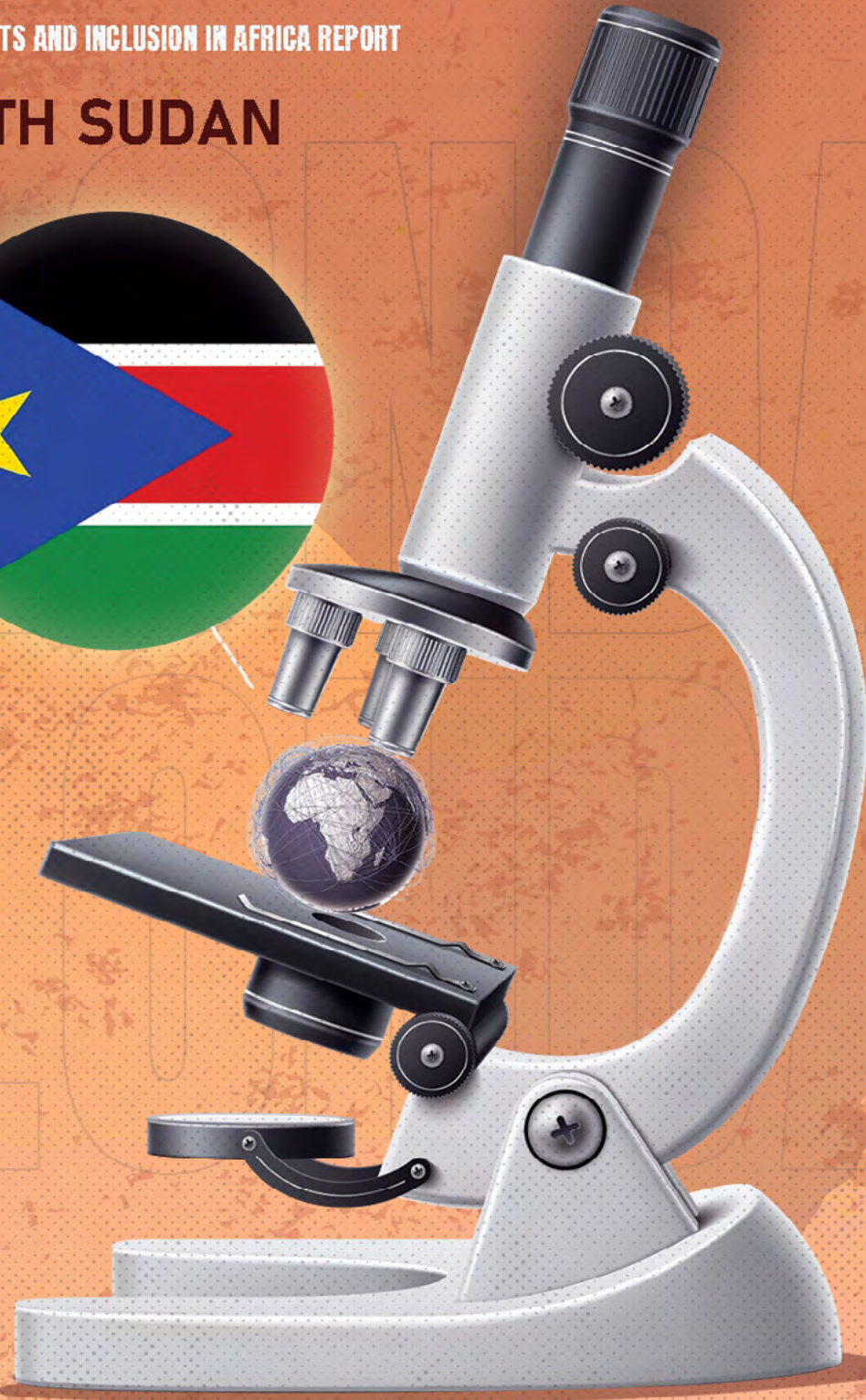
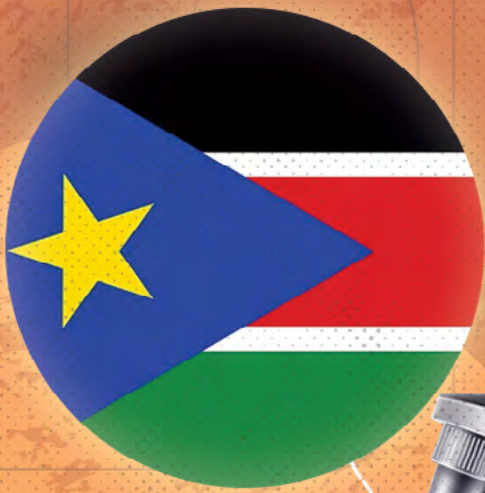


