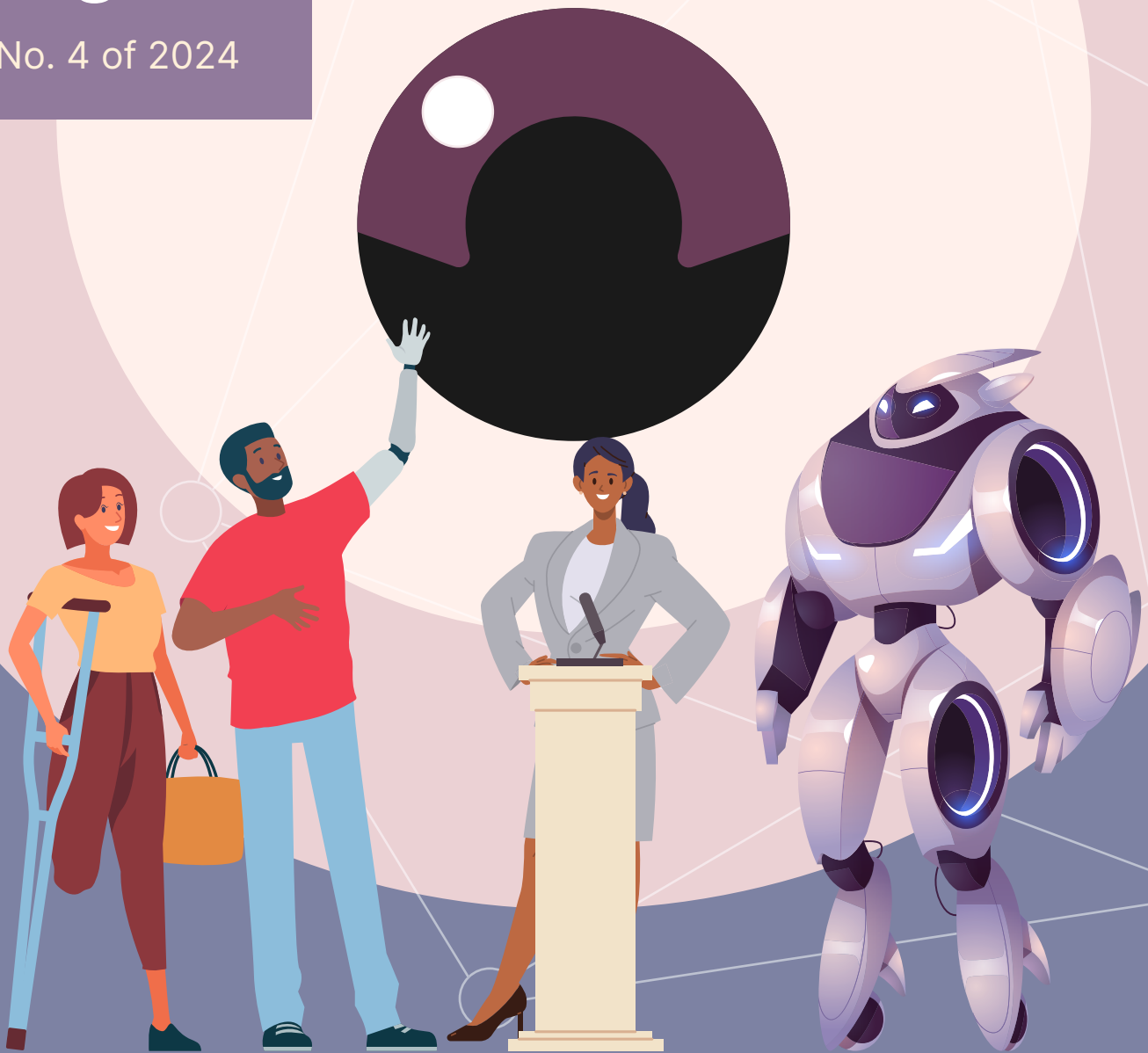


Digital Policy Digest

No. 4 of 2024



IN THIS EDITION

Africa's human-centric position on AI, robotics and other emerging technologies in security

Digital Rights and Inclusion, an analysis of the Uganda Persons with Disabilities Act, 2020.

