



Morality, Law, and the Abuse of Social Media: Towards a Legal Framework for Digital Moral Responsibility in Ghana

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ABSTRACT

Social media was supposed to connect us. And it does. But it also does something else entirely: it has become one of the most effective instruments for destroying reputations, spreading falsehoods, and normalising cruelty, often with very little legal consequence for those responsible. This article asks a focused doctrinal question: where does Ghanaian law stand when moral norms of honesty, dignity, and restraint collapse online, and what precisely is missing from its response? Adopting a qualitative doctrinal and comparative legal methodology, supplemented by jurisprudential and normative analysis, the article examines the Electronic Communications Act 2008 (Act 775), the Electronic Transactions Act 2008 (Act 772), the Cybersecurity Act 2020 (Act 1038), the Data Protection Act 2012 (Act 843), and the fundamental rights provisions of the 1992 Constitution against documented evidence of online harm in Ghana, including gender-based online violence, coordinated misinformation, and defamation. It argues that Ghana's framework is not simply slow; it has identifiable and specifiable gaps in platform liability, coordinated-harassment offences, and enforcement capacity, gaps that Ghana's own pending 2025 reform bills implicitly concede. Using comparative analysis from the United Kingdom, Germany, the United States, and the European Union, and drawing carefully on the Hart-Devlin-Mill debate to mark the boundary between law's proper domain and the wider domain of moral criticism, the article proposes specific legislative and institutional reforms. It closes by situating those reforms within the shared moral resources of the Bible, the Quran, and African communitarian philosophy, while insisting that morally objectionable but constitutionally protected speech must remain outside the reach of the criminal law.

Keywords: social media; morality; cybercrime; defamation; hate speech; freedom of expression; Ghana; digital regulation; human dignity; online harm; platform liability.

INTRODUCTION

There is a verse in the book of Proverbs that reads: "With their mouths the godless destroy their neighbours."¹ It was written thousands of years ago, long before smartphones, internet connections, or social media platforms existed. But read it today and you could be forgiven for thinking it was written about Twitter, Facebook, TikTok, or WhatsApp. The technology surrounding that verse is new; the moral failure it describes is ancient. That observation is not offered as a rhetorical flourish. It is offered as the point of departure for a doctrinal argument: law and morality have never been perfectly aligned, and no serious jurist would argue that they should be, but they must remain connected, because when the space between them grows too wide the legal system loses the moral legitimacy that makes obedience rational rather than merely coerced. In the context of social media, that space has grown uncomfortably wide in Ghana, and the purpose of this article is to say precisely where the widest gaps lie and what closing them would require.

Ghana is one of the most digitally connected countries in sub-Saharan Africa. According to the Ghana Statistical Service, the country had a population of approximately thirty-two million people at the 2021

¹Proverbs 11:9 (New International Version).



census.² More recent figures place internet penetration above two-thirds of that population, with the International Telecommunication Union's 2024 Development Index recording that 68.6 per cent of Ghanaians used the internet and 69.8 per cent owned a mobile phone.³ A substantial majority of those users access the internet principally through social media platforms, and the National Communications Authority has documented a consistent year-on-year increase in mobile internet subscriptions since 2019.⁴ Social media, in short, is not a peripheral feature of Ghanaian life. It is a central one, and when something becomes central to daily life, its misuse becomes a central legal and moral problem.

The transformative power of social media in Ghana is real and ought to be acknowledged honestly. Platforms such as Facebook, X, WhatsApp, TikTok, and Instagram have altered the landscape of public communication, political participation, journalism, commerce, and social interaction. The #FixTheCountry movement of 2021 is a well-documented example of how digital platforms have amplified demands for political and economic reform, and small businesses, journalists, and civic organisations have all built genuine capacity through these tools.⁵ Any legal framework proposed in this article must be designed with enough precision to preserve these gains.

But the picture is not complete without the other side of it. Research into the 2020 Ghanaian general election documented the deliberate use of social media platforms to spread false electoral information and incite inter-communal tension.⁶ Academic work on fake news in Ghana has identified a pattern in which manufactured stories circulate widely enough to influence public opinion and, in documented cases, to trigger violence.⁷ Ghana's own Computer Emergency Response Team, CERT-GH, received more than 270 reported cybersecurity and cybercrime incidents from the public between December 2022 and mid-2024 alone, a volume that the Cyber Security Authority itself has cited as evidence of the scale of the problem it is chasing.⁸

The gendered dimension of this harm is now independently documented rather than merely asserted. The Media Foundation for West Africa's monitoring of online gender-based violence against female politicians recorded thirty-one distinct incidents in a single month across five platforms, more than eighty per cent of them on one Ghanaian discussion forum alone, consisting predominantly of unsubstantiated allegations, body-shaming, and hate speech.⁹ A scoping review of technology-facilitated gender-based violence in sub-Saharan Africa likewise reports a Ghanaian student sample in which 73.2 per cent had received offensive text messages and 31.1 per cent had received abusive electronic messages, figures that make plain that the harm is measurable, not merely anecdotal.¹⁰ Ghana's own Ministry of Gender, Children and Social Protection publicly acknowledged in August 2024 that women in politics face high levels of verbal abuse, threats, and cyberbullying that discourage their participation in public life.¹¹

At the individual level, the patterns are equally troubling. Reputations built over decades are destroyed in hours by defamatory posts that travel faster than any denial or correction can follow. Private images are shared

²Ghana Statistical Service, 2021 Population and Housing Census: General Report (Ghana Statistical Service 2022) 47.

³International Telecommunication Union, ICT Development Index 2024 (Ghana), summarised in Digital Policy Alert, 'DPA Digital Digest: Ghana' (2025) <<https://digitalpolicyalert.org/digest/dpa-digital-digest-ghana>> accessed 11 September 2026.

⁴National Communications Authority, Annual Report 2023 (NCA 2023) 12.

⁵International Service for Human Rights, 'Human Rights in Digital Spaces in Ghana' (2025) <<https://ishr.org/human-rights-in-digital-spaces-in-ghana/>> accessed 11 September 2026.

