



Youth Media and Literacy Engagement Presentation

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STRENGTHENING RESILIENCE AGAINST ONLINE HATE SPEECH, DISCRIMINATION, RACISM, MISINFORMATION AND CONSPIRACY THEORIES

- ❖ National Laws Concerning Topic
- ❖ Enforcement of the National Laws to Contents Online
- ❖ Guide for Youth as Individuals and Organizations on their Rights in Law
- ❖ Appropriate Steps Required to Protect these Rights
- ❖ Current Actions of the Ministry Legal Affairs on Adapting Digitally



National Laws

- The Constitution of Antigua and Barbuda,1981
- Public Order Act Cap.357
- Electronics Crime Act,2013
- Data Protection Act, 2013
- The Defamation Act ,2015
- Domestic Violence Act ,2015
- The Disabilities and Equal Opportunities Act,2017



Constitution Of Antigua and Barbuda, 1981

Section 12

Freedom of Expression

1. Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression.
1. The said freedom includes the freedom to hold opinion, receive information and idea, disseminate information (public or to any person or class of persons) and freedom from interference with his correspondence or other means of communication.
1. Expression may be oral or written or by codes, signals, signs or symbols and includes recordings, broadcasts (whether on radio or television), printed publications, photographs (whether still or moving), drawings, carvings and sculptures or any other means of artistic expression.



Constitution Of Antigua and Barbuda, 1981

NOTE!

Section 3

B. Whereas every person in Antigua and Barbuda is entitled to the fundamental rights and freedoms of the individual...but subject to respect for the rights and freedoms of others and for the public interest

Laws can be made to hinder one's right to freedom expression where it is seen as reasonably required:

1. in the interests of defence, public safety, public order, public morality or public health; or
2. for the purpose of protecting the reputations, rights and freedoms of other persons... preventing the disclosure of information received in confidence... or regulating telephony, posts, broadcasting or other means of communication, public entertainment's, public shows...

Section 12 (4)



Constitution Of Antigua and Barbuda, 1981

Section 14

Protection from Discrimination

1. ... No law shall make any provision that is discriminatory either of itself or in its effect.
2. no person shall be treated in a discriminatory manner by any person acting by virtue of any law or in the performance of the functions of any public office or any public authority.
3. "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, place of origin, political opinions/ affiliations, colour, creed, or sex whereby persons of one such description are subjected to disabilities or restrictions to which persons of another description are not made subject or are accorded privileges or advantages ...



Public Order Act Cap.357

Section 36

A person is guilty of an offence under this section, if, without lawful authority, the proof whereof shall lie on him, in any public place or at any public meeting he-

(a) makes any statement; or

(b) plays or causes to be played any phonograph record or other sound recording; or

(c) publishes or distributes any written matter...



Data Protection Act, 2013

- The Objective of this Act is to promote the protection of personal data processed by public and private bodies and for incidental and connected purposes.



Data Protection Act, 2013

“**data user**” means a person who either alone or jointly or in common with other persons processes any personal data or has control over or authorizes the processing of any personal data, but does not include a data processor.

“**document**” means any medium in which data is recorded, whether printed or on tape or film or by electronic means ...and also means any map, diagram, photograph, film, microfilm, video-tape, sound recording, or machine readable record...



Data Protection Act, 2013

Disclosure Principle

Section 7

...no personal data shall, without the consent of the data subject, be disclosed–

(a) for any purpose other than–

(i) the purpose for which the personal data was to be disclosed at the time of collection of the personal data; or

(ii) a purpose directly related to the purpose referred to in subparagraph (i);

(b) to any party other than a third party of the class of third parties as specified in section 6 (d).



Data Protection Act, 2013

Security Principle

Section 8

- (1) A data user shall, when processing personal data, take practical steps to protect the personal data from any loss, misuse, modification, unauthorized or accidental access or disclosure, alteration or destruction by having regard to—
 - (a) the nature of the personal data and the harm that would result from such loss, misuse, modification, unauthorized or accidental access or disclosure, alteration or destruction;
 - (b) the place or location where the personal data is stored;
 - (c) any security measures incorporated into any equipment in which the personal data is stored;
 - (d) the measures taken for ensuring the reliability, integrity and competence of personnel having access to the personal data; and
 - (e) the measures taken for ensuring the secure transfer of the personal data.



