



Digital Rights in Uganda, UPR Submission, Session 40

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Introduction

1. Digital rights and freedoms should be accorded the same protection as offline rights and freedoms.¹ Protection of freedom of expression, access to information, data protection and privacy have been guaranteed in international and regional instruments to which Uganda is a party. Consequently, they must be considered in the recommendations made to Uganda during the third cycle of the UPR.
2. During the second cycle of the UPR in November 2016, Uganda received 226 recommendations, accepted 148 and noted 78 recommendations. Three of the recommendations were specific to freedom of expression while only one related to the internet.²
3. This report reflects on digital rights and freedoms by assessing Uganda's implementation of the recommendations emerging from the second cycle and compliance with the established national, regional and international standards over the period preceding the third cycle. It makes recommendations to Uganda on how its digital rights record can be improved.

Updates from the Previous Review

4. Internet penetration has grown from 13.5 million subscriptions in 2016/2017,³ to 21.4 million active internet subscriptions by close of 2020, translating into internet access reach of more than one active connection for every two Ugandans.⁴
5. In 2019, Uganda enacted the Data Protection and Privacy Act, 2019 and passed the Data Protection and Privacy Regulations in May 2021 giving effect to article 27 of the Constitution on the right to privacy.⁵ This is in addition to other data protection safeguards contained in laws including the Electronic Transactions Act, 2011, Computer Misuse Act, 2011, Electronic

¹ Human Rights Council, 'Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development: The promotion, protection and enjoyment of human rights on the Internet' <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G16/131/89/PDF/G1613189.pdf?OpenElement>, Last Accessed 15 June 2021.

² Human Rights Council, 'Report of the Working Group on the Universal Periodic Review' <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/441/95/PDF/G1644195.pdf?OpenElement>, Last Accessed 15 June 2021.

³ Uganda Communications Commission, 'Postal, Broadcasting and Telecommunications Annual Market & Industry Report 2016/17' <https://www.ucc.co.ug/wp-content/uploads/2017/09/Annual-Market-Industry-Report-2016-17-FY.pdf>, Last Accessed 15 June 2021.

⁴ Uganda Communication Commission, 'Market Performance Report 4Q2020' <https://www.ucc.co.ug/wp-content/uploads/2021/04/UCC-04-2020-Market-Performance-Report-compressed.pdf>, Last Accessed 15 June 2021.

⁵ The Data Protection and Privacy Regulations, 2021, https://www.dataguidance.com/sites/default/files/uganda_data_protection_regulations_small.pdf, Last Accessed 15 June 2021.

Signatures Act, 2011, National Information Technology Authority, Uganda Act (NITA-U Act), and the Access to Information Act, 2005.

6. Despite Uganda's progress by enacting a data protection and privacy law in 2019, it is yet to ratify the African Union Convention on Cyber Security and Personal Data protection.⁶
7. Over the past five years, there has been a general decline in the enjoyment of freedom of expression online in Uganda. For example, in 2019, the Uganda Communications Commission (UCC) issued 18 regulations with respect to fees, licensing and costing, approval, monitoring, text and multimedia messaging, consumer protection, licensing and online service provision. Of the 18, eight were issued and gazetted in one day on November 8, 2019⁷ and added to the catalogue of existing restrictive laws that curtail free speech and media online and offline.
8. Further, as a result of the outbreak of COVID-19, more restrictive laws were enacted to contain the spread of the virus, with an overbearing impact on freedom of expression, privacy and data protection, freedom of assembly and association. The Public Health (Control of Covid -19) Rules, SI. No.38 of 2021 which revoked the Public Health (Control of Covid- 19) Rules, S.I. No. 83 of 2020 provide for mandatory disclosures of COVID-19 positive cases by every person, occupier or employer of any person who is residing on his or her premises or who is in his or her employment to medical officers or practitioners. Further, the rules grant medical officers or health inspectors, police officers and local authorities the powers to search premises. The rules also suspend assemblies and associations of all kinds while allowing government meetings including of the Cabinet, Parliament, and local governments and judicial proceedings.
9. In 2020, Parliament also passed the Political Parties and Organisations (Conduct of Meetings and Elections) Regulations 2020, which aim to safeguard public health and safety of political party activities in light of the COVID-19 pandemic and, under regulation 5, provide for holding of political meetings through virtual means. The maximum number of persons allowed to attend campaign meetings was initially set at 70 and later raised to 200.⁸
10. The UCC has consistently through the period emphasised the need for consumer protection online and has established a complaints mechanism including through a Toll-Free Line. It has also annually participated in commemorating the world consumer rights day.⁹
11. The 2021 general election period in Uganda saw yet another display of authoritarian control of the digital space through internet disruptions, disinformation campaigns, harassment of media and civil society, the arrest of opposition candidates and use of deadly force against peaceful protesters, and restriction of access and media coverage of opposition parties.¹⁰

⁶ African Union Convention on Cyber Security and Personal Data Protection, <https://au.int/en/treaties/african-union-convention-cyber-security-and-personal-data-protection>, Last Accessed 15 June 2021.

⁷ Uganda Communications Commission Blog, 'New Communications Regulations Have Been Gazetted' <https://uccinfo.blog/2019/11/13/new-communications-regulations-have-been-gazetted/>, Last Accessed 15 June 2021.

⁸ Collaboration on International ICT Policy in East and Southern Africa (CIPESA) 'Technology and Elections in Uganda: A Digital Rights View of the January 2021 Elections' https://cipesa.org/?wpfb_dl=374, Last Accessed 15 June 2021.

⁹ Uganda Communications Commission, 'UCC Celebrates World Consumer Rights Day 2021' <https://www.ucc.co.ug/ucc-celebrates-world-consumer-rights-day-2021/>, Last Accessed 15 June 2021.

