

CHAPTER XVII—DEFAMATION.

179. Definition of libel.

Any person who, by print, writing, painting, effigy or by any means otherwise than solely by gestures, spoken words or other sounds, unlawfully publishes any defamatory matter concerning another person, with intent to defame that other person, commits the misdemeanour termed libel.

180. Definition of defamatory matter.

(1) Defamatory matter is matter likely to injure the reputation of any person by exposing that person to hatred, contempt or ridicule, or likely to damage any person in his or her profession or trade by an injury to his or her reputation.

(2) It is immaterial whether at the time of the publication of the defamatory matter the person concerning whom such matter is published is living or dead.

(3) No prosecution for the publication of defamatory matter concerning a dead person shall be instituted without the consent of the Director of Public Prosecutions.

181. Definition of publication.

(1) A person publishes a libel if he causes the print, writing, painting, effigy or other means by which the defamatory matter is conveyed to be so dealt with, either by exhibition, reading, recitation, description, delivery or otherwise, that the defamatory meaning thereof becomes known or is likely to become known to either the person defamed or any other person.

(2) It is not necessary for libel that a defamatory meaning should be directly or completely expressed, and it suffices if such meaning and its application to the person alleged to be defamed can be collected either from the alleged libel itself or from any extrinsic circumstances or partly by the one and partly by the other means.

182. Definition of unlawful publication.

Any publication of defamatory matter concerning a person is unlawful within the meaning of this Chapter, unless—

- (a) the matter is true and it was for the public benefit that it should be published; or
- (b) it is privileged on one of the grounds mentioned in this Chapter.

183. Absolute privilege of defamatory matter.

(1) The publication of defamatory matter is absolutely privileged, and no person shall in any circumstances be liable to punishment under this Code in respect of such publication, in any of the following cases—

- (a) if the matter is published by the President, the Government or Parliament;
- (b) if the matter is published in Parliament by the Government or by any member of that Parliament or by the Speaker;
- (c) if the matter is published by order of the President or the Government;
- (d) if the matter is published concerning a person subject to military, naval or air force discipline for the time being, and relates to his or her conduct as a person

subject to such discipline, and is published by some person having authority over him or her in respect of such conduct, and to some person having authority over him or her in respect of such conduct;

- (e) if the matter is published in the course of any judicial proceedings by a person taking part in them as a judge, magistrate, commissioner, advocate, assessor, juror, witness or party to the proceedings;
- (f) if the matter published is in fact a fair report of anything said, done or published in Parliament; or
- (g) if the person publishing the matter is legally bound to publish it.

(2) Where a publication is absolutely privileged, it is immaterial for the purposes of this Chapter whether the matter is true or false, and whether it is or is not known or believed to be false and whether it is or is not published in good faith; but nothing in this section shall exempt a person from any liability to punishment under any other Chapter of this Code or under any other written law in force in Uganda.

184. Conditional privilege of defamatory matter.

The publication of defamatory matter is privileged if it is published in good faith and—

- (a) if the relation between the parties by and to whom the publication is made is such that the person publishing the matter is under some legal, moral or social duty to publish it to the person to whom the publication is made or has a legitimate personal interest in so publishing it;
- (b) if the matter published is in fact a fair report of anything said, done or shown in a civil or criminal inquiry or proceeding before any court; except that if the court prohibits the publication of anything said or shown before it, on the ground that it is seditious, immoral or blasphemous, the publication thereof shall not be privileged;
- (c) if the matter published is a copy or reproduction, or in fact a fair abstract, of any matter which has been previously published, and the previous publication of which was or would have been privileged under section 183;
- (d) if the matter is an expression of opinion in good faith as to the conduct of a person in a judicial, official or other public capacity or as to his or her personal character so far as it appears in such conduct;
- (e) if the matter is an expression of opinion in good faith as to the conduct of a person in relation to any public question or matter, or as to his or her personal character so far as it appears in such conduct;
- (f) if the matter is an expression of opinion in good faith as to the conduct of any person as disclosed by evidence given in a public legal proceeding, whether civil or criminal, or as to the conduct of any person as a party, witness or otherwise in any such

proceeding or as to the character of any person so far as it appears in any such conduct as mentioned in this paragraph;

- (g) if the matter is an expression of opinion in good faith as to the merits of any book, writing, painting, speech or other work, performance or act published or publicly done or made, or submitted by a person to the judgment of the public or as to the character of the person so far as it appears therein;
- (h) if the matter is a censure passed by a person in good faith on the conduct of another person in any matter in respect of which he or she has authority, by contract or otherwise, over the other person or on the character of the other person, so far as it appears in such conduct;
- (i) if the matter is a complaint or accusation made by a person in good faith against another person in respect of his or her conduct in any matter, or in respect of his or her character so far as it appears in such conduct, to any person having authority, by contract or otherwise, over that other person in respect of such conduct or matter, or having authority by law to inquire into or receive complaints respecting such conduct or matter; or
- (j) if the matter is published in good faith for the protection of the rights or interests of the person who publishes it or of the person to whom it is published, or of some person in whom the person to whom it is published is interested.

185. Good faith defined.

A publication of defamatory matter shall not be deemed to have been made in good faith by a person, within the meaning of section 184, if it is made to appear either—

- (a) that the matter was untrue and that he or she did not believe it to be true;
- (b) that the matter was untrue and that he or she published it without having taken reasonable care to ascertain whether it was true or false; or
- (c) that in publishing the matter, he or she acted with intent to injure the person defamed in a substantially greater degree or substantially otherwise than was reasonably necessary for the interest of the public or for the protection of the private right or interest in respect of which he or she claims to be privileged.

186. Presumption as to good faith.

If it is proved on behalf of the accused person that the defamatory matter was published under such circumstances that the publication would have been justified if made in good faith, the publication shall be presumed to have been made in good faith until the contrary is made to appear, either from the libel itself, or from the evidence given on behalf of the accused person or from evidence given on the part of the prosecution.