



ADVANCING DIGITAL RIGHTS AMIDST COVID-19 IN UGANDA

POLICY BRIEF





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Introduction

Since the first case of the novel Coronavirus (Covid-19) was confirmed in Uganda on March 22,¹ the country has since registered over 724 confirmed cases as of June 16th, 2020.² Prior to the first confirmation, the President, Yoweri Museveni had announced a series of measures aimed at curbing the spread of the Covid-19, including the closing of institutions of learning, places of worship, suspending public gatherings; political rallies and cultural events, among others.³

As the number of Covid-19 confirmed cases continue to soar, the government has been deliberate in embracing technology, including encouraging mobile money transactions, online engagements especially for conferences and Covid-19 related behaviour change communication campaigns.

Furthermore, restrictive measures have been announced, including total lockdown and a dusk to dawn curfew for both public and private vehicles and people movements. These measures, while well-intentioned, have limited the enjoyment of fundamental human rights, especially online rights.⁴

Although most rights are subject to permissible limits, Article 19 of the International Covenant on Civil and Political Rights (ICCPR) provides a three-part framework for analysing state laws and restrictions. Pursuant to Article 19 (3) of the ICCPR, for a state restriction on the right to freedom of expression and access to information to be permissible, it must meet each of the following requirements;

¹Uganda Confirms first case of corona virus at <https://www.newvision.co.ug/news/1516875/uganda-confirms-coronavirus>.

²Ministry of Health - Uganda at <https://twitter.com/MinofHealthUG/status/1270267130110451712>.

³Museveni closes schools, suspends church, congregations at <https://www.newvision.co.ug/news/1516721/museveni-closes-schools-suspends-church-congregations>.

⁴BREAKING! Museveni announces 14-day total lockdown in Uganda, suspends private transport, people movements to stem Coronavirus spread <https://www.pmldaily.com/news/2020/03/breaking-museveni-bans-private-transport-issues-tight-additional-measures.html>.

The restriction must be “provided by law”;

The restriction must serve one of a narrow, specified list of “legitimate aims” (namely, respect for the rights or reputations of others or protection of national security, public order, public health or morals); and

The restriction must be proportionate and “necessary.”⁵

Therefore, in this brief, the Africa Freedom of Information Centre (AFIC) discusses some of the digital rights that have been affected based on the principles of the African Declaration on Internet Rights and Freedoms (AfDec).⁶

The Principles are:

- ☐ Internet Access and Affordability
- ☐ Freedom of Expression and Right to Information
- ☐ Privacy and Data Protection
- ☐ Marginalized Groups and Groups at Risk

The primary objective of this brief is to provide an evidence-based analysis of the government measures, as well as those of private actors being implemented to respond to the Covid-19 pandemic and how they are affecting digital rights.

Internet Access and Affordability

According to the second principle of the AfDEC, access to the internet should be available and affordable to all persons in Africa without discrimination on any ground such as race, sex, language, religion, political or other opinion, national or social origin, birth or other status.

The principle further states that access to the internet plays a vital role in the full realisation of human development, and facilitates the exercise and

⁵International Covenant on Civil and Political Rights (ICCPR) <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf> accessed on 20th December 2019.

⁶ African Declaration on Internet Rights and Freedoms <https://africaninternetrights.org/>.

enjoyment of several human rights and freedoms, including the right to freedom of expression and information, the right to education, the right to assembly and association, the right to full participation in social, cultural and political life, and the right to social and economic development.

According to the latest figures from the communications regulator, Uganda Communications Commission (UCC), there were 16.9 million internet subscribers by the end of December 2019, while mobile subscriptions stood at 26.7 million in December 2019.⁷

However, despite these impressive figures, a larger number of the population remains unconnected due to high costs and poor infrastructure including lack of electricity, especially in the rural areas. This situation has also been made worse as a sizeable number of people who were accessing the internet at their places of work can no longer do so due to the Covid-19 movement restrictions and closure of workplaces.

Although the government has embraced the use of multimedia communication channels to disseminate Covid-19 related information such as radio and television, social media is providing a valuable channel for reporting public health gaps, encouraging transparency, accountability, clarification, and case monitoring.