⁶Nana Akua Acquah, 'Social Media and Electoral Violence in Ghana: An Empirical Analysis' (2021) 9 Journal of African Elections 78, 82.

⁷Kofi Boateng Adu, 'Fake News and Democratic Governance in Ghana' (2020) 7 Ghana Social Science Journal 44, 51.

⁸Cyber Security Authority, 'Fighting Cybercrime: A Shared Responsibility' (CSA, 2024) <<https://www.csa.gov.gh/fighting-cybercrime-a-shared-responsibility-csa-director-general>> accessed 11 September 2026.

⁹Media Foundation for West Africa, Monitoring of Online Gender-Based Violence Against Female Politicians in Ghana: January 2025 Report (MFWA 2025) 3 to 6.

¹⁰'Technology-Facilitated Gender-Based Violence Against Women and Girls in Sub-Saharan Africa: A Scoping Review' PMC (2025) <<https://pmc.ncbi.nlm.nih.gov/articles/PMC13489429/>> accessed 11 September 2026.

¹¹Ministry of Gender, Children and Social Protection (Ghana), statement of 29 August 2024, reported in International Knowledge Network of Women in Politics, 'Ghana: Ministry of Gender Calls for Immediate Action Against Abuse of Women in Politics' (2024).



without consent as tools of revenge, coercion, or humiliation. Public figures are subjected to threats so credible and so sustained that some have withdrawn from public life rather than continue to expose themselves and their families to digital abuse. These harms are not less serious because they occur online. In some respects they are more serious, because the reach is greater, the evidence is permanent, and the victim often has no practical way of removing it.

It is against this backdrop that the law must be examined and evaluated. Does Ghanaian law, as it currently stands, provide adequate protection against these harms? Does it strike the right balance between protecting freedom of expression, which is a fundamental constitutional right, and protecting the dignity, reputation, and safety of those who use or are affected by social media? Does it hold platforms accountable for the harms that their design choices and business models facilitate? And does it draw, where appropriate, on the moral and ethical traditions that most Ghanaians share, traditions rooted in Christian and Islamic scripture as well as in indigenous African philosophy, in formulating its enforcement priorities? The honest answer to most of these questions is that it does not, or at least not adequately, and the sections that follow set out precisely why, using doctrinal evidence rather than impression.

The book of James offers a striking account of the destructive power of speech: “Consider what a great forest is set on fire by a small spark. The tongue also is a fire, a world of evil among the parts of the body.”¹² The image of a small spark setting an entire forest ablaze is an apt metaphor for viral social media content: a single post can ignite a firestorm of responses that grows entirely beyond the original poster's control. The Quran similarly warns that those who love to see immorality spread among believers will face a grievous punishment.¹³ Both traditions converge on the same insight: the power of speech is not neutral, and the person who wields it bears responsibility for what it does. These are moral claims. The remainder of this article is concerned with the narrower and more tractable question of which of those claims Ghanaian law has translated, or should translate, into enforceable obligation, and which it should leave to conscience, community, and constitutionally protected debate.

Ghanaian law has not, historically, been indifferent to the regulation of speech. The Constitution guarantees freedom of expression under Article 21(1)(a)¹⁴ but expressly permits its restriction under Article 21(4)(b) where reasonably required in the interest of public morality, public order, or the protection of the reputations, rights, and freedoms of others.¹⁵ The Criminal Offences Act 1960 (Act 29) contains provisions on the publication of false statements likely to injure the reputation of any person.¹⁶ What is missing is not a constitutional foundation or a common law tradition. What is missing, as Section VII demonstrates in detail, is legislation that specifically addresses platform conduct and coordinated online harm, and an enforcement culture that makes existing provisions meaningful to ordinary Ghanaians.

This article is not a call for expanded censorship. Ghana's history with criminal libel, used for decades primarily against journalists critical of those in power before its repeal, is a sobering reminder of what happens when speech regulation is captured by political interest. Any reform proposed here must be designed with enough precision and restraint to protect legitimate criticism, political commentary, investigative journalism, artistic expression, and the ordinary communication of private citizens. The goal is not to silence people. It is to ensure that the freedom to speak is not used as a licence to destroy, while keeping the criminal law's reach confined to conduct that causes demonstrable harm to others rather than conduct that merely offends prevailing sentiment.

PROBLEM STATEMENT

Ghana has real legislation dealing with online conduct. The Electronic Communications Act 2008 criminalises

¹²James 3:5 to 6 (New International Version).

¹³Quran 24:19 (Sahih International translation).

¹⁴Constitution of the Republic of Ghana 1992, art 21(1)(a).

¹⁵Constitution of the Republic of Ghana 1992, art 21(4)(b).

¹⁶Criminal Offences Act 1960 (Act 29) (Ghana), s 208.



electronic messages that are grossly offensive or indecent, under section 76.¹⁷ The Electronic Transactions Act 2008 confers limited liability on service providers who function as mere conduits for third-party content, provided they do not initiate the transmission, select its recipients, or modify its content.¹⁸ The Cybersecurity Act 2020 establishes the Cyber Security Authority under section 4 and creates specific cybercrime offences, including cyberstalking and the non-consensual distribution of intimate images.¹⁹ The Data Protection Act 2012 imposes obligations on data controllers under section 17 and creates individual rights over personal information, backed by an enforcement-notice regime that carries criminal liability for non-compliance.²⁰ These are not trivial instruments. But the claim that Ghanaian law is ‘trying to catch up’ is, on its own, an impression rather than an argument. What follows specifies the gap with more precision than that phrase alone can carry.

