

Chapter 50

Digital Media in Uganda: Where Regulation and Freedom of Expression Contradictions Are Sharpest

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ABSTRACT

This chapter is an analysis of the law in the face of the growing digital media in Uganda. It begins with a summary of Uganda's digital media terrain which helps the chapter to raise an argument of numbers in relation to relevance and external pressure, as forces behind digital media regulation. The background introduces the gist of the chapter, which is the regulation of Uganda's media in the digital age. A recent court case in Uganda, in which a local singer was sentenced to one year in jail along with her video producer, who was convicted for producing a pornographic music video that was distributed online, inspires this chapter. Didi Mugisha pleaded guilty and became the first victim of the Anti-Pornography Act, which was signed into law in 2014. Beyond that court drama and the international fame it garnered are some serious concerns. First is the relationship between the bulk of Uganda's media laws and the existing producer/consumer digital platforms, and secondly are the broad implications the current state of affairs of that and similar laws has on the freedom of expression.

INTRODUCTION

The chapter therefore reviews the above landmark case in Uganda's digital content production and the Anti-Pornography Act (2014), which was used to charge the two artistes, to present the contradictions that are apparent between the application of the digital technology, which is premised on the freedom of expression argument, and the protection of other freedoms and rights. The Neo-liberal understanding of globalization technology and the Neo-Marxist counter-views are used to ground the analysis into global scholarship. Furthermore, international and regional instruments which protect free expression and their stand on both the limitations and the regulation of the same freedom are used to strengthen the argument.

Indecent and pornographic clauses are not new in Uganda's media law history. In fact government takes a pragmatic view on the issue, arguing that media should exercise their freedom with responsibility.

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In 2004 for example, an FM radio station, Radio Simba, was fined \$1,000 by the Broadcasting Council and ordered to make a public apology (BBC, 2004) for hosting homosexuals on a show, contrary to the Penal Code Act. Debates about freedom of expression and laws among traditional media have been around for quite some time. But the way media laws are designed in the face of digital media, how they relate with freedom of expression and the implications of that regulation for new media, has received little attention.

The other crucial issue that the chapter addresses, apart from attempting to cover the above gap, is whether or not media literacy extends to digital content producers. Article 19 of the Universal Declaration of Human Rights, assumes ‘equal access to channels of communication’ (Nassanga, 2009). After getting access, people should actively utilise the resource of information. Media literacy, or the “ability of individuals to analyze and evaluate media critically and to express themselves, producing social communication in a variety of forms”(Nassanga, 2009), has been advanced as an idea for media consumers mostly. What about the producers, especially the digital content producers, who may also act as the distributors? Using that background, issues of digital media literacy for local entertainment content producers, who are mesmerized by the free digital distribution channels, are highlighted in this chapter as well.

THE DIGITAL MEDIA FORM

The “digital revolution” is made important by the fact that it uses the web as a centre stage for voice, picture and text media that previously were mutually exclusive (Verweij, 2009, p. 75). That kind of convergence has been hailed for its production capacity that is massive, for its interactivity, for defying distance over time, and for its individualization of producers and consumers (McQuail, 2010). In the pre-digital era, the video described above would have to be through a major state/private TV/film company regulated by government. The new dawn of digital media has ushered in the “convergence of citizenship and journalism” (Berger, 2011, p. 708) and created possibilities for alternative content production such as the ones used to produce the music video that this chapter analyses. The advances in mobile phones are pushing the internet possibilities further by introducing a smartphone (Weiss, 2013) which has lessened the regular visits to internet cafes. Nevertheless, issues of the digital divide cannot be neglected when discussing the digital revolution especially in Africa, a region that remains the world’s under-penetrated with subscriber growth standing at 12% (GSMA, 2015).

Regardless, “mobiles have been the platform for a uniquely massive and multidimensional enhancement of capabilities in developing countries” (Smith, Spence, & Rashid, 2011, p. 77) and “people turn to their mobile phones to get news and information and to be entertained” (Wei, 2008, p. 37). In Uganda specifically, there are 17 million people now having access to mobile phones (UCC, 2015). The number of people using smart phones in Uganda is not yet recorded but studies done on ICT and media in rural areas indicate that 1.6 percent use the phone to access the internet for various purposes (Semujju, 2013; 2016). The African internet picture is picking up too with one in five people using the internet (ITU, 2015). In Uganda, there are 6 million people with access to the internet (UCC, 2015) of the total population of 35 million people (UBOS, 2015). Mobile phones have been instrumental in promoting Uganda’s digital revolution. In relation to this chapter, whether or not the current laws provide for content that is produced (and consumed) online using gadgets like the mobile phone, computer, and others, is crucial.

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