Social media giants like Facebook and Twitter have dedicated features to creating awareness on the novel virus. Facebook, for example, is working closely with the World Health Organisation (WHO), UNICEF and national ministries of health to connect people with accurate information and help limit the spread of misinformation. Facebook has also launched a Covid-19 Information Centre with the latest updates from global and healthcare organisations.⁸

However, whereas social media has revealed the power of social networks in a crisis, some governments have not taken measures to fully embrace the opportunities it presents. In Uganda, the government's failure to suspend

⁷Uganda Communications Commission Market Performance Report – January 2020 at <https://www.ucc.co.ug/wp-content/uploads/2020/05/Market-Performance-Report-Jan-2020.pdf>.

⁸Coronavirus (COVID-19) information hub for media at <https://web.facebook.com/facebookmedia/solutions/coronavirus-resources? rdc=1& rdr>.

the implementation of the Over The Top tax (OTT) (social media tax), even after several appeals from different stakeholders including the Speaker of Parliament, Rt. Hon. Rebecca Kadaga, has continued to undermine the efforts to increase access to and affordability of ICTs by a large majority, thus denying a large population access to critical COVID-19 related information that is being shared through social media platforms.⁹

The principle of internet access and affordability requires that governments offer direct support to facilitate high speed internet access, by establishing the necessary infrastructural facilities, including access to openly licensed or unlicensed spectrums, electricity supply, community-based ICT centres, libraries, community centres, clinics and schools, as this is crucial to the exercise and enjoyment of internet rights.

In order to mitigate the high costs of internet access, Ugandan telecom giants such as MTN Uganda and Airtel Uganda were quick to initiate promotional services such as the ‘work from home’ data bundles,¹⁰ zero-rang information from the health ministry website and free text messaging services to ‘keep the public connected’ by Airtel Uganda.¹¹ The two telecom giants also offered free mobile money service transactions as a way of minimising the physical exchange of paper money in a bid to stop the spread of Covid-19.¹²

Recommendations

- ✓ Government should suspend the implementation of the OTT tax as a way of reducing its associated costs in accessing certain social media platforms.
- ✓ Government should work with telecom giants to zero-rate essential online platforms such as the ministry of health websites, president’s office

⁹Uganda: One Year of Social Media Tax (2018) at <https://www.dw.com/en/uganda-one-year-of-social-media-tax/a-49672632>.

¹⁰Covid-19: MTN Uganda introduces work from home data bundles at <https://www.dignited.com/59266/mtn-work-from-home-data-bundles-uganda/>.

¹¹Airtel Uganda at https://twitter.com/Airtel_Ug/status/1242050107727654912.

¹² Coronavirus fight: MTN offers free mobile money services at <https://www.newvision.co.ug/news/1516784/coronavirus-fight-mtn-offers-free-mobile-money-services>.

and that of the Covid-19 national task force that is providing critical information to the public.

- ✓ Mobile operators, internet service providers and other relevant stakeholders should implement measures to expand connectivity, including through the establishment of Wi-Fi hotspots

Freedom of Expression and Right to Information

Principles 3 of the AfDEC states that “everyone has the right to hold opinions without interference and the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds through the Internet and digital technologies regardless of frontiers.”

As the government intensified its response against the spread of Covid-19, the country experienced incidents of misinformation around the pandemic. As early as February 2020, the ministry of health had to dispel rumours of reported confirmed cases of Covid-19.¹³ In responding to this and other incidents of misinformation, the Uganda Communications Commission (UCC) issued an advisory warning the public against spreading false Covid-19 related information.¹⁴ In the advisory, the regulator warned that any suspects shall be prosecuted for offending the Computer Misuse Act 2011, the Data Protection and Privacy Act and other penal laws of Uganda.¹⁵

In March 2020, the communication regulator wrote to three media houses - NTV, Spark TV and BBS TV - demanding that they show cause why regulatory sanctions shouldn't be taken against them.¹⁶ The three media houses were accused of airing material that had the potential “to confuse, divert and mislead unsuspecting members of the public against complying with the

¹³Ministry of Health: Press Release at <https://www.health.go.ug/document/press-release/>.

¹⁴Public Advisory Note on Circulation of Fake Information at <https://uccinfo.blog/2020/03/22/public-advisory-notice-on-circulation-of-fake-information/>.

¹⁵*Ibid*.

¹⁶UCC calls out 3 TV stations on COVID-19 at <https://uccinfo.blog/2020/03/29/ucc-calls-out-3-tv-stations-on-covid-19/>.

guidelines issued by the relevant Government authorities on the Covid-19.”¹⁷

The three were also risking being charged under Section 171 of the Penal Code Act Cap 120, which sanctions any acts that would likely lead to the spread of the infection of any disease dangerous to life, the penalty for which is imprisonment for seven years.

