



EAVA Artists Limited

KEY LEGISLATION RELATED TO ONLINE FREEDOM OF EXPRESSION IN UGANDA



A hand is visible on the left side of the image, holding a large, solid orange rectangular sign. The sign contains text in yellow and white. The background is a blurred outdoor scene with people in dark clothing and a red garment.

Legislation guiding freedom of expression in uganda

Stigmatization, discrimination, hate speech and attacks on the LGBT persons, happen on a daily. Now we are faced with a pandemic where we are locked into our homes, many community members are spending time online.

Let us not give police a chance to use COVID-19 to attack our community.

We should be aware of the laws that limit freedom of expression in Uganda as LGBT persons we should take care, stay safe, and follow the ministry of health Guidelines.

KEY LEGISLATION RELATED TO ONLINE FREEDOM OF EXPRESSION IN UGANDA

LAW	IMPLICATIONS
<p>Uganda Communications Act</p>	<p>seeks to consolidate and harmonise the regulation of communications and electronic media in Uganda.⁶ The Act sets up the Uganda Communications Commission (UCC) as a regulatory body for all electronic communication systems in Uganda. The law gives UCC several powers, which range from regulating the sector, setting up policy, monitoring of the sector, licensing and enforcing laws relating to the communications sector, fining and punishing those who violate the law. Although the Act provides for establishment of a Communications Tribunal whose role is to be an arbitrator on issues relating to the communications sector, to-date this has not been done.⁷ The lack of a tribunal has also resulted in a situation where the UCC can be a complainant and a judge in cases and this presents a potential for miscarriage of justice.</p> <p>In the last year, UCC used its powers under this Act to issue directives for the blocking of social media and mobile money access during national elections and at the swearing in ceremony of the president. The regulator claimed the blockage was necessary for the security of the country. The blockage was condemned by various human rights organisations as a violation of the right to freedom to expression and other Internet freedoms.</p>

LAW	IMPLICATIONS
<p>The Computer Misuse Act</p>	<p>The Computer Misuse Act, 2011 seeks to provide for safety and security of electronic transactions and information systems and to prevent unlawful access, abuse or misuse of information systems among other things.¹⁰ The Act has a broad definition of a computer, which covers all types of electronic or electromagnetic systems capable of storing or transmitting data. The broad definition of a computer means that any person using an electronic or electromagnetic system has a duty to act within the confines of the Act, failure of which is one of the several offences under the Act</p> <p>Section 25 of the Act calls for the punishment of “offensive communication” where “any person who willfully and repeatedly uses electronic communication to disturb or attempts to disturb the peace, quiet or right of privacy of any person with no purpose of legitimate communication whether or not a conversation ensues commits a misdemeanor and is liable on conviction to a fine not exceeding Uganda Shillings 480,000 (about USD 140) or imprisonment not exceeding one year or both”. This provision is broad and has been abused by authorities to limit freedom of speech by prosecuting individuals deemed to have violated this section. As such, this section has been challenged in the constitutional court for being overly broad and unnecessary and likely to result in abuse of freedom of expression.¹³</p>

LAW	IMPLICATIONS
<p>The Anti-Pornography Act</p>	<p>the Anti-Pomography Act, 2014 prohibits the publication and circulation of pomographic content. Section 2 of the Act defines pomography as “any representation through publication, exhibition, and cinematography, indecent show, information technology or by whatever means of a person engaged in real or stimulated explicit sexual activities or any representation of the sexual parts of a person for primarily sexual excitement.” This definition of pomography has been criticised for being too broad and open to misinterpretation.¹⁴ Section 13 makes it an offence to publish, broadcast, traffic in, procure, import or export pomography. The law is mostly unfavourable to women as section 13 is likely to discourage victims of revenge pomography from reporting cases to authorities in fear of retribution as the victim and perpetrator are equally liable. Moreover, section 17 requires Internet Service Providers (ISPs) not to allow their protocols and systems to be used for publishing pomography.</p> <p>It places an obligation on ISPs to monitor and carry out surveillance on their subscribers for them to be able to identify and remove content considered pomographic. Generally speaking the broad nature of an offence under the Anti-Pomography Act 2014 Act is bound to affect various Internet users who may in one way or the other be in possession of content considered pomographic. For example, whereas in some countries courts have ruled that using the “like” button on social media such as Facebook does not give rise to action in defamation,¹⁵ it is not clear if “liking” a page with pomographic content can be adjudged as publishing pomographic content hence giving rise to criminal liability. It is also not clear how the law will treat cases where a person is found in possession of content considered pomographic which they accessed through social media such as Whatsapp, where he or she had no control on the process of distribution or download of the said content.</p>

LAW	IMPLICATIONS
<p>The Regulation of Interception of Communications Act</p>	<p>The Regulation of Interception of Communications Act, 2010 provides for lawful interception and monitoring of communications in the course of their transmission through a telecommunication, postal or any other related service or system. Section 3 provides for the establishment of a monitoring centre under the oversight of a minister. The Act makes it a crime to unlawfully intercept communication of a person and lawful interception is only permitted by authorised officials upon issue of a warrant by a judge.¹⁹ The act also calls for service providers to technically assist government to intercept communications by installing hardware and software to enable interception of communications at all time or when required.</p>



