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Access Now & Africa Freedom of Information Centre Joint Submission to the United Nations Human Rights Council on the Universal Periodic Review 40th Session Third Cycle for Uganda

15 July 2021

About Access Now

Access Now is an international organisation that works to defend and extend the digital rights of users at risk around the world. Through representation around the world, Access Now provides thought leadership and policy recommendations to the public and private sectors to ensure the continued openness of the internet and the protection of fundamental rights. By combining direct technical support, comprehensive policy engagement, global advocacy, grassroots grantmaking, legal interventions and convenings such as RightsCon, we fight for human rights in the digital age. As an ECOSOC accredited organisation, Access Now routinely engages with the United Nations (U.N.) in support of our mission to extend and defend human rights in the digital age.¹

About African Freedom of Information Centre (AFIC)

AFIC is a pan-African, membership-based civil society network and resource centre promoting the right of access to information, transparency and accountability across Africa. We do this by supporting national advocacy with comparative research, capacity strengthening, and technical support; by monitoring treaty compliance and implementation; and by leading continental and global advocacy.

AFIC is comprised of 46 civil society organisations and think tanks across 25 African countries including Botswana, Cameroon, DR Congo, Egypt, Ghana, Guinea, Kenya, Liberia, Malawi, Morocco, Mozambique, Namibia, Nigeria, Zambia, Gambia, Rwanda, Senegal, Sierra Leone, Somalia, South Africa, South Sudan, Tanzania, Uganda and Zimbabwe.²

Follow-up from Uganda's second UPR cycle

1. The Universal Periodic Review (UPR) is an important United Nations (U.N.) mechanism aimed at addressing human rights issues across the globe. Access Now and AFIC

¹ Access Now, *About Us*, <https://www.accessnow.org/>, 2021.

² Africafoicentre, *who we are*, <https://africafoicentre.org/>, 2021

welcome the opportunity to contribute to Uganda's third review cycle.³ This submission examines the state of digital rights in Uganda, including the rights to freedom of expression and opinion, access to information, and the right to privacy. It follows from our previous stakeholder submission ahead of Uganda's second review cycle.⁴

2. During the second UPR cycle, Uganda received 226 recommendations, of which 148 were accepted and 78 noted.⁵ Regarding digital rights, Uganda received:
 - a. 3 recommendations on the right to freedom of expression, of which 1 was accepted and 2 noted;
 - b. 3 recommendations on the right to access information, of which 1 was accepted and 2 noted;
 - c. 10 recommendations on the safety of journalists, of which 9 were accepted and 1 noted;
 - d. 1 recommendation to improve the transparency of the electoral process and prevent obstruction of the media and the internet.
3. Uganda has experienced a decline in the enjoyment of digital rights since its last UPR cycle. Digital taxes, internet shutdowns, blocking of digital communications platforms, and violence towards journalists and attacks on press freedom have infringed people's fundamental human rights, including freedom of expression and opinion, access to information, association, and assembly.
4. Of particular concern is the state of the right to privacy in the country. Despite Uganda passing the 2019 Data Protection and Privacy Act, (DPPA), there is no data protection authority as provided for in section 4 nor any operational legal provisions to that effect. It is a serious concern that the Act places an obligation on the National Information Technology Authority (NITA) to oversee the enforcement of the Act. However, NITA does not in any way constitute an independent authority especially given that it is under the general supervision of the Minister of Information, Communication, Technology and National Guidance. This means that the Act fails to establish an independent data protection authority to supervise and oversee the implementation of the Act. It also means that there are no comprehensive mechanisms available for people in Uganda to seek remedy when their data protection and privacy rights are infringed

³ Uganda was last reviewed in 2016 (second UPR cycle) and 2011 (first UPR cycle). See OHCHR, *Universal Periodic Review - Uganda*, available online: <https://www.ohchr.org/EN/HRBodies/UPR/Pages/UGIndex.aspx>.

⁴ Access Now, *Access Now Submission to the United Nations Human Rights Council, on the Universal Periodic Review 2016 Cycle for Uganda*, available online: https://www.accessnow.org/cms/assets/uploads/2016/03/UgandaUPR_AccessNow_March2016.pdf, 2016.

