



INTERNATIONAL COMMISSION OF JURISTS

Commission internationale de juristes - Comisión Internacional de Juristas

" dedicated since 1952 to the primacy, coherence and implementation of international law and principles that advance human rights "

28 August 2003

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Your Excellency,

The International Commission of Jurists (ICJ) consists of jurists who represent all the regions and legal systems in the world working to uphold the rule of law and the legal protection of human rights. The ICJ's Centre for the Independence of Judges and Lawyers (CIJL) is dedicated to promoting the independence of judges and lawyers throughout the world.

We are writing to you regarding the statement issued by the Law Council of Uganda in which this body expressed its intent to enforce Regulation 22 of the Advocates (Professional Conduct) Regulations of 1977. The ICJ/CIJL is concerned that enforcement of this regulation would deny lawyers their fundamental right to freedom of expression and pose unacceptable obstacles to their professional work as legal advocates.

According to the information we have received, the Law Council issued a statement on 23 August ordering all lawyers to refrain from participating in radio talk-shows, making public comments, writing articles, issuing press statements or commenting on legal and constitutional matters. Any exemption from this Regulation would require an express authorisation from the Council, a body that is under the Ministry of Justice.

Freedom of expression is guaranteed by the *International Covenant on Civil and Political Rights* (ICCPR), to which Uganda is a party. Article 19 of the ICCPR recognizes that each individual bears the right to freely express his or her opinions and that only certain restrictions can be imposed on this right. Article 19 of the ICCPR states that

1. *Everyone shall have the right to hold opinions without interference.*

2. *Everyone shall have the right to freedom of expression; this right shall include freedom 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.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

Imposition of a blanket prohibition on lawyers' freedom of expression without invoking, on a case-by-case basis, any of the exceptions provided for in the ICCPR would clearly violate the Covenant.

The *African Charter on Human and Peoples' Rights*, to which Uganda is also a party, also recognises freedom of expression. Article 9.2 states

Every individual shall have the right to express and disseminate his opinions within the law.

Restricting lawyers' freedom of expression is also in contravention of other international standards. In this regard, we would like to draw your attention to the *United Nations Basic Principles on the Role of Lawyers*, which were adopted by the U.N. General Assembly in 1990. The *Principles* establish that Governments must ensure that lawyers can express their opinions without any unwarranted interference. The *Principles* state

23. Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization. In exercising these rights, lawyers shall always conduct themselves in accordance with the law and the recognized standards and ethics of the legal profession.

So that Uganda may remain in compliance with its international obligations, we respectfully request your Government to repeal or desist from applying Regulation 22 of the Advocates (Professional Conduct) Regulations of 1977 or to continue not applying it.

Please receive the assurances of my highest consideration.

Yours sincerely,

Ernst Lueber
Acting Secretary-General

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