



# **Strengthening Freedom of Expression and Access to Information in Uganda**

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**Addressing Barriers to Women's Rights Online**



**Commonwealth  
Foundation**

Commonwealth Foundation in partnership with



**WOMEN OF UGANDA NETWORK**

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# **Strengthening Freedom of Expression and Access to Information in Uganda: Addressing Barriers to Women's Rights Online**

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# Introduction and Context

Freedom of expression is a fundamental right and a cornerstone of a democratic society, crucial for its advancement and each individual's self-fulfillment. Similarly, access to information, which includes the right to seek, receive, and impart information held by public bodies, is a vital component of democracy, transparency, and accountability.

Despite Uganda's commitments to international and regional human rights instruments, the suppression of rights to freedom of expression and access to information persists, particularly for women, both online and offline. This urgent issue demands immediate attention and action.

In Uganda, it's a matter of digital concern that only 44% of women are online compared to 62% of men. The majority of women in Uganda are unable to express themselves freely and access information online due to various factors, including retrogressive legal and policy frameworks, increased gender-based violence, and a lack of digital literacy.

However, it is worth noting that positive steps have been taken to ensure the right to freedom of expression by ensuring that such laws do not infringe on them. In *Andrew Karamagi and another v Attorney General*<sup>1</sup>, the Constitutional Court unanimously decided to strike out Section 25 of the Computer Misuse Act, 2011 (as amended) on offensive communication. It was stated that this section was inconsistent and contravened Article 29(1) of the Constitution of Uganda, which is the supreme law of Uganda and protects freedom of conscience, expression, movement, religion,

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1 Constitutional Petition No.5 of 2016

assembly and association. Further, this section needed to be more broad and specific to define the actual offence committed. This was a great leap towards ensuring that the laws of Uganda are compatible with the standards of freedom of expression in a democratic country.

Freedom of expression and access to information have several rights that are protected by legislation, and these include the following;

- The right to freedom of expression includes:
- The freedom to seek, receive and impart information, including the right to offend, criticise, comment or talk about others.
- The right to hold an opinion.
- The right to information includes:
- Everyone has the right to seek, receive, use, and impart information held by or on behalf of public authorities.
- The right to privacy includes the right of individuals to respect their private and family life, home, and communications.
- The right to personal data protection.

# Methodology

The analysis presented in this brief was based on the data gathered from two national dialogue discussions on freedom of expression and access to information. These dialogues included representatives from law enforcement agencies, women-led civil society organisations, and the media. Further, brief interviews were conducted with victims of infringement on freedom of expression and different civil society actors.

The goal was to identify and analyse existing policies that infringe on women's rights to freedom of expression and access to information online in Uganda, consider their impact, and make recommendations.

## The Analysis of Issues

### a) Technology facilitated gender-based violence (TFGBV)

TFGBV, also known as online gender-based violence, is a form of violence that is emerging with the digital evolution.<sup>2</sup> It poses a massive threat to women and girls as online spaces are increasingly being used to target women and girls. This type of violence takes many forms, including sextortion (blackmail by threatening to publish sexual information, photos or videos); image-based abuse or non-consensual distribution of intimate images (NCII), which is the (circulation or distribution of sexually explicit intimate images or videos without consent), doxing (publishing private

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<sup>2</sup> Technology-Facilitated Gender-Based Violence: A Growing Threat by UNFPA

information), cyberbullying, online gender and sexual harassment, cyberstalking, online grooming for sexual assault, hacking, hate speech, online impersonation, and using technology to locate survivors of abuse to inflict further violence.<sup>3</sup>

FIDA Uganda 2023 conducted a study<sup>4</sup> on online gender-based violence in Uganda, which revealed that at least 62.7% of the respondents had experienced some kind of online violence, and 84% of the respondents reported that they knew somebody who had experienced online violence.

Women in public spaces, such as women journalists, women's rights activists, young women, and women with intersecting identities, are particularly at risk. The impact of online violence can be as severe as offline violence, with profound implications on health, well-being, and severe socio-economic status. This political topic can address online professional lives.

## b) Limitation and Infringement

Limiting a right is legally permissible, whereas infringement is illegal and unacceptable. The right to freedom of expression and access to information have both suffered under the brunt of infringement and limitation in almost equal measure. Whereas the primary objective is to uphold and protect the rights provided for, there is also a need to check the enjoyment of these very rights due to various considerations set out in the Constitution. Therefore, the above rights cannot be said to be without restriction, and their limitation can only be enforced in exceptional circumstances that are recognised internationally and nationally.

