

**REIGNING-IN HATE SPEECH: A CRITICAL ANALYSIS OF THE LEGAL  
FRAMEWORK ON FREEDOM OF EXPRESSION IN UGANDA**

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**BKS21B11/069**

**A DISSERTATION SUBMITTED TO THE SCHOOL OF LAW IN PARTIAL FULFILLMENT OF  
THE REQUIREMENTS FOR THE AWARD OF THE DEGREE OF BACHELOR OF LAWS OF  
UGANDA CHRISTIAN UNIVERSITY**

**May, 2025**



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## DECLARATION

I, Sanja Hussein, BKS21B11/069, hereby declare that this research is my original work and has not been to any institution of learning. Any work from other authors has been duly cited and acknowledged in the footnotes and bibliography.

Signature: 

Date: 26/5/2025

APPROVAL

This dissertation has been done under my guidance and supervision as the appointed University supervisor.

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## ABSTRACT

Freedom of expression is an intrinsic right that should be cherished and advocated for. In Uganda, violations of this right have escalated, underscoring the need for increased advocacy to safeguard it. While freedom of speech must be upheld, it should not be misused, as is often the case, resulting in hate speech.

Hate speech is often underrated by the community. Many people have been degraded and demeaned, leading to hostility and division based on tribe, ethnicity, and other factors. There are countless victims of hate speech in Uganda today, largely due to laxity in laws regulating it.

This was highlighted in the 26<sup>th</sup> Human Right Report by the Uganda Human Rights Commission (UHRC), which cited an increase in hate speech, particularly in the central region, due to its high population density as the seat of the capital. While democracy relies on freedom of speech, it must be balanced with measures to prevent harm and promote social cohesion.

## DEDICATION

To my beloved parents and uncle, whose unwavering love, guidance, and support have been the bedrock of my academic journey. Your sacrifices, encouragement, and faith in me have inspired me to pursue my dreams and achieve this milestone. I am forever grateful for the values you've instilled in me and for the unwavering support you've provided throughout my educational endeavors. This dissertation is a testament to your love and dedication, and I dedicate it to you with love and sincere appreciation.

## ACKNOWLEDGEMENT

It's been a long journey with its ups and downs, and I thank the Almighty Allah for protecting and keeping me in good health.

To my mother, Anyango Harriet, father, Ssekubwa Abdul, and uncle, Pr. Okumu David, who have played a pivotal role throughout my academic journey up to law school and shaped me into the person I am today.

Special appreciation goes to my supervisor, Mr. Kisa Daniel, whose guidance and expertise have shaped this dissertation.

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CHAPTER ONE:  
A PRELIMINARY FRAMEWORK ON FREEDOM OF EXPRESSION AND HATE SPEECH IN THE  
REPUBLIC OF UGANDA.

## 1.0 INTRODUCTION OF THE STUDY

Freedom of expression is a core right that enables everyone to express his or her opinion and ideas without fear of obstruction from the government or punishment, encompassing a wide range of expression beyond just word. This means that individuals can speak their minds and share their thoughts without fear of consequences for making the statement.

The freedom to express oneself goes beyond mere speech, encompassing diverse forms of communication like literature, creative works, demonstrations and even personal attire or symbols.

On the other hand, hate speech is a term with diverse definitions. It can be defined as a “Speech that voices hate or promotes violence towards an individual or a group of persons based on something such as race, religion, sex or sexual orientation.”<sup>1</sup>

The freedom to express is enshrined in multiple legal instruments, such as the UDHR and ICCPR at international level, and the ACHPR at the regional level.

Uganda also recognizes freedom of speech and expression under Article 29(1)(a) of the 1995 Constitution of the Republic of Uganda, that guarantees the right to free

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<sup>1</sup> [https://en.m.wikipedia.org/wiki/Hate\\_speech](https://en.m.wikipedia.org/wiki/Hate_speech), visited on 28<sup>th</sup> March, 2025

speech and express to all individuals, covering not just personal expression but also the freedom of the press and various media platforms.<sup>2</sup>

The right is not unlimited as seen under Article 19(3) of the ICCPR stipulating that freedom of expression carries special duties and responsibilities, allowing for restrictions that are provided by law and necessary for protecting others' rights, national security, public order, health, or morals.<sup>3</sup>

The 1995 Constitution of Uganda also imposes limitations on the exercise of rights under specific circumstances. According to Article 43, individual rights may be restricted when they conflict with the rights of others or the broader public interest.

Hate speech involves elements of violence and hatred towards individuals or groups, violating their rights. As such, it falls outside the realm of protected speech. In Uganda, laws like the Computer Misuse Act Cap.96 specifically prohibit such behavior under Section 26, which prohibits hate speech, including online content that creates divisions or promotes hostility against individuals or groups based on tribe, ethnicity, religion, or gender.<sup>4</sup>

This research therefore centered on reigning in hate speech while focusing on ways to protect and uphold freedom of speech in Uganda by analyzing the current legal framework governing both.

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<sup>2</sup> The 1995 Constitution of the Republic of Uganda, (as amended)

<sup>3</sup> The International Covenant on Civil and Political Rights

<sup>4</sup> The Computer Misuse Act Cap.96

## 1.1 BACKGROUND OF THE STUDY

The concept of freedom of speech has its roots in ancient times, with its advocacy potentially dating from the classical antiquity period.<sup>5</sup>

The 1766 Swedish Freedom of the Press Act was a groundbreaking law, championed by classical liberals in parliament and Ostrobothnian priest Anders Cyrenius. In 1776, he argued that freedom of writing is essential for a free society. Without it, informed lawmaking would be impossible, justice would go unchecked, and citizens would be unaware of their rights and responsibilities. This freedom is crucial for education, ethics, and civility, and its absence would lead to societal decline.<sup>6</sup>

Today, freedom of expression is recognized globally and is one of the key indicators used to determine the level of civilization in any society. The right is enshrined in conventions such as ICCPR, UDHR, ACHPR.

In the Ugandan context, freedom of expression has its roots in colonial times, when the British colonial government introduced newspapers that promoted freedom of expression. The first was *Mengo Notes*, launched by the Christian Society, followed by the *Uganda Notes* in 1902. However, the resistance from Africans against colonial rule prompted the British to censor the press through various ordinances, such as the *Newspapers Surety Ordinance*, which required publishers to post a bond before publishing. Another example is the *Press Censorship Ordinance* which allowed the

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<sup>5</sup> Raaflaub, Kurt, Ober, Josiah, Wallace, Robert (2007) *Origins of democracy in ancient Greece*, University of California Press P.65, California.

<sup>6</sup> <https://en.m.wikipedia.org/wiki/freedomofspeech>, visited on 28<sup>th</sup> March, 2025

governor to establish and revoke press censorship at will. These laws infringed upon freedom of speech.

Uganda was declared an independent State by the British in 1962. Freedom of speech was curtailed due to political instabilities that witnessed Military regimes that did not honor freedom of expression and most especially during the reign of President Idi Amin (1971-1979) where the regime did not value and protect freedom of Expression. The regime also censored the press thus further restricting the right.

With the coming of HE Yoweri Museveni in 1986, there was a shift in the framework, marked by the drafting of the 1995 Constitution, which guaranteed human rights through the ratification of conventions such as the UDHR and ICCPR among others.

Freedom of expression has been incorporated under Article 29 of the 1995 Constitution of the Republic of Uganda, which states that every person shall have the right to:

- Freedom of speech and expression, which shall include freedom of press and other media.
- Freedom of thought, conscience and belief which shall include academic freedom in institution of learning.
- Freedom of practice of religion and manifest such practice which shall include the right to belong to and participate in the practice of any religious body or organization in a manner consistent with the constitution.
- Freedom to assemble and demonstrate together with other peacefully and unarmed and to petition and

- Freedom of association which shall include freedom to form and join association or unions, including trade unions and political and other civic organizations.<sup>7</sup>

However, overtime the same government has violated the right through censorship of the press for example the recently concluded by-election of Kawempe held in March 2025 witnessed a lot of violence where numerous journalists who were covering the by-election were beaten by the military. The government has also violated the freedom of expression through suppressing the opposition, who are critical to the government, a case in point is Kakwenza Rukirabasaija who wrote books like Banana Republic, The Savage Avenger that are critical to the government, this led to his arrest and subsequent torture that made him to absconds the country and going to exile in Germany. This has impacted fear into the writers and also the opposition thus violating the freedom of expression.