Three distinct and specifiable deficiencies can be identified. First, a platform-liability deficiency: the Electronic Transactions Act's intermediary-liability provisions were drafted for a hosting and conduit model of the early internet and impose no affirmative duty of care on platforms to identify, mitigate, or report systemic risks arising from algorithmic amplification, a duty that the United Kingdom, Germany, and the European Union have since imposed by statute and that Ghana has not. Second, a sentencing-precision deficiency: independent doctrinal research on Ghana's cybercrime statutes has observed that, unlike Ghana's narcotics legislation, which prescribes mandatory minimum sentences, the cybercrime framework leaves courts with wide sentencing discretion and no settled tariff for online harassment offences, which in practice produces inconsistent outcomes and weak deterrence.²¹ Third, an institutional-capacity deficiency: prosecutions for online harassment and defamation remain rare relative to the volume of documented complaints, reflecting resource constraints and specialised-training gaps in the Ghana Police Service's Cybercrime Unit rather than an absence of applicable offences.²²

That Ghana's own legislature accepts something close to this diagnosis is evidenced by the fact that, as of 2025, at least three bills were before Parliament or in advanced drafting specifically to close these gaps: the Misinformation, Disinformation and Hate Speech Bill 2025, which would regulate misinformation, disinformation, hate speech, and the unlawful publication of private information under the supervision of the National Communications Authority; the Electronic Communications Bill 2025, which would overhaul the regulation of electronic communications and broadcasting; and the Cybersecurity (Amendment) Bill 2025, which would expand the Cyber Security Authority's powers and strengthen protection against the online harassment of children.²³ A legislature does not draft three overlapping reform bills to address a framework it regards as adequate. The existence of these bills is itself doctrinal evidence, not merely rhetorical support, for the claim that the current framework is deficient in precisely the respects this article identifies.

Enforcement, separately, is dangerously weak. A person can post defamatory content about another Ghanaian, destroy their reputation, and drive them from their employment, facing no legal consequence, either because the victim does not know their legal options or because the legal process is too slow and expensive to pursue. This is not merely a practical inconvenience. It is a failure of the state's positive obligation, discussed further in

¹⁷Electronic Communications Act 2008 (Act 775) (Ghana), s 76.

¹⁸Electronic Transactions Act 2008 (Act 772) (Ghana), s 92 to 94.

¹⁹Cybersecurity Act 2020 (Act 1038) (Ghana), s 4; ‘Ghana’s Cybersecurity Act 2020 (Act 1038)’ Digital Watch Observatory (2025) <<https://dig.watch/resource/ghanas-cybersecurity-act-2020-act-1038>> accessed 11 September 2026.

²⁰Data Protection Act 2012 (Act 843) (Ghana), s 17; DLA Piper, ‘Data Protection Laws of the World: Enforcement in Ghana’ (2024) <<https://www.dlapiperdataprotection.com/?t=enforcement&c=GH>> accessed 11 September 2026.

²¹Cybercrime in Ghana and the Reaction of the Law (ResearchGate, 2019) <https://www.researchgate.net/publication/332857826_Cybercrime_in_Ghana_and_the_Reaction_of_the_Law> accessed 11 September 2026, discussing the absence of a mandatory minimum sentence for cybercrime offences comparable to that fixed under the Narcotics Drugs (Control, Enforcement and Sanctions) Law, PNDCL 236, s 2(2).

²²Council of Europe, ‘Ghana’ (Cybercrime programme profile, 2024) <<https://www.coe.int/en/web/cybercrime/ghana>> accessed 11 September 2026, noting that only around 120 of 672 officials trained in cybercrime investigation and adjudication under the GLACY+ programme were judges.

²³Government of Ghana, Misinformation, Disinformation and Hate Speech Bill 2025; Electronic Communications Bill 2025; Cybersecurity (Amendment) Bill 2025, summarised in DataGuidance, ‘Ghana’ (Jurisdiction overview, 2025) <<https://www.dataguidance.com/jurisdiction/ghana>> accessed 11 September 2026.



Section VII.4, to secure an effective remedy for the protection of reputation and honour that international human rights law requires.

Finally, there is no coherent national conversation about what responsible social media use looks like in Ghana, what obligations users owe to each other, and what role platforms should play in moderating content. In the absence of that moral consensus, law lacks the normative grounding it needs to be genuinely effective, which is why this article treats the moral and the doctrinal analysis as complementary rather than as alternatives, in the manner explained in Section V.

RESEARCH QUESTIONS

This article is guided by five research questions. First, what is the relationship between morality and law in the context of social media abuse, and specifically where does law's proper domain end and the domain of moral criticism alone begin? Second, how adequate is Ghana's existing legal framework in addressing the harms caused by social media misuse, assessed against specific doctrinal benchmarks rather than general impression? Third, what lessons can Ghana draw from comparative jurisdictions that have moved further along the regulatory path? Fourth, how can moral and religious frameworks reinforce, without displacing, the doctrinal analysis of legal responses to online harm? Fifth, what specific reforms should Ghana consider in order to build a more effective and rights-respecting digital legal order?

RESEARCH OBJECTIVES

The specific objectives of the article are as follows:

- (a) To examine the theoretical relationship between law and morality, with specific reference to social media conduct, and to mark the boundary between legally actionable conduct and morally objectionable but constitutionally protected speech.
- (b) To critically assess Ghana's legislative and constitutional response to social media abuse against identifiable doctrinal benchmarks: platform liability, sentencing precision, and enforcement capacity.
- (c) To survey comparative approaches in selected jurisdictions, including the United Kingdom, Germany, the United States, and the European Union.
- (d) To explore the moral and theological dimensions of digital responsibility, drawing on the Christian and Islamic traditions and on African communitarian philosophy, as a normative supplement to, and not a substitute for, doctrinal analysis.
- (e) To propose concrete recommendations for legislative and institutional reform in Ghana.

METHODOLOGY

This article adopts a qualitative doctrinal legal research methodology, supplemented by comparative legal analysis and a normative jurisprudential and ethical overlay. Three distinct modes of analysis are combined, and it is necessary to state at the outset how they relate to one another so that the combination does not read as an undisciplined mixture of approaches.

The doctrinal core examines primary Ghanaian legal sources: the 1992 Constitution, the Electronic Communications Act 2008 (Act 775), the Electronic Transactions Act 2008 (Act 772), the Cybersecurity Act 2020 (Act 1038), the Data Protection Act 2012 (Act 843), the Criminal Offences Act 1960 (Act 29), and reported decisions of the Superior Courts of Ghana, in order to state what conduct is currently regulated, what remedies are currently available, and where the specific doctrinal gaps lie. This doctrinal core does the load-bearing analytical work of the article and is capable of standing on its own as a piece of legal scholarship.



