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The report assesses the state of digital rights and inclusion in 2021 through an analysis of primary and secondary data on Rwanda. The report analyses the country’s performance on various themes such as online freedom of expression, surveillance, digital inclusion, and compliance with international frameworks. It also highlights key achievements, challenges and provides recommendations.

The enactment of legislation on data protection and privacy was a major development in 2021. The digital acceleration project is expected to boost inclusion as it will target more women and contribute to various areas such as digital literacy and entrepreneurship. Students resumed their studies after the government eased the COVID-19 restrictions. However, remote learning was marred by various difficulties.

Despite positive developments, the report notes a worrying trend on online freedom of expression manifested in prosecutions of a number of content producers that human rights and media watch bodies have condemned. The report reveals that some provisions of the law that are used to prosecute content creators do not meet international human rights standards, as many human rights bodies affirm.

Lastly, the study proposes recommendations including legal reforms; transparency on surveillance practices; and acceleration of existing programmes to tackle digital gaps such as digital illiteracy among others. The COVID-19 pandemic has demonstrated that digital technologies play an important role and authorities should address violations and challenges to advance digital rights and digital inclusion.
Rwanda is a landlocked country in East Africa with a population of approximately 12.6 million people. The capital city, Kigali plays both administrative and economic roles, and is continuously growing with smart technology services such as cashless transportation and rapid urbanisation that have shaped the city over the past two decades.

In 2021 the East African country continued to fight the COVID-19 pandemic and its efforts were boosted by the vaccination uptake that is among the highest in Africa. Rwanda is considered to be politically stable and is known for its gender inclusive policy in governance and fast-growing social-economic transformation in Africa. The government led by President Paul Kagame has received global praise and financial support from donors and international financial institutions over the past two decades for its development model. Since the 1994 genocide against Tutsis, the political landscape has been dominated by the ruling Rwanda Patriotic Front (RPF). There are other small political parties allies mainly in what is known as the National Consultative Forum of Political Organizations.

Although President Kagame is often praised for turning Rwanda into a remarkable development model, his leadership style is often criticised by human rights organisations and the opposition for the poor human rights record, silencing of critics and the media, weakening the civil society, and the government’s pervasive surveillance practices.\(^6\)

The Ministry of ICT and Innovation coordinates ICT policies.\(^7\) There is a regulatory authority, the Rwanda Utilities Regulatory Authority (RURA), which was created by Law n° 39/2001 of 13th September 2001.\(^8\) The mandate of RURA is to regulate certain public utilities including telecommunications services. This law was reviewed and replaced by Law N. 09/2013 of 01/03/2013, giving RURA the mandate to regulate telecommunications, information technology, broadcasting and converging electronic technologies, including the Internet and any other audio-visual information and communication technology.\(^9\) Additionally, the Rwanda Information Society Authority, an agency affiliated to the Ministry of ICT helps the government in digitisation.\(^10\)

Data from RURA shows that as of 30 September 2021, mobile subscriptions were at about 11.5 million, which is nearly the whole population, but some users own more than one mobile phone.\(^11\) Fixed subscription was at 11,657. Mobile penetration stood at 85.16% while fixed subscription was at 0.1%. Internet subscription was 8,552,221 which means that 66 out of 100 inhabitants subscribed to the Internet. However, data published in the Digital 2021 Rwanda report shows that as of January 2021 Internet penetration was at 31.4% lower than the government’s agency penetration rate.\(^12\)

As of September 2020, Rwanda’s telecommunication market is composed of two mobile network operators, 24 Internet Service providers (ISPs), one 4G wholesaler and network provider, two network facility providers, and one capacity reseller. The major telecom operators are MTN-Rwanda and Airtel.\(^13\)
Rwanda ratified the African Union Convention on Cyber Security and Personal Data Protection (the AU Convention) in 2019. This is a major development that culminated in the enactment of a data protection and privacy legislation. Article 8(1) of the AU Convention states that:

Each State Party shall commit itself to establish a legal framework aimed at strengthening fundamental rights and public freedoms, particularly the protection of physical data, and punish any violation of privacy without prejudice to the free flow of personal data.

