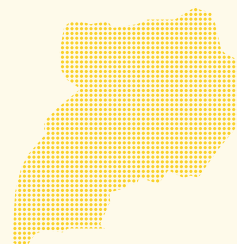
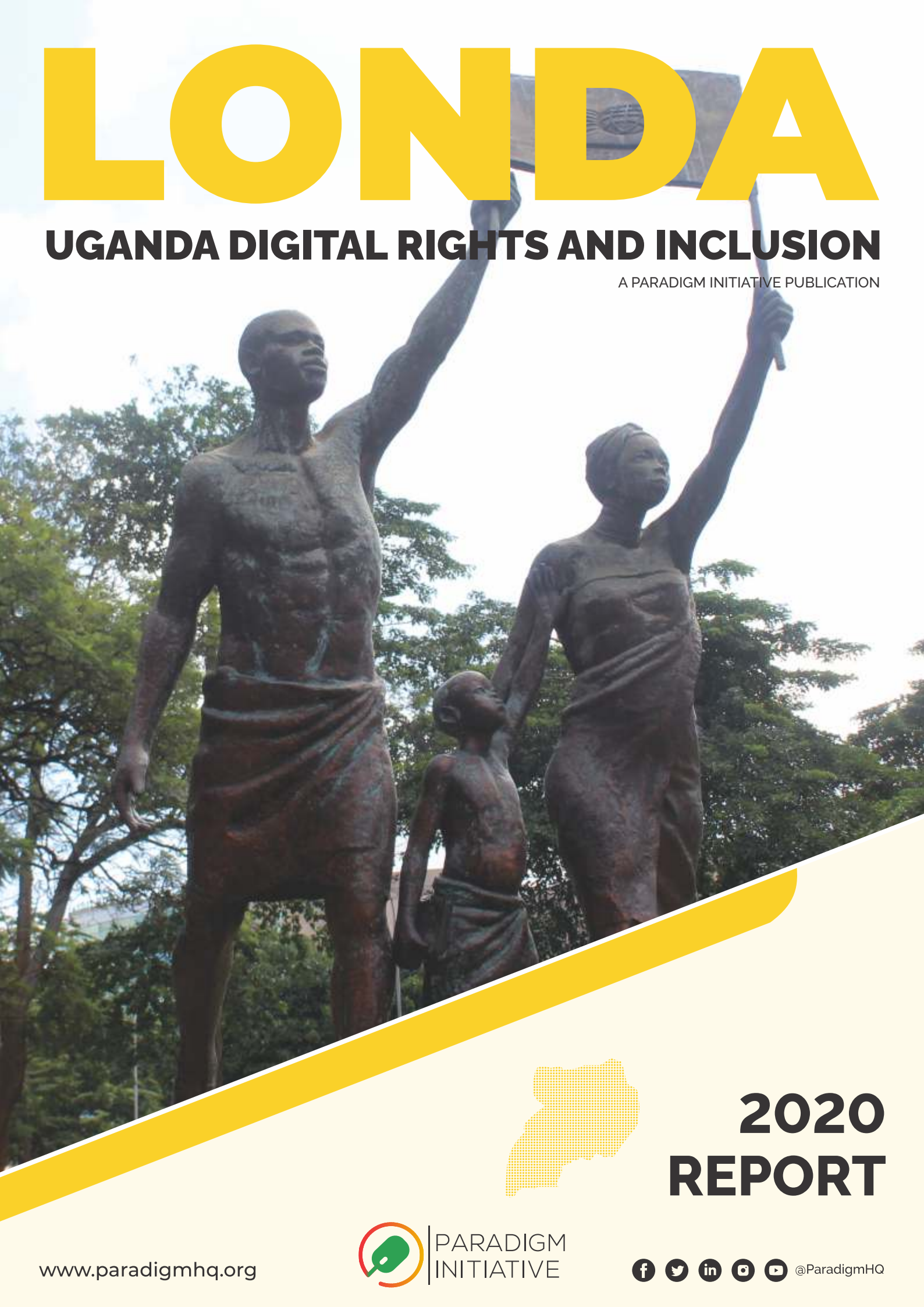