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<sup>3</sup> Ibid

<sup>4</sup> FIDA Uganda, *Online Gender Based Violence in Uganda - 2023*

Internationally, limitations are only viable insofar as they meet the tripartite test of:

- i. Legality
- ii. Necessity
- iii. Legitimacy.

Domestically, limitation upon the enjoyment of human rights is found in Article 43 of the Constitution.

Freedom of expression and access to information has been infringed through threatening, intimidating and abducting women, especially on social media platforms. For example, Agather Atuhaire, a journalist and activist, has in the past reported threats to her life. In June 2022, when she broke the story of the cars purchased by the Speaker and Deputy Speaker on her social media page, she was intimidated and threatened.<sup>5</sup> Besides infringing on women's rights to freedom of expression and access to information, such actions also disrupt their work and instill fear in others who will refrain from freely expressing themselves because of the anticipated repercussions.

Over the past decade, internet shutdowns and blockages on some social media platforms have often been imposed during elections and heightened tensions. These disruptions broadly impact a full range of rights and may contribute to human rights violations and abuses, including limiting visibility. Social media was blocked during the 2016 elections, the internet was shut down entirely during the 2021 elections, and Facebook was banned in the country in the run-up to the 2021 elections.

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<sup>5</sup> “My life is in danger” journalist who broke the story on Speaker’s Shs. 2.8 bn car cries out, by Jonah Kirabo, Nile Post, June 28, 2022



## c) Policy and Regulation

Some various regulations and policies affect freedom of expression and access to information in Uganda. These regulate broadcasting, telecommunications, online and electronic media, public gatherings, and access to information.

Uganda Communications Act 2013 created the Uganda Communications Commission (UCC), giving them broad powers as the country's communication regulator. It was given broad powers, and they have, over time, misused them, which has negatively affected women. There have been instances where they have threatened media houses with suspension of their licenses for views they have considered contrary to the government, and in other cases, UCC has ordered the suspension of journalists for what they term as breaching minimum broadcasting standards.<sup>6</sup>

Women's freedom of expression has also been limited and suppressed through laws such as the Computer Misuse Act, 2011 (as amended) and the Penal Code Act. Examples of such women include Stella Nyanzi<sup>7</sup>, Fatuma Nansubuga<sup>8</sup>, Faiza Salima<sup>9</sup> and other women protesters who have been charged with criminal offences like cyber harassment, offensive communication, and common nuisance.

It hasn't helped that the law has given some vague provisions that may cause difficulty in interpretation and lead to a travesty of justice. The court, in the case of Andrew Karamagi & Robert Shaka vs Attorney General<sup>10</sup> found that the provision of offensive

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<sup>6</sup> Baker Batte, *Why we acted on journalists – Mutabazi*, The Observer, May 08, 2019

<sup>7</sup> Dr. Nyanzi charged in court for insulting Museveni, Daily Monitor, April 10, 2017

<sup>8</sup> Kigongo Juliet, *Woman remanded over demanding Speaker Among's resignation*, Daily Monitor, July 04, 2024

<sup>9</sup> Stella Nankya, *Activist Faiza Shares Harrowing Prison Experience*, Trumpet News, August 01, 2024

<sup>10</sup> Constitutional Petition No. 05 of 2016

communication (Section 25 of the Computer Misuse Act) was overly broad and constituted an unjustifiable limitation to the freedom of expression as provided for under Article 29 (1) (a) of the Constitution. It was thus declared unconstitutional. Similar provisions in the current Computer Misuse (Amendment) Act 2022 will likely suffer the same challenge. For example, Section 26B covers unsolicited information, Section 26C covers malicious information, and Section 26D covers misuse of social media.

Excessive or disproportionate sanctions have also been imposed concerning these laws. Disproportionate punishment, especially with the overbroad scope of provisions, creates severe risks of discouraging speech that should be protected under human rights law. In particular, the dangers of harsh, excessive or disproportionate sanctions may deter journalists and human rights defenders from carrying out their critical roles in free and democratic societies and encourage self-censorship.<sup>11</sup>

#### d) **Data Security**

Data security, freedom of expression, and access to information have a significant intersection. Data security refers to the measures taken to protect data from unauthorised access, corruption, theft, or loss. It includes both physical and digital security. Data security is critical, especially in access to information, as data may be in unauthorised hands. The Data Protection and Privacy Act of 2019 was enacted to manage that. The request for any information is, therefore, subordinate to this law.