Law No. 058/2021 of 13 October 2021 Relating to the Protection of Personal Data and Privacy was published on 15 October 2021, in the Rwanda Official Gazette, a major development in 2021. The law establishes among other obligations: maintaining records, personal data processed, the designation of Data Protection Officer, and carrying out data protection impact assessment. It also provides a two-year grace period before implementation.

While the new legislation is a positive development, critics noted that it lacks safeguards for freedom of expression and information. According to Article 19 Eastern Africa, the draft bill would undermine traditional and digital media outlets who serve the public interests, because they would not be able to access certain information.

The law does not give them a public interest exception, meaning the media would face criminal and civil sanctions for using some information. This is against article 17 and 19 of the International Covenant on Civil and Political Rights (ICCPR) that promote freedom of expression, rights to information and media freedom. The lack of “independence” of the institution in charge of the law implementation is also another challenge. The National Cybersecurity Authority, a public agency that coordinates cybersecurity functions will oversee the implementation of the law. However, the body lacks the appropriate mandate and powers to supervise the new law which can hinder its efforts to protect the rights to privacy. Rwanda is one of few African jurisdictions that enacted the data protection legislation without creating a separate data protection authority.

Rwanda ratified the International Covenant on Civil and Political Rights (ICCPR) in 1975 and Second Optional Protocol to the International Covenants on Civil and Political Rights aiming to the abolition of death penalty. ICCPR promotes various human rights and signatories states agreed to respect 53 articles in the covenant. In October 2021 Human Rights watch documented intensification of crackdown on opposition and media. This was manifested in the arrest of nine people linked to an unregistered opposition party including a journalist in October and the prosecution of online commentators that use youtube channels.

The 2019 Declaration of Principles on Freedom of Expression and Access to Information in Africa (the ACHPR 2019 Declaration) establishes principles that promote freedom of expression and Access to Information. Principle 16(1) on media self-regulation states that “States shall encourage media self-regulation which shall be impartial, expeditious, cost-effective, and promote high standards in the media”. In the past media watch bodies have criticised authorities for weakening Rwanda’s media-self regulation body and hindering its work. This hindered media freedom in the country.

The Declaration’s principle 26 says the right to access to information shall be guaranteed by law. Rwanda enacted the law relating to access to information in 2013. A media development report released by Rwanda Governance Board, a government affiliated institution, in 2021 ranked the country’s media sector performance at 80.6% saying the media was doing well. The same study states that the media scored 77.8% on access to information. The high score means that the right to information is entrenched in the country. However, another report released in late 2020 that documented the state of access to information in Rwanda revealed a culture of secrecy, increasing denial of information.

The lack of “independence” of the institution in charge of the law implementation is also another challenge.
IMPACT OF COVID-19 REGULATIONS ON DIGITAL RIGHTS AND INCLUSION

The Global pandemic and relevant regulations affected the general life in the country. This led to the hindrance of digital rights and inclusion.

Education was a main sector badly affected as schools were closed and ordered to adopt remote learning that was difficult for many. Online Freedom of expression was marked by the arrests and prosecutions of commentators.

Education is one of sectors that have been severely impacted by the COVID-19 regulations. After lockdowns, schools were closed and re-opened several times to prevent the spread of the virus. Education authorities encouraged schools to resort to remote learning using the Internet, radio and TV. Amidst lockdown the ministry of education announced programs that would allow students to pursue their studies remotely. Affordability of digital devices such as laptops and smartphones and high Internet cost was the main challenge. One college principal elaborated that “a big number of students or parents do not have laptops or smartphones, and most of them cannot access assignments that teachers have been sending through WhatsApp groups since the COVID-19 closure.”

In August 2021, the Ministry of Education ordered all learning institutions to repeat all courses that were taught remotely during the lockdown. Some educationists supported the directive and said it could help to contain rising inequalities in education.

