



PARLIAMENT OF UGANDA

REPORT OF THE SECTORAL COMMITTEE ON LEGAL AND PARLIAMENTARY AFFAIRS ON THE ANTI-PORNOGRAPHY BILL, 2011

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PARLIAMENT BUILDINGS
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Introduction

The Committee on Legal and Parliamentary Affairs considered the Anti-Pornography Bill, 2011 and now wishes to report.

The Anti-Pornography Bill, 2011 was read for the first time on 16th February 2012. It was referred to the Committee on Legal and Parliamentary Affairs in accordance with Rules 117 and 118 of the Rules of Procedure of Parliament.

In analyzing the Bill, the Committee was guided by Rule 118 of the Rules of Procedure of Parliament.

2.0 Background

This is a bill for a law that prohibits pornography which in the bill is defined to cover cultural practices, radio or television programs, publications, advertisement, upload on internet, a display, entertainment, music, dance, picture or audio among others which depicts a person engaged in explicit sexual activities or conduct, sexual parts of a person, erotic behaviors or an indecent act intended to corrupt morals.

The bill also provides for the creation of the Anti-Pornography committee responsible for the implementation of the law. Among its functions, the Anti-pornography Committee will among others be responsible for taking the necessary measures to ensure the early detection and prohibition of pornography and where it has occurred, to collect and destroy pornographic objects.

3.0 Methodology

In the process of analysing the Bill, the Committee discussed the Bill and received memoranda from the following stakeholders;

1. The Minister in charge of Ethics and Integrity,
2. Ministry of Justice and Constitutional Affairs,
3. Uganda Law Reform Commission,
4. Uganda Law Society,
5. Foundation for Human Rights Initiative,
6. The Uganda NGO Forum,
7. Family Life Network,
8. The Uganda Law Reform Commission,
9. The Uganda Youth Development Link,
10. The Uganda Joint Christian Council.

4.0 Objective of the Bill

The objective of the Bill is to create the offence of pornography which has become an insidious social problem. In the bill, pornography is defined and prohibited because of the dangers it poses to individuals, families and communities.

One of the dangers highlighted is that it fuels sexual crimes against women and children including rape, child molestation and incest.

It is therefore necessary to pass a law that specifically deals with the offence of pornography and drives the reform necessary to stamp pornography out of the Ugandan society.

5.0 Observations and Recommendations

The Committee observed that;

- i. While pornography in its different forms is already prohibited in Uganda in different laws, there is no single law to comprehensively deal with the problem of pornography,

- ii. The current provision that specifically deals with the issue of pornography is section 166 of the Penal Code Act Cap. 120 which penalises the trafficking in obscene publication. The Committee further observed that this provision is restricted to publications while pornography goes beyond publications and includes communication speech, entertainment, plays, motion pictures, art, nude dancing and the increased publication of pornographic materials in the country's mass media.
- iii. There are some aspects of pornography control already covered in the current legal regime but none of them comprehensively deals with the vice. For example; the Computer Misuse Act, 2011 caters for child pornography albeit not comprehensively;
- iv. The Prevention of Trafficking in Persons Act, 2009 also offers protection for those trafficked to engage in pornography related activities but does not specifically deal with the issue of pornography in the country.
- v. In conclusion, there is currently no law to specifically provide for the protection of the populace against pornography and children exploited in child-pornography. This law is expected to shield the masses against pornography and protect children being used in these acts.

6.0 Recommendation

The Committee recommends that the Bill be passed into law subject to the proposed amendments.

PROPOSED AMENDMENTS TO THE ANTI-PORNOGRAPHY BILL 2011

1. Clause 2- interpretation

Substitute the **definition of Pornography** with the following:

“Pornography means any representation, through publication, exhibition, cinematography, indecent show, information technology or by whatever means, of a person engaged in real or stimulated explicit sexual activities or any representation of the sexual parts of a person for primarily sexual excitement”.

Justification

- To remove the ambiguity in the definition of pornography by protecting cultural practices which are not repugnant and primarily for sexual excitement.

2. Clause 3 – Anti-pornography

Substitute for the words Anti-Pornography Committee with the Pornography Control Committee.

Justification

- The word “Anti” is ambiguous and the core function of the committee is to prevent and control the production and dissemination of objects and materials with pornographic content.

3. Clause 5- Tenure of Office of members of the Committee

- a). Delete the words appearing at the end of the provision starting from the word “except that “in the second line of the provision.

Justification

- To remove the ambiguity in the provision.

b). Substitute for the words three years with five years.

Justification

-Five years is more appropriate for the committee to execute its functions.

4. Clause 11- Powers and duties of the Committee

a) Clause 11(1) (f) delete the word indefinitely in the first line of the provision.

Justification

- To ensure that the powers to close by the committee are not abused.

b) Delete clause 11(2)

Justification

- The provision can lead to infringement of Article 27 of the Constitution on the right to Privacy and is subject to abuse.

5. Clause 13(1), insert the word 'sale' after the word export in the second line of the provision.

Justification

- To explicitly prohibit the selling of pornographic materials.