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LEGAL AND REGULATORY PERSPECTIVES: CHILD ONLINE PROTECTION IN UGANDA

AFRICAN REGIONAL CONFERENCE ON CHILD ONLINE PROTECTION (ACOP): 2014: EMPOWERING
THE FUTURE DIGITAL CITIZENS
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Background

- ICTs present enormous benefits for society and act as a catalyst for social and economic development.
- Innovative technological capabilities and cost structures have resulted in significant uptake of ICTs by a growing number of Ugandans leading to increased employment opportunities, a wider tax base and improved productivity.

Background

Despite these benefits the use of the internet and ICT's present a number of risks to children including;

- Exposure to Illegal or inappropriate content
- Cyber harassment
- Addiction
- Gambling
- Identity theft and other scams
- Sexual predators

Children and Youth Demographics

- % of youth population (below age 20)
59.2
- Life expectancy at birth (years) 53.4
- Adult literacy (age 15+) as % 71.4
- Youth literacy (age 15-24) as % 84.1

Sources: UNCTAD (*UNCTADstat database*) World Bank (*WDI database*), UNDESA (*Population Division*), UNESCO(UIS database), FAO (*FAOSTAT database*)

Legal Framework for Protection of Children

Ratified

- The United Nations Convention on the Rights of the Child (UNCRC)
- The African Charter on the Rights and Welfare of the Child (ACRWC)
- Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography

National

- The Constitution of the Republic of Uganda, 1995 - Article 34 (4)
- The Children Act, Cap 59
- Penal Code Act Cap 120 - Sections 147, 131 1(a)

Legal Framework for protection of Children

Child Online related

- **Uganda Computer Misuse Act, 2011**

Sections 23, 24 and 26 criminalize child pornography, cyber harassment and cyber stalking respectively.

Section 25 “Offensive communication - Any person who willfully and repeatedly uses electronic communication to disturb or attempts to disturb the peace, quiet or right of privacy of any person with no purpose of legitimate communication whether or not a conversation ensues commits a misdemeanor and is liable on conviction to a fine not exceeding 24 currency points or imprisonment not exceeding one year or both”.

Legal framework for protection of Children

- **Anti Pornography Act, 2014**

Section 13 of the Act, “A person shall not produce, traffic in, publish, broadcast, procure, import, export, sell or abet any form of pornography.”

Section 14(1) A person who produces, participates in the production of, traffics in, publishes, broadcasts, procures, imports, exports or in any way abets pornography depicting images of children, commits an offence and is liable on conviction to a fine not exceeding seven hundred and fifty currency points or imprisonment not exceeding fifteen years or both.

- **Uganda Communications Act, 2013**

The Fourth Schedule on minimum broadcasting standards requires that broadcasters ensure programmes do not promote violence or ethnical prejudice among the public, especially the children and the youth

Regulatory trends

National Computer Emergency Response Team (NCERT)

- A National Computer Emergency Response Team was established to receive, review, and respond to computer security incident reports and activity for the public and private sector.
- Computer security incident reports and activity include Cyber Hacking, Cyber Threats, Child Pornography and any other unlawful or unscrupulous activity online.
- The National CERT is also responsible for protecting the Country's internet infrastructure, and coordinating responses to and defence against cyber-attacks across the nation.

Regulatory trends

Communications Sector Computer Emergency Response Team (CERT)

- UCC established a sector specific Computer Emergency Response Team (CERT) as an initiative to improve and secure communication services in Uganda
- The Computer Emergency Response Team (CERT) is responsible for receiving, reviewing, and responding to computer security incident reports and activity including child related crimes committed over the internet.

Regulatory trends

Establishment of a Consumer Affairs Consumer Affairs Function.

- UCC established a Consumer Affairs unit which serves as the regulatory watchdog ensuring consumer protection, information and education through development of appropriate policies, adoption of awareness initiatives and collaborations with consumer advocacy groups.

Regulatory trends

National Child Helpline 116

- Uganda adopted short code 116 as a National child helpline, managed by local NGOs in collaboration with an INGO – Child Help Line International. Ministry of Gender Labor and Social Development (MoGLSD) custodian of the Code.
- Used for purposes to facilitate advocacy and education, report child abuse and enable research and data collection.

Gaps in legal framework

- Lack of a National Cyber Strategy for Child online protection
 - The law is often out of step with rapid technological advancements, this is further compounded by the absence of a National Cyber Strategy on COP.

Gaps in the legal framework

- Lack of a comprehensive law on protection of children online.
- Insufficient skills and capacity to investigate cyber crime and enforce existing laws
- No explicit provision for practice of revenge pornography.
 - *Anti-Pornography Act 2014* may discourage victims from reporting to the authorities for fear of retribution as *Section 13* of the *Anti-Pornography Act* makes the victim and perpetrator equally liable under the law.
 - Furthermore, “offensive communication” under the *Computer Misuse Act* is limited to electronic communication and may not cover dissemination of pornography through other means.
 - UK currently in advanced stages of developing a new law dealing specifically with the practice under the Criminal Justice and Courts Bill as an addition to existing framework under the *Protection from Harassment Act 1997*.

Other Challenges

- Lack of sufficient local data and statistics on cases of children exposed to internet and child abuse.
- Inadequate resource allocation towards online child protection initiatives.
- Low level of awareness on child online protection

Recommendations

- Capacity building of various stakeholders in the prevention, detection, prosecution of cybercrime.
- Harmonization of laws
- Improved international co-operation
- Adoption of multipronged approaches to COP incorporating legal, technical and awareness initiatives.



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Thank You.