⁵ OHCHR, *Universal Periodic Review - Uganda*, available online: <https://www.ohchr.org/EN/HRBodies/UPR/Pages/UGIndex.aspx>; See also UPR Info, *2PR Responses to Recommendations and Voluntary Pledges: Uganda*, available online: https://www.upr-info.org/sites/default/files/document/uganda/session_26_-_november_2016/recommendations_and_pledges_uganda_2016.pdf

upon. A data protection authority is essential in order to ensure the enforcement of the data protection framework, as well as ensure trust in the system.

Uganda's international, regional, and domestic human rights obligations

5. Uganda has signed the Universal Declaration of Human Rights (UDHR), and ratified the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the relevant Optional Protocols.⁶
6. Uganda has ratified the African Charter on Human and Peoples' Rights (Banjul Charter), affirming its commitments to guarantee individuals' rights to freedom of expression, opinion, access to information, and free association.⁷ However, it is yet to ratify the African Union (A.U.) Convention on Cyber Security and Personal Data Protection (the Malabo Convention).⁸
7. The 1995 Constitution of Uganda affirms the right to privacy, including freedom from the interference with the privacy of one's communication and correspondence (Article 27), the right to freedom of peaceful assembly, association and expression (Articles 20 and 29) and access to information (Article 41).⁹

Freedom of expression and opinion and access to information

Digital taxes

8. In March 2018, Uganda Communications Commission (UCC) issued a directive that required "all online data communication service providers, including online publishers, online news platforms, online radio and television operators" to seek UCC's authorisation to operate, with online publishers required to pay a fee of 20 USD per year. The UCC moved forward with enforcing the registration program in August 2019, expanding the requirement to register individual social media users with large

⁶ OHCHR, *United Nations Human Rights Treaty Bodies, Ratification Status by Country - Uganda*, available online: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=182&Lang=EN

⁷ African Commission on Human and Peoples' Rights, *Ratification Table - African Charter on Human and Peoples' Rights*, <https://www.achpr.org/ratificationtable?id=49>, 2021; See also African Commission on Human and Peoples' Rights, *African Charter on Human and Peoples' Rights*, available online: <https://www.achpr.org/legalinstruments/detail?id=49>, 2021.

⁸ African Union, *African Union Convention on Cyber Security and Personal Data Protection*, available online: <https://au.int/en/treaties/african-union-convention-cyber-security-and-personal-data-protection>, 2021.

⁹ *Constitution of the Republic of Uganda, 1995*, available online: https://statehouse.go.ug/sites/default/files/attachments/Constitution_1995.pdf

followings, such as influencers, politicians, and celebrities.¹⁰

9. From July 2018 until June 2021, the government taxed citizens \$0.05 USD per day (4% of average monthly income) to access critical communications and information platforms such as Skype, WhatsApp, Facebook, Twitter, and Instagram.¹¹
10. While the initial purpose of the taxation, as stated by the Finance Minister David Bahati, was to raise revenue for public services, the statements made by President Yoweri Museveni suggested that it was rather to censor speech, or as he put it, to deal with online “gossip.”¹² Given that social media is crucial to accessing information as well as expressing opinions, taxing its use not only dropped the number of social media users, it negatively impacted individual’s rights to freedom of expression and opinion.¹³
11. Social media has become the news media. Individuals, including public institutions, depend mainly on social media as a tool of communication. Positively, government institutions are now required to have social media accounts dedicated to raising awareness quickly and disseminating public information. Since the emergence of the COVID-19 pandemic, social media has been significant in providing access to information and raising awareness.
12. In July 2021, the Ugandan government introduced a new tax, a 12% levy on internet data bundles.¹⁴ Like its predecessor, the new tax raises concerns about affordability and access for underserved communities, especially during the ongoing COVID-19 pandemic.

Internet shutdowns

13. Despite accepting a recommendation in the second UPR cycle that specifically addressed Uganda’s commitment to preventing obstruction of the media and the internet, Uganda

¹⁰ Freedom House, *Freedom on the Net 2020: Uganda*, available online: <https://freedomhouse.org/country/uganda/freedom-net/2020>, 2020; Uganda Communications Commission, *Registration of online data communication and broadcast service providers*, available online: <https://www.ucc.co.ug/registration-of-online-data-communication-and-broadcast-service-providers/>, 6 March 2018; Uganda Communications Commission, *Public Notice: Registration of Online Data Communication and Broadcast Service Providers*, available online: https://www.ucc.co.ug/wp-content/uploads/2018/03/UCC_ONLINE-DATA-COMMUNICATIONS-SERVICES.pdf, 6 March 2018; Digestafrica, *UCC goes after bloggers, digital media and other online publishers*, available online: <https://digestafrica.com/ucc-bloggers-digital-publishers/>, 7 March 2018.