# LONDA

DIGITAL RIGHTS AND INCLUSION IN AFRICA REPORT

SOUTH SUDAN



2022

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**Digital Rights and Inclusion in Africa Report 2022**

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# South Sudan



## ► Executive Summary

This research report provides an overview of digital rights and inclusion in South Sudan. It looks at the Cybersecurity and Computer Misuse Provisional Act (Cybersecurity Act) recently signed into law. The report also analyses South Sudan's developments in data governance, the Universal Services Access Fund (USAF) usage and success, and growths and impediments in the ICT sector in South Sudan. Information in this report was gathered through field and desk research. One-on-one interviews with technology, human rights and civil society activists were conducted to seek their views on the Cybersecurity Act. Most respondents revealed that they were aware of the penalties in the Act and could easily become victims of the law. In data governance, USAF and ICT developments, it has been identified that South Sudan has no data protection law and has not ratified the Malabo Convention.



## Introduction

After 12 years of independence and some 21 years of brutal civil war with Sudan, South Sudan has very poor infrastructure. Specifically, technological developments are at a standstill. In 2020, Tufts University ranked Kenya, Rwanda and Tanzania as leading countries in digital growth and development in East Africa. Meanwhile, South Sudan, one of the youngest countries in Africa,<sup>1</sup> requires technological transformation to enable economic development and enhance freedom of expression and access to information. Article 22 of the Transitional Constitution of the Republic of South Sudan 2011 guarantees the right to privacy.<sup>2</sup> South Sudan has ratified the International Convention on Civil and Political Rights (ICCPR), which provides for the right to privacy under Article 17 and the African Charter on Human and Peoples Rights, whose Article 5 provides for the right to respect one's dignity, including the right to privacy. However, South Sudan is yet to sign and ratify the African Union Convention on Cyber Security and Personal Data Protection. Information and Communication Technologies (ICT) are fast evolving in the country, and as a result, technology could spur economic development.



<sup>1</sup> East African Communities Republic of South Sudan <https://www.eac.int/eac-partner-states/south-sudan> (accessed on 7 February 2023).

<sup>2</sup> Transitional Constitution of the Republic of South Sudan, 2011 <https://www.refworld.org/pdfid/5d3034b97.pdf> (accessed on 7 February 2023).

# Country Analysis

## INTERNET FREEDOM



In mid-September 2022, South Sudan signed into law the Cybercrime and Computer Misuse Provisional Order, 2021 (the Order).<sup>3</sup> The bill was drafted by the National Ministry of Justice and Constitutional Affairs and taken directly to the Office of the President, where it was endorsed and signed into law. While this is a timely legislation to counter challenges that come with increased digitalisation, the Order has some concerning provisions for the uptake of ICT and the enjoyment of online rights and freedoms. Rights activists have faulted the new law on Computer Misuse, arguing that it could curtail press freedom and freedom of

speech and expression.

South Sudan has commitments to freedom of expression and access to information under the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples Rights. As such, laws must reflect the commitments concerned. The purpose of the Order, under Section 3, is “to protect and prevent any crimes committed through computer or computer system, Internet or any related activities.”<sup>4</sup> There is a need to protect users of ICT from cybercrimes while ensuring free internet use. The Order, however, has vague provisions in Section 5 for offences of indecent content and pornography which may unjustifiably infringe on freedom of expression. Section 18 creates the offence of publication of indecent content with a prison term of up to three years for this offence and is a threat to freedom of expression. Limitations of rights must conform to international standards where the limitations are not overly broad.<sup>5</sup>