¹⁰ Juliet Nanfuka, 'Uganda's 2021 Election: A Textbook Case of Disruption to Democracy and Digital Networks in Authoritarian Countries'

Freedom of expression and opinion

12. Article 29(1) (a) of Uganda’s 1995 Constitution provides that; “Every person shall have the right to freedom of speech and expression which shall include freedom of the press and other media”. Uganda is also bound by regional and international instruments that guarantee freedom of expression including article 9 of the African Charter on Human and Peoples Rights (ACHPR), article 19 of the Universal Declaration of Human Rights (UDHR) and article 19 of the International Covenant on Civil and Political Rights (ICCPR). Despite the constitutional, regional and international guarantees, a number of actions including legislative measures have undermined freedom of expression in the country.
13. In 2021, the World Press Freedom Index ranked Uganda 125 out of 180 countries assessed, citing wide-spread intimidation, harassment and persecution of journalists.¹¹ Similarly, Freedom House’s “Freedom on the Net” report, which assesses global online freedom trends, rated Uganda as partly free.¹²
14. In July 2018, Uganda introduced a tax on “Over-the-Top” (OTT) services which until June 2021 required every user of social media to pay a levy of Uganda Shillings (UGX) 200 (USD 0.05) prior to access.¹³ The tax was introduced in response to a letter¹⁴ President Yoweri Museveni wrote to the finance ministry stating that the government needed resources “to cope with the consequences” of social media users’ “opinions, prejudices [and] insults.” When the tax took effect, telecom companies blocked access to various platforms, pursuant to a list issued by the Uganda Revenue Authority (URA) which included virtual private networks, professional networking platform LinkedIn and dating sites such as Badoo and Tinder.¹⁵
15. In the wake of COVID-19, section 171 of the Penal Code Act which prohibits wilful unlawful or negligent acts that could spread the infection of any disease dangerous to life¹⁶ has been used to arrest, detain and charge several individuals over allegations of spreading false news.¹⁷ The

<https://cipesa.org/2021/01/ugandas-2021-election-a-textbook-case-of-disruption-to-democracy-and-digital-networks-in-authoritarian-countries/>, Last Accessed 15 June 2021.

¹¹ Reporters Without Borders, ‘2021 World Press Freedom Index: Uganda’ <https://rsf.org/en/ranking>, Last Accessed 15 June 2021.

¹² Freedom House, ‘Freedom on the Net 2020 Uganda’ <https://freedomhouse.org/country/uganda/freedom-net/2020>, Last Accessed 15 June 2021.

¹³ Yasiin Mugerwa and Tom Malaba, ‘Museveni slaps new taxes on social media platforms’ <https://www.monitor.co.ug/News/National/Museveni-taxes-social-media-users-Twitter-Skype/688334-4366608-oilivjz/index.html> Last Accessed 16 June 2021; Alawi Masare, ‘Museveni slaps new taxes on social media’ platforms’ <https://www.thecitizen.co.tz/News/Museveni-slaps-new-taxes-on-social-media-platforms/1840360-4368830-uvvwafz/index.html>, Last Accessed 16 June 2021.

¹⁴ Daily Monitor, ‘Museveni Slaps Taxes on Social Media Users’ <http://www.monitor.co.ug/News/National/Museveni-taxes-social-media-users-Twitter-Skype/688334-4366608-oilivjz/index.html>, Last Accessed 17 June 2021.

¹⁵ Collaboration on International ICT Policy in East and Southern Africa (CIPESA) ‘Uganda Blocks Access to Social Media, VPNs and Dating Sites as New Tax Takes Effect’ <https://cipesa.org/2018/07/uganda-blocks-access-to-social-media-vpns-and-dating-sites-as-new-tax-takes-effect/>, Last Accessed 16 June 2021.

¹⁶ Edrine Wanyama, ‘Specific Considerations of the Impact of COVID-19 on Freedom of Expression and Access to Information in Uganda and Tanzania’ <https://www.lawafrica.com/wp-content/uploads/2020/10/Specific-Considerations-of-the-Impact-of-COVID-19-on-Freedom-of-Expression-and-Access-to-Information-in-Uganda-and-Tanzania.pdf>, Last Accessed 16 June 2021.

¹⁷ Conrad Ahabwe, ‘COVID-19 CRISIS: KCCA Staff Arrested Over Spreading Fake News on Coronavirus’ <https://www.pmldaily.com/news/2020/04/COVID-19-crisis-kcca-staff-arrested-over-spreading-fake-news-on-coronavirus.html>, Last Accessed 23 June 2021; Daily Monitor, ‘Pastor Yiga Arrested for Misleading Public on COVID-19’

provision has been employed despite a 2002 court ruling¹⁸ that declared publication of false news under section 50 of the Penal Code Act unconstitutional.¹⁹

16. Threats against the circulation of false information have also been issued on the basis of section 5 of the Uganda Communications Act which empowers the UCC to among others, regulate standards within the communications sector. In March 2020, UCC issued a public advisory against publication, distribution and forwarding of false, unverified, and/or misleading stories and reports, with threats of possible apprehension and prosecution of perpetrators.²⁰
17. In April 2020, Adam Obec of the Kampala Capital City Authority (KCCA) was arrested on allegations of “spreading false information regarding coronavirus.” According to the police, Obec had circulated information on social media claiming that Uganda had recorded its first COVID-19 death, an action that had purportedly triggered fear and panic in the public and undermined government’s efforts to contain the pandemic.²¹
18. In the same month, the now deceased Pastor Augustine Yiga of Revival Church in Kampala was arrested and charged with uttering false information and spreading harmful propaganda in relation to COVID-19.²² He was later released on a non-cash bail pending trial.²³
19. On April 21, 2020, the Ugandan military arrested and detained Kakwenza Rukirabashaija, a writer, over a Facebook post which allegedly urged the public not to comply with COVID-19 public health guidelines.²⁴ He was charged with committing an act likely to spread a disease, contrary to section 171 of the Penal Code Act and transferred to civil detention on remand.²⁵ He was later released on a non-cash bail.²⁶
20. Section 25 of the Computer Misuse Act, 2011, criminalises wilful and repeated use of electronic communication to disturb or attempt to disturb the peace, quiet or right of privacy of any person with no purpose of legitimate aim. This provision has often been used by the State against critics. In 2019, Dr. Stella Nyanzi, a social justice activist, was arrested for insulting the president in a

<https://www.monitor.co.ug/News/National/Pastor-Yiga-arrested-misleading-public-COVID19/688334-5507644-1380ounz/index.html>, Last Accessed 24 June 2021.

