

LONDA



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Uganda Digital Rights and Inclusion Report

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UGANDA DIGITAL RIGHTS AND INCLUSION 2021 REPORT

A PARADIGM INITIATIVE PUBLICATION

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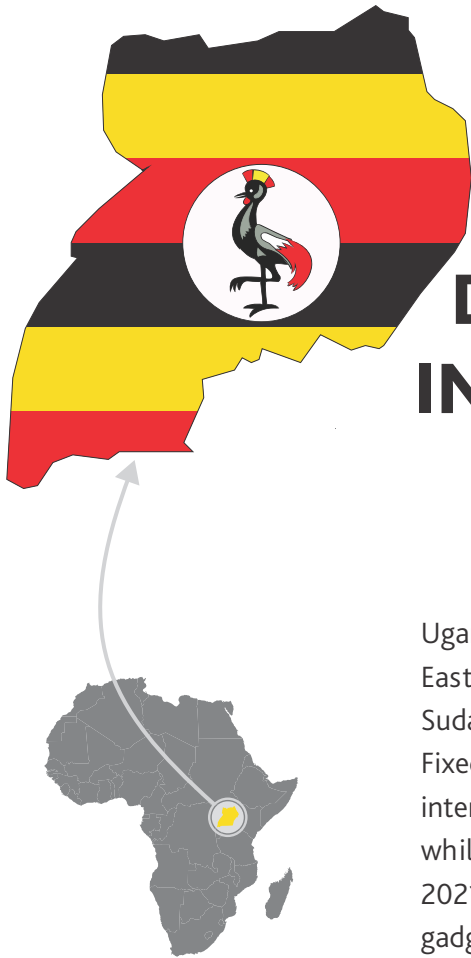
A PARADIGM INITIATIVE PUBLICATION

EXECUTIVE SUMMARY

The year 2021 saw some positive advances for digital rights in Uganda, although it may be said they may not have amounted to much. The abolition of the Over-The-Top tax which was replaced by an excise duty on data is a case in point. The government tightened their grip on social media further controlling freedom of speech in the country. This is largely due to the fact Ugandans generally rely on social media as an avenue for their free expression. In 2020, when measures were introduced to mitigate the spread of COVID-19, we began to witness the infringement of the principles that protect digital rights, namely internet access and affordability, Freedom of expression and right to information, privacy and data protection. The violation of these rights continued, albeit not because of the enforced measures against COVID-19. More recently, violations have mostly infringed on freedom of expression, with several individuals arrested and detained for purported online attacks on high ranking government officials.

Freedom of expression online was the most violated digital right in 2021, with several individuals arrested, charged and detained over supposedly offensive communication, computer misuse, and other charges. Despite prolonged school closure, the government of Uganda made no interventions to facilitate access to the Internet; the only available and most secure means for education and business. Moreover, e-learning left the less privileged at a disadvantage as they had no access to online classes. The report makes a number of recommendations directed at government, Parliament, civil society and the private sector in Uganda to address the continued clawback on the enjoyment and realisation of online freedoms in the country.

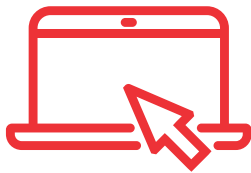
The report urges the government of Uganda to stem misinformation and disinformation through deliberate collaboration and partnerships with other stakeholders rather than resorting to clamping down on free expression. Further, the report enjoins the government to keep online spaces open and accessible to ordinary citizens as the basic foundation for the enjoyment of digital rights. The report calls upon the Parliament of Uganda to enact legislation that creates conditions and boundaries that define circumstances that may warrant the disruption of online access. In addition, the civil society community is urged to strengthen their advocacy initiatives for greater internet freedoms and free speech, as well as to empower citizens to identify misinformation and disinformation. Lastly, the report calls upon the private sector to implement data privacy protection measures that ensure the safety and security of private data in their possession.



