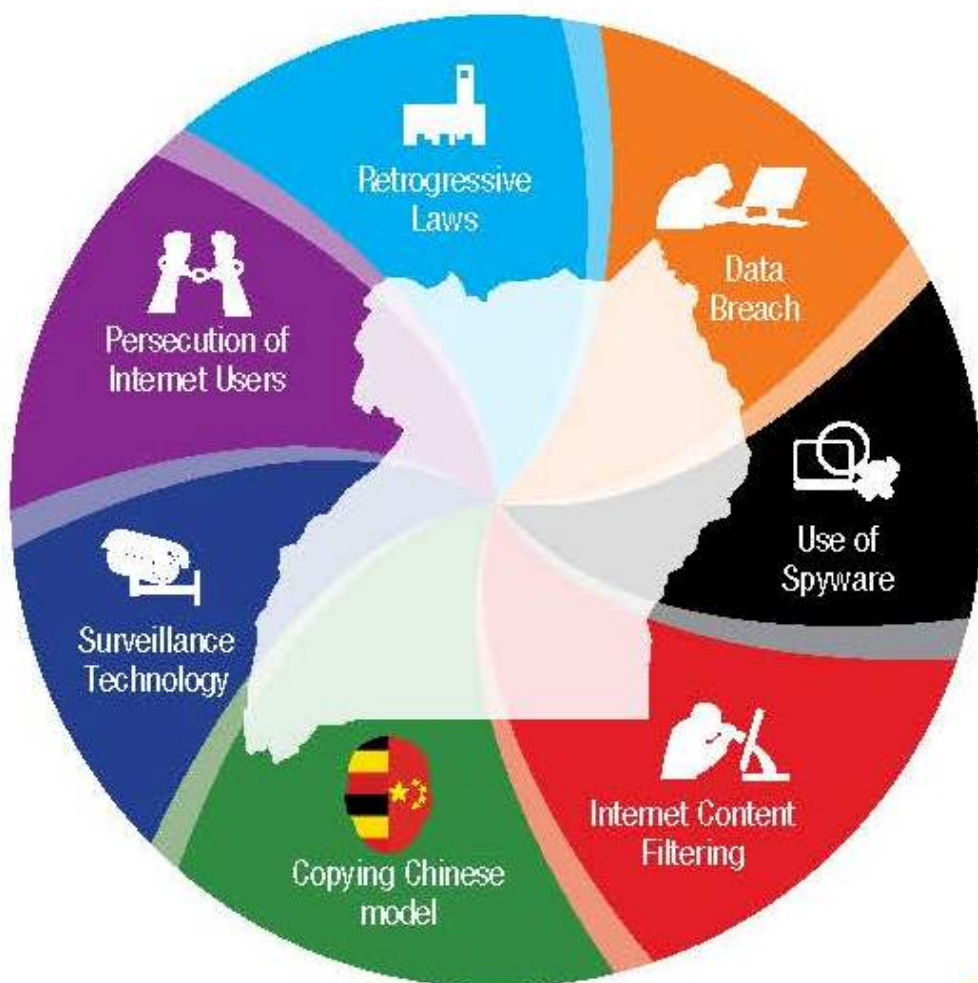





THE STATE OF DIGITAL RIGHTS IN UGANDA; REPRESSION ON **THE INTERNET SPROUTED IN 2018.**





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TABLE OF CONTENT

Introduction	4
The Retrogressive Legal Environment.	5
Arrests, Interrogations and Kidnaps of Internet Users.	7
Graphic Illustration	10
Kidnap	11
More Surveillance, Less Privacy.	12
Surveillance technology	14
Intrusion on personal data.	16
Use of Spyware.	17
Infiltration of China's Surveillance Tactics.	18
Internet Content Filtering.	19
Parliament passed the Data Protection and Privacy Bill.	20
Conclusion.	21
Recommendations	22

INTRODUCTION

Uganda's Internet usage has continued to grow in recent years with over 13million people connected to the internet out of a population of over 41million people.¹ Majority of the users are connecting via mobile enabled devices. The growth in internet usage has in equal measures attracted interest from the state to control and monitor users' internet activities. Events of 2018 have confirmed that the internet can be a powerful democratizing tool but at the same time, facilitate real time abuse of fundamental rights and freedoms.

Uganda also registered an increase in digital activism by initiating and collectively participating in online campaigns protesting social and economic injustices including protests against social media tax. They ranged from #NoToSocialMediaTax to #ThisTaxMustGo. Other popular hashtags such as #FreeBobiWine and #FreeArua33 were intended to secure the freedom of Kyadondo Member of Parliament Robert Kyagulanyi together with other legislators and opposition activists who were arrested during the Arua municipality by-election campaigns that degenerated into violence, #StayinYourLane, was one of the popular online campaigns used to curb reckless driving and also instill respect of other road users by drivers, among others.