¹⁸ *Onyango & Anor v Attorney General* Supreme Court Constitutional Appeal No. 2 of 2002

<https://ulii.org/system/files/judgment/supreme-court/2004/1/supreme-court-2004-1.rtf>, Last Accessed 24 June 2021.

¹⁹ *Charles Onyango Obbo and Anor v AG, UGCC* 4 (21 JULY 2000)

<https://ulii.org/ug/judgment/constitutional-court-uganda/2000/4>, Last Accessed 23 June 2021.

²⁰ Uganda Communications Commission Blog, ‘Public Advisory Notice on Circulation of Fake Information’

<https://uccinfo.blog/2020/03/22/public-advisory-notice-on-circulation-of-fake-information/>, Last Accessed 22 June 2021.

²¹ <https://cipesa.org/2020/12/how-ugandas-fight-against-covid-19-is-hurting-digital-rights-amidst-a-looming-election/>

²² *ibid*

²³ Daily Monitor, ‘Pastor Yiga released on bail pending trial’

<https://www.monitor.co.ug/uganda/news/national/pastor-yiga-released-on-bail-pending-trial-1888268#:~:text=Tuesday%20May%2005%202020&text=Pastor%20Augustine%20Yiga%20alias%20Abizaayo.sureties%20were%20bonded%20at%20Shs5m>, Last Accessed 23 June 2021.

²⁴ Voice of America, ‘Ugandan Security Forces Arrest Writer, TV Anchor After Coronavirus Posts’

<https://www.voanews.com/africa/ugandan-security-forces-arrest-writer-tv-anchor-after-coronavirus-posts>, Last Accessed 23 June 2021.

²⁵ Nile Post, ‘Missing critical book writer, Kakwenza charged, remanded’

<https://nilepost.co.ug/2020/04/21/missing-critical-book-writer-kakwenza-charged-remanded/>, Last Accessed 22 June 2021

²⁶ Nile Post, ‘Critical book writer, Kakwenza released on bail’

<https://nilepost.co.ug/2020/05/06/critical-book-writer-kakwenza-released-on-bail/>, Last Accessed 22 June 2021.

social media post.²⁷ She was convicted of cyber harassment contrary to section 24(1), (2) (a) of the Computer Misuse Act but acquitted of offensive communications contrary to section 25 of the Act and sentenced to 18 months imprisonment in 2019.²⁸ Dr. Nyanzi's sentence was quashed in 2020 on grounds that the trial court had no jurisdiction²⁹ to try the charges preferred against her.³⁰ The government's appeal against the decision of the High Court is still before the Court of Appeal.³¹

21. Further, the Computer Misuse Act was used to target, arrest, detain and prosecute political dissidents like Lt Gen (rtd) Henry Tumukunde over allegedly repeated treasonable utterances on radio and television interviews,³² and the Bizonto comedy group³³ over what was considered to be an offensive and sectarian³⁴ skit posted to their Youtube channel.³⁵
22. In September 2020, UCC issued a renewed order for online publishers and broadcasters to apply for licences before they operate. Prior to issuing the order, the commission set October 5, 2020 as the deadline for "persons currently offering or planning to commence the provision of online data communication and broadcasting services" to obtain authorisation for providing such services to the public.³⁶ The 2020 directives came two years after a March 2018 notice requiring providers of online data communication and broadcast service providers to obtain authorisation for provision of services.³⁷ As of December 29, 2020, UCC had licenced 86 providers of online services,³⁸

²⁷ Wambi Michael, 'To Silence a Poet, and a Nation: What Stella Nyanzi's Conviction Means for Uganda' <http://www.ipsnews.net/2019/08/silence-poet-nation-stella-nyanzis-conviction-means-uganda/>, Last Accessed 24 June 2021; Amnesty International, 'Uganda: Freedom of expression takes a knock as Stella Nyanzi found guilty of cyber harassment' <https://www.amnesty.org/en/latest/news/2019/08/uganda-freedom-of-expression-takes-a-knock-as-stella-nyanzi-found-guilty-of-cyber-harassment/>, Last Accessed 24 June 2021.

²⁸ Alon Mwesigwa, 'Activist who branded Uganda president 'a dirty, delinquent dictator' is jailed' <https://www.theguardian.com/global-development/2019/aug/02/activist-who-branded-uganda-president-a-dirty-delinquent-dictator-faces-jail-yoweri-museveni-cyber-harassment>, Last Accessed 24 June 2021.

²⁹ *Dr. Stella Nyanzi v Uganda* Criminal Appeal No. 0079 of 2019, <https://ulii.org/ug/judgment/hc-criminal-division-uganda/2020/1>, Last Accessed 23 June 2021.

³⁰ Samuel Okiror, 'Stella Nyanzi marks release from jail in Uganda with Yoweri Museveni warning' <https://www.theguardian.com/global-development/2020/feb/21/stella-nyanzi-marks-release-from-jail-in-uganda-with-yoweri-museveni-warning>, Last Accessed 23 June 2021.

