

*Press Statement*  
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## **Uganda: A victory for free speech, digital freedoms and media rights**

**The Constitutional Court strikes out the offence of offensive communication for being unconstitutional**

(Kampala, Uganda / 10 January 2023) – The Constitutional Court in Kampala has this morning [struck out](#) the offence of offensive communication for being in violation of the constitutionally guaranteed rights and ordered the authorities to immediately halt its enforcement. [The Computer Misuse Act of 2011](#), enacted by the Ugandan parliament in 2011, had outlawed what it termed offensive communication.

“The Computer Misuse law, in particular section 25, has been a preferred tool of prosecutorial abuse of the freedom expression, digital and media rights. Few cases, if any, are prosecuted, usually without success, while many suspects are simply detained for several days and held indefinitely on police bond as a means of punishment,” said Nicholas Opiyo, the Founding Executive Director of Chapter Four Uganda.

“The decision of the court, although belated, is a breath of fresh air in a situation of deep concerns about the deteriorating respect of civil liberties in Uganda. We implore the authorities to respect it and cease forthwith all cases being prosecuted or investigated under the nullified law.”

Chapter Four Uganda worked with private legal practitioners to challenge the section following [the arbitrary arrest, detention and prosecution](#) of its client, Mr. Robert Shaka in June 2015 on allegations of “disguising himself as Tom Voltaire Okwalinga (TVO). We applaud the lawyers involved, Mr. Shaka Robert and Mr. Karamagi Andrew for their steadfast commitment to this cause.

In his lead judgment, Hon. Justice Kenneth Kakuru, JA/JCC observed, “I find that the words used under Section 25 are vague, overly broad and ambiguous. What constitutes an offence is ‘unpredictable’ and gives the law enforcement the discretion to pick and choose what qualifies as offensive. It gives the law enforcement unfettered discretion to punish unpopular or critical protected expression.”

The decision of the court protects the freedom of expression, including the right to say things that offend, shock or disturb the state or any sector of the population. “In a democratic and free society, prosecuting people for the content of their communication is a violation of what falls within guarantees of freedom of expression in a democratic society,” Justice Kakuru.

“We will continue to work with partners to challenge the [Computer Misuse \(Amendment\) Act, 2022](#) (the Nsereko Amendments) which we contend are, like the nullified provision, unconstitutional,” said Anthony Masake, the Acting Executive Director of Chapter Four Uganda.

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