INTRODUCTION

DIGITAL RIGHTS AND INCLUSION IN ANGOLA

Uganda, located in East Africa, is one of six countries that constitute the East African Community along with Burundi, Kenya, Rwanda, South Sudan and Tanzania. Uganda has a population of 41 million people.¹ Fixed and mobile telephone subscriptions account for 28.9 million, internet subscriptions for 21.9 million, the teledensity stands at 68%,² while broadband connections stand at 22 million. By the end of June 2021, the total number of connected smartphones or internet-enabled gadgets reached 9.7 million, while feature phones and basic phones were 22.4 million.³



21.9 Million

**UGANDA INTERNET
SUBSCRIPTION**

The legal regime governing the digital sphere in Uganda includes the Uganda Communications Act 2013, the Anti-pornography Act, 2014, the Regulation of Interception of Communication Act 2010, the Registration of Person Act, 2015, the Nita-U Act (Act No. 4 of 2009) and the Electronic Signatures Act 2011 (Act No. 7 of 2011). As the Financial Year 2020/21 came to an end, the Government introduced a host of tax amendments affecting the sector, including:

- the abolition of the Local Excise Duty on Over-the-Top Services (OTT),
- the introduction of a new excise tax on data services, and
- the revision of Value-added Tax (VAT) on telecom Value Added Services.

1. Uganda Household Survey Report, 2019/2020, https://www.ubos.org/wp-content/uploads/publications/09_2021Uganda-National-Survey-Report-2019-2020.pdf , (accessed on 19 January 2022)
 2. Tele density refers to the number of phone connections available per 100 people within a given geographical area.
 3. Uganda Communications Commission Blog, New Report: 29m use phones, 22m on internet, 14-09-2021, <https://uccinfo.blog/2021/09/14/new-report-29m-use-phones-22m-on-internet/> (Accessed on 19 January 2022)

COMPLIANCE WITH REGIONAL AND INTERNATIONAL FRAMEWORKS

Uganda is party to the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Convention on the Rights of Persons with Disabilities (CRPD), the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

(ICRMW), the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), and the African Charter on the Rights and Welfare of the Child (ACRWC). However, being a state party to these international and regional instruments, and having domesticated them into national legislation has not insulated citizens from violation of various rights including freedom of expression, the right to privacy, access to information and protection from discrimination.

IMPACT OF COVID-19 REGULATIONS ON DIGITAL RIGHTS AND INCLUSION

During the course of 2021, the country remained under lockdown with pre-primary, primary and secondary schools closed. According to Unicef⁴ Uganda's schools recorded the longest COVID-19 induced closure of schools. While government COVID-19 prevention guidelines recommended online classes and the use of radio programmes, and printed materials, given the lack of access to smartphones, computers, poor networks and the high costs of data, multitudes of learners were closed out of the education system.

FREEDOM OF EXPRESSION ONLINE IN 2021

As observed in 2020, measures introduced to mitigate the spread of COVID-19 infringed internet access and affordability, freedom of expression and access to information, privacy and data protection. While in 2020, these rights were violated under the guise of COVID-19 measures enforcement, the violations continued into 2021 on account of committing offenses including defamation,

criminal libel and offensive communication, and promotion of sectarianism.

In 2021, freedom of expression online was greatly threatened, notably through the use of The Computer Misuse Act, 2011 and the penal code. Those charged under this law included online publishers, bloggers, writers and ordinary netizens. On December 28 2021, plain-clothed gunmen arrested renowned novelist and political activist Kakwenza Rukirabashaija, taking him to an unknown destination. The situation seemed to be linked to a tweet from December 27 appearing to ridicule the first son and commander of the Land Forces, Lt Gen Muhoozi Kainerugaba. Before he was arrested, Rukirabashaija tweeted: *"I'm under house arrest. Men with guns are breaking down my door. They say they're policemen but are not in uniform. I've locked myself inside."*⁵ At the close of 2021, Rukirabashaija was still in custody, incommunicado and had not been arraigned in any court of law, nor had his family or legal representatives been granted communication.