¹¹ Free Social Media, *Social media is free. But not in Uganda*, *Free Social Media*, available online: <https://freesocial.media/#intro>.

¹² The Guardian, *Millions of Ugandans quit internet services as social media tax takes effect*, available online, <https://www.theguardian.com/global-development/2019/feb/27/millions-of-ugandans-quit-internet-after-introduction-of-social-media-tax-free-speech>, 27 February 2019.

¹³ Hannah Kuchler, *A social media tax, freedom of speech and Uganda*, available online: <https://www.ft.com/content/1dc7f8f8-8ece-11e8-bb8f-a6a2f7bca546>, 25 July 2018.

¹⁴ Reuters, *Uganda introduces 12% internet data levy, critics say move will stifle online access*, available online: <https://www.reuters.com/world/africa/uganda-introduces-12-internet-data-levy-critics-say-move-will-stifle-online-2021-04-30/>, 30 April 2021.

failed to follow through on this recommendation by shutting down the internet on several occasions.

14. The #KeepItOn coalition — composed of more than 240 organisations from 105 countries around the world — track internet shutdowns worldwide. The 2021 #KeepItOn report, authored by Access Now, noted an alarming government-trend, Uganda included, to shut down the internet as a tool to suppress peoples' human rights amid conflict, as well as during pivotal moments, such as protests and elections.¹⁵
15. Governments often attempt to justify internet shutdowns by claiming they are necessary to restore "public order" or "national security," to "prevent the spread of misinformation/disinformation," to "curb cheating on exams," or for "technical reasons." Yet governments typically order internet shutdowns under circumstances that reveal the shutdowns are in fact aimed at quelling protests or gagging citizens during important national events like elections.¹⁶
16. In alignment with its human rights obligations¹⁷ Uganda must refrain from blocking or shutting down the internet and mobile communications services, particularly during elections and protests. Several U.N. bodies and independent experts have condemned internet shutdowns as a violation of international human rights law.¹⁸ Similarly, regional bodies, including the A.U., have also emphasised that intentional shutdowns violate human rights norms.¹⁹ Despite clear guidance that internet shutdowns are never justified under international human rights law, internet shutdowns were a regular occurrence in Uganda, particularly during elections.²⁰

¹⁵ Access Now, *Shattered Dreams and Lost Opportunities a Year in the fight to #KeepItOn*, available online: https://www.accessnow.org/cms/assets/uploads/2021/03/KeepItOn-report-on-the-2020-data_Mar-2021_3.pdf, 2021.

¹⁶ Access Now, *#KeepItOn FAQ*, available online: <https://www.accessnow.org/keepiton-faq/>, 2021.

¹⁷ Including, but not limited to, the Universal Declaration of Human Rights (Article 20), and affirmed in the ICCPR (Articles 21, 22), as well as African Charter (Article 9), to all of which Uganda is a signatory party.

¹⁸ Most recently summarised in the 15 June 2021 Report *Ending Internet shutdowns: a path forward*, the U.N. Special Rapporteur on the rights to freedom of peaceful assembly and of association, U.N. Doc. A/HRC/47/24/Add.2, available online: <https://undocs.org/A/HRC/47/24/Add.2> at paras 13 - 14. See also, Access Now, *U.N. propels internet shutdowns into the spotlight, calls on key stakeholders to act, 1 July 2021*, available online: <https://www.accessnow.org/un-internet-shutdowns/>.

¹⁹ See *Ending Internet shutdowns: a path forward*, the U.N. Special Rapporteur on the rights to freedom of peaceful assembly and of association, U.N. Doc. A/HRC/47/24/Add.2, available online: <https://undocs.org/A/HRC/47/24/Add.2> at paras 13 - 14. See also, Access Now, *U.N. propels internet shutdowns into the spotlight, calls on key stakeholders to act, 1 July 2021*, available online: <https://www.accessnow.org/un-internet-shutdowns/>. Note in particular, the ACHPR affirmed the principle of non-interference with access to internet and stressed that States "shall not engage in or condone any disruption of access to the internet and other digital technologies for segments of the public or an entire population" the ACHPR, *Declaration of principles on freedom of expression and access to information in Africa*, 2019.