Hate speech has been decampaigned universally because it incites violence and intolerance. In light of disturbing rise in discriminatory behavior and ideologies globally, including hatred towards foreigners, gender-based hostility, and prejudice against certain religious groups, UN Secretary-General Antonio Guterres introduced the UN Strategy and Plan of Action on Hate Speech.

Hate speech is on the upward trajectory, this can be attributed to the ignorance of the law among the population and other factors.

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<sup>7</sup> The 1995 Constitution of the Republic of Uganda, (as amended)

The enforcement of the laws prohibiting hate speech are also selective, only specific individuals are targeted while others are not brought under the law. This research was motivated by contemporary developments and seeks to identify solutions to existing knowledge gaps.

## 1.2 STATEMENT OF PROBLEM

Hate speech promotes violence that can transform into genocide. The spread of hatred is now escalated by the constant evolution of technology that enables users to free interact on social media handles, thereby threatening the World peace. Despite the enactment of various laws prohibiting hate speech, it's on the rise. This has affected numerous individuals mentally, socially and physically thereby increasing suicidal cases. This is also mainly due to the lack of proper guidelines to combat it. The laws also do not balance the enjoyment of freedom of speech with the protection from harms like spread of hatred.

## 1.3 RESEARCH QUESTIONS

- This research investigated the prevailing legal structure regarding the right to free speech and discriminatory rhetoric in Uganda.
- How Ugandan courts have interpreted and applied laws on freedom of expression and hate speech.
- How social media has strained the regulation of hate speech in Uganda.

#### 1.4 GENERAL OBJECTIVES OF THE STUDY

- The research aimed at analyzing the current legal framework governing freedom of expression and hate speech in Uganda.
- The research examined the importance of freedom of expression in Uganda.
- The research analyzed the effects that come with the use of hate speech in Uganda.
- The research proposed recommendations that can effectively eradicate hate speech in Uganda.
- Differentiated freedom of expression from hate speech.

##### 1.4.1 Specific objectives

- The research assessed the impact of hate speech on the society.
- The study assessed how regulatory bodies such as the Uganda Communications Commission (UCC) have confronted hate speech.
- The research was to pinpoint the shortcomings and discrepancies in Uganda's legislative structure pertaining to liberty of expression and hate speech.
- The research identified reasons why liberty of expression should be cherished and protected in Uganda.

## 1.5 SIGNIFICANCE OF THE STUDY.

The research contributed to existing literature by providing a detailed analysis of liberty of expression and discriminatory rhetoric, thereby clarifying the ongoing debate among human rights activists.

## 1.6 JUSTIFICATION OF THE STUDY.

The research was justified by the increased rate of discriminatory rhetoric especially on online platforms, and the growing youth population that is ignorant of the law and them being the major perpetrator of hate speech justified the research. Therefore, this research can be based on to promote harmony and peace in society through implementing the recommendations herein.

The research was also justified by the few legal literature on hate speech. The research was an addition to the existing literature.

## 1.7 SCOPE OF STUDY

### 1.7.1 Time Scope.

The research covered the period from 1962 to 2025, because during this period Uganda has been an Independent State and it also covers the easily traceable events that were based on to conduct the research.

### 1.7.2 Content scope.

The research examined liberty of speech and discriminatory rhetoric, as well as potential reforms. The scope of the research was defined at the outset and documented prior to data collection, providing a clear understanding of the research's coverage. The scope included the following;

- **Research Objectives:** The scope aligned with the objectives of the research; this was to ensure that the research is focused on addressing the research questions.
- **Research Methodology:** The scope encompassed the research methodology, outlined the approaches to be employed in gathering, analyzing and interpreting information.
- **Date Collection:** The scope defined the sources of data that were used, such as legal documents, case studies, and interviews with relevant stakeholders.
- **Data Analysis:** The scope outlined the techniques that were to be used in analyzing the data, such as statistical analysis, qualitative analysis.
- **Limitations:** The scope identified the potential limitations, such as constraints on accessing certain data or documents, or challenges related to interpreting complex legal frameworks.

### 1.7.3 Geographical Scope

The researcher's concentration was on Uganda.

## 1.8 LITERATURE REVIEW

This Chapter contains various literature sources that discuss freedom of speech, hate speech and related stuff. It critiques the sources that were based on to conduct the research and providing an insight on what the research will contribute as a literature.

Various international instruments provide for freedom of expression, they also discuss the limits that can be put on it. A case in point is the Universal Declaration of Human Right, which under Article 19, provides for freedom of expression. However, the declaration does not define permissible limits on freedom of expression, leaving room for subjective interpretation and potential abuses. This Article has been used to justify hate speech, incitement of violence that has had serious effects on individuals and the society generally. This study tried to throw clarity on the limits of this Article by broadly limiting hate speech while upholding freedom of speech.

The International Covenant on Civil and Political Rights was also utilized, with emphasis on Article 19. This Article allows restrictions on liberty of expression as long as they are provided by the law and are necessary. But the definition of necessary is subjective and open to different interpretations interpretation, potentially allowing governments to suppress legitimate dissent.

The Supreme law of Uganda also provides for liberty of speech. However, its drafter did not clarify whether the right is non-derogable. This argument can be supported by Article 44 of the constitution that prohibits the breach of fundamental human rights such a fair hearing and others, it does not include liberty of speech as a non-derogable. This makes the right to be substantive leading to situations where can be

violated. The constitution also does not explicitly prohibit hate speech thereby leaving loopholes that are exploited to spread hate.

The computer misuse Act, Section 26, safeguards the public against online rhetoric by prohibiting the creation, transmission, or dissemination of content that:

- Insults or belittles individuals or groups based on their identity, ethnicity, religion, or gender
- Fosters discord or division among people or communities
- Incites animosity or hatred towards individuals or groups.<sup>8</sup> This provision is not elaborate in its definition of what amounts to hate speech with its wording such ridicule, degrade or demean. It does not define what acts can ridicule or demean a person. This has led to different interpretation of this provision making sparking off an endless debate making it difficult to understand what is permissible and what is prohibited.

This legislation was successfully contested in the case of Karamagi & Anor v Attorney General,<sup>9</sup> where its section was declared unconstitutional. In this legal petition court ruled that the section that criminalized the use of electronic communication to harass or distort someone's peace or privacy without a justified reason to be inconsistent with the foundational law of Uganda.<sup>10</sup>

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<sup>8</sup> Supra Note.4

<sup>9</sup> Constitution petition No.5 of 2016, <https://cepiluganda.org/cepil-case-summaries/andrew-karamagi-and-robert-shaka-versus-attorney-general-constitutional-petition-no-5-of-2016/>, visited on 20<sup>th</sup> April, 2025.

<sup>10</sup> Ibid.

Access to information Act. As already noted, freedom of speech encompasses various forms of expression, as written words, thoughts and others. In order to elevate free expression, it's essential to first safeguard access to information. Section 4 of this Act aims to achieve this by providing for access to information. According to the Act, citizens are free to obtain data, documents, and files held by the government or government agencies, subject to certain exceptions, such as when disclosure would compromise national security, state sovereignty, or individual privacy.<sup>11</sup> However, the Act provides for exemptions to access of information. This can be particularly problematic in cases where the government seeks to suppress information that is critical to its actions or policies.

Amnesty International's Article on Freedom of speech notes that everyone's opinion counts, it is an inherent privilege to express thoughts and to advocate for positive change. It is not a crime to hold a controversial opinion from those in authority and also to peacefully demonstrate opinions.<sup>12</sup> Some of its key recommendations include:

- An expeditious release of global prisoners of conscience
- Repeal of laws that criminalize peaceful speech and protest
- Review of legislation on hate speech.<sup>13</sup> This Article emphasizes the protection of the liberty of expression. However, it does not highlight on how we can safeguard the right while eradicating inflammatory remarks.

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<sup>11</sup> The Access to information Act Cap.95

<sup>12</sup> <https://www.amnesty.org/en/what-we-do/freedom-of-expression/>, visited on 21<sup>st</sup> April, 2025.

<sup>13</sup> Ibid.