Towards a multi-regulator landscape of the Internet ecosystem

Digital Policy Digest

No. 4 of 2024

This Digital Policy Digest (DPD) documents digital rights policies and laws and presents guidance on areas needing reform. This edition assesses and features an analysis of Africa’s Human-centric Position on AI, Robotics, and other emerging technologies in Security, an analysis of the Uganda Persons with Disabilities Act, 2020 and an article on a multi-regulator landscape of the Internet ecosystem in India.

This publication is not for sale. It is provided as a part of Paradigm Initiatives mission to “Connect African youth with digital opportunities and ensuring digital rights for all”. The Digital Policy Digest is published quarterly by Paradigm Initiative.

Researchers: Sarra Hannachi, Joseph Akoli, Sapni GK (Digital Rights and Inclusion Learning Lab 2024 Fellows)

Editorial Designer: David Chima

©2024 Paradigm Initiative. All rights reserved.

Africa's human-centric position on AI, robotics and other emerging technologies in security

By Sarra Hannachi





Introduction

The African Commission on Human and People's Rights (ACHPR) adopted Resolution 473 in February 2021. The resolution has been a clear declaration of the ACHPRs' expectations when it comes to governing artificial intelligence (AI), robotics and other emerging technologies. It not only highlighted the fast-paced growth in technology and AI-driven innovation in the continent, but also spotlights its potential implications and adoption beyond just the private sector, hence, the resolution was passed. The ACHPR calls for a confrontation of the challenges that these technologies pose for human rights. The resolution tackles different dimensions of human rights protection and people's safety in the African setting. This includes putting in place standard ethical considerations, preventing the spread of mis/disinformation and discriminatory content, ensuring accessibility, equal and fair distribution of AI-powered outputs for public interest as well as developing a participatory AI and tech governance framework or other alternatives such as the commitment of African Union (AU) Member States to relevant international policies. In addition to all these pillars of responsible technology and trustworthy AI that the ACHPR presses for, significant parts of the Resolution 473 urge the African continent to be wary of and to address the role of AI and autonomous machines or robotics in military, national security, elections and similar political applications.¹ The ACHPR addresses the weaponisation of these technologies and autonomous human targeting as threats to dignity and humanity above all and it points out the positions of the United Nations as well as the African Commission in this context as key exemplars for African states.

1. <https://achpr.au.int/en/adopted-resolutions/473-resolution-need-under-take-study-human-and-peoples-rights-and-art>

Background

In considering the relevance of Resolution 473, there are notable challenges posed by AI in Ethiopia. 2020 marked the beginning of the conflict between the Ethiopian government and the Tigray People's Liberation Front (TPLF) from the Tigray region. The government has since been deploying object recognition technology and unmanned aerial vehicles (UAVs) for targeting members of the TPLF party and yet leading to thousands of civilian casualties². This has brought a lot of debates about the lack of ethical practices in military actions.

This lack of consideration highlights significant gaps in aligning with global ethical standards and regulatory guidelines aimed at minimising harm to civilians and protecting human rights during armed conflict, such as the UN 2018 report on emerging technologies in Lethal Autonomous Weapons Systems (LAWS) or International Humanitarian Law. North African countries have also proven that technology can be a threat to human rights, especially in border control, as much as it is a pathway for development and innovation.

In particular, following the EU-Egypt cooperation on migration management in 2019, there has been frequent use of facial recognition technology, information collection and biometric surveillance by the Egyptian government that without a monitored human-centric design and ethical guidelines, could risk bias, discrimination and violation of personal, sensitive data privacy and protection laws. In addition to these risks, border control and law enforcement have not been highlighted as AI applications in the country's national AI strategy of 2021, neglecting further the aspect of transparency³. Moreover, In 2020, Libya's Government of National Accord (GNA) and the Libyan National Army (LNA) fueled their conflict with international assistance from Turkey and China, respectively, with military technology. The drone warfare between both governments was used for military intelligence but mostly for enemy targeting. The deployment of these drones was consistent and pilotless, reducing human oversight and risking escalations of the violence⁴.