Section 20 of the Data Protection and Privacy Act 2019 has put in place security measures to be taken by the data controller, and these include the following:

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<sup>11</sup> Report of the Secretary-General on Countering disinformation for the promotion and protection of human rights and fundamental freedoms submitted pursuant to General Assembly resolution 76/227

- Identify reasonably foreseeable internal and external risks to personal data under that person's possession or control.
- Establish and maintain appropriate safeguards against the identified risks.
- Regularly verify that the safeguards are effectively implemented.
- Ensure the safeguards are continually updated in response to new risks or deficiencies.

Data security remains a critical issue for women in Uganda, where unequal access to technology, limited digital literacy, and socio-cultural barriers exacerbate vulnerabilities to cyber threats. Women have, on various occasions, had their personal data targeted as a way of getting back at them. Examples of this have mainly manifested in the form of phone hacks to obtain women's nude pictures that are then shared online. On September 23, 2024, music celebrity Judith Heard had her phone hacked and her naked photos leaked after a scammer posing as former U.N. A Special Rapporteur lured her to set up an online account promptly, causing her account to be hacked.<sup>12</sup> This has disproportionately affected them and further compounded the risk of online harassment, identity theft, and exploitation. This can have severe social, economic, and psychological impacts. Strengthening data security measures and promoting digital literacy among women are essential in empowering them, reducing gender-based digital disparities, and protecting their rights in an increasingly digital world.

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<sup>12</sup> [restofworld.org/2021/women-east-africa-cybercrime-laws/](https://restofworld.org/2021/women-east-africa-cybercrime-laws/)

## e) Privacy & Surveillance

The right to privacy is recognised under Article 27 of the Constitution of Uganda and is subject to the limitations under Article 43. This right is the most competing right, with freedom of expression and access to information. The existing laws on defamation and the Computer Misuse Act (as amended) have been enacted to protect the right to privacy while accommodating the right to freedom of expression. The Data Protection and Privacy Act of 2019, the Leadership Code Act of 2002, and the Access to Information Act of 2005 have all been enacted to balance the right to access information and privacy.

Government surveillance practices to enhance security can sometimes infringe on privacy rights and freedom of expression. For instance, the government of Uganda was named among the countries that had procured the surveillance spyware Pegasus to monitor communications among other opposition leaders, journalists and human rights defenders.<sup>13</sup>

The increasing use of surveillance technologies and data collection can disproportionately affect women, especially those advocating for gender equality and human rights or involved in activism. The threat of surveillance undermines their ability to express opinions freely, as they may face heightened risks of harassment, doxing, or even physical violence if their identities or locations are exposed. This fear of being monitored can lead to self-censorship, reducing women's participation in public discourse and activism. For women navigating oppressive legal and cultural environments, the loss of privacy is a direct threat to their autonomy, security, and ability to seek and share information freely. To protect their rights, there must be strong advocacy for privacy protections,

[13 Embassy spying scandal soils US, Uganda relations, The Observer, December 29, 2021](#)

transparency in surveillance practices, and a legal framework that ensures women's voices can be heard without fear of retribution or discrimination.

#### f) Accessibility (Uganda Communications Universal Service and Access Fund)

The Universal Service Fund is a telecommunications component designed to promote the accessibility of communication services to low-income populations. The primary goal is to ensure that individuals, regardless of location or economic status, have access to essential telecommunications services.

According to the mandate of the Uganda Communications Commission in Section 3(g) of the Uganda Communications Act, 2013, they are mandated to create and manage a fund dedicated to developing rural communications and information and communication technology within the country. It was set up to contribute to the realisation of universality in access and use of communications services in Uganda by establishing communications projects in non-commercially viable areas.

It was intended to result in the following:

- Increased broadband access
- Enhanced usage of digital devices and services
- Promotion of ICT applications and Services
- Facilitating knowledge information decision-making

The Uganda Communications Universal Service and Access Fund (USAF) is designed to improve access to telecommunication services in underserved areas, including rural and remote regions, where women often face barriers such as economic constraints, limited digital literacy, and socio-cultural restrictions. The fund's impact on women is shaped by how well its initiatives address

women's specific challenges. For USAF to have a meaningful impact on women's accessibility, it must ensure that women are provided with technology and supported through training, mentorship, and initiatives that foster gender equity in digital spaces. Unfortunately, the fund has not made a meaningful impact on women because mainly of underfunding.