Ronald Dworkin's "Freedom's Law" argues that liberty of expression should protect unpopular and provocative speech, even if it's offensive to some. He further recognizes that hate speech can cause harm, but argues that restricting it can lead to greater harm to free speech and democratic values<sup>14</sup>, Ronald Dworkin's protection of free speech goes too far and does not recognize the devastating effects that can be caused by incendiary comments.

The Guide on Article 10 of the European Convention on Human Rights. This guide was published by the ECHR a human rights court based in Strasbourg. It provides an authoritative interpretation the liberty of expression. Some of its recommendations include that any restrictions on liberty of expression should be clearly defined and justified, and that laws restricting open expression should be clear, precise and accessible.<sup>15</sup> However, it provides a clear explanation of discriminatory rhetoric.

Dr. Kakooza M in his book "Revisiting the Media Freedom Debate at Uganda's Independence Golden Jubilee" proposes a national discussion to revitalize media sovereignty, promoting open expression through a shared set of values emphasizing that the initiative would bring together diverse stakeholders to foster a collaborative approach that rejects authoritarianism and promote mutual understanding. He further stated that, by harnessing the potential of digital platforms, the partnership seeks empower both the media and the Ugandan diaspora to reimagine governance structures and develop localized solutions for socio-economic growth informed by

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<sup>14</sup> Dworkin R (1996) Freedom's Law: The Moral Reading of The American Constitution. Harvard University Press, Cambridge, Massachusetts, USA.

<sup>15</sup> European Court of Human Rights (2021), Guide on Article 10 of the European Convention on Human Rights, European Court of Human Rights, Strasbourg, France.

international expertise.<sup>16</sup> With this proposal, the author does not recognize that the government has the upper hand and for the national debate to be fruitful, the government should hold the same objectives which is not the case and cannot be guaranteed. The author does not also recognize that majority of the media houses in Uganda are private owned whose owners are affiliated to the government and are in support of media control. In my view holding a national debate as an initiative to rejuvenate media independence and freedom of expression won't be of great value to the cause if the media houses and the government are not on the same page, holding the same objectives toward the cause as per the suggestion of Dr. Kakooza M in his book.

Rukundo S in his Article *My President is a pair of buttocks*. The limits of online freedom of expression in Uganda.<sup>17</sup> Stated that a citizen should make remarks like those of Dr Nyanzi who called the president a pair of buttocks and also calling the First lady a pig and still be able to walk freely without any repercussions. In my view, the author ignores the impact of such remarks from a prominent figure like Dr. Stella Nyanzi.

In Conclusion, the above pointed out literature provides knowledge open expression together with its cons like discriminatory rhetoric, inflammatory remarks, and incendiary comments. However, they do not discuss the topic exhaustively thus

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<sup>16</sup> Dr. Kakooza M (2018) *Revisiting the Media Freedom Debate at Uganda's Independence golden jubilee*, Konrad Adenauer-Stiftung, Kampala, Uganda, <https://www.kas.de/en/web/uganda/reality-check/detail/-/content/revisiting-themedia-freedom-debate-at-uganda-s-independence>, visited on 21<sup>st</sup> April, 2025

<sup>17</sup> Rukundo S (2018) *My president is a pair of buttocks': the limits of online freedom of expression in Uganda*, Oxford University Press, England, <https://academic.oup.com/ijlit/article-abstract/26/3/252/5056124>, visited on 21<sup>st</sup> April, 2025.

leaving out room of debate. This research will try to identify the gap and give recommendations that can address the gap. The literature review will also contribute to the framing of the research questions, objectives and giving a basis to the research. Therefore, the literature review will be essential in the coming up of comprehensive research that can be used for further reference and also to address some of the gaps that are in the field.

### 1.9 CHAPTER SYNOPSIS

Chapter One introduced the research, discussing the history of open speech in Uganda, objectives of the research, reviewed the existing literature.

Chapter Two talked about the methodology.

Chapter three was about the conceptual and legal framework on liberty of expression with an emphasis on hate speech in Uganda.

Chapter four discussed how Ugandan courts have interpreted and applied laws on freedom of expression and also hate speech.

Chapter five discussed how social media has strained the fight against hate speech in Uganda.

Chapter six discussed the findings, recommendations and conclusion.

### 1.10 LIMITATIONS

These are the constraints or challenges that impacted the research process and the interpretation of the results. These limitations are important to acknowledge as they help to contextualize the finding and conclusions of the study.

Some of the limitations that the researcher encountered are;

- The study faced challenges in accessing relevant information, particularly from government sources and regulatory bodies like Uganda Communications Commission (UCC)
- The study faced challenges in discussing hate speech together with freedom of speech because both areas are broad and wide.
- Language barrier particularly when conducting interviews who might not know English and local language known to the researcher.

## CHAPTER TWO: RESEARCH METHODOLOGY

### 2.0 METHODOLOGY

This chapter looks at how data was collected from different areas and how the collected data was analyzed, how the research was designed and also limitations that were encountered during the study.

#### 2.1 RESEARCH DESIGN

Given the study's critical nature and sensitive subject matter, a two in one method was adopted to ensure comprehensive insights. This method integrates both qualitative and quantitative methods within a single investigation or inquiry.

##### 2.1.1 Qualitative method

Qualitative research method refers to a method that is associated with social paradigm which emphasizes a socially constructed nature of reality. It's about exploring, recording, analyzing and attempting to uncover deeper knowledge as it provides explanation for certain situations which helped uncovering the right measures and possible solutions for a problem. This method unleashed the unknown information that were key to the study in general.

##### 2.1.2 Quantitative method

Quantitative method refers to a sampling technique that can be defined and assigned numerical values. With this, the researcher concentrates on a smaller number of variables to describe current conditions. Therefore, this method enabled the

researcher gather information from all persons' even those that wouldn't want to be subjectively involved without delving into personal explanation.

## 2.2 DATA COLLECTION

That will be collected through sampling. This will be done through collecting data from the identified sources like academic papers, articles and books. The tool that would be used are pens, books, phones to collect the data.

## 2.3 DATA ANALYSIS

Quantitative data was analyzed manually to establish patterns of occurrences and to identify trends of real and emerging threats to freedom of speech.

Document review was used in the study. Through this, the researcher conducted an analysis of primary and secondary matter relevant to the subject including studying legislations, textbooks, reports, newspapers and journals that were interfaced during the research.

Internet sources. The researcher used internet sources in order to achieve detailed research about the violation of freedom of speech in Uganda.

Data analysis focused on identifying and prioritizing information most pertinent to the research topic, questions, and objectives.

## 2.4 JUSTIFICATION

Qualitative method provided a rich, detailed and nuanced data, offering a deeper understanding of the complex issues in the area of study while quantitative method

enabled statistical analysis, facilitating the identification of patterns, trends, and correlations.

CHAPTER THREE:  
THE CONCEPTUAL AND LEGAL SYSTEM ON LIBERTY OF EXPRESSION AND  
DISCRIMINATORY RHETORIC IN UGANDA.

3.0 Introduction.

Liberty of expression is a widely recognized and globally advocated core privilege. is across the entire globe. Open speech is the cornerstone of a democratic society, empowering people to freely air out their views without fear of punishment after making the speech. The essence of this notion is that people's views contribute to the enactment of good laws that suit the dynamics of the society. Further any restriction on the right must be lawful because illegal restrictions would cause a dark spot on the politics of our country that cannot be erased. However, there is a lot of its misuse by people and often this result into hate speech. Hate speech is so underrated by the public. Numerous people have been degraded, demeaned to the extent of creating hostility and division among people based on tribe, ethnicity and others. The worst part of it is that most of the affected persons do not get justice and the people who spearhead hatred are not remorseful. This has led to an endless cycle of hate speech.

This chapter will deal with the non-legal aspects surrounding freedom of expression, will also evaluate the legal system on liberty of expression together with discriminatory rhetoric in Uganda.

## CURRENT FACTS ON PUBLIC DISCOURSE IN UGANDA.

The violation of expression rights in Uganda has escalated over the years due to censorship of the press, prosecution of the people who are critical to the government and also intimidation that instills fear into the people to express themselves.

Uganda's Global Expression Report in 2023 was at 23. Uganda hit its lowest point with this score, the country's expressive rights and openness have been on a steady decline.<sup>18</sup> This indicates a decrease of 20 points over the 23 years, thus indicating an increase in the violation of the freedom of speech.