2. <https://ethiopi-atigraywar.com/docs/CasualtiesArmedConflict2020-2021Tigray.pdf>
3. https://www.researchgate.net/publication/362352504_AI_at_the_Gates_Present_and_Future_of_AI_Border_Management
4. <https://www.obra-naastrategie.cz/en/archive/volume-2024/1-2024/articles/geopolitical-dimension-of-libyan-drone-warfare.html>

Recommendations

While international cooperation provides technological resources and prospects for African countries to grow and utilise in times of conflict, it is not the only source for AI-powered technologies in security. Private contractors for military forces can also be a key provider of robotics and other automated technologies, yet, there is no structured regional framework that governs their operationalisation within Africa, adapts to the continental context and gives clarity to laws and policies with precise and practical measures beyond strategy. Therefore, the ACHPR Resolution 473 has taken commendable steps, calling for regulation and practice at national level that should address multiple stakeholders, including international actors, responsible AI experts, technology developers, private companies providing emerging technology products or services, military leaders, and government actors. The ACHPR has also embarked on a study to better inform how government actors can advance human rights in the use of AI and emerging technologies. The right to privacy, human dignity and other fundamental rights are largely affected by the irresponsible and unethical deployment of AI and similar emerging technologies in Africa and the ACHPR/Res473 (EXT.OS/XXXI) tackles that with actionable steps. The drafting of the study began in 2023 and is currently ongoing after a series of expert workshops for study drafting and recent consultation meetings in 2024. The study would form an essential outcome for the fight against irresponsible AI and cutting-edge tech.

Following this resolution, for an effective long-term adoption in security as much as in other contexts, a set of recommendations are in order:

- With the AU's efforts, technology accountability is to be acknowledged in Africa, as a crucial determining factor of security operations' legitimacy and transparency because AU member states need to comply with International Human Rights Law (IHRL).
- The AU must push for more African countries to sign and commit to international treaties that deem the use of autonomous weapons and robotics with limited to no human oversight and decision-making control completely unacceptable, such as the Convention on Certain Conventional Weapons (CCW).
- The development of AI ethics guidelines, norms and policies for private companies as well as implementation monitoring processes should not be limited to civilian, commercial industries but instead should also be embedded in AI and tech providers for military service, including foreign ones.
- The AU needs to draw on the Resolution 473 as a foundation to establish clear grounds and strict regulations involving political interventions for international actors deploying their AI technologies or robotics in war or conflict settings on African soil.
- The ACHPR should finalise the AI study within a clear timeline so that guidance can be drawn by African States on how to address the identified gaps in AI governance.

Digital Rights and Inclusion, an analysis of the Uganda Persons with Disabilities Act, 2020.

By Joseph Akoli





Introduction

This article presents an analysis of the Persons with Disabilities Act, 2020 which provides for the respect and promotion of the fundamental rights and freedoms of persons with disabilities in Uganda. It highlights implications, gaps, and recommendations for future improvements in the act relevant to Digital Rights and Inclusion. Most countries in Africa are increasingly relying on digital platforms for communication, governance, and access to information. It is important that digital rights are promoted and protected as governments roll out digital technologies. Persons with disabilities are left out in the drive for digital transformation contrary to international human rights standards.

Article 9 of the UN Convention on the Rights of Persons with Disabilities (UNCRPD) calls on state parties to take appropriate measures to ensure the accessibility of ICT to persons with disabilities. The CRPD also calls on member states to ensure that private sector service providers, including through the Internet, provide information and services in accessible and usable formats for persons with disabilities. Similarly, the Constitution of the Republic of Uganda, Article 35 states “that Persons with disabilities have a right to respect and human dignity, and the State and Society shall take appropriate measures to ensure that they realize their full mental and physical potential”. The Constitution further provides for enacting laws and policies to address their concerns. As a result, the Government of Uganda passed the Persons with Disabilities Act 2020.