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A PARADIGM INITIATIVE PUBLICATION



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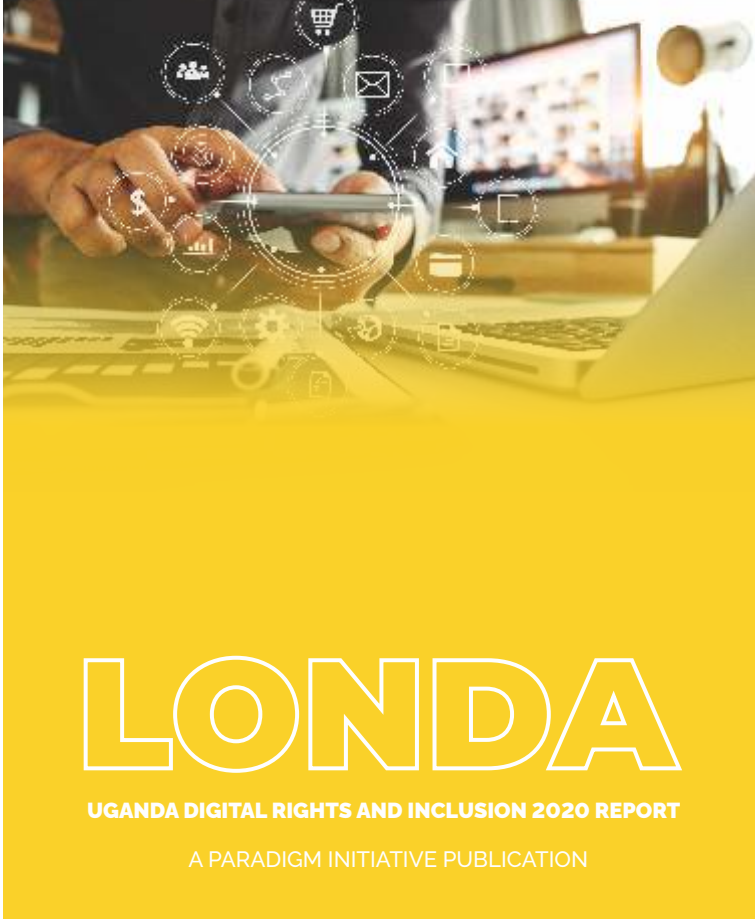
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Civil society organizations continue to work to advance digital rights and inclusion in Africa, ensuring best practices are adopted into policy and legislation. This report analyses the state of digital rights and inclusion in Uganda, examining violations and gaps, investigating the use and application of policy and legislation, highlighting milestones and proffering recommendations for the digital landscape in Uganda. This edition captures among other issues, the digital divide worsened by the COVID-19 pandemic and unearths infractions on different thematic areas such as privacy, access to information, and freedom of expression with the legislative and policy background well enunciated.

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Uganda is a country in east-central Africa with a population of around 46 million. It became an independent country in 1962. Its governmental system is multi-party democracy, and both English and Swahili are official languages.¹

INTRODUCTION

DIGITAL RIGHTS AND INCLUSION IN UGANDA

The latest figures from the communications regulator, Uganda Communications Commission (UCC), show there were 16.9 million internet subscribers by the end of December 2019, while mobile subscriptions stood at 26.7 million in December 2019.² Despite these impressive figures, a majority of the population remains unconnected, due to high costs and poor infrastructure, including lack of electricity supply, especially in the rural areas. The lack of connection has also been made worse as a sizable number of people who were accessing the internet at their places of work can no longer do so due to the COVID-19 restrictions and closure of workplaces.³

The legal regime governing the digital sphere in Uganda includes the Uganda Communications Act 2013, Anti-Pornography Act 2014, Regulation of Interception of Communications Act 2010, Registration of Person Act 2015, the National Information Technology Authority, Uganda Act (Act No. 4 of 2009) and the Electronic Signatures Act 2011 (Act No. 7 of 2011).