The Order, under sections 23 (c) and (d), recognises the need to protect children from child pornography and potential sexual exploitation by penalising the publication of child pornography and child sex solicitation. This is progressive in the digital age to ensure child safety. Similarly, section 24 prohibits the transmission of child pornography. A person criminally liable under this section could face up to 10 years’ imprisonment, a fine, or both. Section 23(c) penalises whoever “publishes child pornography, makes it available, facilitates the access of child pornography through a computer or a computer system.”<sup>6</sup> In addition,

3 Cybercrime and Computer Misuse Provisional Order, 2021 (the Order) <https://dr.211check.org/wp-content/uploads/2022/05/Cyber-crimes-and-Computer-Misuse-Provisional-Order.pdf> (accessed on 4 February 2023).

4 Cybercrime and Computer Misuse Provisional Order, 2021 (the Order) <https://dr.211check.org/wp-content/uploads/2022/05/Cyber-crimes-and-Computer-Misuse-Provisional-Order.pdf> (accessed on 4 February 2023).

5 Cybercrime and Computer Misuse Provisional Order, 2021 (the Order) <https://dr.211check.org/wp-content/uploads/2022/05/Cyber-crimes-and-Computer-Misuse-Provisional-Order.pdf> (accessed on 4 February 2023).

6 Cybercrime and Computer Misuse Provisional Order, 2021 (the Order) <https://dr.211check.org/wp-content/uploads/2022/05/Cyber-crimes-and-Computer-Misuse-Provisional-Order.pdf> (accessed on 4 February 2023).

section 23(d) penalises anyone that “proposes, grooms, solicits to meet a child to engage in sexual activities or produces pornographic content using a computer or a computer system.” Many international and national tech and civil society activists consider these provisions commendable. The Order, in Section 19, criminalises the publication of false news with a possible prison term of up to five years. The criminalisation of false news is strongly discouraged by international standards as it infringes on freedom of expression.<sup>7</sup> Some 3,000 people responded to questionnaires dispatched by this researcher conducting field research to establish if they were aware of the Order and the offence created by it. Findings revealed that 80 per cent of the respondents were aware of “computer misuse” crimes, while 20 per cent were unaware of such crimes. In addition, 81 per cent of the respondents revealed that they are aware of the “Indecent Content” crime, while 19 per cent said they were unaware. Lastly, 83 per cent of the respondents admitted having knowledge of pornography being a crime, while 17 per cent didn’t have any idea about the crime. The findings revealed a general awareness of the law.

### **INTERNET ACCESS AND DISRUPTIONS**

According to South Sudan’s National Communication Authority (the Commission), as of December 2022, the Commission worked with over 20 Internal Service Providers (ISPs) and three Mobile Network Operators (MBOs) to increase internet access. South Sudan’s internet penetration was estimated at 10.9 per cent in January 2022.<sup>8</sup> About 80 per cent of South Sudanese people live in

rural areas showing the need for expansion of broadband access for rural communities.<sup>9</sup> While no internet disruptions were recorded in 2022, South Sudan has a history of disrupting internet access. On August 29, 2021, South Sudan disrupted the internet until August 30, 2021, ahead of protests planned by the Peoples’ Coalition for Civil Action.<sup>10</sup> Information Minister Michael Makuei reportedly blamed this disruption on a ‘technical hitch’.<sup>11</sup>

### **FREE SPEECH AND MEDIA FREEDOMS**

People in South Sudan use social media to influence policies. This is due to a closed environment for offline freedom of assembly and expression, which has made many South Sudanese people netizens in the country and in the diaspora leverage the presence of online media to advocate for different interests. Online media use has not gone well for some local celebrities who found themselves behind bars for expressing their views. An example is the 2021 arrest of music artiste, Larson Agok, who was arrested and later released for using his Facebook account to question why President Salva Kiir was not visiting the suffering population in the Bahr-el-Ghazal region.<sup>12</sup>