4. Unicef, Uganda, School at last | UNICEF Uganda, (Accessed on 3 APRIL 2022)

5. Nilepost Political activist Kakwenza arrested after calling Gen. Muhoozi obese <http://nilepost.co.ug/2021/12/29/political-activist-kakwenza-arrested-after-calling-lt-gen-muhoozi-obese/>

This was the third time he was being arrested in the last two years, following arrests in April and September 2020, on account of his political writing.⁶

PRIVACY, DIGITAL IDS AND SURVEILLANCE

Throughout the year, there were concerns about data protection and data privacy in Uganda. The Data Protection and Privacy Act 2019 (DPPA) was passed into law in 2019, giving effect to the right to privacy under Article 27(2) of the 1995 Constitution of the Republic of Uganda. In March 2021, the Data Protection and Privacy Regulations, 2021 were passed and approved. The regulations provide additional provisions aimed at protecting digital privacy. However, according to a report published by Unwanted Witness, evidence on the ground shows the majority of Ugandans are not guaranteed those rights in daily practice.

A report released November 5th 2021 by Unwanted Witness, titled “A Privacy Policy Scorecard Report: The Scorecard Approach,” reveals glaring gaps in most Ugandan organizations’ compliance with data protection and privacy laws. The average company score assessed was 35%, a worrying start for compliance with Uganda’s Privacy and Data Protection Act, in a wider, already troublesome context of governmental digital rights suppression and digital surveillance. More than half of the organizations assessed had robust data security, and 40% complied with privacy best practices.

However, when it comes to providing users with information before collecting their data, indicating the third parties with whom that data will be shared, and disclosing how much data will be provided to those parties (including the

government and law enforcement), the organizations perform poorly across the board.⁷

The report argues that there are gaps in digital privacy in Uganda, and without stringent compliance with data protection and privacy rules, as pointed out by the report, both government and corporations are indeed at risk of violating citizens’ rights. On the brighter side, CSOs in Uganda, petitioned the National Information Technology Authority (NITA-U) over SafeBoda, a motorbike taxi-hailing company that did not have a privacy policy. SafeBoda made effective changes and has one of the best privacy policies today as a result.



Ndaga Muntu is Uganda's national digital ID. It was primarily conceived to address national security concerns with a focus on fighting terrorism and illegal employment, creating an inclusive and human-centric identification system that assures all citizens and non-nationals access to social and basic services without exclusion or discrimination.

Unfortunately, the system has fallen short of its aspirations and instead exacerbated already existing exclusions. The inability to obtain a digital

6. Chimpereports Uganda security arrest writer Kakwenza Rukirabashaija <https://chimpereports.com/uganda-security-arrest-writer-kakwenza-rukirabashaija/> (Accessed 20 January 2022)

7. Unwanted Witness, titled “A Privacy Policy Scorecard Report: The Scorecard Approach” <https://globalvoices.org/2021/12/17/despite-updates-in-legislation-organisations-in-uganda-struggle-with-data-protection-and-privacy-compliance/>

ID has grave ramifications for the enjoyment of basic human rights and services. The situation is even more dire for women who consequently face barriers in accessing public health facilities and the elderly who cannot access social security as they cannot provide their date of birth, and age. There are however, several other services such as applications for a passport or driving license, opening a bank account or even registering a sim card that by law require a national ID or a National Identification Number (NIN).

In March 2020, the Minister of Internal Affairs, in a statement to Parliament of Uganda revealed that at least 16.8 million Ugandans aged 16 and above registered with the National Identification and Registration Authority (NIRA) had not accessed their National Identity Cards.⁸

ACCESS TO INFORMATION

The abolition of the unpopular OTT tax, however, did not amount to much, as this tax was simply disguised as an excise tax on data services, of 12%.⁹ This keeps data costs high and might potentially affect online access for some populations unable to afford to use as much data as they would like to stay online. This law, enacted in 2018, was criticized for undermining 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. Within the first year of the social media tax, Uganda lost five million internet subscriptions due to the negative effects of the tax.¹⁰

INTERNET DISRUPTIONS

The year kicked off with a bout of internet disruptions. In the run-up to the January 2021 general elections, Facebook shut down several supposedly *'fake and duplicate'* accounts that the social media network claimed had been connected with the Ministry of ICT to impersonate users and boost the popularity of posts.¹¹



8. Daily Monitor, 17m Ugandans have no national IDs - government, 5 March 2020
17m Ugandans have no national IDs - government | Monitor