There have been reported cases of arrests and harassment of individuals accused of spreading false information related to the Covid-19 pandemic. A leading church leader, Pastor Augustine Yiga, of Revival Church Kawaala, was arrested and charged for spreading false information and harmful propaganda in relation to Covid-19.¹⁸

Regarding the right to information, Principle 4 of the AfDec states that “everyone has the right to access information on the internet. All information, including scientific and social research, produced with the support of public funds, should be freely available to all, including on the internet.”¹⁹

The principle emphasizes that data and information held by governments should be made publicly accessible, including being released proactively and routinely, except where legitimate grounds for restricting access comply with the rule of law and relevant freedom of information legislation.

It is noted here that both President Yoweri Museveni and the Ministry of health have been proactive in providing leadership in response to Covid-19 through regular updates on the pandemic; speeches, and statistics. Specifically, the ministry of health has utilized its social media accounts, mainly the twitter handle, @MinofHealthUG,²⁰ to share daily updates on the

¹⁷UCC calls out 3 TV stations on COVID-19 at <https://uccinfo.blog/2020/03/29/ucc-calls-out-3-tv-stations-on-covid-19/>.

¹⁸Pastor Yiga arrested for misleading public on COVID-19 at <https://www.monitor.co.ug/News/National/Pastor-Yiga-arrested-misleading-public-COVID19/688334-5507644-1380ounz/index.html>.

¹⁹ African Declaration on Internet Rights and Freedoms <https://africaninternetrights.org/>.

²⁰Ministry of Health Uganda at https://twitter.com/MinofHealthUG?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor.

tests conducted. The president's speeches, on the other hand, have been delivered and broadcast on all media channels and they are also uploaded on his website.²¹

The rights to freedom of expression and access to information were further cushioned when the media were also categorized as essential services providers under the Covid-19 response measures, allowing them to continue conducting their businesses.²²

However, as highlighted by the Women of Uganda Network (WOUGNET)²³ and the Collaboration on International ICT Policy for East and Southern Africa (CIPESA),²⁴ these rights are being undermined by several factors, including the limited reach due to poor access to and affordability of ICTs among women and other vulnerable groups such as the elderly and persons with disabilities, limited language variations as most of the information is in English, and not in disability friendly formats.²⁵

The rights have been further affected by the recent purge in the media sector which has seen several media houses, including the Naon Media Group and Vision Group layoff journalists, suspend the publication of some of their outlets, and reduce staff salaries by up to 60% in certain cases.²⁶

²¹ <https://www.yowerikmuseveni.com/>.

²² Lockdown: Media part of essential services, says Museveni at <https://allafrica.com/stories/202004010511.html>.

²³ The Implication of COVID 19 on Women's Internet Use in Uganda at <https://wougnet.org/news/the-implication-of-covid-19-on-women-s-internet-use-in-uganda>.

²⁴ Uganda's Social Media Tax Undermining Covid-19 Fight at <https://www.apc.org/en/news/cipesa-ugandas-social-media-tax-undermining-covid-19-fight>.

²⁵ Why Access to Information on Covid-19 is Crucial to Persons with Disabilities in Africa at <https://www.apc.org/en/news/cipesa-why-access-information-covid-19-crucial-persons-disabilities-africa>.

²⁶ COVID-19 CRISIS: NMG Uganda announces salary cuts, Vision Group terminates staff as Covid-19 batters media industry at <https://www.pmldaily.com/news/2020/05/covid-19-crisis-nmg-uganda-announces-salary-cuts-vision-group-terminates-staff-as-covid-19-batters-media-industry.html>. See also Covid-19 sounds the death knell for local language newspapers at <https://acme-ug.org/2020/06/02/covid-19-sounds-the-death-knell-for-local-language-newspapers/>.

Other media houses such as the Independent Magazine, the Red Pepper and the Observer have suspended print editions and resorted to online versions.²⁷

Given the ICT access and affordability challenges, these purges have the net effect of undermining the ability of people to express themselves as well as have access to a variety of information that they were accessing offline.