²⁰ AA, *Uganda: Internet fully back weeks after shutdown*, available online: <https://www.aa.com.tr/en/africa/uganda-internet-fully-back-weeks-after-shutdown/2140450>, 10 February 2021.

- a. In February and May of 2016, the internet in Uganda was shut down. People's access to social media was completely cut off first during the election and then during the inauguration of President Yoweri Museveni, who at this point ruled Uganda for the past 32 years. MTN, one of the leading telecommunications service providers, issued a statement confirming that the telecommunications regulator had directed the disabling of access to social media on grounds of public order and safety.²¹
 - b. On January 13, 2021, the Ugandan government once again shut down the internet during a disputed election. The shutdown began with the government blocking social media platforms and messaging apps. The government then ordered a total internet shutdown. Internet access was partially restored five days later but to date, Facebook remains inaccessible.²² The continued restriction of access to Facebook is linked to the platform's suspension of pro-government accounts for "coordinated inauthentic behavior" ahead of elections .
17. Internet shutdowns hurt the safety and security of citizens, limit access to information and emergency services, negatively impact small and large businesses and their customers, and interfere with the provision of health, education, and e-services. Additionally, election time is one of the most important periods when free access to information is crucial. Internet shutdowns also enhance the concealment of potential violence and human rights violations perpetrated by both state and non-state actors against individuals.
18. Access Now's Shutdowns Stories project captured personal stories from diverse communities in Uganda which shed light on the devastating human rights and social-economic repercussions of the 2021 internet shutdown in Uganda.²³ Some Ugandans lost trust in their government, fearing they would be punished for any attempt to get back online, such as using virtual private networks (VPNs). Others suffered both practical and emotional hardship from losing human contact and access to information. People with disabilities had their livelihoods halted. Women lost a channel to ensure equitable access to knowledge.²⁴ Even though the internet censorship and social media blackout has ended - with the exception of Facebook which remains blocked - the impact the

²¹ MTN Uganda, The UCC has directed MTN to disable all Social Media & Mobile Money services due to a threat to Public Order & Safety, available online: <https://mobile.twitter.com/mtnug/status/700286134262353920?p=v> , 18 February 2016.

²² Access Now, "No matter what they do, the world is watching: Some Ugandas are back online after internet shutdown during presidential election," available online: <https://www.accessnow.org/the-world-is-watching-uganda-elections/>, 20 January 2021.

²³ Access Now, *Internet Shutdown Stories From Uganda*, available online: https://www.accessnow.org/internet-shutdown-stories-from-uganda/#equal_access_to_knowledge, 9 February 2021.

²⁴ *Id.*

disruptions had on their lives and rights lingers on.²⁵

19. The use of VPNs in itself is a challenge in Uganda. With the imposition of the social media tax, in 2018 various VPNs were blocked.²⁶ Similarly, some of the VPNs were inaccessible also in January 2021, with the government having the ability to block the IP addresses that are coming through the VPNs.²⁷

Connectivity

20. According to the International Telecommunication Union (ITU), in 2017, 27.7% of Ugandans were using the internet.²⁸
21. As Uganda expands its internet connectivity, and more individuals come online, it will be imperative to provide education, training, and capacity building opportunities so individuals can learn how to securely and effectively exercise their human rights online. Uganda must also ensure that human rights are protected online and maintain open, transparent, and accountable internet governance processes with meaningful opportunities for all stakeholders — particularly civil society centered on women’s voices — to input into regulatory and policy decisions that impact human rights online.
22. Gender and other digital divides represent a significant challenge to ensuring meaningful connectivity. As the Office of the High Commissioner for Human Rights (OHCHR) notes in its report on the gender digital divide, “women activists, including women human rights defenders, increasingly rely on [ICTs] to advocate, communicate, mobilise, protect, access information and gain visibility.”²⁹ Therefore, Uganda must ensure that the needs and interests of women, in all their intersecting identities, are represented in such education, training and capacity building opportunities to address digital divides.
23. Uganda must aim to provide the infrastructure necessary to allow for meaningful connectivity. Without meaningful connectivity — which includes robust digital education and literacy, updated software, devices and hardware, affordable and stable service, secure and trustworthy cybersecurity, and software and content relevant to language and cultural needs – simply having mobile coverage or high internet penetration rates may be meaningless.