All learning institutions re-opened on 2 August 2021 for the third term after the government lifted the 15-day lockdown in Kigali and other eight districts. The repeat of lessons taught remotely highlights ICT gaps in learning institutions despite efforts to promote smart learning. The Higher Education Council audits exposed a lack of ICTs tools, Internet connectivity challenges and digital skills gap among lecturers and learners. According to a report released by UNESCO, the impact of the COVID-19 pandemic on education systems has made it challenging for special education teachers to ensure equal learning for students with disabilities. As of 2019 about 1% (17,193) of children enrolled in primary schools had a disability. As a response to COVID-19 impact on education of people with disability, most of the support was given to teachers and students at special schools and resources centres for people with intellectual disability for remote learning, however, inclusive schools received relatively little attention and assistance. According to a UNESCO study, inclusive schools continued to use materials they had before the pandemic. Rwanda ratified the Convention on the Rights of People with Disability and its Optional Protocol in 2008.

**FREEDOM OF EXPRESSION ONLINE**

Online conversation is dominated by pro-government views and any criticism is met with trolling by government supporters, while other users exercise self-censorship to avoid trouble or being labelled “enemies of the country”. According to Freedom House, in 2021, Rwanda ranked as not free. “Pro government accounts also mobilise to retweets and post positive comments in response to President Kagame’s tweets, to project an image of widespread support.” The so-called “Twitter Army” consistently attacks and discredits individuals and media houses that criticise the government.

The intolerance of online divergent views and other forms of silencing critics on social media platforms are against principle 5 of the 2019 ACHPR Declaration which says:

> The exercise of the rights to freedom of expression and access to information shall be protected from interference both online and offline, and States shall interpret and implement the protection of these rights in this Declaration and other relevant international standards accordingly.

Meanwhile, online content producers who post content on Youtube are arrested or subjected to other actions that appear to silence them. The government often accuses them of genocide denial, genocide ideology and rumours. In 2020 most of the arrests of YouTubers were linked to violations of COVID-19 regulations, while in 2021 the arrests and warnings were linked to the content they produce.

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In June 2021 Aimbale Karasira, a popular YouTuber with over 62,000 subscribers was arrested for alleged genocide denial. Authorities said that they had arrested the YouTuber on charges of denying the 1994 Genocide and if found guilty, he could be jailed for more than 10 years.

In March 2021 police arrested Yvonne Idamange for calling for protests against President Kagame's "dictatorial rule". She faces other charges related to the genocide. A popular poet, Innocent Bahati, who posted critical poems on social issues disappeared. At the time of publication of this report, Mr. Bahati had not been found. Recently, over 100 acclaimed writers signed an open letter urging President Kagame to intervene in the case.

In October 2021, the Rwanda Investigative Bureau (RIB) arrested Rashid Abdou Hakuzimana, a YouTuber content creator who founded Rashid TV. Mr. Hakuzimana was being investigated for allegedly denying and trivializing the genocide.

RIB spokesperson, Thierry B Murangira warned social media users against using online platforms to spread "hate speech, rumours, or words that can provoke divisionism, cause intimidation and chaos in the public". Theoneste Nsengimana, an online journalist, was arrested on October 13. The reporter had aired a video clip announcing an opposition event on his channel. The promo cited various people that were alleged political prisoners and others whose disappearance were allegedly linked to the government. According to the Rwanda Investigation Bureau (RIB), journalist Nsengimana and other people were arrested for "publication of rumours intended to cause uprising or unrest among the population."

While authorities justify the prosecution of several online commentators as a fight against divisionism, hate speech, genocide ideology in order to prevent acts that led to the 1994 genocide, human rights organisations assert that "current laws and practices go beyond this purpose", silence critics, debate and divergent opinions on the country's governance and history.
The commonly used law to prosecute online content producers who discuss public affairs and genocide issues is Law No 59/2018 of 22/8/2010 on the crime of Genocide Ideology and related crimes. The law on prevention of cybercrimes is also applied to prosecute online content producers as it prohibits publication of “rumours”. The law’s purpose is to prevent and punish cybercrimes. However, some articles are vague and can be misinterpreted. Article 39 on publishing rumours says that “Any person who, knowingly and through a computer or a computer system, publishes rumours that may incite fear, insurrection or violence amongst the population or that may make a person lose their credibility, commits an offence.” Also article 38 on publishing indecent information in electronic form provides that “Any person who publishes, transmits or causes to be published any indecent message using a computer or a computer system, commits an offence.” It is not clear what is “indecent” as it can be a subject of interpretation leading to the misuse of this provision.