On the other hand, there is evidence of the state's sophisticated and legal restrictions to control what citizens do or say online, justifying this repression as necessary for either public order, morality or security.

This report provides an annual trends analysis of key events that have either positively or negatively impacted on digital rights of users in Uganda throughout 2018.

During the period under review, government has systematically engaged in unbridled collection of personal data, passage of new restrictive laws, attempts to restrict user anonymity, replication of Chinese surveillance model, criminalize dissent including independent journalism and online content restriction.

1 <https://www.dignited.com/22684/african-internet-usage/>

SOCIAL MEDIA TAX?

The Retrogressive Legal Environment.

While the United Nations Human Rights Council's Internet resolution reaffirmed that the same rights that people enjoy offline should also be protected online,¹ Uganda like many other African governments is continuing to claim sovereignty over the Internet through the adoption and application of repressive laws to restrict human rights online.

According to Unwanted Witness's 2015 analysis of Ugandan Cyber laws, violations of digital rights in Uganda stem from the existing legislative framework.² The situation has since worsened with new policies enacted limiting internet access, free speech, promoting surveillance, censorship and more tyranny towards dissent.

On May 30th 2018, parliament of Uganda passed the Excise Duty Amendment Act, 2018³ introducing a daily fee of Uganda Shillings 200 (\$0.05) to access popular social media platforms including Facebook, WhatsApp, and LinkedIn⁴. Many Ugandans instantly found themselves blocked from accessing social media as the tax became effective at midnight on July 1st 2018.

Despite the outcry against the tax for its being discriminatory and abusive to digital rights, including the right to freedom of expression and access to information⁵, the tax persisted.

1 <https://www.article19.org/resources/un-hrc-maintains-consensus-on-internet-resolution/ A/HRC/38/L.10/Rev.1>

2 <https://unwantedwitness.or.ug/download/Analysed-cyber-laws-of-Uganda.pdf>

3 <http://parliamentwatch.ug/the-excise-duty-amendment-act-2018-a-progress-for-ugandas-economy-or-an-impediment-to-telecommunication/#.XBuX7M8zbOR>

4 <https://www.reuters.com/article/us-uganda-internet/uganda-imposes-tax-on-social-media-use-idUSKCN1IW2IK>

5 https://www.newvision.co.ug/new_vision/news/1481316/social-media-mobile-money-taxes-unconstitutional-kadaga

Hundreds of Anti-OTT and mobile money tax activists led by Kyadondo East Member of Parliament Robert Kyagulanyi aka Bobi Wine and media personalities took to the streets protesting the tax. As anticipated they were met by the brutal force of police. The teargas dispersed the demonstrators and some were briefly detained.

Another reaction to the tax came in form of a court challenge: A group of Ugandans activists filed a petition in the Constitutional Court. They sought for the nullification of the tax on several grounds including breaching the principles of Net Neutrality.⁶

President Yoweri Museveni who is the brainchild of this tax had earlier rationalized the need of the tax. Museveni who has been in power since 1986 wrote a letter dated March 12, 2018 to Matia Kasaija, the minister of Finance. Therein he complained of what he termed as “unseriousness” of failing to tax what he referred to as “olugambo” which means gossiping, “opinions,” “prejudices” and “insults” on social media.

Though government moved to curtail social media usage, for majority Internet users in Uganda, social media provides the entry point and first experience to Internet use. The increasing popularity of social media sites has increased the means of communication, expression, sharing of opinions, participating in the political discourse; aids small, medium and large businesses in Uganda.

Many young people in the bid to get around the tax resorted to the use of Virtual Private Network (VPN), the tax has with no doubt impacted on low income Ugandans and their ability to afford access to the Internet.

VPN first became popular in Uganda during the 2016 general elections when Museveni’s administration shutdown the internet. It argued without any scintilla of evidence that social media was going to be used by the opposition to foment post-election violence.

6 <https://www.monitor.co.ug/News/National/Government-sued-over-social-media-tax/688334-4642632-uvi8qe/index.html>



Arrests, Interrogations and Kidnaps of Internet Users.

One step forward and two steps back is the best way to describe efforts by Ugandans to gain the constitutionality laid out freedoms of speech and expression.

In 2010 there were ululations when Uganda’s Constitutional Court struck the sedition law off the legal books reasoning that sedition is unconstitutional since it limited peoples’ freedom of speech and expression.