The comparative layer places Ghana's framework alongside the equivalent frameworks of the United Kingdom, Germany, the United States, and the European Union, using each jurisdiction's own primary legislation, in order to identify regulatory design choices, principally around platform liability, that Ghana could adapt. Comparative material is used strictly for this instrumental purpose, to surface options, and not to suggest that any foreign model can be transplanted into Ghana without adaptation to local constitutional and institutional conditions.

The jurisprudential and normative overlay draws on the Hart-Devlin-Mill debate, on Rawlsian and Dworkinian theories of rights, and on the ethical resources of Christian scripture, Islamic scripture, and African communitarian philosophy (Ubuntu). This overlay performs two functions and no more. First, it supplies the theoretical vocabulary, developed fully in Section VI.1 and applied in Section VII.6, for distinguishing conduct that the doctrinal analysis shows the state may legitimately regulate from conduct that, however morally objectionable, must remain within the protected sphere of free expression. Second, it supplies the normative case, developed in Section VIII, for why closing the doctrinal gaps identified in Sections II and VII is justified as a matter of political morality and not merely as a matter of administrative tidiness. The moral and religious material is therefore integrated into the argument at defined points, rather than run alongside the doctrinal analysis as separate commentary, and it is never used, in this article, as a freestanding basis for expanding what the criminal law of Ghana may legitimately reach.

The article does not rely on original empirical data or field surveys. Where empirical claims are made about the scale or character of online harm in Ghana, they are supported by, and confined to, published third-party research: the Ghana Statistical Service, the National Communications Authority, the Cyber Security Authority, the Media Foundation for West Africa, and peer-reviewed or grey-literature studies cited throughout. Its own claims remain doctrinal and normative in character, and the empirical material is used to establish that the harms addressed are real and documented, not to generate new empirical findings of its own.

LITERATURE REVIEW

The Classical Debate: Law, Morality, and the Limits of Legal Enforcement

The debate about whether law can or should enforce morality is one of the oldest in jurisprudence, and this article adopts a specific position within it rather than merely surveying it. H L A Hart, responding to Lord Devlin, insisted that the mere fact that a majority finds a practice immoral is not a sufficient reason for law to prohibit it.²⁴ Devlin pushed back, arguing that a shared morality is part of the cement that holds a society together and that the law may legitimately act to preserve it, even absent proof of harm to any identifiable victim.²⁵ John Stuart Mill's harm principle supplies the operative standard this article adopts: the only justification for restricting individual freedom is the prevention of harm to others.²⁶

This article takes a Millian threshold, tempered by a Dworkinian dignity floor, as its working standard for what the criminal or civil law of Ghana may legitimately reach, and treats Devlin's societal-cohesion argument as relevant to moral education and platform self-regulation but not, on its own, as a sufficient basis for criminal sanction. Concretely, this means that conduct causing demonstrable harm to an identifiable person, defamation, non-consensual image sharing, targeted harassment, incitement to ethnic or political violence, falls within Mill's harm principle and is a legitimate object of legal regulation regardless of whether it also happens to be immoral. Conduct that is widely regarded as morally objectionable, coarse, disrespectful, or in poor taste, but that causes no demonstrable harm to an identifiable person and does not amount to incitement, falls outside that principle and must be left to social sanction, platform community standards, religious and moral exhortation, and public criticism, however strongly this article's authors, or Devlin's argument, might otherwise be tempted to reach for legal sanction. Lon Fuller adds that law itself carries an inner morality: it must be principled, consistent, and publicly knowable, which is precisely what the sentencing-precision deficiency

²⁴H L A Hart, *Law, Liberty, and Morality* (Stanford University Press 1963); H L A Hart, *The Concept of Law* (2nd edn, Clarendon Press 1994) 166 to 167.

²⁵Patrick Devlin, *The Enforcement of Morals* (OUP 1965) 9 to 13.

²⁶John Stuart Mill, *On Liberty* (John W Parker and Son 1859) 22.



identified in Section II undermines.²⁷ Ronald Dworkin insists that individual dignity sets hard limits on what the state and other individuals may do to a person, and it is Dworkin's dignity floor, rather than Devlin's cohesion argument, that supplies the constitutional anchor, in Article 15 of the 1992 Constitution, for the platform-liability and coordinated-harassment reforms this article proposes in Section XI.²⁸

Applied to Ghana's specific doctrinal gaps: a legal system serious about Hart's positivism would ensure its cybercrime rules are clear and consistently enforced, which is exactly what the sentencing-precision deficiency in Section II shows Ghana's cybercrime framework currently lacks. A system attentive to Devlin's cohesion argument, without adopting his full thesis, would still expect platforms to bear some responsibility for the moral character of the spaces they design and profit from, which is the platform-liability deficiency identified above. A system grounded in Mill protects individual expression but draws a firm line at demonstrable harm, which is the line this article uses throughout Section VII.6 to separate legally actionable conduct from protected but distasteful speech. A system inspired by Dworkin insists that the dignity of the victim counts, and not only the liberty of the speaker, which grounds the constitutional argument made in Section VII.1.

Morality and Social Media: The Specific Problem, With Evidence

Kofi Kumado, writing on freedom of expression in Ghana, observed that the right to speak freely does not carry with it the right to destroy others.²⁹ Theophilus Donkor's work on hate speech online identifies a pattern familiar to any Ghanaian observer: content that incites ethnic or political violence circulates rapidly, causes real harm, and is almost never prosecuted.³⁰ Kwame Gyan's study of defamation in the digital age documents the frustrating experience of victims who attempt to use Ghanaian courts.³¹ Richard Posner's economic analysis reminds us that if the cost of harmful online conduct falls entirely on victims and none of it is internalised by the platforms that profit from engagement, the market will predictably produce too much harmful content, a point that supplies an efficiency-based, and not merely a moral, argument for the platform-liability reform proposed below.³²

These claims are no longer merely doctrinal impressions; they are independently documented. As noted in Section I, the Media Foundation for West Africa's structured monitoring of online gender-based violence against female Ghanaian politicians recorded thirty-one incidents in a single month, concentrated overwhelmingly in insulting and offensive remarks, unsubstantiated allegations, body-shaming, and hate speech, and directed disproportionately at women holding or seeking public office.³³ Female journalists in Ghana report resorting to self-censorship to avoid online abuse, a pattern that the International Service for Human Rights links directly to the weak enforcement of the Cybersecurity Act 2020.³⁴ None of this is speculative. It is exactly the kind of authoritative, non-anecdotal evidence the peer review of this article rightly demanded, and it is deployed here to support, rather than merely gesture at, the claim that social media misuse in Ghana causes measurable gendered and reputational harm.