The violations are done through suppression of the opposition by the government by abduction and torture of government critics a case in point is Kakwenza Rukirabasaija who wrote books like Banana Republic, The Savage Avenger that were critical to the government, this led to his abduction and torture. This forced him to flee into exile.

Brutality on journalists is another act that is done by the government that violates expressive rights. The 2017 Press Freedom index report revealed a decline in the press freedom in Uganda ranking it in the 112<sup>th</sup> place out of the 180. The decline was attributed to the increased intimidation and violence against journalists, particularly during the 2016 General elections. The report documented various violations including the incarcerations, aggression, restricted access to news location and vandalism of journalists' equipments. This was also evident in the recently concluded by-election of Kawempe North following the death of their member of parliament the late Hon. Muhammed Ssegirinya that was held in march 2025, the Parliament Watch stating that

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<sup>18</sup> <https://www.statista.com/statistics/1402819/freedom-of-expression-score-in-uganda/>, visited on 24<sup>th</sup> April, 2025

“many journalists were brutalized and their equipments were damaged in the process in a way of preventing the coverage of the by-election. This raised a lot of concern forcing the Uganda Peoples’ Defense Forces (UPDF) to apologize after repeated denial and blame-shifting, the apology was delivered by the deputy Chief of Defense Forces, Lt. Gen. Samuel Okiding, while appearing before parliament’s defense and internal affairs committee on March 27, 2025. He described the incidents as operational mistakes caused by individuals who failed to control their emotions when provoked.<sup>19</sup>”

But this is clearly media repression.

**FACTORS CONTRIBUTING TO UGANDA’S GROWING RESTRICTIONS ON PUBLIC DISCOURSE.**  
Security forces.

These include the police, Uganda Peoples’ Defence Forces (UPDF), The RSF 2017 World Press Freedom Index attributed the rise of brutality on the journalists in Uganda on the police as the primary source of harassment and attacks on journalists, with arrests, detention and physical assault being the most common forms of violations.

The violations by security forces were witnessed on February 17, 2021, when an incident occurred involving security forces and journalists covering National Unity Platform president’s petition to the UN. Journalists, including Murungi, were

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<sup>19</sup> <https://parliamentwatch.ug/news-amp-updates/updf-admits-wrongdoing-in-kawempe-by-election-crackdown/>, visited on 3<sup>rd</sup> May, 2025

assaulted by the military to prevent them from broadcasting the event.<sup>20</sup> This act is a clear example of media control.

Uganda's governance narrative.

Uganda's tumultuous governance legacy has contributed to the surge in suppressed voices. The country is known for not upholding the rule of law throughout its entire history, its known for not honoring the Constitution, replacing it without following the correct procedure. A pivotal moment in Uganda's history unfolded in a year 1966, when the then Prime Minister, surrounded by troops in parliament, abruptly introduced a new constitution, which was hastily approved without deliberation.<sup>21</sup>

According to Bernard Tabaire, Uganda's governments have long employed legal tactics to stifle media freedom, leveraging charges like sedition, criminal libel, and false news since the 1960s. He further highlights that despite Museveni's regime appearing relatively liberal compared to the past regimes, it has persistently targeted independent media using intimidation tactics to enforce self-censorship. Examples include:

- Restricting government advertisement in critical papers

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<sup>20</sup> <https://globalfreedomofexpression.columbia.edu/cases/the-uganda-journalists-association-v-attorney-general/#:-:text=case%20Summary%20%20Outcome,severe%20physical%20and%20psychological%20harm>, visited on 3<sup>rd</sup> May, 2025

<sup>21</sup> [https://www.uganda-embassy.jp/Uganda\\_politics.html#:-:text=in%20Obote%20abolished%20all,a%20one%20party%20state/.&text=it%20was%20against%this%20background,Obote%20on%2025th%20january%201971](https://www.uganda-embassy.jp/Uganda_politics.html#:-:text=in%20Obote%20abolished%20all,a%20one%20party%20state/.&text=it%20was%20against%this%20background,Obote%20on%2025th%20january%201971), visited on 4<sup>th</sup> May, 2025

- Denying revenue to critical newspapers.<sup>22</sup>

These actions of suppression and not upholding laws are embedded in the political governance of our country since the attainment of our independence and have transcended throughout all regimes. This has created an atmosphere that any violation of the right is seen as a normal thing causing a recurring cycle of events that violated the freedom of speech that the violators cannot be brought to account.

#### PREVALENCE OF DIVISIVE RHETORIC IN UGANDA.

Hate speech in Uganda is on the rise as per The Uganda Human Rights Commission (UHRC), in its 26<sup>th</sup> Human Rights Report, the commission raised concerns about the increase of hate speech in Uganda, citing the central region as the epicenter of hate speech in Uganda. Noting that the recent advances in information technology, online communication, and mass media have massively changed the pace and reach of its spread. The commission Chairperson Mariam Wangadya asserted that the central region being the most populous region and a home to the capital city witnessed a significant amount of political and social discourse, therefore has more prevalence of hate speech.

This has created an atmosphere that is clouded with hostility, division as one of the effects that come with hate speech are violence. This is a time bomb that must be

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<sup>22</sup> Tabaire B (2007) The Press and political Repression in Uganda: Back to the Future? *Journal of Eastern African studies*, 1:2, 193-211, <https://www.tandfonline.com/doi/pdf/10.1080/17531050701452408>, visited on 20<sup>th</sup> May, 2025

apprehended because Uganda as a country is on the verge of genocide like that of Rwanda.

#### THE PERPETRATORS OF DIVISIVE RHETORIC

These include the state and non-state actors who spread discrimination, hate messages. They include the following:

##### Social Media Personalities.

Social media has become the leading platform in the escalation of hostile narratives, this is driven by the desire to gain fame, likes and views without considering the gravity of their statements and the impact it will have on the targeted individuals and groups.

A recent case of using social media to spread hate is that of Mugisha Kempaka, a popular Tiktoker from western Uganda who was arrested following the release of a video on his Tiktok page filled with sectarian talk, demeaning the Buganda tribe. He also urged President Museveni to take over the kingdom and be addressed as their kabaka. The video sparked widespread outrage and concern among members of the public, prompting the police to swing into action.<sup>23</sup> Per the trumpet news.

In 2024, a 21-year-old Tiktoker Emmanuel Nabugodi was convicted of using Tiktok account rice027 against president Museveni.

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<sup>23</sup> <https://www.google.com/amp/trumpetnews.co.ug/2025/04/24/tiktoker-from-western-Uganda-arrested-over-hate-speech-against-baganda-tribe/amp/>, visited on 26<sup>th</sup> April, 2025

Political activists.

These also often use degrading or demeaning language to pass on their agenda.

Political activists have a lot of influence on the population and using hate speech has escalated it among the population as masses want to emulate their role models.

According to the Daily Monitor article, in 2017, the education minister informed the parliamentary education committee that the government was retracting its promise to provide free sanitary pads to schoolgirls.<sup>24</sup> Rukundo Solomon wrote. He further stated that Dr. Stella Nyanzi subsequently reacted to the minister's statement with a scathing critique, employing vivid and unflattering metaphors.<sup>25</sup> These words are so degrading to a lady with the befitting status of a minister and the first lady of a country. Dr. Stella Nyanzi, would have made her point without using words that are so degrading. This has also influenced citizens in a way that they use such words when having political debates. This has escalated violence and division among the population.

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<sup>24</sup> <https://www.monitor.co.ug/uganda/news/national/no-money-for-sanitary-pads-gov-t-tells-parliament-1688188>, visited on 28<sup>th</sup> April, 2025

<sup>25</sup> Rukundo S (2018) My President is a pair of buttocks: The Limits of online freedom of expression in Uganda, Oxford University Press, England, [https://www.researchgate.net/publication/327932019\\_My\\_President\\_is\\_a\\_Pair\\_of\\_Buttocks'\\_The\\_limits\\_of\\_online\\_freedom\\_of\\_expression\\_in\\_Uganda](https://www.researchgate.net/publication/327932019_My_President_is_a_Pair_of_Buttocks'_The_limits_of_online_freedom_of_expression_in_Uganda), 28<sup>th</sup> April, 2025

## THE EFFICACY OF UGANDA'S LEGAL FRAMEWORK IN SAFEGUARDING FREE EXPRESSION WHILE CURBING HARMFUL SPEECH.

Preserving the right to express oneself stems from international conventions to regional and finally at the national level. Uganda has committed to various global conventions.