9. <https://www.independent.co.ug/parliament-passes-12-tax-on-internet-data/> (Accessed on 20 January 2022)

10. <https://cipesa.org/2019/01/%ef%bb%bfsocial-media-tax-cuts-ugandan-internet-users-by-five-million-penetration-down-from-47-to-35/>

11. PCTECH Facebook Confirms Shutting Down Government-linked Accounts (pctechmag.com) (Accessed 13 January 2022)

In a televised address, hours later, President Museveni accused Facebook of being arrogant and instructed the government to close the platform, along with other social media outlets. Speaking at the time of the closure, the government spokesperson, revealed that the *“government of Uganda would maintain its shutdown of the Internet, Facebook, Twitter and other social media platforms, until the government deemed it safe to be used to inflame tensions”*, adding that the government was analyzing the situation and sites would be restored on *“a case-by-case basis.”* Four days after the elections, the internet and other social media sites apart from Facebook resumed operations.

In June 2021, a senior government official was quoted saying that *“Facebook had been restored”*. However, many individuals can to this day still not access either, unless accessed through a costly VPN. It is not clear why the government made the false claim about re-opening Facebook. The shutdown continues to affect people running and promoting their businesses on the platform.¹²

HATE SPEECH, MISINFORMATION AND CRIMINAL DEFAMATION LAWS

Earlier in the year, a magistrate court on 27th May 2021 remanded two journalists, Pidson Kareire and Darius Magara of Drone Media and the East African Watch respectively, to Kitalya Prison on charges of criminal libel and offensive communication, contrary to section 179 of the Penal Code Act. The prosecution alleged that the pair and others at large, published defamatory stories about road construction company, Dott services Ltd. between October and November 2020 in Kampala and thereabout by means of online platforms Drone Media and East African Watch.¹³

The story challenged the company's ability to build quality roads linking Uganda to Democratic Republic of Congo. However, said stories stemmed from a debate in Parliament regarding Dott Services' performance. The charges against the two journalists were on 17 December 2021 withdrawn by the Director of Public Prosecutions¹³

On November 4 2021, a group of about seven people in plain clothes kidnapped a journalist, Pidson Kareire, the Managing Editor of The Drone Media, who they tortured for a week before they arraigned him before Buganda Road Court. He was charged with offensive communication and criminal defamation. The abductors claimed he had defamed Deputy Speaker of Parliament, Anita Among.¹⁴ The case was adjourned to January 2022.¹⁵ On 7 March 2022, the case came up for mention at Buganda Road Court but was further adjourned.¹⁶



12. Anadolu Agency <https://www.aa.com.tr/en/africa/ugandan-government-quietly-restores-facebook/2281259#> (Accessed 13 January 2022)

13. Human Rights Network for Journalists <https://hrnjuganda.org/?tag=pidson-kareire> (Accessed 10 January 2022)

14. The Drone Media Thugs kidnap, torture journalist in the name of police - The Drone Media (Accessed 0 January 2022)

15. Human Rights Network for Journalists <https://hrnjuganda.org/?p=9356> (Accessed 10 January 2022)

16. Update provided by Ms. Diana Nandudu, Legal Officer, Human Rights Network for Journalists on 18 March 2022

In a separate incident, 58-year-old blogger, Ibrahim Tusubira aka Isma Olaxess, was arrested on November 21, and appeared before court on November 24 to answer charges of promoting sectarianism contrary to section 41(1) (a) and (d) of the penal code. According to his prosecutors, on 17 November 2021, Tusubira recorded and published “a video with utterances degrading, reviling, exposing to hatred or contempt; raise discontent or disaffection and promoting in many other ways feelings of ill will or hostility among or against any group of persons on account of religion”. In the viral video, Tusubira urged terrorists to bomb Parliament and churches so as to kill Christians in revenge for what he called “continued persecution of Moslems”. The video was recorded in the aftermath of four bombings in two months that led to the death of nine people.¹⁷

DIGITAL EXCLUSION IN AFRICA AND ITS IMPACT ON HUMAN RIGHTS

A 0.5% levy imposed on all mobile money transactions under the Excise Duty (Amendment) Act 2018 continues to lock many out of the digital economy. This law remains in effect. Furthermore, this tax was introduced during the prolonged school closure, noted as the longest education institutions closure globally,¹⁸ a period during which students were being taught online. These online classes left many children of low-income families without education.