³¹ Daily Monitor, 'DPP appeals against acquittal of Dr Stella Nyanzi' <https://www.monitor.co.ug/News/National/DPP-appeals-against-acquittal-of-Dr-Stella-Nyanzi/688334-5478544-4q8m1cz/index.html>, Last Accessed 24 June 2021.

³² New Vision 'Arrests disrupted my political plans, says Tumukunde' <https://www.newvision.co.ug/news/1522127/arrests-disrupted-political-plans-tumukunde>

³³ https://www.youtube.com/channel/UC7_H-fJG_HF3sIbrKqlcpVw

³⁴ Tracy Teddy Nayiga, 'Bizonto' comedians arrested over sectarianism' <https://www.pmldaily.com/news/2020/07/bizonto-comedians-arrested-over-sectarianism.html>, Last Accessed 24 June 2021; The Observer 'Bizonto comedians arrested again after God-appeal skit' <https://observer.ug/news/headlines/68724-bizonto-comedians-arrested-again-after-god-appeal-skit>, Last Accessed 25 June 2021.

³⁵ Bizonto Comedy Youtube channel, https://www.youtube.com/channel/UC7_H-fJG_HF3sIbrKqlcpVw, Last Accessed 25 June 2021.

³⁶ Uganda Communications Commission, 'Reminders to providers of online data communication and broadcasting services to obtain authorisation' <https://www.ucc.co.ug/reminder-to-providers-of-online-data-communication-and-broadcasting-services-to-obtain-authorisation/>, Last Accessed 24 June 2021.

³⁷ Edrine Wanyama, 'Registration of Online Publishers and Broadcasters Threatens Free Expression in Uganda' <https://cipesa.org/2020/09/registration-of-online-publishers-and-broadcasters-threatens-free-expression-in-ug>, Last Accessed 25 June 2021.

³⁸ Uganda Communications Commission, 'List of Authorised Providers of Online Data Communication Services in Uganda as of 29th December 2020' <https://www.ucc.co.ug/wp-content/uploads/2021/01/LIST-OF-online-data-COMMUNICATION-PROVIDERS-LICENSED-1st-January-2021.pdf>, Last Accessed 15 June 2021.

amidst reports that many had applied and obtained authorisation out of fear.³⁹ Indeed in February 2019, UCC threatened to shut down the Daily Monitor website over alleged contravention of the March 2018 notice by publishing content without authorisation.⁴⁰

23. COVID-19 measures including limitations on movements, bans on public and private transport, compulsory quarantines and imposition of curfews led to crackdown on journalists' activities.⁴¹ There were various reports of assault and brutality against journalists on duty by security agencies while enforcing lockdown directives.⁴² In some instances, the attacks led to destruction of digital equipment and or content. For instance, while covering police brutality against civilians, journalist Kenneth Okuru was assaulted and forced to delete photos from his camera.⁴³

Freedom of information and Censorship of Content

24. Article 41 of the Constitution guarantees access to information, stating that "Every citizen has a right of access to information in the possession of the State or any other organ or agency of the State except where the release of the information is likely to prejudice the security or sovereignty of the State or interfere with the right to the privacy of any other person." This is further affirmed by section 5 of the Access to Information Act, 2005⁴⁴ and the Regulations of 2011.⁴⁵ The Act is, however, dominated by wide-ranging exemptions to accessible information including information pertaining to cabinet minutes and those of its committees, commercial information, law enforcement and legal proceedings, security and international relations.
25. While section 8 of the Access to Information Act provides for proactive disclosure of records and the ways through which such records can be accessed, and section 43 provides for an annual report by the respective minister on status of implementation of the Act to the Parliament, there has not been compliance with the provisions.⁴⁶ To address this, in May 2021, Parliament amended Rule 146 of the Rules of Procedure to include the access to information annual report as an item

³⁹ Grace Natabaalo, 'UCC threatens to shut down Daily Monitor website' <https://acme-ug.org/2019/02/08/ucc-threatens-to-shut-down-monitor-website/>, Last Accessed 15 June 2021.

⁴⁰ The Independent, 'UCC orders Daily Monitor to shut website' <https://www.independent.co.ug/ucc-orders-daily-monitor-to-shut-their-website/>, Last Accessed 25 June 2021.

⁴¹ Ibid.

⁴² Committee to Protect Journalists, 'Ugandan Security Personnel Enforcing COVID-19 Measures Assault Journalists' <https://cpi.org/2020/04/ugandan-security-personnel-enforcing-COVID-19-meas/>, Last Accessed 25 June 2021; Wilfred Arinda Nsheeka, 'Journalist Severely Beaten by Security Forces During Curfew Hours' <https://www.watchdoguganda.com/news/20200403/90148/journalist-severely-beaten-by-security-forces-during-curfew-hours.html>, Last Accessed 25 June 2021.

⁴³ DW Akademie 'Ugandan journalists 'assaulted by security forces' amid coronavirus lockdowns' <https://www.dw.com/en/ugandan-journalists-assaulted-by-security-forces-amid-coronavirus-lockdowns/a-53235644>, Last Accessed 25 June 2021.

⁴⁴ Access to Information Act, Act 6 of 2005 <https://ulii.org/akn/ug/act/2005/6/eng%402005-07-19>, Last Accessed 28 June 2021.

⁴⁵ Access to Information Regulations of 2011, <https://chapterfouruganda.org/sites/default/files/downloads/The-Access-to-Information-Regulations-2011.pdf>, Last Accessed 25 June 2021.