16.9 Million
Internet subscribers
in December 2019

1. Britannica, 'Uganda', <https://www.britannica.com/place/Uganda>

2. Daily Monitor, 'Internet subscribers rise to 16.9 million', <https://www.monitor.co.ug/uganda/business/technology/internet-subscribers-rise-to-16-9-million-ucc-report-1892924>

3. Unwanted Witness, 'Internet barriers constrain the work of Uganda HRDs amidst COVID-19 pandemic', <https://www.unwantedwitness.org/internet-barriers-constrain-the-work-of-uganda-hrds-amidst-covid-19-pandemic/>



MONITORING AND TAXATION OF THE MEDIA

On May 30th, 2018, the Parliament of Uganda passed the Excise Duty Amendment Act which ordered users of social media to pay Shs. 200 (\$0.05) each day to access it.⁴ The failure to suspend the implementation of the OTT tax has continued to undermine the efforts to increase access to and affordability of ICTs by a large majority, thus denying a large population access to critical information and citizen participation in democratic processes. Similarly, a 0.5% levy (originally 1%) imposed on all mobile money transactions under the same law continues to lock many out of the digital economy.⁵

In September 2020, UCC ordered all news websites and online broadcasters to register their services by 5 October, 2020. The targeted services are blogs, online television, online radio, online newspapers, internet-based radio and TV stations, streaming radio and TV providers, and video-on-demand providers.⁶

It was not a new regulation but rather the enforcement of a directive issued in March 2018 that punished non-compliance with the risk of being blocked by internet service providers.⁷

One controversial guideline requires providers to ensure “content uniformity” between online and any print or offline versions.⁸ The requirement is ambiguous and stifles the creativity and flexibility of online platforms. At least 48 online data communication and broadcast service providers had registered with the UCC by the end of September. There are fears that these regulations are intended to give the regulator more control over online content producers and policing them. The guidelines further impose an application fee for an annual authorization of UGX 100,000 (approximately USD 27), regardless of size or revenue.⁹

The refusal by the government to suspend the implementation of the Over-The-Top (OTT) tax, despite several appeals from different stakeholders, has continued to undermine the efforts to increase access to and affordability of ICT for a large proportion of the population, thus denying them access to critical information disseminated on social media platforms.¹⁰

The Parliament of Uganda passed the Excise Duty Amendment Act which ordered users of social media to pay Shs. 200 (\$0.05) each day to access it.

4. Leadership, 'MPs okay taxes on social media', May 31, 2018,

<https://webcache.googleusercontent.com/search?q=cache:u3ydH5b36F0J;https://leadershipmagazine.org/%3Fp%3D15816+&cd=1&hl=en&ct=clnk&gl=uk>

5. New Vision, 'Mobile money tax reduced to 0.5%', <https://www.newvision.co.ug/news/1486921/mobile-money-tax-reduced-05>

6. Acme, 'UCC's latest directive on online content producer registration arrives with a shadow', <https://acme-ug.org/2020/09/09/op-ed-uccs-latest-directive-on-online-content-producer-registration-arrives-with-a-shadow>

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8. Acme, 'UCC's latest directive on online content producer registration arrives with a shadow', <https://acme-ug.org/2020/09/09/op-ed-uccs-latest-directive-on-online-content-producer-registration-arrives-with-a-shadow>

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10. State of Internet Freedom in Africa 2020: Resetting Digital Rights Amidst The COVID-19 Fallout, https://cipesa.org/?wpfb_dl=361 (accessed on 1/12/2020)

COVID-19 AND THE DIGITAL SPACE

The digital space, like everything else, has in 2020 been eclipsed by the COVID-19 pandemic. As of 16 December 2020, Uganda had registered 28,168 cases with 10,005 recoveries and 225 deaths.¹¹

Following the confirmation of the first case of COVID-19 in Uganda on 22 March 2020 the government of Uganda issued a raft of measures to stem infections.¹² They included closing of institutions of learning and places of worship, suspending public gatherings, banning public transport, partially closing markets, a dusk-to-dawn curfew, mandatory wearing of face masks, and closure of the country's borders and international airport to passenger traffic.

The measures, while well intentioned, have infringed the principles that protect digital rights namely: internet access and affordability; freedom of expression and right to information; privacy and data protection; and marginalized groups and groups at risk.