In 2022, South Sudan ranked 128 out of 180 countries in the World Press Freedom Index<sup>13</sup> with journalists facing censorship, threats and intimidation, unlawful arrest and death. Journalists bear the brunt of reporting news, and the online space enables quick information sharing. In March 2022, former Eye Radio editor, Woja Emmanuel, was allegedly kidnapped and tortured in the capital city of Juba over his

7 African Commission on Human and Peoples’ Rights Declaration of Principles on Freedom of Expression and Access to Information in Africa (Principle 22) [https://www.achpr.org/public/Document/file/English/Declaration%20of%20Principles%20on%20Freedom%20of%20Expression\\_ENG\\_2019.pdf](https://www.achpr.org/public/Document/file/English/Declaration%20of%20Principles%20on%20Freedom%20of%20Expression_ENG_2019.pdf) (accessed on 4 February 2022).

8 Data Reportal Digital 2022: South Sudan <https://datareportal.com/reports/digital-2022-south-sudan> (accessed on 22 January 2023)

9 The Borgen Project Information Technology in South Sudan <https://borgenproject.org/information-technology-in-south-sudan/#:~:text=In%20South%20Sudan%2C%20nearly%2080,valuable%20international%20and%20regional%20information> (accessed on 7 February 2023).

10 NetBlocks Internet disrupted in South Sudan ahead of planned anti-government protests <https://netblocks.org/reports/internet-disrupted-in-south-sudan-amid-anti-government-protests-oy9Y6My3> and <https://www.reuters.com/world/africa/internet-disrupted-streets-quiet-south-sudan-after-call-protests-2021-08-30/> (accessed on 7 February 2023).

11 All Africa South Sudan: Internet Down Due to ‘Technical Problem’ - Minister <https://allafrica.com/stories/202108310184.html> (accessed on 7 February 2023).

12 Radio Tamazuj Popular singer Larson Angok arrested in Wau <https://radiotamazuj.org/en/news/article/popular-singer-larson-angok-arrested-in-wau> (accessed on 7 February 2023).

13 Reporters without Borders South Sudan <https://rsf.org/en/country/south-sudan> (accessed on 7 February 2023).

reports of a political nature while Eye Radio has been receiving censorship threats.<sup>14</sup> Experts say the future of press freedom in this country is still dark, with some organisations like the National Press Club, the Union of Journalists of South Sudan and the Committee for the Protection of Journalists standing with the media. More needs to be done by the government to improve the state of media in the country.

## DATA GOVERNANCE

South Sudan has a national data protection law but has not ratified the African Union Convention on Cyber Security and Personal Data Protection (Malabo Convention). Currently, The Ministry of Telecommunication and Postal Services provides oversight, regulates and licences the local telecommunications companies.<sup>15</sup> The way data is stored in some public and private sector facilities sometimes leads to data loss, simply because most of the data is stored in analogue format with only some in digital format. Regarding Digital IDs, the Director of the Department of Nationality, Passports, and Immigration in South Sudan highlighted that his department was set to roll out e-passports in 2023.<sup>16</sup>

## REVIEW OF UNIVERSAL SERVICES AND ACCESS FUND (USAF)

South Sudan has a Universal Services and Access Fund (USAF). The USAF is established by article 73 of the National Communication Authority Act of 2012 (NCA).<sup>17</sup> It was operationalised in October 2019. Article 73 (2) of the NCA says the USAF's key objectives shall be to develop and deploy communication services to cover the entire population of South Sudan, including urban and rural areas. Additionally, USAF's objectives, as stipulated in Article 74, include



promoting increased use of advanced tools and equipment and encouraging broader utilisation of e-applications and e-services for both rural and urban areas of South Sudan, and enhancing advancements in research and development within the field of communication and promoting the use of advanced technologies. However, little has been done to meet the objectives of Article 74. In terms of the USAF Secretariat Interim Standard Operating and Implementing Procedures, "communications licensees are obliged to contribute a two per cent statutory levy from their annual gross revenue," which is a contribution to developing communications services in rural South Sudan.<sup>18</sup> However, information on the exact amount of money collected by the Fund is not readily accessible.