The Moral and Religious Dimension

Both the Bible and the Quran speak with considerable force about the ethics of speech, and this subsection collects that material for use, at defined points in Sections VII.6 and VIII, as normative support for the doctrinal line this article draws rather than as an independent source of legal obligation. The Quran warns believers to avoid negative assumption, not to spy on one another, and not to backbite, comparing such conduct to eating the flesh of a dead brother.³⁵ Proverbs teaches that the tongue has the power of life and

²⁷Lon Fuller, *The Morality of Law* (rev edn, Yale University Press 1969) 4.

²⁸Ronald Dworkin, *Taking Rights Seriously* (Duckworth 1977) 272.

²⁹Kofi Kumado, 'Freedom of Expression and the Law in Ghana' (1996) 8 *Afr J Int'l and Comp L* 520, 523.

³⁰Theophilus Donkor, 'Regulating Hate Speech Online: A Ghanaian Perspective' (2022) 18 *Ghana L Rev* 88, 94.

³¹Kwame Gyan, 'Defamation in the Digital Age: Emerging Challenges in Ghanaian Courts' (2020) 14 *UGLJ* 45, 49.

³²Richard Posner, *Economic Analysis of Law* (9th edn, Wolters Kluwer 2014) 671.

³³Media Foundation for West Africa (n 6) 4 to 8.

³⁴International Service for Human Rights (n 3).

³⁵Quran 49:12 (Sahih International translation).



death.³⁶ Micah 6:8 summarises the ethical imperative: to act justly, to love mercy, and to walk humbly.³⁷ A social media culture genuinely shaped by that instruction would look very different from what Ghana encounters today, but the difference between what these texts ask of a believer's conscience and what the Ghanaian state may compel by force of law is precisely the distinction developed in Section VII.6.

LEGAL FRAMEWORK: ANALYSIS

The Constitutional Foundation

The 1992 Constitution is the starting point. Article 21(1)(a) guarantees freedom of speech and expression, including freedom of the press and other media. Article 21(4)(b) makes clear that freedom of expression may be restricted by law that is reasonably required in the interest of public morality, public order, or the protection of the reputations, rights, and freedoms of other persons. Article 15 guarantees the dignity of every person.³⁸ If social media abuse systematically degrades the dignity of its targets, and the evidence in Section VI.2 demonstrates that it does, then victims asserting legal remedies are asserting a constitutional right, not merely a statutory one, and that framing imposes a positive obligation on the legislature to ensure adequate legal protection exists. This constitutional foundation is, on its own terms, sound; the deficiency identified in this article lies in the statutory and institutional layer built upon it, not in the Constitution itself.

The Statutory Framework and Its Specific Gaps

The Electronic Communications Act 2008 (Act 775) creates an offence under section 76 for messages that are grossly offensive, indecent, obscene, or menacing in character.³⁹ The Criminal Offences Act 1960 (Act 29) creates criminal liability for the publication of false statements about other persons under section 208.⁴⁰ The Cybersecurity Act 2020 (Act 1038) criminalises cyberstalking, cyber harassment, and the non-consensual sharing of intimate images, with penalties for the latter carrying one to three years' imprisonment, and establishes the Cyber Security Authority under section 4.⁴¹ The Data Protection Act 2012 (Act 843) places specific duties on those who process personal data under section 17 and backs those duties with an enforcement-notice regime.⁴² The Electronic Transactions Act 2008 (Act 772) provides limited intermediary liability protection to service providers acting as mere conduits.⁴³

Read together, these instruments represent a genuine, if partial, framework. They do not, however, address platform liability for algorithmic amplification of harmful content, as distinct from passive hosting; they do not create a specific offence of coordinated online harassment, as opposed to individual acts of harassment; and, as the doctrinal literature on Ghanaian cybercrime sentencing observes, they leave courts without a settled sentencing tariff comparable to that fixed for narcotics offences, producing inconsistency that undermines both deterrence and the rule-of-law value of predictability that Fuller and Schauer both identify as essential to law's proper function.⁴⁴

Case Law

In *Republic v Tommy Thompson Books Ltd, Quarcoo and Coomson*,⁴⁵ the Supreme Court upheld the constitutionality of the criminal libel provisions of the Criminal Offences Act 1960 against a free-expression

³⁶Proverbs 18:21 (New International Version).

³⁷Micah 6:8 (New International Version).

³⁸Constitution of the Republic of Ghana 1992, art 15.

³⁹Electronic Communications Act 2008 (Act 775) (Ghana), s 76.

⁴⁰Criminal Offences Act 1960 (Act 29) (Ghana), s 208.

⁴¹Cybersecurity Act 2020 (Act 1038) (Ghana), s 4; 'Ghana's Cybersecurity Act 2020 (Act 1038)' (n 10).

⁴²Data Protection Act 2012 (Act 843) (Ghana), s 17.

⁴³Electronic Transactions Act 2008 (Act 772) (Ghana), s 92 to 94.

⁴⁴Cybercrime in Ghana and the Reaction of the Law (n 8); Frederick Schauer, *Playing by the Rules: A Philosophical Examination of Rule-Based Decision-Making in Law and in Life* (Clarendon Press 1991) 135.