⁴⁶ Collaboration on International ICT Policy in East and Southern Africa (CIPESA), 'CIPESA Engages Ugandan Members of Parliament on Implementation of Access to Information Law' <https://cipesa.org/2017/07/cipesa-engages-ugandan-members-of-parliament-on-implementation-of-access-to-information-law/>, Last Accessed 28 June 2021.

contained in the Ministerial Policy statements that are to be submitted by March 15th for the preceding Financial Year.⁴⁷

26. In 2014, the government in partnership with Collaboration on International ICT Policy in East and Southern Africa (CIPESA) and the Africa Freedom of Information Centre (AFIC) launched the *AskYourGov* online portal to support citizens' information requests and government responses.⁴⁸ Though in existence for seven years now, there is limited awareness among citizens of their right to information and the procedures for accessing information held by public bodies. At the same time, public officials continue to ignore citizens' information requests despite efforts to equip both duty bearers and rights holders, including information officers, journalists as well as human rights organisations, with knowledge and skills on rights and responsibilities.⁴⁹
27. During the 2021 election period in Uganda, Facebook and Twitter suspended the accounts of various pro-government individuals over what Facebook described as "Coordinated Inauthentic Behaviour (CIB)" including disinformation campaigns to suit the online narrative interests of the ruling party.⁵⁰ This angered President Museveni who responded by stating in a national address that, "If you want to take sides against the (ruling party), then that group will not operate in Uganda," adding that, "We cannot tolerate this arrogance of anybody coming to decide for us who is good and who is bad."⁵¹ A day later on January 11, 2021, access to Facebook was blocked and two days later on January 13, 2021, the eve of the presidential and parliamentary elections, the UCC ordered all telecommunication companies to shut down internet access for all users until further notice citing "just cause." The total shutdown lasted for five days after which access to the internet (but not social media) was restored.⁵² To-date, access to Facebook remains blocked.⁵³ The 2021 internet disruption was the third in Uganda related to elections. An earlier disruption in 2016 restricted access to social media including Twitter and Facebook, and mobile money services on the event of elections,⁵⁴ while a second one affecting social media was witnessed during the swearing-in of Museveni, whose win was disputed.

⁴⁷ Parliament of Republic of Uganda, <https://www.parliament.go.ug/news/5106/parliament-amends-its-rules-procedure>, Last Accessed 25 June 2021; and Hansard of Parliament, <https://www.parliament.go.ug/documents/5111/hansards-2021-may>, Last Accessed 25 June 2021.

⁴⁸ Collaboration on International ICT Policy in East and Southern Africa (CIPESA), 'Uganda Launches Portal to Support Citizens' Right to Information' <https://cipesa.org/2014/08/press-release-uganda-launches-portal-to-support-citizens-right-to-information/>, Last Accessed 25 June 2021.

⁴⁹ Collaboration on International ICT Policy in East and Southern Africa (CIPESA), 'Leveraging ICT to Promote the Right to Information in Uganda: Insights from Ask Your Government Portal' <https://cipesa.org/2019/03/leveraging-ict-to-promote-the-right-to-information-in-uganda-insights-from-ask-your-government-portal/>, Last Accessed 25 June 2021.

⁵⁰ Nile Post, 'NRM supporters cry foul as Facebook, Twitter block their accounts' <https://nilepost.co.ug/2021/01/11/nrm-supporters-cry-foul-as-facebook-twitter-block-their-accounts/>, Last Accessed 28 June 2021; Facebook 'January 2021 Coordinated Inauthentic Behavior Report' <https://about.fb.com/news/2021/02/january-2021-coordinated-inauthentic-behavior-report/>, Last Accessed 28 June 2021.

⁵¹ New York Post 'Uganda bans all social media ahead of election, sparking outrage'

<https://nypost.com/2021/01/12/uganda-bans-all-social-media-ahead-of-election/>, Last Accessed 25 June 2021.

⁵² BBC, 'Uganda election: Internet restored but social media blocked' <https://www.bbc.com/news/world-africa-55705404>, Last Accessed 28 June 2021.

⁵³ Daily Monitor, 'Govt lifts internet shutdown imposed over election' <https://www.monitor.co.ug/uganda/news/national/govt-lifts-internet-shutdown-imposed-over-election-3286184>, Last Accessed 29 June 2021.

⁵⁴ Access Now, 'Uganda blocks Twitter and Facebook on election day in latest internet shutdown' <https://www.accessnow.org/uganda-twitter-facebook-mtn-block/>, Last Accessed 29 June 2021.

28. In May 2019, UCC ordered 13 broadcast media houses including six television stations (BBS TV, Bukedde TV, Kingdom TV, NBS TV, NTV, and Salt TV) and seven radio stations (Akaboozi,, Beat FM, Capital FM, Pearl FM, Radio Simba and Sapientia FM) to suspend 399 producers, heads of programming and heads of news over alleged production of programs that fell short of broadcasting standards following the broadcast of the arrest and detention of a Member of Parliament, Robert Kyagulanyi and the protests that followed.⁵⁵
29. Similarly, in December 2020, government through UCC wrote to Google to shut down 17 YouTube channels including *TMO online, Lumbuye Fred, Trending Channel Ug, Uganda Yaffe, Uganda News Updates, Ghetto TV, Busesa Media Updates, Uganda Empya, Map Mediya TV, KK TV, Ekyooto TV, Namungo Media, JB Muwonge 2 and Bobi Wine 2021*.⁵⁶ The channels were accused of mobilising riots that resulted in the death of over 50 people and left several injured. The government claimed that they were allegedly conducting activities contrary to UCC Act Section 5 (1) (b), (j), (x), 6 and 45 and Regulation 8(2) of the Uganda Communications (Content) Regulation 2019.⁵⁷ Google rejected the request and asked the government to go to court.⁵⁸

Right to Equal Access and Opportunity

30. The National Information Technology Authority-Uganda (NITA-U) has been promoting and providing technical guidance for the establishment of e-Government, e-Commerce and other e-Transactions so as to bring services closer to the public.⁵⁹ E-governance has grown over the years with the country's ranking on the E-Government Development Index (EGDI) improving significantly between 2016 and 2018.⁶⁰ However, inclusivity of the ICT sector remains a challenge with many women, rural communities, and persons with disabilities excluded from using digital technologies.
31. There are also efforts to curb online fraud and cybercrime evidenced by the enactment of various cyber laws such as the Electronic Transactions Act, Electronic Signatures Act and the Data Protection and Privacy Act.
32. However, there is continued perpetration of onliner violence against women including trolling, stalking, unsolicited messaging, hate speech based on sexual identity, and body shaming.⁶¹ The

⁵⁵ The Observer, 'Bobi Wine: UCC orders suspension of 39 journalists at 13 media houses' <https://observer.ug/news/headlines/60575-ucc-orders-suspension-of-39-journalists-at-13-media-houses>, Last Accessed 25 June 2021.