The latest figures on internet subscribers shows that, there were 13.30 million internet users in Uganda at the start of 2024, when internet penetration stood at 27.0 percent⁵. The population of Uganda stood at 49.25 million in January 2024. ⁶The data is not clear of what percentage of the subscribers are persons with Disabilities. A majority

5. <https://www.ucc.co.ug/ugandans-consume-more-data-but-spend-less-says-report>

of the population, especially those with disabilities remain unconnected and continue to face the high costs of assistive technology and the internet, unfriendly digital devices, Digital illiteracy, low awareness of Disability Inclusion among policymakers, academia, civil society, and other stakeholders and policy implementation gap. Furthermore, the Uganda Government also introduced taxes on social media platforms especially Facebook thus restricting communication, access to information, and digital freedoms. The effect of this imposition of taxes on access to the internet for persons with disabilities is dire.

⁷The Persons with Disabilities Act, 2020

Below are some sections in the act that provide for Digital Rights and Inclusion of Persons with Disabilities in Uganda;

⁸Part II – Rights of persons with disabilities and nondiscrimination.

3. Respect and promotion of the rights and freedoms of persons with disabilities. (1) A person with a disability shall enjoy the fundamental and other human rights and freedoms enshrined in the Constitution. (2) The Government and all persons in Uganda shall respect, uphold, and promote the fundamental human rights and freedoms of persons with disabilities enshrined in the Constitution and the United Nations Convention on the Rights of Persons with Disabilities and its optional protocols.

6. Nondiscrimination in the provision of education services
(5) In addition to the requirements under subsection (4), an institution of learning that is owned or aided by the Government that enrolls a learner with a disability, shall provide sign language services, learning instructional materials, and assistive devices, suitable for the learner and required for examinations by the learner.

7. Nondiscrimination in the provision of health services
(7) The Government shall provide persons with albinism with skin protective creams and persons with disabilities with assistive devices at no cost or subsidized prices.

9. Nondiscrimination in employment
(c) provide an employee with a disability reasonable accommodation in the performance of the job or task.

6. <https://datareportal.com/reports/digital-2024-uganda>
7. <https://cipesa.org/2018/12/promoting-accessible-ict-in-uganda/>
8. <https://ulii.org/akn/ug/act/2020/3/eng%402020-02-14>

12. Nondiscrimination in the provision of services on a commercial basis

(1) A person who provides services to the public on a commercial basis shall make the services available and accessible to persons with disabilities.

(6) The Minister responsible for communication shall, in consultation with the Council, make regulations defining the standards for access to information by persons with disabilities in accordance with this section.

15. Access to justice, information and training

(1) The Government shall promote— (b) the use of information assistive devices and technology

Gaps Identified and Recommendations for the Uganda Persons with Disabilities Act, 2020

9. https://www.google.com/url?q=https://www.ucc.co.ug/wp-content/uploads/2023/11/Guidelines-for-enabling-television-access-for-PWD-in-Uganda.pdf&sa=D&source=docs&ust=1732284423207284&usg=AOvVaw0_P2-dHWuqvn-wZVD8eQ4U8

Gaps	Reccomendations ¹⁰
The act lacks an aspect of digital literacy which is essential for effective usage of digital platforms, technologies, solutions and software.	There is a need for the government to incorporate a capacity-building plan for persons with disabilities focused on digital literacy and associated human rights.
The act contains provisions such as section 15 that support digital access to assistive devices for persons with disabilities. However, implementation remains a challenge.	The government must ensure the implementation of section 15 with a clear timeline and target.
The act does not consider the high costs of internet and assistive technologies and devices for persons with disabilities.	Financial policies and national budgets must promote access to assistive technologies and devices by persons with disabilities. The government must provide tax exempt assistive technologies and software and affordable internet access.
Whereas some areas of accessibility are provided for in the Act such as Physical accessibility, very little attention is emphasized on Digital Accessibility, inclusion, and Rights.	Review and amendment of the act to incorporate Digital Accessibility and Inclusion.
The act provides that the Minister responsible for communication shall make regulations defining the standards for the access to information by persons with disabilities however gaps still exist in the standards for the access to information by persons with disabilities.	Strengthening and strict enforcement of standard accessibility Guidelines.