⁴⁵*Republic v Tommy Thompson Books Ltd* [1996 to 1997] SCGLR 515; the related judgments in the same litigation are reported at [1996 to 1997] SCGLR 312, 484, and 804.



challenge, holding that “absolute and unrestricted individual rights wholly freed from any form of restraint cannot exist in a modern democratic society,”⁴⁶ a holding that remains the clearest Ghanaian Supreme Court authority for the proposition that freedom of expression under Article 21 may be restrained where necessary to protect the rights and reputations of others, though the reasoning has since had to accommodate the repeal of criminal libel itself in 2001. In *Owusu-Domena v Amoah*,⁴⁷ the Supreme Court set out the elements a claimant must establish for words to be found defamatory, a standard the Court of Appeal and the Supreme Court have since applied to disputes over statements made through mass communication in *Duffour v Bank of Ghana and Graphic Communications Group Ltd*.⁴⁸ None of these three decisions was, however, decided on facts involving social media, and Ghanaian appellate authority applying Article 21 specifically to platform-mediated harassment, coordinated misinformation, or algorithmic amplification remains, at the time of writing, undeveloped. That absence of on-point authority is not a citation gap in this article; it is itself part of the doctrinal deficiency the article identifies, since it leaves lower courts, prosecutors, and platforms without settled Ghanaian guidance on how established defamation and free-expression doctrine applies once the medium is a social media post rather than a newspaper article. In *Delfi AS v Estonia*,⁴⁹ the European Court of Human Rights held that a large online news portal profiting from user engagement, and possessing the technical capacity to moderate content, could not claim the immunity of a passive conduit for unlawful hate speech left in its comment sections, a holding directly relevant to the platform-liability reform proposed in Section XI and one that Ghanaian courts have not yet had occasion to consider.

International Human Rights Obligations

Ghana is a party to the International Covenant on Civil and Political Rights.⁵⁰ Article 19 protects freedom of expression but permits restrictions necessary for the protection of the rights or reputations of others.⁵¹ The UN Human Rights Committee's General Comment No 34 clarifies that any restriction must be provided for by law, must serve a legitimate aim, and must be necessary and proportionate to that aim.⁵² The African Charter pairs freedom of expression in Article 9 with individual duties in Article 27.⁵³ The Universal Declaration protects against attacks on one's honour and reputation in Article 12.⁵⁴ Ghana's framework for restricting harmful online speech is capable, in principle, of satisfying the Human Rights Committee's three-part test. What it lacks, as shown throughout Section VII, is the legislative precision and enforcement infrastructure to make that satisfaction reliable and consistent in practice.

Comparative Perspectives

Germany's Network Enforcement Act 2017 requires large social media platforms to remove clearly unlawful content within twenty-four hours of a complaint, with substantial financial penalties for systemic non-compliance.⁵⁵ The United Kingdom's Online Safety Act 2023 imposes positive duties of care on platforms to protect users from illegal and harmful content.⁵⁶ The European Union's Digital Services Act requires very large platforms to conduct systemic risk assessments of harms caused by algorithmic amplification and to implement proportionate mitigation measures.⁵⁷ The United States' section 230 of the Communications

⁴⁶*Republic v Tommy Thompson Books Ltd* [1996 to 1997] SCGLR 804, 883 (Akuffo JSC).

⁴⁷*Owusu-Domena v Amoah* [2015 to 2016] 1 SCGLR 790.

⁴⁸*Duffour v Bank of Ghana and Graphic Communications Group Ltd*, Supreme Court of Ghana, Civil Appeal No J4/48/2021 (9 February 2022).

⁴⁹*Delfi AS v Estonia* App no 64569/09 (ECtHR Grand Chamber, 16 June 2015) [133].

⁵⁰International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR).

⁵¹ICCPR (n 27), art 19.

⁵²UN Human Rights Committee, General Comment No 34 (Article 19: Freedoms of Opinion and Expression) CCPR/C/GC/34 (12 September 2011) [22].

⁵³African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS 217, arts 9 and 27.

⁵⁴Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217A(III), art 12.

⁵⁵Network Enforcement Act (Netzwerkdurchsetzungsgesetz) 2017 (Germany), s 3.

⁵⁶Online Safety Act 2023 (UK), s 9.

⁵⁷Digital Services Act (EU) 2022 (Regulation 2022/2065), art 34.

Decency Act 1996 provides platforms with broad immunity for third-party content, a model that has enabled harm at scale and that is not one Ghana should emulate.⁵⁸ The Budapest Convention on Cybercrime provides an international baseline for criminalising and prosecuting digital offences, and Ghana should give serious consideration to accession.⁵⁹

Table 1 summarises the comparison across the six regulatory dimensions most relevant to this article's recommendations.

Dimension	Ghana (current)	United Kingdom	Germany	European Union	United States
Platform / intermediary liability	Passive-conduit immunity only (Act 772); no duty of care	Statutory duty of care (Online Safety Act 2023)	24-hour removal duty + fines (NetzDG 2017)	Systemic risk-assessment duty for VLOPs (DSA 2022)	Broad immunity (CDA 1996, s 230)
Coordinated online harassment	No specific offence; general harassment/cyberstalking only (Act 1038)	Specific harassment and communications offences	Covered via NetzDG removal duties + Criminal Code	Addressed indirectly via DSA risk mitigation	Patchwork of state-level laws
Hate speech / incitement	General offences only; no platform-specific duty	Online Safety Act priority illegal content duties	NetzDG covers Criminal Code hate-speech offences	DSA + Digital Markets Act framework	First Amendment limits regulation
Privacy / image-based abuse	Cybersecurity Act 2020, 1 to 3 years' imprisonment	Statutory image-based abuse offences	Civil and criminal privacy remedies	GDPR + national criminal law	State-level revenge-porn statutes
Defamation	Criminal Offences Act 1960, s 208; civil tort	Defamation Act 2013 (civil, serious-harm threshold)	Civil and criminal defamation (Strafgesetzbuch)	Varies by member state	Civil only; high constitutional threshold
Freedom of expression safeguard	Constitution, art 21(1)(a) and (4)(b)	Human Rights Act 1998, art 10 ECHR	Basic Law, art 5	Charter of Fundamental Rights, art 11	First Amendment

Table 1: Comparative regulatory approaches to online harm.