⁵⁶ Daily Monitor, 'Government wants Google to close 14 Ugandan YouTube channels' <https://www.monitor.co.ug/uganda/news/national/government-wants-google-to-close-14-ugandan-youtube-channels-322975>, Last Accessed 28 June 2021.

⁵⁷ Ibid.

⁵⁸ The Independent, 'Google tells Uganda to go to court' <https://www.independent.co.ug/google-tells-uganda-to-go-to-court/>, Last Accessed 28 June 2021.

⁵⁹ NITA-U, <https://www.nita.go.ug/Directories/DeGs>, last accessed 13 July 2021

⁶⁰ Uganda Improves in Government Online Service Delivery – UN Survey, <https://publicadministration.un.org/egovkb/en-us/Resources/E-Government-Survey-in-Media/ID/1945/Uganda-Improves-in-Government-Online-Service-Delivery-UN-Survey>, Last Accessed 13 July 2021.

⁶¹ Daily Monitor, 'Women activists want cyber stalkers arrested,' <https://www.monitor.co.ug/uganda/news/national/women-activists-want-cyber-stalkers-arrested-1842740>, Last Accessed 13 July 2021.

Anti-Pornography Act, enacted in 2014 has been used to arrest women who have fallen victim to non-consensual sharing of intimate images.⁶²

33. Government has also designed the National ICT Initiatives Support Programme (NIISP)⁶³ to promote the ICT Innovation ecosystem and marketplace for Ugandan innovative digital products with initial support of two billion five hundred million shillings (USD705,998). It is envisaged that the innovation programme which constantly runs calls for proposals will encourage technological innovation, generate employment and improve the use of government data for ICT innovation and application development.⁶⁴
34. Since 2003, the UCC has been implementing the Rural Communications Development Fund (RCDF) as a Universal Service Fund (USF) in Uganda.⁶⁵ Over the years, the Fund has supported voice and data infrastructure coverage in rural areas, as well as ICT access centres at learning institutions, health centres and local government, among others.⁶⁶
35. According to a 2018 nation-wide survey by the National Information Technology Authority of Uganda (NITA-U), 76.6% of respondents named high cost as the main limitation to use of the internet.⁶⁷ The Global Connectivity Index of 2020 places Uganda 75 out of 79 countries in internet affordability.⁶⁸ Further, the 2020 Affordability Report, indicates that Uganda's data costs are higher than the African average, with 1 GB of data costing up to 8.07% of an average Ugandan's monthly income compared to Sub-Saharan Africa's average of 3.1%.⁶⁹ The introduction of the OTT tax in July 2018 saw a five million decrease in the number of internet users.⁷⁰ Even with the recent removal of the daily levy that proved to be a huge barrier to access, the new 12% levy on internet data is likely to further heighten digital exclusion and sustain inequality along gender lines.⁷¹
36. In December 2017, Uganda issued the National Disability-Inclusive Planning Guidelines for Uganda to promote equity and ensure appropriate disability-inclusive planning for the population

⁶² African Feminism, 'Countering Non-consensual Sharing of Intimate Images: How far do Uganda's Laws Go?' <https://cipesa.org/2020/06/countering-nonconsensual-sharing-of-intimate-images-how-far-do-ugandas-laws-go/> Last Accessed 13 July 2021.

⁶³ Ministry of ICT and National Guidance, 'About NIISP' <http://niisp.ict.go.ug/about>, Last Accessed 13 July 2021.

⁶⁴ Ministry of ICT and National Guidance, 'Support for Innovation' <https://ict.go.ug/initiatives/support-for-innovation/>, Last Accessed 13 July 2021.

⁶⁵ Uganda Communications Commission, 'Rural Communications development Fund (RCDF)' <https://www.ucc.co.ug/rcdf/>, Last Accessed 15 June 2021.

⁶⁶ Ibid

⁶⁷ National Information Technology Authority (NITA) 'National Information Technology Survey 2017/18 Report', <https://www.nita.go.ug/sites/default/files/publications/National%20IT%20Survey%20April%2010th.pdf>, Last Accessed 29 June 2021.

⁶⁸ Huawei, 'GCI Ranking Table 2020, Uganda' <https://www.huawei.com/minisite/gci/en/country-profile-ug.html>, Last Accessed 29 June 2021.

⁶⁹ Alliance for Affordable Internet 'Affordability report' <https://a4ai.org/affordability-report/report/2020/>, Last Accessed 25 June 2021.

⁷⁰ Juliet Nanfuka, 'Social Media Tax Cuts Ugandan Internet Users by Five Million, Penetration Down From 47% to 35%' <https://cipesa.org/2019/01/%EF%BB%BFsocial-media-tax-cuts-ugandan-internet-users-by-five-million-penetration-down-from-47-to-35/>, Last Accessed 29 June 2021.