Data Protection Act, 2013

Extent of Disclosure of Personal Data

Section 17

Notwithstanding section 7, personal data... may be disclosed by a data user for any purpose other than the purpose for which the personal data was to be disclosed...or any other purpose directly related to that purpose, only under the following circumstances –

- (a) data subject has given his or her consent to the disclosure;
- (b) disclosure –
 - (i) is necessary for the purpose of preventing or detecting a crime, or for the purpose of investigations; or
 - (ii) was required or authorized by or under any law or by the order of a court;



Data Protection Act, 2013

Extent of Disclosure of Personal Data

Section 17

(c) data user acted in the reasonable belief that he had in law the right to disclose the personal data to the other person;

(d) data user acted in the reasonable belief that he or she would have had the consent of the data subject if the data subject had known of the disclosing of the personal data and the circumstances of such disclosure; or

(e) disclosure was justified as being in the public interest in circumstances as determined by the Minister.



Defamation Act, 2015

The overall purpose of the Act is to protect persons and provide remedies (justice) for persons whose reputation would have been harmed by publication or by other means, by another person (s)

Can be seen at Section 3 of Act



Defamation Act, 2015

Section 2

“**Defamatory Matter**” means any matter published that is injurious to another person’s reputation in the eyes of reasonable members of society.

“Matter” includes:

- Articles, Reports, Advertisements or other communication by means of newspapers, magazines etc.
- Programme, Report, ads or any communication by means of television, radio, internet and other electronic means
- Letter, notes or other writing
- Pictures or visuals
- Words, gestures



Defamation Act, 2015

Section 2

“Electronic Communication” includes a communication in the form of data, text, images of sound (or any combination of these) by means of guided or unguided electromagnetic energy, or both



Domestic Violence Act, 2015

Section 2

“**Cyber Stalking**” means the use of the Internet or other electronic means to stalk or harass a person and in particular includes:

(a) using any lewd, lascivious, indecent, or obscene words, images, or language, or suggesting the commission of any lewd or lascivious act anonymously or repeatedly whether or not conversation occurs;

or

(b) threatening to inflict injury on the person or property of the person communicated with or any member of his or her family or household; with intent to harass, intimidate, torment, or embarrass a person



Domestic Violence Act, 2015

Section 2

“**Harassment**” includes:

... (c) repeatedly making telephone calls or inducing another person to make telephone calls to the applicant, whether or not the conversation ensues;

(d) repeatedly sending electronic mail or text messages to the applicant;...



Then Disabilities and Equal Opportunities Act, 2017

- The Act aims to protect the rights of individuals with disabilities, thus ensuring their inclusion and equal treatment in society. This legislation covers various aspects of life to improve accessibility, reduce discrimination, and promote equal opportunities for those with disabilities.



Electronics Crime Act, 2013

This Act provides for the prevention and punishment of electronic crimes and other related matters.



Electronics Crimes Act, 2013

Section 4

Amended
in 2018

Sending offensive messages through communication services, etc.

(1) A person shall not intentionally, without lawful excuse or justification send by means of an electronic system –

(a) information that is threatening; or

(b) an electronic mail or an electronic message for the purpose of causing annoyance, insult, intimidation, enmity or hatred.

(2) For the purpose of this section, the term “electronic mail” or “electronic message” means a message or information created or transmitted or received on an electronic system or electronic device including attachments in text, images, audio, video and any other electronic record which may be transmitted with the message.



Electronics Crimes Act, 2013

Section 5

- (1) A person shall not intentionally, without lawful excuse or justification make fraudulent or dishonest use of an electronic signature, password or other unique identification feature of another person.



Electronics Crimes Act, 2013

Section 6

Amended in
2018

Electronic Forgery

- (1) A person commits the offence of electronic forgery if that person with intent to defraud or deceive another –
- (a) inputs, alters, deletes, or suppresses computer data, resulting in inauthentic data with intent that it be considered or acted upon as if it were authentic;
 - (b) creates, operates or presents a false website as the site of an established business entity with intent that it be considered or acted upon as if it were authentic;
 - (c) assumes a false identity in any electronic message or electronic mail for the purpose of gaining a benefit for himself or some other person; or
 - (d) posts or otherwise publishes any false document on any website with the intent that it be acted upon as if it were the real document



Electronics Crimes Act, 2013

Electronic Fraud

A person commits the offence of electronic fraud if that person intentionally and without lawful excuse, induces another person to enter into a relationship with intent to defraud that person or cause that other person to act to his own detriment, or suffer financial loss or loss of property, by –

- (a) any input, alteration, deletion, or suppression of computer data; or
- (b) any interference with the functioning of an electronic system.