²⁵ *Id.*

²⁶ CIPESA, *Uganda Blocks Access to Social Media, VPNs and Dating Sites as New Tax Takes Effect*, available online: <https://cipesa.org/2018/07/uganda-blocks-access-to-social-media-vpns-and-dating-sites-as-new-tax-takes-effect/>, 1 July 2018;

²⁷ Jurist, *Uganda election internet shutdown reversed, social media still barred*, available online: <https://www.jurist.org/news/2021/01/uganda-election-internet-shutdown-reversed-social-media-still-barred/>, 19 January 2021.

²⁸ World Bank, *Individuals using the Internet (% of population) - Uganda*, available online: <https://data.worldbank.org/indicator/IT.NET.USER.ZS?locations=UG>.

²⁹ OHCHR, *Promotion, protection and enjoyment of human rights on the Internet: ways to bridge the gender digital divide from a human rights perspective*, available online: <https://undocs.org/A/HRC/35/9>, UN Doc. A/HRC/35/9, at para 23.

24. Enhancing infrastructure also encompasses safeguarding security online. Uganda must therefore foster and implement necessary security infrastructure to protect people from hackers and cyber attacks, and from the unauthorised and harmful disclosure of personal data. Governance structures must also be put in place to allow timely and effective responses to these incidents.

COVID-19 misinformation and disinformation

25. Amid the COVID-19 pandemic, access to ICTs is increasingly important as digital technologies have become life-saving tools to safely disseminate public health information, such as preventative measures and governmental responses and guidelines, to contain the spread of the virus.³⁰ The pandemic also highlighted how the internet is also an essential tool for employment, education, health, communication, political engagement, and accessing other important resources. Inadequate access to information and broad criminalisation of speech can worsen the ongoing health crisis and its impacts.
26. Further, during the COVID-19 pandemic, vulnerable groups have been targeted with hate speech leveraging disinformation and misinformation, significantly contributing to the rhetoric of social stigma.³¹ Uganda is no exception:
- a. In 2021, misinformation spread through social media regarding the COVID-19 vaccine that endangered Uganda's overall campaign to vaccinate its citizens, as well as 1.5 million refugees and asylum seekers.³²
27. Furthermore, in the lead up to the presidential election on 14 January 2021, citing COVID-19 spread as reason, authorities imposed restrictions on all forms of public assembly including political campaigns.³³

³⁰ Access Now, *#KeepItOn: internet shutdowns during COVID-19 will help spread the virus!* available online: <https://www.accessnow.org/keepiton-internet-shutdowns-during-covid-19-will-help-spread-the-virus/>, 17 March 2020. See also, Access Now, *Expanding Connectivity to Fight COVID-19: Recommendations for Governments and Telcos*, available online: <https://www.accessnow.org/cms/assets/uploads/2020/04/Expanding-connectivity-to-fight-COVID19-Recommendations-for-govs-and-telcos.pdf>, April 2020.

³¹ Access Now, *Fighting misinformation and defending free expression during COVID-19: recommendations for states*, available online: <https://www.accessnow.org/recommendations-misinformation-free-expression-during-covid-19/>, 31 April 2020. The U.N. Special Rapporteur on Freedom of Opinion and Expression and multiple international, regional and non-government actors have noted that one of the prevalent dangers to the freedom of opinion and expression is the rise of disinformation and propaganda on regular and social media. Given that both disinformation and propaganda are designed to mislead the population, interfering with people's rights to know, seek and receive important information.

³² VOA, *Misinformation Clouds Uganda's Effort to Vaccinate Refugees*, available online: <https://www.voanews.com/covid-19-pandemic/misinformation-clouds-ugandas-effort-vaccinate-refugees>, 19 May 2021.

³³ Aljazeera, *Uganda halts campaigning for January 14 vote in several districts*, available online: <https://www.aljazeera.com/news/2020/12/26/uganda-suspends-campaigning-in-several-districts-ahead-of-polls>, 26 December 2020.