⁷¹ Daniel Mwesigwa, 'Uganda Abandons Social Media Tax But Slaps New Levy on Internet Data' <https://cipesa.org/2021/07/uganda-abandons-social-media-tax-but-slaps-new-levy-on-internet-data/>, Last Accessed 29 June 2021.

as enshrined in Uganda's Vision 2040.⁷² Uganda is a party to the United Nations Convention on the Rights of the Persons with Disabilities (CRPD) and ⁷³ in 2020, enacted the Persons with Disabilities Act which repealed the Persons with Disabilities Act, 2006, the National Council for Disability Act, No. 12 of 2003 and the Uganda Foundation for the Blind Act, Cap. 58.⁷⁴ Section 21 of the Persons with Disability Act mandates the government to develop and use sign language, tactile, and sign language interpreters in all public institutions and at public functions; and to braille public information such as government documents and government newspapers. It also obligates television stations to provide sign language inset or subtitles.⁷⁵ However, there is still no equitable access to ICT,⁷⁶ meaningful implementation of the laws, and innovative investments in technologies that support inclusion of persons with disabilities.

Right to Data Protection and Privacy on the Internet

37. Article 27 of the Constitution provides for the right to privacy including of the person, home, property, correspondence and communication. In 2019, Uganda enacted the Data Protection and Privacy Act, 2019 which is a positive step to the protection and promotion of the fundamental right to privacy as laid down in article 12 of the UDHR and article 17 of the ICCPR.
38. Over the years, numerous reports have implicated the Uganda government in surveillance schemes and procurement of spyware. However, the real extent remains largely unknown.⁷⁷ Section 3 of the Regulations of Interception of Communications Act (RICA), 2010 establishes a monitoring centre to facilitate the interception and surveillance of communication and is manned by officers appointed by the minister for security or any other minister assigned by the president. Section 8 requires service providers to ensure that their systems enable interception by installing software and providing all relevant information and support. Similar to the RICA, the Anti-Terrorism Act, 2002 also provides for interception of communications and surveillance.
39. Since July 2019, closed-circuit television (CCTV) systems with facial recognition and whose command centre is at the police headquarters in Kampala have been installed by Huawei.⁷⁸ It has further been alleged that the Uganda government in 2019 used Huawei technologies to spy on the opposition politicians on various digital platforms.⁷⁹ Reports indicate that the WhatsApp account of

⁷² National Disability-Inclusive Planning Guidelines for Uganda, <http://npa.go.ug/wp-content/uploads/2018/08/Disability-Inclusive-Planning-Guidelines.Final-for-approval-14.03.2018-FINAL.pdf>, Last Accessed 15 June 2021.

⁷³ Convention on the Rights of Persons with Disabilities (CRPD), <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>, Last Accessed 24 June 2021.

⁷⁴ Persons with Disabilities Act, No. 3 of 2020, <https://commons.laws.africa/akn/ug/act/2020/3/eng@2020-02-14.pdf> Last Accessed 13 July 2021.

⁷⁵ Paul Kimumwe, 'Kenya, Tanzania and Uganda Must Do More to Improve Access to ICT for Persons with Disabilities' <https://cipesa.org/2019/12/kenya-tanzania-and-uganda-must-do-more-to-improve-access-to-ict-for-persons-with-disabilities/>, Last Accessed 29 June 2021.

⁷⁶ Collaboration on International ICT Policy in East and Southern Africa (CIPESA), 'Comments Presented to the Uganda Communications Commission On Access And Usage Of Information And Communications Technologies (ICTs) By People With Disabilities (PWDs) In Uganda Draft Report' https://cipesa.org/?wpfb_dl=281, Last Accessed 29 June 2021.

⁷⁷ Observer Uganda, 'Govt Spends Shs 200bn on Spying Gadgets' <https://www.observer.ug/news-headlines/40521-govt-spends-shs-200bn-on-spying-gadgets>, Last Accessed 29 June 2021.

⁷⁸ Quartz, 'Uganda is using Huawei's facial recognition tech to crack down on dissent after anti-government protests' <https://tribunecontentagency.com/article/uganda-is-using-huaweis-facial-recognition-tech-to-crack-down-on-dissent-after-anti-government-protests/>, Last Accessed 29 June 2021.

⁷⁹ Joe Parkinson, Nicholas Bariyo and Josh Chin, 'Huawei Technicians Helped African Governments Spy on Political Opponents' *The Wall Street Journal*, August 15, 2019,

Robert Kyagulanyi was hacked by the government with the help of Huawei so as to monitor him and his supporters.⁸⁰ At the same time, Huawei facial recognition technology⁸¹ was purportedly used to crack down on government critics leading to the arrest of over 836 suspects during protests.⁸²

40. Prior to the enactment of the Data Protection and Privacy Act in 2019, there were mass data collection exercises, leaving personal data prone to abuse and breach. The Registration of Persons Act established the national identification register and the National Registration and Identification Authority (NIRA) which later embarked on issuance of national identification cards and aliens identification cards. The data collected was used to update the voters' register by the Uganda Electoral Commission through the Biometric Voter Verification System (BVVS).⁸³
41. Furthermore, SIM card registration has been in force since 2012.⁸⁴ On March 28, 2018, UCC issued a directive banning the sale of new SIM cards to unregistered subscribers, with new guidelines requiring telcos to use national ID card readers to electronically verify registration data against the national ID register maintained by NIRA.⁸⁵
42. Disease surveillance as part of COVID-19 response measures have empowered authorities to conduct searches and require mandatory disclosure of personal data. Further, contact tracing efforts have resulted in unlawful disclosure of citizens data. Indeed, early on in the pandemic, in the struggle for health authorities to locate several individuals who travelled on the same flights with persons who tested positive for the coronavirus, there was a suggestion to use information from the immigration department and telecom companies to locate them.⁸⁶ In what appears to be a breach of individual privacy, there were reports of some Ugandans using online platforms, mainly Facebook and WhatsApp to share personal contact details of the suspected returnees, with threats of further exposure should they fail to report for testing. It remains unclear how the public got access to the personal details of the suspected individual returnees that led to some targeted

<https://www.wsj.com/articles/huawei-technicians-helped-african-governments-spy-on-political-opponents-11565793017>, Last Accessed 29 June 2021.