Moreover, a June 2021 report¹⁹ Chased Away and Left to Die: How a National Security Approach to Uganda’s National Digital ID has led to Wholesale Exclusion of Women and Older Persons shows how the national ID has led to mass exclusion, shutting

out as many as one third of Uganda’s adult population and has become a barrier for women and older persons, as well as many other marginalised individuals, in accessing their human rights. The report argues that the Ugandan government has sacrificed the potential of digital ID for social inclusion and the realization of human rights at the altar of national security.

Section 66(2) of the Registration of Persons Act, 2015²⁰ sets mandatory prerequisite of having an identification number issued by the government of Uganda to enjoy a wide range of key services including;

- issuance of a passport, or drivers license,
- registration of a mobile phone number/sim card,
- opening bank accounts,
- purchase, transfer and registration of land,
- transactions pertaining to pensions and health insurance and
- application for public government services.

Consequently, millions of people that have no national identification number/card have been excluded from accessing services and enjoyment of basic rights.



The report argues that the Ugandan government has sacrificed the potential of digital ID for social inclusion and the realization of human rights at the altar of national security.

17. Newsday Blogger Isma Olaxes charged, granted bail

18. <https://newsday.co.ug/2021/11/25/blogger-isma-olaxess-charged-granted-bail/> (Accessed 13 January 2022)

The Eastafrican Uganda Kept Schools closed longest - UNICEF

<https://www.theeastafrican.co.ke/tea/news/east-africa/uganda-kept-schools-closed-longest-unicef-3590854> (Accessed on 20 January 2022)

19. Social Protection.org, <https://socialprotection.org/discover/publications/chased-away-and-left-die-how-national-security-approach-uganda%E2%80%99s-national> (Accessed on 1 April 2022)

20. The Registration of Persons Act, 2015,

<http://www.mia.go.ug/sites/default/files/download/The%20Registration%20of%20Persons%2C%20%20Act-2015.pdf> (Accessed on 4 April 2022)



DIGITAL INFRASTRUCTURE AND PRIORITIZATION OF ICT

The African Union has prepared a Digital Transformation Strategy for Africa.²¹ The strategy recognises the efforts of the continent's leadership to prioritise and accelerate digital transformation. In Uganda, the ICT sector, one of the fastest growing sectors is also viewed as one of the potential catalysts for a post-COVID-19 recovery. According to the World Bank Group (WBG)'s 2020 Uganda Digital Economy for Africa (DE4A) report,²² this growth is driven by a number of conducive Government policies, such as the increased investment by the Government and private sector in fiber infrastructure, and the significant uptake of mobile phone subscribers.

While at least 95% of the population is covered by mobile telephony networks (2G), mobile broadband (3G and 4G) geographic coverage is only at 50%. Given the limited broadband access, the use of the Internet by enterprises and the public sector remains very low. The quality of service also remains problematically low.²³

According to the WBG, the government of Uganda's (GoU) ability to deliver public services digitally has in recent years been spurred by investments in shared IT facilities and service delivery platforms. In fact, Uganda is currently ranked 137 out of 193 countries on the 2020 UN e-Government Development Index, up from 156 five years ago. These investments include government cloud-based data centers, data exchange and integration platforms, SMS and e-payment gateways as well as in digital authentication services- translating into over 80 sectoral e-services shared by Ministries, Departments and Agencies (MDAs). There have also been efforts to strengthen and streamline the ICT sector through the implementation of policy and regulatory mechanisms such as a policy for achieving universal internet access in the country.

The GoU is also working on the Digital Uganda Vision (DUV), and the Digital Transformation Program (DTP) - whose aim is to increase ICT penetration and use of ICT services for social and economic development.