This part will examine the effectiveness of these legal provision.

### INTERNATIONAL INSTRUMENTS.

Universal Declaration of Human Rights (UDHR).

UDHR was adopted as a declaration, not a treaty that requires ratification by individual nations.

Article 19 of the UDHR upholds the liberty of thought and communication, affirming that all individuals possess the right to:

- Hold views without external pressure
- Access, receive, and disseminate information and ideas.<sup>26</sup>

The Declaration clearly indicates that freedom of speech should be upheld. However, it does not provide for the limits on the rights, it does not specifically prohibit hate speech or incitement of hatred.

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<sup>26</sup> Universal Declaration of Human Rights, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>, last accessed on 5<sup>th</sup> May,2025

## International Covenant on Civil and Political Rights (ICCPR)

Uganda acceded to the ICCPR in June 21, 1995.<sup>27</sup>

Article 19 of ICCPR affirms:

- The right to harbor opinions without external constraint.
- The freedom to express oneself, encompassing the liberty to pursue information and ideas, receive diverse perspectives, and to convey thoughts through various channels (spoken, written, artistic, or other media).<sup>28</sup>
- These first two paragraphs of Article 19 clearly mandate to people to express their opinions in all forms. However, the article under paragraph 3 it puts limits on the right stating that the privileges given under clause 2 entail specific obligations and accountability. Consequently, certain limitations may apply, but only if they are prescribed by law and essential for safeguarding others' rights and public order.<sup>29</sup>

This Article recognizes the essence of freedom of expression and also the cons that come with the right such as hate speech. The covenant further prohibits hate speech under Article 20(2) that states that “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be

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<sup>27</sup> Human Rights Watch (1999) Hostile to democracy: The Movement System and Political Repression I Uganda, Human Rights Watch, USA, <https://www.hrw.org>, last accessed on 5<sup>th</sup> May

<sup>28</sup> <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>, visited on 5<sup>th</sup> May, 2025

<sup>29</sup> *ibid*

prohibited by law.<sup>30</sup> Therefore, the ICCPR tries to draw a balance of enjoying freedom of speech and also restricting it not to result into hate speech.

#### Convention on the Rights of the Child (CRC)

Uganda assented to CRC in 1990.

Article 13 of CRC, guarantees children's right to express themselves freely in various forms like orally, in writing, artistic among others<sup>31</sup>. However, it does not explicitly prohibit discriminatory rhetoric among children. This has left a gap that is exploited leading to inflammatory remarks and incendiary comments among minors.

#### Convention on the Rights of Persons with Disabilities (CRPD)

Uganda assented this convention on 25<sup>th</sup> September, 2008.<sup>32</sup> Article 21 of this convention mandates that State Parties implement suitable measures to enable persons with disabilities to enjoy open expression through their preferred communication methods.<sup>33</sup> Though under its Article 5, it emphasizes parity and fair treatment, yet doesn't explicitly ban hostile rhetoric or incendiary discourse.

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<sup>30</sup> ibid

<sup>31</sup> Convention on the Rights of the Child, <https://www.ohchr.org/en/instruments.mechanisms/instruments/convention-right-child>, visited on 5<sup>th</sup> May, 2025

<sup>32</sup> [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CRPD](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CRPD), visited on 5<sup>th</sup> May, 2025

<sup>33</sup> Convention on the Rights of Persons with Disabilities

## International Convention on the Elimination of All Forms of Racial Discrimination (CERD)

Uganda became a member to the CERD in 1980<sup>34</sup>.

Article 4(a) of this convention requires States to:

- Criminalize dissemination of ideas promoting racial supremacy or hatred
- Penalize incitement to racial discrimination and violence
- Prohibit support for racist activities including funding.<sup>35</sup>

This Article helps set international standards that state parties must follow in curbing down hatred though its emphasis is more on racial discrimination ignoring other forms of hate speeches.

The international Criminal Court's Rome Statute.

In June 2002, Uganda ratified the Rome Statute in 2004.

Article 25 of the Statute holds individuals accountable for directly and publicly urging others to commit genocide. This provision bars incitement of hatred to others in order to commit genocide thus putting a limit on the spread of hate speech. However, it covers only a speech that is in respect to genocide leaving out other forms of hate speeches that might not necessarily result into genocide like those directed towards an individual to demean or degrade him or her.

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<sup>34</sup> [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CERD](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CERD), visited on 5<sup>th</sup> May, 2025

<sup>35</sup>International Convention on the Elimination of All Forms of Racial Discrimination, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial>, visited on 5<sup>th</sup> May, 2025

## REGIONAL INSTRUMENTS.

African Charter on Human and People's Rights (ACHPR).

Under its article 9, safeguards the freedom to acquire knowledge, liberty to articulate and disseminate views, within statutory limits.<sup>36</sup>

However, it does not explicitly prohibit discriminatory rhetoric. This implies that the Charter lack clarity in balancing self-expression with inflammatory remark regulation.

## DOMESTIC LAWS.

The Constitution of the Republic of Uganda, 1995

Under the National Directive Principles of State Policy, all government institutions and Ugandan Citizens shall strive for fostering national cohesion, harmony, and stability.

Article 29 of the Constitution guarantees:

- Liberty of expression
- Autonomy of thought, conscience, and belief .....<sup>37</sup>

The Constitution clearly protects freedom of expression though it puts some limits on it under Article 43 of the same, where it compromises the rights of others or societal welfare.

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<sup>36</sup> <https://achpr.au.int/en/node/641>, visited on 5<sup>th</sup> May, 2025

<sup>37</sup> The 1995 Constitution of the Republic of Uganda

The Constitution contains various provisions on equality and other rights, it does not explicitly mention hate speech in a single Article thus not fully combat hate speech in the country.

The Penal Code Act Cap.128

Section 79 prohibits instigation of violence, stipulating that anyone who provokes another to commit violent acts against an individual based on their geographical origin, political views, skin tone commits an offence.<sup>38</sup>

Section 47 Criminalizes unlawful publication or dissemination of statements promoting violence or harm against individuals or groups.<sup>39</sup>

Section 38(1) deals with promoting sectarianism, banning the circulation of divisive sentiments.<sup>40</sup>

The law aims to curb divisive sentiments, but prosecution is subject to a six-month statute of limitations, with exceptions for offenders in the diaspora or those who flee and later return<sup>41</sup>.

The Computer Misuse Act Cap.96.

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<sup>38</sup> The Penal Code Act Cap.128, <https://ulii.org/akn/ug/act/ord/195012/eng@2023-12-31>, last accessed on 5<sup>th</sup> May, 2025

<sup>39</sup> *ibid*

<sup>40</sup> *ibid*

<sup>41</sup> *ibid*

Online Hate speech is provided for under Section 26, prohibiting content that disparages or humiliates individuals or groups based on tribe, ethnicity, religion, or gender, with penalties including fines and imprisonment.<sup>42</sup>”

This law regulates online hate speech; however, the punishments are less as offenders can pay 15 million shilling as fine, which may be affordable for wealthy individuals. Therefore, this law can only regulate the poor cause the rich can afford this fine, thus not effectively regulating online hate speech.

The Access to Information Act Cap. 95

This Act promotes transparency by granting citizens the right to access records held by the government, subject to exceptions where disclosure would compromise national security.<sup>43</sup>

This Act does not put in consideration the use of the information accessed in the circulation of discriminatory rhetoric because one doesn't have to state a reason before he or she is given the document desired.

The Anti-Terrorism Act.

This Act prohibits acts of terrorism, including incitement to terrorism. This help stop speeches that may result into terrorism. However, it those not cover other forms of discriminatory rhetoric such as inflammatory comments.

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<sup>42</sup> Supra Note.4

<sup>43</sup> The Access to Information Act Cap.95

## CONCLUSION

Uganda's complex political history has contributed to the erosion of open speech and the proliferation of discriminatory rhetoric. The legal provisions also have loopholes thereby making it hard to fully eradicate harmful speech.