⁸⁰ Salem Solomon, 'In Uganda, Dissidents Adapt to Evade Huawei Assisted Government Spying' <https://www.voanews.com/africa/uganda-dissidents-adapt-evade-huawei-assisted-government-spying>, Last Accessed 29 June 2021.

⁸¹ Stephen Kafeero, 'Uganda is using Huawei's facial recognition tech to crack down on dissent after anti-government protests,' <https://qz.com/africa/1938976/uganda-uses-chinas-huawei-facial-recognition-to-snare-protesters/>, Last Accessed 25 June 2021.

⁸² George Okello, 'Security confirm 836 arrests, 45 deaths in Bobi Wine protests' <https://www.pmldaily.com/news/2020/11/security-confirm-836-arrests-45-deaths-in-bobi-wine-protests.html>, Last Accessed 29 June 2021.

⁸³ Patience Ahimbisibwe and Franklin Draku Ezaruku, 'New voter registration will breed election chaos - EC boss' <https://www.monitor.co.ug/News/National/We-can-t-reopen-voter-registration-EC-boss/688334-5477230-1285xb7/index.html>, Last Accessed 29 June 2021.

⁸⁴ Edrine Wanyama, 'The Stampede for SIM Card Registration: A Major Question for Africa' <https://cipesa.org/2018/04/the-stampede-for-sim-card-registration-a-major-question-for-africa/> Last Accessed 13 July 2021.

⁸⁵ Sydney Mugerwa, 'UCC bans sale of SIM cards with immediate effect' <https://www.dignited.com/29103/ucc-directive-telecoms-uganda-stop-sale-of-sim-cards/> Last Accessed 13 July 2021.

⁸⁶ Collaboration on International ICT Policy in East and Southern Africa (CIPESA), 'COVID-19 in Africa: When is Surveillance Necessary and Proportionate?' <https://cipesa.org/2020/03/COVID-19-in-africa-when-is-surveillance-necessary-and-proportionate/>, Last Accessed 29 June 2021.

physical attack and threats of eviction and online exposure that breached the right to personal privacy of these individuals as provided for in the Data Protection and Privacy Act, 2019.⁸⁷

43. In 2018, security operatives from Internal Security Organisation (ISO) stormed the data centre of the mobile telecom network MTN, which is the largest telecom operator in the country, without a search warrant and accessed confidential data, including call data records of individuals.⁸⁸ The raid which potentially posed a major threat to telecommunications infrastructure was purportedly based on allegations of espionage by the telecommunications company on behalf of neighbouring Rwanda.⁸⁹

Recommendations to the Government of the Republic of Uganda

44. Given this background on Uganda's record on freedom of opinion and expression, freedom of information and censorship of content, and the right to data protection and privacy on the internet, the submitting organisations propose the following recommendations:

- a. Create and restore a favourable environment for the exercise of digital rights and freedoms by:
 - i. Repealing and amending section 5(1)(a), (b),(k), (x) and (z) of the Uganda Communications Act in as far as they give overly broad and unclear regulatory powers to UCC, and section 6 (2) on confiscation of communication apparatus.
 - ii. Desist from weaponising section 24 and 25 of the Computer Misuse Act on cyber harassment harassment and offensive speech against government critics.
- b. Uphold the Constitutional Court ruling on the unconstitutionality of false news under Section 50 of the Penal Code.
- c. Take deliberate efforts towards the promotion and enhancement of public-private partnerships to enhance digital accessibility and inclusion for the excluded including persons with disabilities, women and rural communities.
- d. Stop intimidation, harassment, arbitrary arrests and prosecution of journalists, critics and activists exercising their right to free expression on and offline and hold to account those that violate journalists' rights.
- e. Stop and desist from any current or future internet shutdowns and any other arbitrary actions that limit access to, and use of the internet, and restore all digital networks including social media, and ensure that any limitations conform to the established regional and international standards.

⁸⁷ Ekyooto, 'COVID-19: Kyengera lynches Dubai returnee' <https://ekyooto.co.uk/2020/04/02/covid-19-kyengera-mob-lynches-dubai-returnee/>, Last Accessed 29 June 2021; Daily Monitor, 'COVID-19: Dubai returnee, wife quarantined at Jinja Hospital after residents threaten with eviction' <https://www.monitor.co.ug/News/National/Dubai-returnee-wife-quarantined-Jinja-Hospital-threaten- eviction/688334-5502558-r8ynhpz/index.html>, Last Accessed 29 June 2021.

⁸⁸ PML Daily 'Nobody is above the law! ISO boss justifies raid on MTN data centre' <https://www.pmldaily.com/news/2018/07/nobody-is-above-the-law-iso-boss-justifies-raid-on-mtn-data-centre.html>, Last Accessed 29 June 2021.

⁸⁹ Martha Leah Nangalama, 'UGANDA: Security operatives raid MTN data centre, carry away servers,' <https://perilofafrica.com/2018/07/uganda-security-operatives-raid-mtn.html>, Last Accessed 28 June 2021.



- f.** Through the relevant ministries, departments and agencies, proactively disclose public information on digital platforms including websites and annually present reports to Parliament on the status of implementation of the Access to Information Act.
- g.** Swiftly ratify the African Union Convention on Cyber Security and Personal Data protection so as to buttress data protection and privacy of the individual nationally and across borders.
- h.** Fully respect, protect and promote the right to privacy of the individual by adopting and promptly effectuate regulations to guide the implementation of the Data Protection and Privacy Act, 2019.