Some private players, such as telecom giants MTN Uganda and Airtel Uganda, rolled out packages to mitigate access to online services,¹³ 'work from home' data bundles, zero-rating information from the Ministry of Health website, and free text messaging services to keep the public online.¹⁴ The two companies also offered free mobile money service transactions as a way of minimizing the

physical exchange of paper money to prevent COVID-19 infections. However, these offers were for a very limited time, as the charges were reinstated on 26 May 2020.¹⁵

COVID-19 AND EDUCATION

A key challenge arising out of the lockdown was the continuation of learning for students. The Ministry of Education introduced distance learning for primary and secondary level through radio and television, as well as providing self-study materials to parents. There has, however, been a lack of clarity with regard to e-learning.

A request by Uganda Christian University to conduct online examinations was rejected first by the Ministry and then by Parliament, even after the university authorities showed evidence that the students had been prepared to do the exams online, even before the lockdown.¹⁶

A similar request by the Law Development Centre to conduct online examinations was also blocked by the Ministry of Education and Sports.¹⁷ In July, the government ordered schools to stop conducting their own online teaching and charging parents fees for the service "because both actions are irregular".¹⁸ The directive, however, did not affect international schools which do not follow the national curriculum.

11. <https://www.worldometers.info/coronavirus/country/uganda/> (accessed 16 December 2020)

12. New Vision, 'COVID-19: Uganda entering more dangerous phase – Museveni', <https://www.newvision.co.ug/news/1521333/covid-19-uganda-entering-dangerous-phase-museveni>, New Vision, 'Uganda confirms coronavirus', <https://www.newvision.co.ug/news/1516875/uganda-confirms-coronavirus>

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18. Daily Monitor, 'Stop charge for online lessons, govt tells schools', <https://www.monitor.co.ug/uganda/news/national/stop-charge-for-online-lessons-govt-tells-schools-1896058>

FREEDOM OF SPEECH IN 2020

As early as February 2020, the Ministry of Health moved to dispel rumours of reported confirmed cases of COVID-19, even before one was confirmed in Uganda. In response to this and other incidents of misinformation, the Uganda Communications Commission (UCC) issued an advisory warning to the public against spreading COVID-19 related false information. UCC warned that suspects would be prosecuted for offending the Computer Misuse Act 2011, the Data Protection and Privacy Act 2019 and Section 171 of the Penal Code Act Cap 120.¹⁹

In March 2020, UCC wrote to three media houses, NTV, Spark TV, and BBS TV, demanding that they provide a reason why regulatory sanctions should not be taken against them. The three were accused of broadcasting content that had the potential “to confuse, divert and mislead unsuspecting members of the public against complying with the guidelines issued by the relevant Government authorities on the COVID-19.”²⁰

In April, a prominent church leader, Pastor Augustine Yiga of Revival Church Kawaala, and Adam Obec who worked with Kampala Capital City Authority, were arrested and charged. Obec was accused of circulating information on social media claiming that Uganda had recorded its first COVID-19 death in Koboko district, an act that, it was claimed, triggered fear and panic among the general public and inhibited Uganda’s efforts to combat the coronavirus.²¹ Pastor Augustine Yiga was charged with uttering false information and spreading harmful propaganda in relation to COVID-19.²²

In October, UCC revealed that they had installed a fact checker facility on their website for any member of the public who wants to verify information about anything before sharing it. They also warned that under the Computer Misuse Act 2011, once you forward anything using your phone, you legally become an author and creator of that content and liable to prosecution.²³



19. 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/>

20. UCC calls out 3 TV stations on COVID-19; <https://uccinfo.blog/2020/03/29/ucc-calls-out-3-tv-stations-on-covid-19>

21. PML Daily, '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>

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23. <https://www.newvision.co.ug/news/1528471/ugandans-spreading-fake-news-prosecuted-ucc>, (accessed on 1/12/2020)



UCC revealed that they had installed a fact checker facility on their website for any member of the public who wants to verify information about anything before sharing it.