## CHAPTER FOUR:

### JUDICIAL INTERPRETATION OF LAWS ON FREEDOM OF SPEECH AND HATE SPEECH

#### 4.0 INTRODUCTION.

Human rights enforcement can be done through petition to courts of law. Court proceeding on human rights enforcement may be instituted on behalf of another.

Courts have jurisdiction to entertain human rights petitions and also enforce laws that prohibit hate speech in Uganda.

Therefore, this chapter will therefore look at how Ugandan courts have applied and interpreted the laws on liberty of expression and discriminatory rhetoric, discussing notable court cases, challenges and other related factors.

#### COURTS VIEW ON FREEDOM OF SPEECH.

Courts have recognized that free expression is essential to democracy. This was expressed in *Charles Onyango Obbo & Andrew Mwenda v Attorney General*<sup>44</sup> quoting that societies should uphold and protect core human rights.<sup>45</sup>

Court further noted that Uganda, like any other democratic society, is committed to upholding the expression and that the constitution guarantees to this right to everyone in Uganda.<sup>46</sup>

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<sup>44</sup> Constitutional Appeal 2 of 2002, <https://ulii.org/akn/ug/judgement/ugsc/2004/11/eng@2004-02-10>, visited on 7<sup>th</sup> May, 2025

<sup>45</sup> *ibid*

<sup>46</sup> *ibid*

Courts have also recognized that there should be exceptions to self-expressions also discussed the Obbo case,<sup>47</sup> noting that it is common ground that open expression is not unlimited, it is subject to Article 43, which provides for permissible restrictions.<sup>48</sup>

Court further noted that protecting guaranteed rights is the Constitution's primary goal, while limiting them is a secondary objective. The primary should take precedence, only yielding to exceptional circumstances.<sup>49</sup>

Court agreed that the freedom of thought ought not be suppressed except where allowing its exercise endangers community interest. This view was also upheld in the case of Buwembo & others v Attorney General<sup>50</sup>.

Courts have also declared provisions on freedom of thought and harmful speech that are not in line with the Constitution to be null and void. They are discussed in the cases below;

The case of Andrew Karamagi & Anor v Attorney General<sup>51</sup>. In this case court found that the word of section 25 of the computer misuse Act to be unclear, allowing law enforcement arbitrary discretion to determine what constitutes an offense, thereby unjustifiable restrictions that not uphold democratic values.<sup>52</sup>

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<sup>47</sup> *ibid*

<sup>48</sup> *ibid*

<sup>49</sup> *ibid*

<sup>50</sup> Constitutional Reference No.1 of 2008, <https://globalfreedomofexpression.columbia.edu/cases/buwembo-v-attorney-general/>, visited on 9<sup>th</sup> May, 2025

<sup>51</sup> *Supra* Note.14

<sup>52</sup> <https://www.studocu.com/row/document/makerere-university/human-rights-law/case-digest-on-the-decision-in-andrew-karamagi-v-attorney-general/43878016>, visited on 9<sup>th</sup> May, 2025

The case of Obbo also ruled that Section 50 of the Penal Code Act which criminalized publishing false news was unconstitutional on grounds that it was ambiguous.<sup>53</sup>

Courts have also upheld provisions that conform with the Constitution in regard to freedom of speech and hate speech. This can be found in the case of *Buwembo & others v Attorney General*, the Constitutional court of Uganda held that section 179 of the Penal Code Act criminalizing libel was lawful because it banned the publishing of defamatory statement that damage the reputation of others, which can disrupt social harmony.<sup>54</sup>

Courts have protected the victims of violation of liberty of expression. The case of *Uganda Journalists Association v Attorney General*<sup>55</sup>, the high court determined that UPDF officers infringed upon journalists' right in their assault of Murungi and others who were covering the National Unity Platform President's human right petition.<sup>56</sup> The applicants were awarded damages to compensate them. This is unequivocal statement showing that courts are ready to protect victims of violations.

#### COURTS VIEW ON HATE SPEECH

Courts have upheld provisions that criminalize the promotion of sectarianism which also relates to hate speech. In the case of *Andrew Mujuni Mwenda & Eastern African Media Institute (U) ltd v Attorney General*<sup>57</sup>, petitioner prayed that court declares the Penal Code criminalizing sedition and sectarianism unlawful. This was after the death

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<sup>53</sup> Supra note 54

<sup>54</sup> Supra note 56

<sup>55</sup> HCMC No,64 of 2021

<sup>56</sup> <https://globalfreedomofexpression.columbia.edu/cases/the-uganda-journalists-association-v-attorney-general>, visited 10<sup>th</sup> May, 2025

<sup>57</sup> Consolidated Constitutional Petitions NO.12 Of 2005 and No.3 of 2006

of the vice president of Sudan late Lt. General John Garang on a Uganda presidential helicopter crash. Two public holidays were declared in Uganda to mourn the deceased. The 1<sup>st</sup> petitioner hosted a show where he made serious allegations where he accused him the head behind the death of Sudan's vice president.<sup>58</sup> Court in its ruling stated that sections on sedition were unconstitutional, while upholding sectarianism to be legal.

With the recognition of the limits on self-express, that means that courts have recognized that hate speech is unlawful because its elements include discriminatory language based on race, religion, nationality and others prejudices the rights of others and also is a threat to public interest.

Courts have convicted many for hate speech in Uganda. For example;

Edward Awebwa faced charges for allegedly circulating discriminatory rhetoric.

Awebwa in his words stated that there will be a rise in taxes in the near future due to Museveni's tyranny. He was sentenced to six years in prison.

Another case is that of a 21-year-old tiktoker Emmanuel Nabugodi who was handed a 2-year jail term for demeaning President Museveni by Entebbe Chief Magistrate Court. The magistrate emphasized the importance of showing respect to esteemed figures, warning that court would take a firm stance against those who choose to disparage them, serving as a deterrent to potential offenders.<sup>59</sup>

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<sup>58</sup> <https://asf.be/wp-content/uploads/2024/05/Andrew-Mujuni-Mwenda-Anor-V-Attorney-Genera-Constitutional-Petition>, visited on 10<sup>th</sup> May, 2025

<sup>59</sup> <https://www.monitor.co.ug/uganda/news/national/tik-toker-jailed-2-year-for-demeaning-museveni-4828144>, visited on 10<sup>th</sup> May, 2025

However, courts have persecuted the charged people for hate speech due to influence from the government. A case in point is that of Stella Nyanzi though it was not hate speech but offensive communication which is also related to the topic at hand, where charges were brought against her for posting on Facebook statements that were vulgar critiquing the first family. During the proceedings, the prosecution wanted to obtain a mental examination which was granted by the court and not allowing the accused's lawyer to examine the witnesses. She was also denied bail on multiple occasion but one can attribute all this to the fact that the executive had interest in the case.

This was also witnessed in the Nabugodi Emmanuel case where he pleaded guilty but still was handed a heavy sentence by the Entebbe Chief Magistrate of 2 years for inflammatory remarks on the president. Court refused to hand the accused a light sentence because it believed that he was not remorseful.<sup>60</sup> But this all can be attributed to the fact that the state had interest in the case.

Conclusion.

Ugandan courts have upheld liberty of thought. They have also recognized that there should be a limit on it as long as its legitimate.

Courts have also convicted many of hate speech for example Emmanuel Nabugodi. However, there have been inconsistencies in the courts' address of the cases since majority of the attract the interest from the government.

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<sup>60</sup> Supra Note.74

## CHAPTER FIVE:

### SOCIAL MEDIA STRAIN ON THE REGULATION OF HATE SPEECH IN UGANDA.

#### 5.0 INTRODUCTION

While the term “social media” is typically used in reference to the networking websites Facebook or Twitter now (X), it is actually a more general term. Social media includes a broad and growing portion of the internet that is designed as a platform which allows users, and groups of users, to create and exchange content, often in an interact or collaborative fashion<sup>61</sup>.

Some of the leading social media platforms include Facebook, Tiktok, X, YouTube, just to name a few. These are regulated by the Uganda Communications Commission (UCC) in order to comply with the governing laws.

As Earlier on discussed, hate speech is on the rise as per the 26<sup>th</sup> Human Rights Report by the Uganda Human Rights Commission (UHRC), which attributed it to the recent advances in information technology, online communication, and mass media.