21. African Union, The Digital Transformation Strategy for Africa (2020-2030) | African Union (au.int) (Accessed on 3 April 2022)

22. World Bank Group, Uganda Digital Economy Assessment: Country Diagnostic (worldbank.org) (Accessed on 1 April 2022)

23. World Bank Group, Project-Information-Documents-Uganda-Digital-Acceleration-Program-P171305.pdf (Accessed on 1 April 2022)

ARTIFICIAL INTELLIGENCE NATIONAL STRATEGY

The government of Uganda has produced a National Fourth Industrial Revolution (4IR) Strategy²⁴ that outlines how the government plans to implement and adopt the fourth industrial revolution technologies in the country. The strategy covers the government's plans to leverage technologies such as blockchain, IoT, Big Data for competitiveness and human development in Uganda.

The strategy highlights key enablers that will facilitate the strategy namely;

- 4IR connectivity,
- agile governance,
- upskilled population,
- e-Government and
- Resource mobilisation.

The strategy recognises the immense opportunities of 4IR in trade, health services and other public affairs sectors. However, the poor digital infrastructure, a restrictive legal and policy regime, coupled with poor access to the internet will greatly hamper progress on the AI front for now.

GENDER AND ICT

Uganda scored 0.717 in the 2021 global gender gap (GGG Index) which measures economic participation and development. According to Wougnet,²⁵ a majority of women in Uganda are excluded from freely expressing themselves and accessing information on social media because of the retrogressive existing legal and policy frameworks, lack of access and affordability of ICTs, increased incidences of online gender-based violence, as well as lack of knowledge and skills to safely navigate the online platforms.

Similarly, women are still lagging behind men in their ability to take advantage of the power of digital technologies, with only 48% of women being online, compared to 58% of men globally. In Africa, only 22.6% of women are online, compared to 33.8% of men while in Uganda only 44% of women are online, compared to 62% of their male counterparts, further reflecting the gender digital divide.²⁶

Moreover, women remained locked out of digital rights access owing to negative cultural and gender norms, poor ICT infrastructure and the costs of internet enabled gadgets, as well as data for connectivity. During the COVID-19 lockdown, girls were more unlikely to access online classes because they had been assigned household and other chores by their parents. The gender divide in accessing ICTs in Uganda remains debilitating and will require strategic and systematic interventions to address it.



**Women are still lagging
behind men in their ability to
take advantage of the power of
digital technologies.**



24. Executive-Summary-Ugandas-National-4IR-Strategy.pdf (ict.go.ug)

25. WOUNET - Home

26. WOUNET, Towards a Gender-Friendly Legal Framework Governing Freedom of Expression and Access to Information on Social Media, Policy Brief (wougnnet.org) (accessed on 3 April 2022)



CONCLUSION

The upholding of digital rights in Uganda remained in a state of flux, with growing connections and subscriptions, while the government continued to stifle freedom of expression. However, violations significantly decreased in 2021 compared to 2020. This decline is attributed to the end of the violent Presidential and Parliamentary elections held in January 2021, and the easing and eventual lifting of the COVID-19 lockdown that had been a key excuse for security agents to arrest journalists, detain and mistreat media, political and civil society actors. Despite this decline, the number of individuals whose online freedoms were violated remains high.



Despite this decline, the number of individuals whose online freedoms were violated remains high.



RECOMMENDATIONS

Government

The government must do the following:

- 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 must work closely with platforms and internet businesses to provide affordable quality gadgets and reliable internet services, ensuring wide access to and enjoyment of digital rights.
- Desist from disrupting and closing online spaces as this denies citizens vital information, spaces to express themselves and opportunities to carry out business.
- Revise national laws to repeal ethnic discrimination in acquiring Ugandan nationality.
- Support the adoption of the draft protocol to the African Charter on the Right to a Nationality and the Eradication of Statelessness in Africa.
- Enact laws that stipulate internet governance, such as circumstances under which it may be disrupted.

Civil Society Organisations (CSOs)

CSOs must do the following:

- Continue advocating for the decriminalization and implementation of measures that undermine free speech.
- Advocate and empower ordinary citizens with the skills and tools to identify hate speech, as well as misinformation and disinformation.

Private Sector

- Organisations having access to private data should establish safety policies to ensure responsible and ethical data management.

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.



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