Recommendations

- ✓ Government should ensure that Covid-19 related information is conveyed in a range of different local languages, and formats that cater to people living with disabilities, to guarantee that all members of the population are appropriately informed and empowered by the information being communicated.
- ✓ Government should ensure that the role of the media is protected, respected and promoted, to ensure that they can perform their essential function in informing and educating the public, as well as ensuring accountability, including providing the media with relevant information and enabling them to raise questions with relevant officials
- ✓ Government should respond to misinformation and disinformation relating to Covid-19 with approaches that promote transparency and media freedom, rather than relying on criminal sanctions.

Privacy and Data Protection

According to the principle on privacy and data protection, “everyone has the right to privacy online, including the right to the protection of personal data concerning him or her. Everyone has the right to communicate anonymously on the internet, and to use appropriate technology to ensure secure, private and anonymous communication.”

²⁷Vision Group suspends regional papers at <https://www.pmldaily.com/news/2020/03/covid-19-crisis-media-faces-crunch-time-as-observer-stops-production-vision-group-suspends-regional-papers.html>.

As the number of cases rose and the government doubled its efforts to reach out to the returnees for testing, there were reports of Ugandans using online platforms, mainly Facebook and WhatsApp to share personal contact details of the suspected returnees with threats of further exposure should they fail to report for testing.²⁸ The ministry of health was reported to have been in possession of the details of all passengers who had entered the country in the second and third week of March 2020, which it was using to trace them.²⁹

It is still not yet known how the public got access to the personal details of the suspected individual returnees that led to physical attacks, threats of evictions and online exposure.³⁰

Below are some examples of the personal details exposed on Facebook:

"..... Deo. You were working as a Cleaning supervisor in Mall. You are now in (name of district) chilling."

"..... B.H, a decorator at building in Kisekka. You went to Dubai to buy for your company (company name) and came back on March 13th. You are now hiding at your father's home in (name of the area)"

"..... N. You were in Dubai this month. Your phone number ends with 492. You know yourself"

The list of names would end with a threatening statement:

"Please, this is a mere test not imprisonment so you should not fear to go and get tested. You have the power to save lives."

²⁸Coronavirus: Uganda hunts 500 Dubai returnees at <https://www.monitor.co.ug/News/National/Coronavirus--Uganda-hunts-500-Dubai-returnees/688334-5505194-6ysp01z/index.html>.

²⁹*Ibid.*

³⁰Covid-19: Kyengera mob lynches Dubai returnee at <https://ekyooto.co.uk/2020/04/02/covid-19-kyengera-mob-lynches-dubai-returnee/>.

In Jinja, a couple was forced to seek protection from the district authorities after the community they were living in threatened to evict them from their home where they were self-isolating.³¹

As part of the government response to the Covid-19 pandemic, the Minister of Health issued the Public Health (Control of COVID-19) Rules of 2020, under the Public Health Act Cap.281, which gave powers to a medical officer or a health inspector to enter any premises in order to search for any cases of Covid-19 or inquire whether there is or has been on the premises, any cases of Covid-19.³²

While the measures taken by the ministry to trace all the Dubai returnees and their contacts, as well as efforts by the vigilant citizens to call out the returnees to voluntarily avail themselves for testing were good, this resulted in the unintentional exposure of individual personal details that led to irresponsible repercussions as highlighted above – attacks and threats of evictions of some.

The AfDEC principle on privacy and data protection requires that; “the collection, retention, use and disclosure of personal data or information must comply with a transparent privacy policy which allows people to find out what data or information is collected about them, to correct inaccurate information, and to protect such data or information from disclosure that they have not authorised.” Unfortunately, this does not seem to have been the case.

In Uganda, although the right to privacy and data protection is provided for in the Uganda Constitution,³³ and was further buttressed by the passage of the Privacy and Data Protection Act that was assented to by the President in

³¹COVID-19: Dubai returnee, wife quarantined at Jinja Hospital after residents threaten with eviction at <https://www.monitor.co.ug/News/National/Dubai-returnee-wife-quarantined-Jinja-Hospital-threaten-eviction/688334-5502558-r8ynhpz/index.html>.

³²Section 6(1) of the Public Health (Control of Covid-19) Rules of 2020 at <https://ulii.org/ug/legislation/statutory-instrument/2020/52>.

³³Article 27 of Uganda Constitution at <https://ulii.org/ug/legislation/consolidated-act/0>.

February 2019,³⁴ the recent privacy and personal privacy breaches related to Covid-19 responses are indicative of the gross abuse of the legal provisions.