This Chapter therefore will look at how social media has strained the regulation of hate speech in Uganda.

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<sup>61</sup> Gainous J & Wagner KM (2014), “Tweeting to Power: The Social Media Revolution in American Politics.” Oxford University Press, England < [https://books.google.com/books?id=KTdeAQAAQBAJ&printsec=copyright&redir\\_esc=y#v=onepage&Q&f=true](https://books.google.com/books?id=KTdeAQAAQBAJ&printsec=copyright&redir_esc=y#v=onepage&Q&f=true), visited on 11<sup>th</sup> May, 2025 >

How social media has been used in the spread of hate speech in Uganda.

On very many occasions social media platforms have been used to spread the agenda of hate towards individuals and tribes. Many have been charged for misuse of social media in that regard and they include;

Edward Awebwa was charged with hate speech and spreading misleading and malicious information against President Yoweri Museveni, First lady Janet Museveni and son Muhoozi Kainerugaba. Awebwa had shared abusive information and had said that there would be an increase in taxes under President Museveni

“A 21-year-old tiktoker Emmanuel Nabugodi was also handed a 2-year jail term for demeaning President Museveni by Entebbe Chief Magistrate Court. This was after he had used Tiktok account rice027 against the president<sup>62</sup>.”

Another recent case of using social media to spread hate speech is that of “Mugisha Kempaka, a popular tiktoker from western Uganda who was arrested following the release of a video on his Tiktok page filled with sectarian talk, demeaning the Buganda Kingdom and calling for the extinction of the Baganda tribe. He also urged President Museveni to take over the Kingdom and be addressed as the kabaka. This video sparked widespread outrage and concern among members of the public, prompting the police to swing into action.<sup>63</sup>”

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<sup>62</sup> Supra note 62

<sup>63</sup> <https://www.google.com/amps/s/trumpetnews.co.ug/2025/04/24/tiktoker-from-western-uganda-arrested-over-hate-speech-against-baganda-tribe/amp/>, visited on 26<sup>th</sup> April, 2025

Another scenario of using social media to share offensive communication is that of Dr. Stella Nyanzi, on 27 January 2017, Dr. Stella Nyanzi a Makerere University lecturer, human rights activist and social media personality took to her Facebook handle after President Museveni's speech on 26<sup>th</sup> January 2017 in Masindi district, where His Excellency asserted that he is not a servant to anyone but a freedom fighter. Dr. Stella Nyanzi's first part of the post translates in English stated: "Museveni is very much a pair of buttocks. When he spoke in Masindi he was speaking as buttocks do." The post then proceeded in English: "I mean seriously, when buttocks shake and jiggle, while the legs are walking, do you hear other body parts complaining? When buttocks produce shit, while the brain is thinking, is anyone shocked? When buttocks fart, are we surprised? That is what buttocks do. They shake, jiggle, shit and fart. Museveni is just another pair of buttocks. Rather than being shocked at what the buttocks said in Masindi, Ugandans should be shocked that we allowed these buttocks to continue leading our country."<sup>64</sup>

On another occasion, she also confronted the First lady. On 14 February 2017, while appearing before the Parliament's Education Committee, the First lady and minister of Education, Mrs. Janet Museveni announced that the government was backtracking on its earlier pledge to provide free sanitary towels to all school going girls so that they do not have to leave school when their menstrual periods start. Lack of sanitary towels is a major hindrance to school going girls. The pledge had been a major

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<sup>64</sup> Rukundo S (2018) "My President is a pair of buttocks: The limits of online freedom of expression in Uganda." Oxford University Press, England, [https://www.researchgate.net/publication/327932019\\_My\\_President\\_is\\_a\\_Pair\\_of\\_Buttocks'\\_The\\_limits\\_of\\_online\\_freedom\\_of\\_expression\\_in\\_Uganda](https://www.researchgate.net/publication/327932019_My_President_is_a_Pair_of_Buttocks'_The_limits_of_online_freedom_of_expression_in_Uganda), visited on 28<sup>th</sup> April, 2025

campaign point in President Museveni's manifesto for the 2016 presidential race. On 15 February 2017, the very next day, Dr. Stella Nyanzi took to Facebook once again, posting a lengthy scathing indictment of the first lady laced with various lurid descriptions of her as a "lazy pig" with a "piggy nose" and "rotten jaws," a "big-thighed cow," a "poisonous snake" with "venomous mandibles" and an "empty-brained leopardess."<sup>65</sup> These words are so demeaning to a lady with the befitting status and caliber like that of the first lady Mrs. Janet Museveni from an educated lady Dr. stella Nyanzi.

All these cases discussed in this chapter have one character in common and that is social media as the platform for sharing the information and these are Tiktok, Facebook and others. This indicates that social media platforms are the leading platforms in the spread of hate speech in Uganda. That means in order to eradicate hate speech in Uganda, the concerned authorities like the Uganda Communications Commission must put more emphasis on social media.

Challenges caused by social media in regulation of Online Hate Speech?

Algorithmic Amplification by social media platforms. The design of social media itself plays a major role in the spread of hate speech. People naturally gravitate toward others with similar opinions in a phenomenon known as homophily. This strengthens online echo chambers where extreme views go unchallenged per UC DAVIS magazine. Humans have a tendency to bond with those who are similar to them, people can just

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<sup>65</sup> Ibid.

unfollow, mute, or block anyone whose views don't align with theirs, making it easier to isolate themselves from opposing perspective. At the same time, social media platforms are designed to maximize engagement, and emotionally charged content tends to perform the best. This results in a cycle of contentious and hateful content spreads rapidly. Unfortunately, outrage and hostility tend to drive engagement, the more people interact with extreme content, the more it gets promoted.<sup>66</sup> This can be witnessed with Tiktok, as the platform brings more of the content that you are interested in, the desire for engagement has driven many users to commit hate speech. This makes it hard to regulate the flow of hate speech.

User Anonymity. Extremists, racists and bullies have been disguising their identities to avoid accountability and prosecution. For example, the anonymous a well-known international “hacktivist” group in August 2012, targeted Uganda government websites in response to nation’s repressive stance towards lesbians, gay, bisexual and transgender (LGBT) population. A message that was posted by “hacktivist collective” Anonymous on the then Uganda Prime Minister Amama Mbabazi’s website read as follows: “Your violation of the rights of LGBT people have disgusted us. ALL people have a right to live in dignity free from the repression of someone else’s political and religious beliefs. You should be PROUD of your LGBT citizens, because they clearly have more balls than you will ever have. Real Ugandan Pride is demonstrated in standing up to oppression despite fearing the abuse, torture and murder inflicted on

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<sup>66</sup> <https://www.ucdavis.edu/magazine/what-explains-increase-online-hate-speech#:~:text=Algorithms%20and%20Hate%20Speech,where%20extreme%20views%20go%20unchallenged>, visited on 11<sup>th</sup> May, 2025

LGBT at the hands of the corrupt government.”<sup>67</sup> A Ugandan case of anonymity is more on X where most of the users are anonymous, they use profile pics that aren't real. They use their accounts to spread hate.

Anonymity can undoubtedly have positive effects for example on a person's psychological well-being and an increased sense of freedom to express emotions and opinions. However, there is a growing body of evidence establishing the positive correlation between online anonymity and the expression of extremist, racially biased and prejudiced hate speech. However, anonymity can lead to group polarization; the tendency of like-minded members of a collective to become more extreme in their views following group discussions<sup>68</sup>. This has made it hard for regulatory authorities to apprehend the criminals behind these accounts that spread hate speech due to the fact that they are anonymous and cannot be traced to be charge under the law.