Safety of journalists

28. Uganda's crackdown on journalists and press freedom — particularly in 2020 during political campaigns ahead of the elections — has resulted in a deterioration of the country's human rights situation.³⁴
29. Assuring the safety of journalists is essential to preserving the free press, guaranteeing people access to information, and free exercise of their rights to expression and opinion. Unfortunately in Uganda, journalists face violent attacks while performing their jobs. The attacks increased especially in 2020 during the presidential campaign:
 - a. On 18 November 2020, journalists covering the arrest of a popular musician Robert Kyagulanyi (Bobi Wine), one of the main opposition presidential candidates, for allegedly violating COVID-19 regulations, were violently attacked, with some requiring hospitalisation. In November of 2020, Reporters Without Borders recorded 17 press freedom violations in Uganda, including seven attacks, four arbitrary arrests, and many cases of obstruction.³⁵
 - b. On 28 April 2021, over a hundred journalists covering demonstrations in Kayunga over a two week-long power outage, were attacked and assaulted by the police while doing their job.³⁶

The right to privacy

30. Since the last UPR cycle in 2016, Uganda passed the Data Protection and Privacy Act in 2019, creating a legal framework for the right to privacy, enshrined in Article 27 of the Constitution.³⁷ However, implementing regulations to provide enforcement and accountability mechanisms of the new law are not yet in place. Millions of individuals, therefore, still lack robust data and privacy protections.³⁸

³⁴ Freedom House, *Freedom in the World 2021, Uganda*, available online: <https://freedomhouse.org/country/uganda/freedom-world/2021>, 2021.

³⁵ Reporters Without Borders, *Uganda: Crackdown on reporters threatens Ugandan election's credibility*, available online: <https://rsf.org/en/news/uganda-crackdown-reporters-threatens-ugandan-elections-credibility>, 25 November 2020.

³⁶ VOA, *Ugandan Journalists Face Physical Danger While Doing Their Jobs*, available online: <https://www.voanews.com/press-freedom/ugandan-journalists-face-physical-danger-while-doing-their-jobs>, 3 May 2021.

³⁷ The Republic of Uganda, *The Data Protection and Privacy Act, 2019* available online: <https://ict.go.ug/wp-content/uploads/2019/03/Data-Protection-and-Privacy-Act-2019.pdf>

³⁸ Privacy International, *One Year On, what has Uganda's Data Protection Law Changed?*, available online: <https://privacyinternational.org/news-analysis/3385/one-year-what-has-ugandas-data-protection-law-changed>, 3 March 2020.

31. At the same time, Uganda seeks to collect more personal data from citizens, including biometric data, through its national identity programme.³⁹ When registering for a national identity card in Uganda, a person's fingerprints and high-quality facial photo are collected, with this data then being stored on the smart chip on the identity card, with the machine-readable barcode on the card allowing for the verification of the data.⁴⁰ While the future developments of the programme are unclear due to the lack of transparency on the part of the government, it is anticipated that the national identity programme has potential to become digitalised.⁴¹
32. It is imperative that national identity programmes seeking to collect and utilise biometric data, particularly those backed by the state's resources and legal powers, prove that such biometric authentication is completely safe, inclusive, not liable to error, and have other primary methods of authentication. Moreover they must be designed around sound principles of governance, data protection, privacy and security, and non-discrimination. Establishing such identity programmes is often set within the context of making the delivery of services, including welfare benefits, more efficient and accurate and reducing corruption by using technology to assist in clear identification and secure authentication. However, depending on that design and context these programmes can become impediments to governance and harm the provision of welfare services and the wider inclusion of citizens.
33. In Uganda, the national identity programme was created in 2014, with the principal purpose of serving national security objectives as well as with the promise to foster social inclusion while becoming mandatory to access many public and private services. Yet, as in-depth research conducted by Center for Human Rights and Global Justice at New York University showed, the programme failed to deliver on the latter.⁴² As of 2021, it has significant coverage gaps and causes exclusion of a significant part of the Ugandan population, including women, older persons, as well as those living in poverty, from exercising their human rights, specially the right to access health services. Moving this centralised program into digital space would likely only exacerbate such gaps.

³⁹ Yale Law School, Information Society Project, *Serious Concerns Around Uganda's National Biometric ID Program*, available online: <https://law.yale.edu/isp/initiatives/wikimedia-initiative-intermediaries-and-information/wiii-blog/serious-concerns-around-ugandas-national-biometric-id-program>, 20 November 2019.