### ONLINE VIOLENCE AGAINST WOMEN

Since COVID-19 broke out many people shifted their work online and others spent more time on social media than before. This has to an extent increased online against women especially targeting those who are more active in the digital space. A detailed online report documented rising cases of bullying and online harassment against women, noting “they have gone out of hand on many occasions.”

The director of Women at Web Rwanda, an organisation that promotes online participation of women in Rwanda, highlighted that, “with many people joining online spaces and having more time to kill on social networks, online harassment and bullying peaked and on many occasions has gotten out of hand.” A local journalist who experienced cyberbullying as a response to her articles said: “I get harassed and bullied online from the articles I share online. It is very common to be attacked on the way I look instead of people focusing on my work. Sometimes people ask for a picture of the writer and share insulting remarks.”

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PRIVACY, DIGITAL IDS AND SURVEILLANCE

Rwanda’s digital ID is increasingly being used to access several public services through Irembo, a government e-portal that is used to request various documents and services. The ID is also used for other private sector’s services such as banking, education and access to some institutions’ premises. A recent study on digital IDs in Africa noted that despite the tremendous functional development of Rwanda’s ID system, the institutional and legal framework in its support seems to be weak.

The digital ID is supported by Law No.14/2008 of 04/6/2008, which governs the registration of the population and issuance of the national identity card, and was amended in 2018. Despite the supporting legislation and a relevant ministerial order, the application of the digital identity goes beyond these legislative instruments. The adoption of legislation on the use of digital ID in addition to the recent promulgation of data protection and privacy law could strengthen the existing framework.

LEGALISING SURVEILLANCE

In the past Rwanda has enacted laws that facilitate surveillance and communications interception using security as a justification. Similarly, the country was reported to use highly efficient software in surveillance against critics. Evidence gathered via communication interception are often used in court cases against opposition politicians and activists. In 2008 Rwanda enacted the Interception of Communication law (amended in 2013) that allows national security services to apply for issuance of interception warrants to monitor citizens voices and data communication using national security as a justification. Warrants are issued by the national prosecutor who is appointed by the justice minister. In urgent security matters, a warrant may be issued verbally, “but the written request shall be completed in a period not exceeding twenty-four hours.” A warrant is valid for three months. Also, article 7 of the interception of communications law as amended in 2013 requires service providers to ensure that their systems “are technically capable of supporting interceptions at all times.” The law on communication interception can be abused to violate rights to privacy and target critics as it does not guarantee the independence of the oversight mechanism.
Amnesty International noted that evidence uncovered in collaboration with a non-profit media organisation called ‘Forbidden Story’ shows that the spyware was used in the phone of Carine Kanimba, Paul Rusesabagina’s daughter. Mr. Rusebagina is a hero in ‘Hotel Rwanda’ famous movie on Genocide. However, the Rwandan government denied the use of the surveillance software saying surveillance reports were false accusations that “are part of an ongoing smear campaign”.

Amnesty International, Rwandan authorities used the famous spyware to potentially target more than 3,500 activists, journalists and politicians.

Principle 41(3) of the 2019 ACHPR Declaration provides that states shall ensure any law that authorises targeted communication provides adequate safeguards for the right to privacy. Safeguards include:

- the prior authorisation of an independent and impartial judicial authority;
- due process safeguards;
- specific limitation on the time, manner, place and scope of the surveillance;
- notification of the decision authorising surveillance within a reasonable time of the conclusion of such surveillance;
- proactive transparency on the nature and scope of its use; and
- effective monitoring and regular review by an independent oversight mechanism.

The law on communication interception does not limit authorities’ capacity to intercept communications. The legislation does not require them to justify the reason for interference with people’s privacy and also the interception is not proportionate to legitimate aim.