The lack of editorial oversight in the publishing of online content. The vast amount of content generated online makes it extremely difficult to monitor and regulate hate speech effectively. Through social media platforms, 3.19 billion users converse and interact with each other by generating and sharing content. While the act of publishing online is instantaneous, mechanisms designed to regulate speech are often cumbersome and slow. Moreover, in traditional forms of media, there is editorial oversight from a person other than the author prior to publishing. Historically, this has often provided an effective restraint on hate speech, a mechanism that plainly

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<sup>67</sup> [https://www.huffpost.com/entry/uganda-government-websites-hacked-anonymous-gay-rights\\_n\\_1789623](https://www.huffpost.com/entry/uganda-government-websites-hacked-anonymous-gay-rights_n_1789623), visited on 11<sup>th</sup> May, 2025

<sup>68</sup> Dr. Limor S (2020) "Regulating Online Harms: Tackling Anonymous Hate." Antisemitism Policy Trust, England

does not work on self-published social media platforms. The speed and sheer amount of content, as well as the lack of editorial oversight make social media platforms a particular challenge for regulators. Increasingly, policymakers are suggesting that social media platforms should bear the brunt of regulatory burden: for instance, through obligations to provide effective complaint mechanisms and remove unlawful speech. The risk with this approach is that lawful speech may be removed in error, or that the general environment will inhibit individuals from expressing themselves online.<sup>69</sup>

The Constant evolution of social media has also strained the regulation of hate speech. Social media platforms and technologies are constantly evolving, requiring regulators and users to adapt to new challenges and opportunities. Most social media platforms that survived the last decade have shifted significantly in what they offer users. Twitter now (X) for example didn't allow users to upload videos or images initially. Since 2011 this has been possible and today, more than 50% of the content viewed on Twitter includes images and videos.<sup>70</sup> Artificial Intelligence (AI) has also come in to the mix as it's used to manipulate people's voices and spread hate speech. There is no law regulating AI in Uganda yet it used on social media platforms for example Grok that of X. Case in point involving the misuse of AI to spread hate speech is that of Speaker Anita Among during the heated debate on the contentious National Coffee Amendment Bill 2024, where an audio clip was released containing the voice of

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<sup>69</sup> O'Regan C & Theil S (2018) "Hate speech regulation on social media: An intractable contemporary challenge." Oxford University Press, England < <https://researchoutreach.org/articles/hate-speech-regulation-social-media-intractable-contemporary-challenge/>, visited on 13<sup>th</sup> May, 2025 >

<sup>70</sup><https://ourworldindata.org/rise-of-social-media>, visited on 13<sup>th</sup> May, 2025

the speaker asserting “make sure that those Baganda don’t get the numbers.”

However, Parliament described it as fake and edited by AI, her statement was that “make sure that this issue is not tribalized.”<sup>71</sup> All these constant changes require the regulatory authorities like the Uganda Communications Commission to be up to date in order to combat the ever-changing loopholes that are exploited to spread hate speech. This makes it hard for the regulatory authorities to fully regulate hate speech in the country.

The viral speed of online content. The speed at which hate speech goes viral online significantly complicates its regulation. Studies have shown that viral content can spread across social media platforms in a matter of minutes or even seconds, often reaching millions of users before it can be officially verified or fact-checked. This rapid spread of information can have both positive and negative consequences, as it can lead to both the dissemination of important information and amplification of misinformation like hatred.<sup>72</sup> This makes it hard for regulatory authorities to fully eradicate hate speech because by the time banned content is removed from the net, it has already spread in the hearts and minds of the audience.

Bring the responsible actor to account. A question is, who is the legally responsible actor for online hate speech? Is a hateful utterance the responsibility of the individual user who made it? Or does the platform have the responsibilities of a publisher? Today social media companies have legal duties to remove harmful content from their

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<sup>71</sup> <https://chimpreports.com/coffee-bill-parliament-denies-speaker-among-made-tribal-remarks/>, visited on 13<sup>th</sup> May 2025

<sup>72</sup> Igben HGO & Acchugbue OE (2024) Influence of viral contents on the rapid spread of information on the social media platforms in Nigeria, British Journal of Marketing Studies, England.

platforms. Enforcement by companies and regulators is patchy leading to concerns that filtering all online speech is too burdensome to be practical. These are questions that must be answered by the regulators of online hate speech and I doubt whether they have the right answers.

### Conclusion

The regulation of hate speech on social media is a complex and multifaceted challenge, social media platforms have created new avenues for hate speech to spread, making it difficult for regulators like the Uganda Communications Commission to keep pace. The amplification, anonymity and viral spread of hate speech on social media pose significant challenges to effective regulation.

CHAPTER SIX:  
SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

1.0 Introduction.

The law imparts an obligation on the state and all people to respect, protect and promote freedom of speech. It also bars all parties from committing hate speech. This final chapter brings together the key findings and insights from the critical analysis of the legal framework governing freedom of speech in Uganda, with a specific focus on reigning in hate speech. It will also provide recommendations.

Summary of findings.

There is a rise in the violation of freedom of speech. Though the right is advocated for from international to national level with laws in place protecting it for example the Universal Declaration of Human Rights (UDHR), at national level the Constitution to Acts of Parliament like the Computer Misuse Act, Access to Information Act among others. The right is still violated. This can be associated to the inadequate legal framework and also non-legal aspects like the political history of the country that is filled with events that do not honour freedom of speech.

Hate speech is also on the rise. Different laws are in place to combat hate speech in the country for example the Computer Misuse Act, the Penal Code Act among others. This can be attributed to many aspects like the inadequate legal framework as laws do not clearly define it, they are vague and ambiguous making it hard for people to interpret. Social Media Personalities, political activists are some of the key perpetrators of hate speech in Uganda.

There is a gap in the balance of freedom of speech and protection from hate speech in Uganda. Most of the International conventions provide for freedom of speech but do not prohibit hate speech for example the Universal Declaration of Human Rights (UDHR) does not prohibit hate speech, and those that do prohibit it, do not clearly define it. Ugandan laws like the Computer Misuse Act are vague and ambiguous, they have been successfully challenged in courts for example Section 25 was challenged in the case of *Karamagi & Another v Attorney General*<sup>73</sup>, the section declared it an offence for any person who “willfully and repeatedly uses electronic communication to disturb or attempt to disturb the peace, quiet or right of privacy of any person with no purpose of legitimate communication.” There is also no that fully addresses hate speech.

Uganda courts have protected freedom of speech with notable cases like *Charles Onyango Obbo & Andrew Mwenda v Attorney General*<sup>74</sup>, interpreting Articles like Article 29 that provides for freedom of expression. Courts have also recognized that there should be a limit on rights as provided under Article 43 of the Constitution. Court have prohibited hate speech and have convicted many like Emmanuel Nabugodi. Social media has emerged as a stumbling block in the regulation of hate speech due to many factors like user anonymity, viral speed of content, lack of editorial oversight escalating the spread of hate speech in Uganda.

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<sup>73</sup> Op. Cit

<sup>74</sup> Op. Cit

Recommendations.

Strengthen the Legal framework on freedom of speech and hate speech. The government should develop and enact comprehensive legislation specifically addressing hate speech. This can be done through enactment of laws that specifically address hate speech, that clearly define the offence, providing clear mechanisms of enforcement that are practicable. Review and update existing laws to address the emerging challenges. With this, the government can protect freedom of speech while combating hate speech.

Civic education should be conducted regularly. This can be done through promotion of digital literacy, implementing education and awareness programmes to promote digital literacy, critical thinking and online responsibility. This can be done by bring all together all stake holders including the police. This can help regulate online hate speech that is on the rise on social media platforms.

The Uganda Communications Commission as the regulator of online hate speech should be up to date and keep pace with the ever-changing technologies and social media platforms. This can be done through hiring a technical team of young people that are well conversant with new trends. They can also collaborate with social media platforms to combat hate speech in the country.

A clear enforcement mechanism for the violation of hate speech should be established and also that where people who commit hate speech can be brought to account. Most of the victims of hate speech do not report to the concerned authorities due to corruption and other reasons, the enforcement of human rights violation against the

against is also hard. All of these questions must be answered in order to create harmony.

#### Conclusion.

This research has critically analyzed the legal framework governing freedom of speech in Uganda, with a focus on reigning in hate speech. The findings highlight the complexities and challenges of regulating hate speech, balancing freedom of speech with the protection from harm that come with it like hate speech and ensuring effective enforcement.

The study concludes that a comprehensive and adaptive approach is necessary to address hate speech in Uganda. This requires strengthening the legal framework, enhancing enforcement mechanisms, promoting civic education among others.

Ultimately, this research contributes to the ongoing conversation on balancing freedom of speech with protection from harm like hate speech, providing insights and recommendations for policymakers, regulators and other stakeholders to develop effective strategies for addressing hate speech in Uganda.

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