⁴⁰ GSMA, *Digital Identity Country Profile: Uganda*, available online: <https://www.gsma.com/mobilefordevelopment/wp-content/uploads/2019/02/Digital-Identity-Country-Report-Uganda.pdf>, 2019.

⁴¹ *Id.*

⁴² Center for Human Rights and Global Justice, Initiative for Social and Economic Rights, and Unwanted Witness, *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*, available online: <https://chrgj.org/wp-content/uploads/2021/06/CHRGJ-Report-Chased-Away-and-Left-to-Die.pdf>, 8 June 2021.

34. Moreover, Uganda's national identification program does not have functioning accountability mechanisms. It remains unclear whether the promised "identification and registration committee" was set up. There are no general rules or guidelines as to how the public could use it. It is also unclear when and how the program will move into the digital space, with the lack of transparency on the part of the government concerning the plans for digitalization.
35. In addition to discrimination concerns, particularly accessing social services, national identity programmes like the one in Uganda are also data-heavy when digitised, both during enrollment and when transactions are regularly authenticated. This raises significant concerns for privacy and data protection. Given that the government would handle this programme, there is an inherent public trust in, and authority associated with, the collection of this data. With the lack of regulations that would effectuate the implementation of the Ugandan Data Protection and Privacy Act, there are no accountability mechanisms. This can lead to the pervasive use of the programme and put at risk the information that individuals provide. Further, the sheer scale of the national identity programme requires well designed safeguards.

Recommendations

36. We urge that freedom of expression, access to information and the right to privacy be prominent issues in the upcoming UPR review cycle. We, therefore, recommend that Uganda:
 - a. Adhere to international human rights standards, and uphold its commitments to promote and protect the right to freedom of expression and opinion, allowing people to access the internet freely and without fear of surveillance or censorship;
 - b. Refrain from taxing and requiring registration for social platforms and other media use and ensure universal access to them;
 - c. Ensure universal access to free, secure, affordable, inclusive and open internet, extending digital economic, educational, health, social, and cultural resources to all, and particularly to those in vulnerable communities and people in at-risk groups;
 - d. Refrain from blocking websites and applications, as well as manipulating network traffic to silence or favour particular voices or content, in addition to prohibiting

any such practices by third parties;

- e. Make a state pledge to refrain from blocking or shutting down the internet and telecommunications services, particularly during elections and peaceful protests;
- f. Provide education, training, and capacity building opportunities, particularly focused on the needs and interests of women and their intersecting identities, so everyone can learn how to securely and effectively exercise their human rights online;
- g. Prioritise funding for digital development that meets the diverse needs and interests of all individuals, particularly women, and reallocate existing funds toward building inclusive digital infrastructure, particularly amid the COVID-19 pandemic;
- h. Review national legislation to fully guarantee the safety of journalists, human rights defenders, and activists, and facilitate the functioning of NGOs so that these important actors can pursue their activities freely without undue interference, attacks or intimidation;
- i. Ensure implementation of the Data Protection and Privacy Act, 2019, the formation of an independent data protection office, enactment of comprehensive regulations to ensure law enforcement and provide accountability and rectification mechanisms;
- j. Provide transparency and accountability around moving to the digitalisation of the national ID program. Also, review the digitisation project and avoid the implementation of a mandatory digital program which is based on a biometric and centralised database;
- k. Minimise the amount of and type of data the government and associated service providers could collect through the digital identification system, and access to such data. Further, restrict lawful interception and monitoring of digital identity use and implement measures for accountability;
- l. Set up and ensure the functionality of the accountability mechanisms for data and privacy protections as well as any future digital identity programme that could violate human rights such as: non-discrimination, privacy, integrity and self-determination, among others;

- m. Improve cooperation with U.N. and A.U. mechanisms. Specifically, ratify the A.U. Malabo Convention, strive to adopt the Convention 108+ principles for privacy and data protection, and issue standing invitations to U.N. Special Procedures, such as the U.N. Special Rapporteurs on freedom of opinion and expression, freedom of peaceful assembly and association, and the right to privacy, and ensure their delegations and those supporting their work may safely exercise their rights, free from reprisal.
37. The UPR is an important U.N. process aimed to address human rights issues worldwide. It is a rare mechanism through which citizens around the world get to work with the government to improve human rights and hold them accountable to international law. *For more information, please contact:* un@accessnow.org and info@africafoicentre.org