### g) Online gendered disinformation

Disinformation is defined as false information deliberately created to harm a person, social group or country.<sup>14</sup> Gendered disinformation undermines people based on their gender or weaponises gendered narratives for political, social or economic objectives. Here, false and manipulated information that is intended to cause harm to women or people of diverse genders and sexualities. This comes in different forms, such as harmful social media posts and graphics, sexual fabrications, and other forms of conspiracy theories.

Such attacks not only distort the information women receive but also create a climate of fear and intimidation, discouraging women from freely expressing their opinions, sharing knowledge, or engaging in debates. When women are targeted by gendered disinformation, they face additional barriers to accessing reliable information, as harmful stereotypes and biased narratives drown out their voices in both online and offline spaces. This can lead to disempowerment, as women may avoid participating in essential discussions on political, social, or economic issues due to fears of

<sup>14</sup> W Claire; Derakhshan H, *Information disorder: Toward an interdisciplinary framework for research and policy making*, August 2018, 2nd revised edition.

being misrepresented, harassed, or attacked. Moreover, gendered disinformation often perpetuates harmful societal norms. It reinforces gender inequality, making it harder for women to seek out resources and opportunities that could improve their lives, such as educational content, health information, or career advice. Gendered disinformation undermines women's ability to access and share information freely, restricts their participation in public life, and silences their voices, thus diminishing their fundamental rights to freedom of expression and access to information.

In its resolution 76/227, the General Assembly called upon States to counter all forms of disinformation through policy measures, including education, capacity building for prevention and resilience to disinformation, advocacy and awareness raising.

# Recommendations

This policy brief makes the following recommendations:

## a) To the Government

- Policymakers should ensure the inclusivity of women in policy-making processes. This requires involving women's rights organisations, national gender equality mechanisms, and gender experts, as it is vital in ensuring women's participation at all levels of decision-making to achieve a more equitable world.
- The government of Uganda should embrace a holistic approach to regulating access to information by recognising information as a public good.
- State agencies like the Police and State Attorneys under the Directorate of Public Prosecutions (DPP) need to be trained and sensitised on the new and emerging laws on online media. This will help avoid uncalled-for arrests on the part of the police and have successful prosecutions on the DPP's part.
- Police need to strengthen their reporting on the nature and extent of these crimes so that they are documented.
- The state must assess its compliance with international human rights standards, especially those it has signed on to, and work towards complying with them.
- A human rights-based approach is needed regarding limitations on freedom of expression and the right to access information. This allows for the promotion of rights as a primary objective and the limitation as a secondary one.
- The right to freedom of expression should not be politicised but should be allowed to everyone, irrespective of political opinion.
- The state should invest in digital, media and information literacy to counter all forms of disinformation through policy



measures, including education, capacity-building for prevention and resilience to disinformation, advocacy and awareness-raising.

States need to cooperate with journalists and civil society organisations to research the complex phenomenon of gendered disinformation or to conduct fact-checking. Fact-checking and other efforts to counter disinformation, especially against women and other marginalised people, are more credible and effective when approached by multi-stakeholders, as cooperation between governments, civil society organisations, companies, and other stakeholders is essential.

- The state needs to guarantee free media while protecting journalists, human rights defenders, and whistle-blowers and allowing the media to promote the highest standards of professionalism.
- The state should refrain from imposing measures that disrupt access to information dissemination, online and offline, including internet shutdowns and closures of media houses.

**b) To the Law Reform Commission**

- The Law Reform Commission needs to revise the old and archaic laws that curtail freedom of expression and allow people to express themselves freely both online and offline.

**c) To the Civil Society**

- Stakeholders, including women's rights groups, civil society organisations, and policymakers, should sensitise the public, especially women, about their fundamental rights and limitations to reduce their infringement.
- Engagement in advocacy and lobbying efforts targeting policymakers and government officials to reform discriminatory laws and enact protective measures for women's rights.

- There is a need to decriminalise defamation. The criminalisation of defamation in Uganda continues to stifle freedom of expression. The Human Rights Committee has affirmed that such laws must be crafted carefully to ensure they do not stifle freedom of expression.
- Facilitating dialogue and creating opportunities for all stakeholders and citizens with opposing views to engage with one another on complex issues is necessary to reinforce the value of free speech.
- A deliberate effort should be made to challenge laws that stifle freedom of expression and access to information through courts of law.

## Conclusion

In conclusion, strengthening freedom of expression and access to information in Uganda is essential for advancing women's rights online. We can foster a more inclusive digital environment that empowers all citizens by addressing the barriers disproportionately affecting women. By prioritising the above mentioned efforts, Uganda can pave the way for a more equitable society where women's rights are recognised, respected, and fulfilled in both the digital and physical realms.

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