Recommendations

- ✓ Government departments responsible for collecting and processing personal details, such as the Ministry of Health and Civil Aviation Authority should follow proper guidelines in collecting, processing and sharing personal information with other agencies in accordance with the law; and
- ✓ Data collection agencies should be held accountable for any breach of law in respect to privacy and personal data protection

Marginalized Groups and Groups at Risk

Principle 10 of the AfDEC requires that the rights of all people, without discrimination of any kind, to use the internet as a vehicle for the exercise and enjoyment of their human rights, and for participation in social and cultural life, should be respected and protected.

Having banned and/or suspended most physical contact activities, as part of government efforts to curb the spread of Covid-19, the government and many other private entities have turned to ICTs and the internet to provide much needed services. The government continues to engage and issue Covid-19 related news and information using both mainstream media, and social media platforms.

To facilitate the continued learning of students, the ministry of education introduced distance learning for primary and secondary level through radio and television, as well as providing self-study materials to parents.³⁵ The

³⁴The Data Protection and Privacy Act, 2019 at <https://ulii.org/ug/legislation/act/2019/1#:~:text=An%20Act%20to%20protect%20the,the%20use%20or%20disclosure%20of.>

³⁵Continuity of learning during Covid-19 lockdown at <http://www.education.go.ug/wp-content/uploads/2020/04/Performance-Management-Guidelines-May-2020.pdf>.

government has also been reported to be engaged in discussions on how to enhance digital distance learning given the continued impact of Covid-19.³⁶

However, while all these are well intentioned interventions, there is a danger of expanding the digital exclusion of marginalized groups, especially the women, persons with disabilities, and the rural based communities whose access and affordability of ICTs is still extremely low. This is because many of these marginalized groups of people still find it expensive to access and use digital technologies and thus continue to miss out on the benefits that the technologies bring, especially during this Covid-19 pandemic.³⁷

The continued implementation of the “over-the-top” (OTT) tax, even during this period has further served to exclude the already marginalized groups that had been affected when the tax was first introduced in 2018.³⁸ In a recent Twitter chat organised by the National Union for Persons with Disability in Uganda (NUDIPU), participants called for the suspension of the OTT tax by the government to enable the persons with disabilities, especially the deaf, to communicate effectively and have access to information.³⁹

In addition, many persons with disabilities are missing out on crucial Covid-19 related information due to failure by broadcasters and telecom operators to provide information and services in disability friendly formats.⁴⁰ Most television stations do not have sign language interpretation during crucial

³⁶Gov't to enhance digital, distance learning amidst COVID-19 at <https://www.independent.co.ug/govt-to-enhance-digital-distance-learning-amidst-covid-19/>.

³⁷AFIC (2020) Internet Rights and Freedoms in Uganda: An Assessment of Uganda's Compliance With The Principles Of The African Declaration On Internet Rights And Freedoms at https://africaninternetrights.org/wp-content/uploads/2020/04/Internet-Rights-and-Freedoms-in-Uganda-Report-AFIC_2020-copy.pdf.

³⁸Access denied: How Uganda's social media tax is turning news and information into luxury good at <https://advox.globalvoices.org/2018/07/19/access-denied-how-ugandas-social-media-tax-is-turning-news-and-information-into-luxury-goods/>.

³⁹Impact of Covid-19 on persons with disabilities in Uganda at <https://globalaccessibilitynews.com/2020/04/09/uganda-calls-for-disability-friendly-lockdown-measures/>.

⁴⁰Why Access to Information on Covid-19 is Crucial to Persons with Disabilities in Africa at <https://www.apc.org/en/news/cipesa-why-access-information-covid-19-crucial-persons-disabilities-africa>.

public awareness campaigns, such as press conferences, expert discussions and updates from the national Covid-19 task force.⁴¹

Recommendations

- ✓ Government should consider wider dissemination of Covid-19 information in disability friendly formats;
- ✓ Government should consider suspending the implementation of the OTT to enable marginalized groups to access ICTs at affordable prices;
- ✓ Government should engage a wide range of stakeholders in developing distance and digital learning frameworks that are all encompassing; and
- ✓ Government and other relevant stakeholders, including telecom and broadcasters should ensure that Covid-19 public health information is communicated with captioning and, where possible, sign language for all live and recorded events and communications.

⁴¹*Ibid.*