COVID-19, PRIVACY AND DATA PROTECTION

As one of the measures to combat COVID-19, the government passed several statutory instruments that would aid in the identification, isolation, and containment of the spread of COVID-19 in the country. These included the Public Health (Control of COVID-19) Rules, 2020 under the Public Health Act Cap.281, which gave powers to a medical officer or a health inspector to enter any premises in order to search for any cases of COVID-19 or inquire whether there are, or have been, any cases of COVID-19 on the premises.²⁴ Additionally, section 5 of the rules empowers the medical officer to identify and order the quarantine or isolation of all contacts of suspected COVID-19 patients.

However, as the number of cases rose and the government redoubled its efforts to reach out to ensure testing of people returning from coronavirus hotspots abroad, there were reports of 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.²⁵

The Ministry of Health was reported to have been in possession of the details of all passengers who had entered the country in the second and third week of March, which details the ministry was using to trace them. In Jinja, a couple was forced to seek protection from the district authorities after the community where they were living threatened to evict them from their home where they were self-isolating.²⁶

Although the measures taken by the Ministry to trace all the returnees from places like Dubai, and their contacts, were well-intentioned, as were efforts by vigilant citizens to call out the returnees to voluntarily avail themselves for testing, the situation resulted in the unintentional exposure of individual personal details that put them at risk, contrary to the Privacy and Data Protection Act 2019.

24. Section 6(1) of the Public Health (Control of COVID-19) Rules of 2020, <https://ulii.org/ug/legislation/statutory-instrument/2020/52>

25. Daily Monitor, 'Coronavirus: Uganda hunts', <https://www.monitor.co.ug/uganda/news/national/coronavirus-uganda-hunts-500-dubai-returnees-1882602>

26. Daily Monitor, 'COVID-19: Dubai returnee, wife quarantined at Jinja Hospital after residents threaten with eviction', <https://www.monitor.co.ug/uganda/news/national/covid-19-dubai-returnee-wife-quarantined-at-jinja-hospital-after-residents-threaten-with-eviction-1882196>

DIGITAL EXCLUSION

Even before the COVID-19 pandemic, women, persons with disabilities, the elderly and those in rural communities were already facing digital exclusion and the resultant violations of their information rights.²⁷ The exclusion has been exacerbated by the COVID-19 pandemic and has manifested in keeping the marginalized out of e-learning, remote working, and access to information. Many women and people with disabilities in Uganda remain offline due to the high cost of gadgets, a social media tax, poor connectivity, the high cost of data, and poor digital skills.²⁸

A report by Women of Uganda Network (WOUGNET), notes that even the few women that make it on to the internet have become victims of a new form of gender-based violence commonly referred to as “technology-assisted violence against women and girls”. A WOUGNET survey indicates that in the three months of March, April and May 2020, 50% of women had either faced tech-assisted violence, or heard of an incident either from a friend or through social media, radio or TV, while others were not sure.²⁹

CONCLUSION AND RECOMMENDATIONS

There are already barriers to the digital realm in Uganda, both due to high prices and to monitoring and control of the media. The COVID-19 crisis threatens to make the situation worse, as well as increase the digital divide facing women and minorities. The following recommendations are aimed at preventing this scenario:

- The government should establish mechanisms to stem misinformation and disinformation. This is best achieved through collaboration with key stakeholders and not through the stifling of free expression.
- The government should not turn the COVID-19 pandemic into an instrument that stifles freedom of expression and the expansion and enjoyment of digital rights.
- The government should work closely with platforms and internet businesses to provide affordable quality gadgets and reliable internet services to ensure wide access to and enjoyment of digital rights.
- Academia and research organizations should explore the impact of government COVID-19 measures on fundamental human rights.
- Civil society and rights organizations should continue advocating for the decriminalization of free expression and speaking out against the implementation of measures that undermine free speech.
- Civil society and rights organizations should also create awareness and empower ordinary citizens with the skills and tools to identify hate speech, as well as mis/disinformation.



27. World Bank, 'Africa's young people speak out about ending digital exclusion in their countries', <https://blogs.worldbank.org/youth-transforming-africa/africas-young-people-speak-out-about-ending-digital-exclusion>

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