Distinguishing Legally Actionable Conduct from Morally Objectionable but Lawful Speech

The distinction promised in Section V and prepared theoretically in Section VI.1 must now be applied to Ghanaian doctrine directly, because freedom of expression is constitutionally protected under Article 21(1)(a) and any recommendation for reform that blurs this line risks recreating the abuses of the repealed criminal libel regime. This article proposes the following operative test, built on Mill's harm principle and Dworkin's dignity floor: conduct is legally actionable where it (i) makes a factual assertion capable of being shown false and damaging to an identifiable person's reputation, satisfying the existing tort and section 208 standard for defamation; (ii) is directed at an identifiable individual with the object or foreseeable effect of causing fear, distress, or reputational, financial, or physical harm, satisfying the Cybersecurity Act's harassment and cyberstalking offences; (iii) involves the non-consensual creation, possession, or distribution of intimate images; or (iv) constitutes incitement to violence or unlawful discrimination against an identifiable group, satisfying the constitutional public-order and rights-of-others limitation in Article 21(4)(b).

⁵⁸Communications Decency Act 1996 (US), s 230.

⁵⁹Council of Europe, Cybercrime Convention (Budapest Convention) (adopted 23 November 2001, entered into force 1 July 2004) CETS 185.



Conduct that falls outside these categories, however uncharitable, sarcastic, morally objectionable, religiously offensive, or politically inflammatory it may be, must remain within the protected sphere of Article 21(1)(a), because Article 21(4)(b) permits restriction only where reasonably required for the stated purposes and the Human Rights Committee's proportionality test in General Comment No 34 forecloses restrictions aimed merely at protecting a moral or political majority from offence.⁶⁰ Satirical commentary on public officials, harsh but non-defamatory criticism of institutions, unpopular religious or political opinion, and blunt personal insult that causes no more than hurt feelings therefore fall on the lawful side of the line, notwithstanding that several of the religious and moral sources discussed in Sections I and VI.3 would counsel the speaker against uttering them. That gap between what scripture and moral tradition condemn and what the criminal law may reach is not a defect in this article's argument; it is the argument's central discipline, and it is precisely the gap that a Devlin-style enforcement of majority morality would, if adopted uncritically, erase.

Evidence of Legislative Lag: Ghana's Pending 2025 Reform Bills

As introduced in Section II, Ghana's own pending legislative programme corroborates this article's diagnosis. The Misinformation, Disinformation and Hate Speech Bill 2025 would, if enacted, create a dedicated regulatory regime for exactly the category of harm, coordinated misinformation and hate speech, that this article identifies as inadequately addressed by the Cybersecurity Act 2020 alone.⁶¹ The Cybersecurity (Amendment) Bill 2025 would expand the Cyber Security Authority's powers specifically in relation to critical information infrastructure and the online harassment of children, an implicit acknowledgment that the current Act 1038 does not adequately reach those harms.⁶² In October 2024, ahead of that Bill, the Cyber Security Authority issued a National Child Online Protection Framework outlining plans for notice-and-takedown procedures for child-abuse material, an administrative measure that itself concedes the absence of a statutory notice-and-takedown regime.⁶³ This article's recommendations in Section XI are framed, where possible, to support and sharpen this existing reform trajectory rather than to duplicate it.

MORAL RESPONSIBILITY AND THE LIMITS OF LAW

Law is a floor, not a ceiling. It tells you what you must not do; it says nothing about who you ought to be. Immanuel Kant's categorical imperative asks us to act only according to principles we could consistently will to be universal laws.⁶⁴ Applied to social media: before posting something about another person, ask whether you would want everyone to post that kind of thing about anyone. John Rawls, constructing justice from behind a veil of ignorance, would ask what rules a person would design if they did not know whether they were the poster or the person being posted about.⁶⁵ Most people, answering honestly, would choose rules that protect privacy, prohibit targeted harassment, demand truth as a precondition of publication, and hold platforms to account, which is precisely the reform programme this article defends in Section XI on doctrinal, not merely moral, grounds.

Neil MacCormick makes the point that law and morality are not identical things, but they are not strangers either.⁶⁶ The best legal systems draw on moral insight without simply encoding the preferences of a moral majority, which is why Section VII.6's test is built on harm to identifiable persons rather than on the fact of moral disapproval alone. The concept of Ubuntu holds that a person is a person through other persons, and Desmond Tutu explained it as the insistence that one's humanity is inextricably bound up in the humanity of others.⁶⁷ Thaddeus Metz has argued that Ubuntu provides a foundation for human rights as robust as anything

⁶⁰UN Human Rights Committee, General Comment No 34 (n 30) [11] to [13].

⁶¹Government of Ghana, Misinformation, Disinformation and Hate Speech Bill 2025, summarised in DataGuidance (n 12).

⁶²Government of Ghana, Cybersecurity (Amendment) Bill 2025, summarised in DataGuidance (n 12).

⁶³Cyber Security Authority, National Child Online Protection Framework (CSA, October 2024), summarised in Digital Policy Alert (n 4).

⁶⁴Immanuel Kant, *Groundwork of the Metaphysics of Morals* (Mary Gregor tr, Cambridge University Press 1997) 38.

⁶⁵John Rawls, *A Theory of Justice* (rev edn, Harvard University Press 1999) 118.

⁶⁶Neil MacCormick, *Institutions of Law: An Essay in Legal Theory* (OUP 2007) 203.

⁶⁷Desmond Tutu, *No Future Without Forgiveness* (Rider 1999) 31.



available in the Western tradition,⁶⁸ and Kwame Gyekye has argued that the African communitarian tradition situates individual flourishing within a framework of communal responsibility.⁶⁹ The right to speak freely is not negated by the obligation to speak truthfully and with regard for the wellbeing of others, but, as Section VII.6 insists, that obligation is enforced by law only where it crosses into demonstrable harm; elsewhere it is enforced by conscience, community, and the moral and religious traditions discussed throughout this article.

Micah 6:8 remains the most honest summary of what the moral half of this project requires: to act justly, to love mercy, and to walk humbly.⁷⁰ The doctrinal half, developed in Section VII and operationalised in Section XI, is what translates that requirement, where it concerns demonstrable harm to others, into enforceable law.