Section 7

Amended in
2018



Electronics Crimes Act, 2013

Section 8

Amended in
2018

Violation of Privacy

- (1) A person commits an offence if that person intentionally and without lawful excuse or justification captures, publishes or transmits the image of the private area of another person without his or her consent, or captures, publishes or transmits the image, whether whole or partial, of another person in a vulnerable position under circumstances violating the privacy of that person.



Electronics Crimes Act, 2013

Section 10

Child Pornography

- (1) For the purposes of this section a “child” means a person who is under the age of eighteen years.
- (2) A person shall not intentionally without lawful justification or excuse—
 - (a) publish, transmit or cause to be published..material in an electronic form which depicts a child engaged in a sexually explicit act or conduct;
 - (b) create text or digital images, collect, seek, browse, download, advertise, promote, exchange or distribute material in an electronic form depicting a child in an obscene or indecent or sexually explicit manner;
 - (c) cultivate, entice or induce a child into an online relationship with another child or an adult for a sexually explicit act or in a manner that may offend a reasonable adult on an electronic system



Electronics Crimes Act, 2013

Section 10

Child Pornography

- (d) facilitate the abuse of a child online;
- (e) record or own in an electronic form material which depicts the abuse of a child engaged in a sexually explicit act;
- (f) procure or obtain child pornography through a computer system; or
- (g) obtain access through information and communication technologies, to child pornography.



Electronics Crimes Act, 2013

Section 13

Harassment Utilizing means of Electronic System
A person shall not intentionally, without lawful excuse or justification intimidate, coerce or harass another person using an electronic system...



Electronics Crimes Act, 2013

False Websites and Spams

Section 14

- (1) A person shall not intentionally, without lawful excuse or justification set up a website or send an electronic message with a counterfeit source –
- (a) with the intention that the recipient or visitor or an electronic system will believe it to be an authentic source; or
 - (b) to attract or solicit a person or electronic system; for the purpose of gaining unauthorized access to commit a further offence or obtain information which can be used for unlawful purposes.



Electronics Crimes Act, 2013

False Websites and Spams

Section 14

(2) A person shall not intentionally without lawful excuse or justification –

- (a) initiate the transmission of multiple electronic mail messages from or through an electronic system;
- (b) use a protected computer system to relay or retransmit multiple electronic mail messages, with the intent to deceive or mislead users, or any electronic mail or internet service provider, as to the origin of such messages; or
- (c) materially falsify header information in multiple electronic mail messages and initiate the transmission of such messages.



Electronics Crimes Act, 2013

Section 15

Unauthorised Access to Code

(1) A person shall not intentionally, without lawful excuse or justification disclose or obtain a password, an access code or any other means of gaining access to an electronic system or data with intent to obtain wrongful gain or inflict wrongful loss to a person or for any unlawful purpose.



Enforcement of the Laws

- ❖ Initiating Court Proceedings
- ❖ Offender obligated to retract offensive or defamatory statement
- ❖ Offender obligated to apologise for offensive or defamatory statement
- ❖ Fines imposed
- ❖ Failure to pay fines or any other orders of the court would result in IMPRISONMENT



Guide to Youths as individuals and Organizations on Rights by Law



Appropriate Steps Required to Protect Rights

Steps taken:

- Implementation of the necessary legislation or Acts
- Enforcement of the Laws

Steps to be taken:

- Desensitizing the public to what hate speech is
- Educate the Public on the Law (what is illegal) , on their rights and steps that can be taken if their rights are infringed



Current Actions being taken by the Ministry of Legal Affairs to Adapt Digitally

- Discussions on a possible Cyber Bill for the OECS
- Further amendments to be made to the Electronic Crimes Act to increase the penalties
- Increase in penalties for the Data Protection Act



Thank you!