14 Ijnet South Sudan's censored media space is forcing journalists to quit the profession <https://ijnet.org/en/story/south-sudan%E2%80%99s-censored-media-space-forcing-journalists-quit-profession#:~:text=He%20highlighted%20a%20case%20from,before%20escaping%2C%E2%80%9D%20he%20added.>

15 South Sudan Telecommunications <https://dlca.logcluster.org/display/public/DLCA/3.4+South+Sudan+Telecommunications> (accessed on 7 February 2023).

16 EyeRadio South Sudan to roll out EAC e-passport early 2023 <https://www.eyeradio.org/south-sudan-to-roll-out-eac-e-passport-early-2023/> (accessed on 7 February 2023).

17 National Communication Authority Act 2012 <https://ictpolicyafrica.org/en/document/bfc7dffmhxj?page=37> (accessed on 7 February 2023).

18 USAF Secretariat Interim Standard Operating and Implementing Procedures [http://usaf.gov.ss/wp-content/uploads/2020/10/Reviewd\\_Draft\\_SOIP\\_to\\_be\\_Submitted.pdf](http://usaf.gov.ss/wp-content/uploads/2020/10/Reviewd_Draft_SOIP_to_be_Submitted.pdf) (accessed on 7 February 2023).

## DEVELOPMENTS IN THE ICT AND ENGINEERING TECHNOLOGIES

South Sudan does not have an Artificial Intelligence national strategy. The Revised South Sudan National Development Strategy (2021-2024), however, identifies the inadequate infrastructure, such as internet capacity and penetration, as an area that requires development. The goal, in terms of

commitment to ensuring opportunities for youth in innovation.<sup>20</sup>



the strategy, is to support the private sector to increase accessibility and affordability of internet services through the provision of broadband capacity with reach to all states.<sup>19</sup> The Information Ministry combines ICT, broadcasting services and the government's media office – events that reduce the focus on developing a national ICT infrastructure strategy. The NCA held a town hall meeting with different stakeholders to discuss areas in need of development in the communications sector in South Sudan in line with the mantra of connecting South Sudan, highlighting

19 Revised South Sudan National Development Strategy 2021-2024 <https://www.undp.org/south-sudan/publications/revised-national-development-strategy-south-sudan-2021-2024> (accessed on 8 February 2023).

20 Sudan Tribune Connecting South Sudan featuring National Communication Authority <https://sudantribune.com/article268029/> (accessed on 7 February 2023).



# Conclusion and Recommendations

To have an enabling environment in South Sudan, there is a need for prioritisation of a national artificial intelligence strategy and the enactment of data protection laws that will allow citizens to be safe as they co-exist with emerging technologies. South Sudan is still in the process of rolling out its broadband strategy to increase internet infrastructure. This will ensure tangible steps in realising sustainable development goals. Given the analysis in this report, the following recommendations are made.

GOVERNMENT	ACADEMIA	CIVIL SOCIETY
<ul style="list-style-type: none"> <li>• Create a safe environment for internet freedom by amending the Cybercrime and Computer Misuse Order after adequate public consultations.</li> <li>• Educate the public on the crimes stated in the law to raise awareness.</li> <li>• Enact a data protection law and provide resources for capacity building and upskilling people, so the policy is properly implemented.</li> <li>• Conduct proper nationwide consultations on the draft Data Protection Bill before it goes to parliament so it does not violate freedom of expression and privacy.</li> <li>• Apart from the telecommunications sector representatives, South Sudan's USAF board must also have civil society represented so that its work is monitored and supervised appropriately.</li> <li>• Ensure more transparency on the exact amount of the USAF.</li> </ul>	<ul style="list-style-type: none"> <li>• There is a need for academia to carry out extensive research in different digital fields for better-informed future decisions for the private sector, government and the donor community.</li> </ul>	<ul style="list-style-type: none"> <li>• While delivering internet services, the private sector should not succumb to the government's unethical pressures to allow illegal access to personal data and abuse digital rights, especially blockage of internet networks and services.</li> <li>• The private sector should also invest more in digital literacy for its staff, proper data storage facilities and ensuring data is properly kept for future reference.</li> <li>• Lastly, there is a need for the sector to invest more in ICT infrastructure. This will influence other potential investors to boost their investment support.</li> </ul>



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