

A free and independent media matters: This Media Services Bill is a step backwards

By Aidan Eyakuze

IN 1801, twenty-five years after the United States of America declared independence from Great Britain Thomas Jefferson became the young country's third president. Many newspapers attacked him, and he fought back: "I deplore... the putrid state into which our newspapers have passed," he said, and "nothing can now be believed which is seen in a newspaper."

And yet, Thomas Jefferson was also a firm believer in the importance of a strong, independent media. "Were it left to me to decide whether we should have a government without newspapers or newspapers without a government," he said, "I should not hesitate a moment to prefer the latter."

There is nothing unusual about government leaders disliking the media. It applies all over the world, and at all times. But it needs special wisdom to put such importance on an institution that makes your own job more difficult.

Jefferson's point is that with-

out strong and independent media, there can be no accountability, and without accountability, government stops acting in the interest of the country and its citizens.

In Tanzania, the main law governing newspapers, the 1976 Newspaper Act has been criticised for many years. It gives Ministers the power to close newspapers without notice and without appeal - a power which has been used many times. In 1992, the Nyalali Commission, which led to the adoption of multi-party democracy, concluded that the Act was unconstitutional and should be scrapped in order to give more freedom to the press. The Commission saw what we must all accept: a vibrant media are critical to democracy and, ultimately, development. Media keeps a watch on power, gives citizens the space to air their views, and sustains pressure on people and issues.

The new Media Services Bill, which is being discussed by parliament at the moment, is an opportunity to address these problems and to bring media

law in Tanzania up to date and into line with the country's own constitution, as well as with international law and best practice. Unfortunately, in its current form, the bill contains major weaknesses that would fundamentally undermine the independence of the media. Although the bill has been revised during committee discussions, the changes are minimal and do not address the fundamental issues at stake. Indeed, enacting the bill without transforming it would not just be a missed opportunity, but also a step away from democracy. The bill has four major shortcomings.

First, the bill gives the government powerful means to control individual journalists. Specifically, it introduces a requirement that all journalists must obtain accreditation, through a process managed by a Board that is entirely appointed by a Minister.

International law is clear that it is not legitimate to license journalists or to impose conditions on who may be a journalist. In practice, this can only lead to strong self-censorship

among the media community. The threat of being barred from practicing your profession is a strong incentive to steer clear of critical reporting and asking difficult questions.

Secondly, the bill requires that the print media be licensed, and gives the government full control over the licensing process. This means the most problematic part of the 1976 Newspaper Act will effectively remain in place.

Third, the bill establishes heavy restrictions on media operations, including a requirement that private media broadcast or publish news as directed by the government and limits on the editorial independence of public media.

Fourth, the sections of the bill that deal with defamation and sedition go well beyond what is considered normal in a democracy such as the one we are working hard to build in Tanzania. One clause, for example says that a published statement can be considered defamatory even if it is true. The current bill requires that a statement should be both true and published "for the public benefit". Presumably, government would be the final judge of what qualifies as being "for public benefit." Another defines sedition as including any statement that "raises discontent or disaffection among people". These and other vaguely-worded offences, are wide open to abuse by unhappy government officials. Sedition, defamation and publication of false news are offences that are being abolished in democracies around the world. Unfortunately, this Bill keeps them on the books in Tanzania, undermining our journey to a deeper democracy.

Nobody can claim that the media in Tanzania are perfect. There are problems of balance and impartiality, accuracy, corruption and even outright lies. Although the United States of 1801 and the Tanzania of 2016 are very different, many of Thomas Jefferson's complaints about US newspapers of 200 years ago could describe some aspects of the Tanzanian media.

But Jefferson's reaction was not to introduce licensing and accreditation and a list of vaguely-worded offences. The same must be avoided in Tanzania. A free and independent media are an indispensable part of democratic and accountable government. If passed in anything like its current form, this bill would take away any chance of freedom and independence for the media in Tanzania. It could well lead to "a government without newspapers". And that would be a disaster.

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Tanzanian journalists at work. Photo/File