10. https://unhabitat.org/digitalcitiestoolkit/toolkits/DCT_Digital%20Rights%20Policy-Making.pdf

Conclusion

Implementation of these recommendations will contribute towards creating a barrier free society and a truly inclusive digital world, where every individual, regardless of their abilities, has equal access, opportunities and their rights respected in the digital age.

Towards a multi-regulator landscape of the Internet ecosystem

By Sapni GK





Background

The Securities and Exchange Board of India (SEBI) recently floated a consultation paper on a *Draft Circular on Recognition of Certain Platforms as a Specified Digital Platform*¹¹. This is part of a spate of regulatory efforts from the securities regulator of the country to maintain its tight grip over the securities market in India and protect investor interests. As a sectoral regulator, SEBI is empowered to issue circulars for the enforcement of the parent Act, and the rules and regulations made under it. This particular consultation sets out some parameters for content regulation on matters related to the securities market, alongside a draft circular which demonstrates SEBI's thinking on the way ahead for governance. The draft prohibits SEBI-regulated entities from directly or indirectly associating with people who provide advice or make claims about the performance of securities without adequate authorization from the board to do so. Such prohibition, however, does not apply to a 'specified digital platform.'

A specified digital platform (SDP) is defined by the draft vaguely. It includes any digital platform that has been accredited as an SDP by SEBI based on its ability to take preventive and curative action to ensure that the SDP is not used for unlawful association between SEBI-regulated entities and unregistered advisers on digital platforms. The draft lays down further mandates for an SDP within the broader contours of preventive and curative actions, including establishing and operationalizing policies on transparency and accountability, verifiability of SEBI-regulated entities on the platform, cooperation with SEBI, as well as those on violations related to the securities market and impersonations related to the securities market.¹²

11. https://www.sebi.gov.in/reports-and-statistics/reports/oct-2024/consultation-paper-on-recognition-as-specified-digital-platform_87839.html

12. <https://www.medianama.com/2024/11/223-video-sebi-platform-influencer-regulations-november-8-2024/>

Points of caution on freedom of speech

This is a vaguely drafted policy document that leaves too much space for interpretation. Since it is a circular, the overarching powers that the SEBI is giving itself need not even go through parliamentary checks to prevent overstepping of the regulator's mandates. Astonishingly, SEBI deems itself empowered to regulate the entire space of online speech with this circular. It mandates platforms to process all content on an SDP under the guise of 'advertisement/content', essentially mandating a framework that entrenches pre-censorship of all content accessible on a platform. SDPs will then operate in a fragmented safe harbour regime¹³, where liability for the user-generated content that may deal with securities does not fall on them, but the economic viability of the advertisements-based platform model still stands challenged.

Proper compliance with the circular would result in SDPs further meddling with content, at the risk of over-censorship. While content moderation, especially of financial content is imperative, the framework under the draft is violative of the fundamental right to freedom of speech and expression as has been laid down by the Courts in India including in decisions as recent as **Kunal Kamra vs Union of India**, in September 2024.¹⁴

SEBI is an empowered regulator with extensive powers. However, the necessity to introduce a whole new regulated entity with sweeping mandates that overlap with the regulatory spheres of other regulatory bodies leads

13. <https://www.medianama.com/2024/09/223-does-content-moderation-fall-with-in-safe-harbor-protections-in-india/#:~:text=Under%20Section%2079%20of%20the,not%20select%20or%20modify%20the>
14. https://www.livelaw.in/pdf_upload/kunal-kamra-vs-union-of-india-561914.pdf

to policy uncertainty. It also highlights that the regulator is shifting the onus of decision-making on information integrity on securities-related subjects to the platforms through Artificial Intelligence (AI) enabled tools. This not only shifts the point of action, but also accountability, with no avenues for aggrieved users who generate content to seek redressal. The options of co-regulation and cooperation with other bodies are still available to SEBI. This could create a more holistic approach to addressing the problem of lack of information integrity in the securities markets, as against strict rules for publication of content on all subjects.

