Revolution. She does however, teach us, that no matter what, our laws should be those that work for the people and reflects their will. That should be relevant to us.

Some of the laws we have cannot protect journalists, except to punish wrong doing or perceived misbahviour. We have for some time, been discussing the need for review of the press and journalists Act, 1995, which for all intents and purposes, has been overtaken by changes in the communication landscape brought by technology. The rapid changes in the industry, requires regulation tempered by reason and media/communication policy that is positive.

3. Strengthening our judicial systems

Unless our judicial system is found on the principles of human dignity and equal justice, it will be futile to talk about ending impunity. I will draw from an observation made by Isreal's Chief Justice in 2003 which is relevant for our discussion today. Chief Justice Aharan Barak explained the compelling need to secure the safety of the state and of its citizens on the one hand, and a proper regard for human dignity and freedom on the other. This is particularly relevant, given the ongoing discussion about the right to bail, because some of the people who may not qualify for bail will be journalists. He had this to say:

It is the fate of a democracy, [that] not all means are acceptable to it...not all methods employed by its enemies are open to it. [Sometimes, a democracy must fight with one hand tied behind its back.](#) None the less, it has the upper hand. Preserving the rule of law and recognition of individual liberties, constitute an important component of a democracy's understanding of security. (Barak, cited by RB Ginsberg, 2016, p.258).

In his view, the use of violence, should not be tolerated in a democratic system. Scenes of journalists dispersed with teargas and brutalized because they have gone to cover 'an enemy of the state', are very disturbing. And those who get involved in such violence can only be prosecuted, in a judicial system that works, where accountability means something. Sadly, stories out of this system in Uganda, tend to perceive and paint a mixed picture of both mediocrity and incompetence, a system that rarely serves justice or at best, delays it. These often render, the laws, even good ones, dysfunctional.

In order to protect journalists, we should be assured of a judicial system where, as Justice Oliver Wendell Homes suggests, a judge would have intellectual honesty about available policy choices, disciplined self-restraint in respecting majority's policy choice, and principled commitment to defense of individual autonomy. We cannot expect, that if this system does not work for politically motivated persecution or women who suffer gender based discrimination or violence, that it will work to protect journalists. The judiciary, should see itself as the protector of the individual against the powers of the state and other interests. A judicial reform, is a critical element of ending impunity at all levels.

4. Taking journalists and journalism seriously

As journalists face threats of different kinds, journalism is faced with existential threats, and questions about its survival. We are confronted with issues around the viability of media, the journalist's platform and tool of trade. Journalism faces a crisis of public trust and credibility. Covid-19 has exacerbated some of its earlier challenges. Barbie Zelizer, in her interesting book, *taking journalism seriously* writes that we should have conversations about concerns of survival of journalism, and advises that there is need to map out ways in which we might take journalism seriously, by seeing its shadows as well as its lights - broadly, creatively, and without prejudice (2004).

This is more so today. If we do not see the value of journalists or appreciate the role they play in a democratic framework, it will not be possible for us to actively seek to protect them. Not even the community or citizens judging journalists for failing the test of credibility, can protect them. Journalists and journalism needs to return to the basics in order to reclaim their space and role in a democracy.

In conclusion, I would like to revisit the UN Charter, which in its preamble declared one of its aims, 'to regain faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations, large and small'. That calls for constantly looking at things differently. We should look at impunity and protection of journalists differently, beyond declarations and legality. Journalists, need to take their role seriously, and actively seek to influence laws and policies that affect them, shine their spotlight in the perceived weak judicial system, exemplify democratic principles and have the courage to ask good questions.

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