Amnesty International and other International Media outlets revealed the alleged use of Israel’s NSO Group Technologies surveillance software by the Rwandan government to target activists, journalists and the opposition. According to EFFORTS TO BOOST DIGITAL INFRASTRUCTURE, ACCESS, GENDER GAP AND CHALLENGES

In December 2021, the World Bank provided US$100 million to accelerate the country’s digital transformation. The ‘Digital Acceleration Project’...
ARTIFICIAL INTELLIGENCE

Artificial Intelligence’s application in various areas is growing in the country. AI has played a big role in the health sector. Unmanned aerial vehicles popularly known as drones are being used for blood delivery to rural hospitals and healthcare. Rwanda also hosts the Centre for Fourth Industrial Revolution that promotes artificial intelligence among other new technologies. In July 2021 the country launched a chatbot that provides all relevant information about COVID-19. Amid growing use of AI technologies there is a need to mitigate risks and ethical concerns the technology brings. The Ministry of ICT is developing an AI policy that will create a road map with objectives that will help the country to reap from the use of AI. The Ministry of ICT and stakeholders in the AI ecosystem have developed a priority area of “effective” AI policy in Rwanda. Priority areas are; the 21st Century skills and High AI literacy, Reliable infrastructure and Computer capacity, robust data strategy, trustworthy AI adoption in the public sector, widely beneficial AI adoption in the private sector, and practical ethical guidelines. According to the Digital Transformation Centre, a local organisation that promotes collaboration between public sector, private sector, academia and civil society, the National AI policy is being developed by the government.

ANALYSIS OF THE COUNTRY’S PERFORMANCE IN COMPARISON TO THE PREVIOUS YEAR

The country has made remarkable progress on compliance with regional frameworks and instruments. In 2021 the country enacted the data protection and privacy law, which is one of the recommendations under the African Union Convention on Cybersecurity and Personal Data Protection. The World Bank financial support is expected to increase access to digital services and skills and contribute to inclusion in the digital economy. The easing of the COVID-19 restrictions including the reopening of schools allowed students to pursue their studies after facing challenges with the remote learning programmes.
CONCLUSION

The state of digital rights and inclusion in 2021 was exacerbated by COVID-19 pandemic. The legislation on data protection and privacy is a positive development. However, online freedom of expression remains a challenge as documented arrests of online content producers show. This has raised concerns that the country’s laws could be abused to prosecute suspects who are often government critics and online commentators. The report also highlighted the low access to internet, digital services in the education sector that led to inequalities, plus low smartphone ownership. It is anticipated that the adopted digital acceleration programme will address some of the digital gaps. The mass surveillance trend is worrisome and infringes on the right to privacy.

“The state of digital rights and inclusion in 2021 was exacerbated by COVID-19 pandemic.”
RECOMMENDATIONS

In view of the status of digital rights in Rwanda, the following recommendations are proposed.

The government should:
• Amend laws on genocide ideology and cybercrimes that appear to criminalize free speech, in compliance with international human standards.

• Allow online content producers to produce their content without any interference and any prosecution should be fair and transparent in accordance with international human rights standards.

• Accelerate efforts to address digital skills gap and prioritise programmes such as digital ambassadors to reduce the digital gender gap.

• Be transparent to ensure that rights to privacy of citizens are not violated in any surveillance practice.

• Ensure proper law, procedures and human rights are respected in case of surveillance.

• Ensure legislative protection where there is the increased use of digital IDs to avoid any data privacy violation.

• Support persons with disabilities inclusion in education by increasing interventions in inclusive schools and rehabilitation centres.

• Address ICT use in education challenges by facilitating access to digital devices, affordable internet and increasing digital literacy programmes.

Civil Society organisations and the media should:
• Educate social media users to tolerate divergent opinions.

• Educate the public about Internet freedom, online freedom of expression, respecting other users and refraining from any form of abuse online.
Londa 2021 expands on last year’s report with findings from 22 countries, examining themes of privacy, freedom of expression, access to information, segmentation and exclusion, digital transformation, affordability, gender and others within existing legislative frameworks, and against the backdrop of a widening digital divide. This edition captures the gaps and proffers recommendations to achieve a digitally inclusive and rights-respecting Africa.