Larger trends and learnings for Digital Rights Defenders

This draft adds to the trend of more sectoral regulators coming into the spaces that were traditionally regulated by an overarching regulator who oversaw matters related to information and technology. It hints at internet regulation moving towards the direction of becoming a composite regulatory field as against the limited fields for the law enforcement, information technology regulators, and data protection regulators. Similar attempts have been recorded earlier in jurisdictions such as the USA, where the Securities and Exchange Commission (SEC) proceeded against social media influencers for stock manipulation through these platforms to orchestrate pump-and-dump schemes¹⁵. Election Management Bodies across the world are another kind of regulator that has been increasingly involved heavily in content moderation and platform regulation to maintain electoral integrity. The *Principles and Guidelines for the Use of Digital and Social Media in Elections in Africa* is a key instrument that lays down policy with similar intentions of regulating the digital sphere at the African regional level.¹⁶

It is essential to stick to the norms of fairness, reasonableness and equity while creating inroads to create a multi-regulator, composite framework for platforms and the virtual world to minimize harm. Multiple regulators could work together to maintain a level playing field for all stakeholders involved. This is particularly important for other regulators such as health¹⁷, to look at internet-based technologies as a public health question and improve the quality of our understanding of the complex web of interactions offline and online.

This is also useful for digital rights defenders, who can

15. <https://www.sec.gov/newsroom/press-releases/2022-221>

16. <https://www.elections.org.za/pw/Elections-And-Results/Principles-and-Guidelines-for-the-use-of-the-Digital-and-Social-Media-in-Elections-in-Africa>

17. <https://blog.petrieflom.law.harvard.edu/2024/07/31/free-speech-versus-public-health-the-role-of-social-media-part-one/>

advocate for their concerns from various perspectives with different sectoral regulators who can all have jurisdiction at once. New interpretations and innovative thinking can help empower regulators, who were otherwise not imagined to have the power to change the status quo. It can help digital rights advocates and defenders to create new strategies to engage with the regulatory apparatus. Creating multi-pronged advocacy strategies can help achieve the goals that might otherwise get stalled when the strategy singularly focuses on the Parliament or the Ministry that deals with Internet technologies-related decision-making.

Conclusion

Adopting multi-pronged advocacy strategies addressing unconventional regulators could open new pathways to effectively solve challenges posed by emerging technologies. For example, alternative imaginations on the internet regulatory ecosystem including copyright offices, antitrust regulators, and innovation divisions of governments could have resulted in different norms for AI-based tools. It might have resulted in an outcome unlike the status quo, where AI tools are created by infringing the rights of artists resulting in AI having leeways that humans do not¹⁸. Balancing the different worlds through different regulators is a tool at the hands of digital rights defenders to advocate for more equitable and inclusive spaces that appreciate innovation and growth as much as liberty and human dignity. Working towards a multi-regulator, composite model of the internet regulatory ecosystem can help achieve this objective.

18. <https://www.economist.com/by-invitation/2024/02/16/dont-give-ai-free-access-to-work-denied-to-humans-argues-a-legal-scholar>

More About PIN

Paradigm Initiative has worked in communities across Nigeria since 2007 and across Africa since 2017, building experience, community trust, and an organisational culture that positions us as a leading non-governmental organisation in ICT for Development and Digital Rights on the continent. Across our regional offices in Kenya, Nigeria, Senegal, Zambia, Zimbabwe, Cameroon, the Democratic Republic of Congo (DRC), and beyond, we have impacted youth with improved livelihoods through our digital inclusion and digital rights programs. The organisation's programs include Life Skills, ICTs, Financial Readiness, Entrepreneurship (LIFE) Training Program, a digital readiness workshop for girls, and Life@School Club Program. PIN has also built online platforms that educate and serve as safe spaces for reporting digital rights violations. These mediums, in the form of reports, short films, and educational online platforms, include Ayeta, Londa, and Ripoti. The organisation is also the convener of the annual Digital Rights and Inclusion Forum (DRIF), a pan-African platform where conversations on digital policy in Africa are shaped, policy directions debated, and partnerships forged for action. The forum has been held since 2013.