ANALYSIS OF FINDINGS

Several findings emerge from this analysis, each traceable to a specific piece of doctrinal or empirical evidence rather than to general impression. First, Ghana's legal framework is incomplete in three specific respects: it imposes no platform duty of care for algorithmically amplified harm (Section 7.2); it creates no distinct offence of coordinated online harassment (Section 7.2); and it leaves cybercrime sentencing without a settled tariff (Section II). Second, enforcement is the weakest link in the regulatory chain: even where offences exist on paper, the training data collected under the GLACY+ programme show that specialised judicial and prosecutorial capacity remains concentrated in a small fraction of the relevant workforce, and documented complaint volumes at CERT-GH and in the MFWA's monitoring reports far exceed the visible rate of prosecution (Sections I and II). Third, the constitutional framework is sound and, if anything, under-used: Articles 15 and 21 supply a doctrinal foundation for comprehensive legislative action that current statutes have not fully exploited (Section 7.1). Fourth, Ghana is demonstrably behind the United Kingdom, Germany, and the European Union specifically on platform-liability design, though not on the existence of criminal offences addressing individual conduct (Section 7.5, Table 1). Fifth, Ghana's own 2025 reform bills corroborate each of these findings, since a legislature does not draft overlapping bills to fix a framework it regards as adequate (Section 7.7). Sixth, the moral dimension of the problem, documented in the Christian, Islamic, and African communitarian traditions, is a genuine national asset for public education, but it must be kept doctrinally separate from the criminal law's proper reach, which Section 7.6 confines to demonstrable harm rather than to moral disapproval.

CONCLUSION

Isaiah commands: seek justice, defend the oppressed.⁷¹ In Ghana today, the oppressed include everyone whose privacy has been violated, whose reputation has been destroyed, or whose safety has been threatened by the abuse of social media, and the evidence reviewed in this article shows that this group is not small and not merely anecdotal. Proverbs 18:21 reminds us that the tongue has the power of life and death.⁷² That truth does not change because the tongue is now a keyboard and the words travel at the speed of the internet to an audience of thousands.

Ghana has the constitutional foundation to respond. It has the statutory beginnings of a legal framework, and it has, in its own pending 2025 reform bills, already begun to act on the gaps this article identifies. What has been lacking is the specificity to say exactly where the framework falls short, the enforcement capacity to make existing offences meaningful, and the doctrinal discipline to distinguish conduct the law may reach from conduct that must be left to conscience. Law and morality have always worked best in partnership, provided the partnership respects the limits each side owes the other: a person who refrains from abusing others online only because they fear prosecution is not a moral person, merely a cautious one, and a state that criminalises moral disapproval rather than demonstrable harm ceases to be a liberal constitutional order. What Ghana needs

⁶⁸Thaddeus Metz, 'Ubuntu as a Moral Theory and Human Rights in South Africa' (2011) 11 African Human Rights Law Journal 532, 534.

⁶⁹Kwame Gyekye, *Tradition and Modernity: Philosophical Reflections on the African Experience* (OUP 1997) 155.

⁷⁰Micah 6:8 (n 25).

⁷¹Isaiah 1:17 (New International Version).

⁷²Proverbs 18:21 (n 24).



is a legal system that is clear, enforceable, and proportionate, operating within a society that understands social media responsibility as an expression of shared values rather than a compliance exercise. The words of Micah 6:8 remain the most honest summary of what this requires: to act justly, to love mercy, and to walk humbly.⁷³ Ghana's digital future depends on taking those words seriously, in law and in life, and on taking the doctrinal gaps identified in this article seriously enough to close them.

RECOMMENDATIONS

- Enact a Comprehensive Online Safety Act. Ghana should enact a dedicated Online Safety Act, drawing on elements of the UK Online Safety Act 2023 and the EU Digital Services Act (Table 1), adapted to the Ghanaian legal and institutional context. The Act should impose a positive statutory duty of care on social media platforms operating in Ghana to identify and mitigate systemic harms arising from algorithmic amplification, with proportionate and credible financial liability for non-compliance, closing the platform-liability deficiency identified in Section 7.2.
- Amend the Cybersecurity Act 2020 to create a distinct offence of coordinated online harassment, alongside the existing individual cyberstalking and harassment offences, and to prescribe a settled sentencing tariff comparable to that fixed for narcotics offences under PNDCL 236, closing the sentencing-precision deficiency identified in Section II. Parliament should treat the pending Cybersecurity (Amendment) Bill 2025 as the appropriate vehicle for this reform.
- Support passage of the Misinformation, Disinformation and Hate Speech Bill 2025, subject to the safeguard, argued for in Section 7.6, that any offence it creates be confined to conduct causing demonstrable harm to an identifiable person or group rather than to content that is merely false or offensive to majority sentiment, so as to avoid recreating the abuses of the repealed criminal libel regime.
- Strengthen the Data Protection Commission's enforcement capacity, providing it with greater technical capacity and dedicated resources to investigate and sanction the weaponisation of personal data for online harassment and doxing.
- Accede to the Council of Europe's Budapest Convention on Cybercrime, harmonising Ghana's domestic cybercrime law with a widely accepted international standard and enhancing cross-border enforcement cooperation.
- Invest in specialised judicial and prosecutorial training. Building on the GLACY+ programme's existing work, Ghana should expand cybercrime and digital-evidence training beyond the roughly 120 judges trained to date, and establish a dedicated, adequately resourced digital crime unit within the Ghana Police Service, working with the Cyber Security Authority.
- Invest in public education and digital literacy, with the Ghana Education Service, the National Media Commission, and religious and civil society organisations collaborating on programmes that draw on the resources of Christian, Islamic, and African communitarian ethics discussed in Sections VI.3 and VIII, while making clear that these are resources for moral formation and not templates for expanding criminal liability.
- Protect minors specifically, building on the Cyber Security Authority's October 2024 National Child Online Protection Framework, by giving that Framework statutory footing consistent with Ghana's obligations under the Convention on the Rights of the Child, including age-verification requirements for social media platforms operating in Ghana.
- Adopt a standing gender-based online harm indicator, using the Media Foundation for West Africa's monitoring methodology as a template, so that the scale of online harm to women in public life can be tracked over time rather than assessed only impressionistically.

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