But even before the celebrations could subside the government came up with other ideas a new law; the Computer Misuse Act, 2011. The now notorious cyber law has been widely and repeatedly evoked to arrest, detain and interrogate journalists, activists, bloggers, human rights defenders and opposition politicians in the bid to gang dissent, stifle freedom of speech, and generally violate digital rights.

Just like sedition, the Computer Misuse Act, 2011 is used to perpetually keep victims in and out of either police or court rooms since none of the cases has ever been conclusively determined. Section 25 of the Act has been a potent weapon. People who wield political power including President Museveni aided by state organs such as the Directorate of Public Prosecutions (DPP) and the police have used it to gang free speech and silence citizens’ voices often demanding for accountability, transparency and rule of law through online platforms. The victims are often charged with cyber harassment and offensive communication contrary to section 25 of the Computer Misuse Act, 2011.

“Any person who wilfully and repeatedly uses electronic communication to disturb or attempts to disturb the peace, quiet or right to privacy of any person with no purpose of legitimate communication whether or not a conversation ensues commits a misdemeanor and is liable on conviction to a fine not exceeding twenty-four currency points (Shs480, 000) or imprisonment not exceeding one year or both,” the sections reads.

During the period under review, the following are facing charges of offensive communication and cyber harassment.



By the time this report was published Makerere University research fellow, Dr. Stella Nyanzi was still languishing in Luzira prison ever since her arrest on November 7th 2018 for allegedly commenting about parenting skill of President Museveni's deceased mother, Esteri Kokundeka in her Facebook post.¹ She has appeared in court thrice before Grade one Magistrate Gladys Kamasanyu. It wasn't the first she was arraigned in court for disturbing the peace of the first family. In 2017, She was arrested for using social media to demand from the first lady also minister for Education and Sports Janet Museveni, fulfillment of the presidential pledge of providing sanitary towel to school girls. The state, in the charge sheet, accused Nyazi of christening Museveni "a pair of buttocks" via a Facebook post.

In May 2018 seven (7) journalists were summoned by the Department of Electronic Counter Measures at the Criminal Investigations Department (CID) for interrogation on charges of cyber harassment and libel contrary to section 25 of the Computer Misuse Act, 2011 and sections 179 and 180 of the penal code Act, Cap 120 respectively. The online publishers were interrogated in relation to a publication of leaked bank and mobile money transaction details of the former Director in charge of supervision at Bank of Uganda, Justine Bagyenda.²

The Journalists have since appeared at the CID headquarters three (3) times and their file is still open for investigations. They include; Richard Wanambwa - Eagle Online, Giles Muhame - Chimp Reports, Darius Mugisha, Tadeo Ssenyonyi - Business Focus, John Njoroge - CEO Magazine, Bob Atwine and Andrew Irumba – Spy Reports

Opposition politician Betty Nambooze is battling with offensive communication charge at Grade one Magistrate Court for a her Facebook post following the death of Arua Municipality Member of Parliament Ibrahim Abiriga. President Museveni expressed dismay with the post and police responded by arresting Nambooze at Naggalama Police station for one week. The ailing Nambooze was later released to seek treatment in India.

The matter resumed upon her return with criminal summons before being arraigned in court five (5) times since June but no witnesses have been produced by the state.

1 <https://observer.ug/news/headlines/59087-dr-stella-nyanzi-arrested-from-police-station>

2 <https://hrnjuganda.org/?p=4411>

In October 2018, Susan Namata was arrested for using social media to insult President Museveni³ and charged with cyber harassment. She was released after spending 2 months in police custody and 2 nights at Luzira prison.

Early October artist Moses Nsubuga alias Viboyo was detained at Jinja Road Police station for 4 days. He was being accused of composing a song and posting it on social media allegedly containing insulting lyrics to President Museveni and speaker of parliament Rebecca Kadaga. The case file has never been closed.

Hope Mulangira, Political activist was on June 26th 2018 arrested for using WhatsApp to post an audio with death threats directed to President Museveni, his son Muhoozi Kainerugaba and other National Resistance Movement supporters.

Brian Isiko, 25, a student of YMCA College of Business Studies in Jinja, was charged with cyber harassment and offensive communication against Member of Parliament Sylvia Rwabwogo. Isiko was convicted and sentenced to 2 years which attracted public anger, on an appeal, it was quashed and a retrial ordered by a High Court judge. The retrial it's self-hit a dead-end. This was after prosecution confessed to Stella Amabilis, the trial magistrate, that upon assessing the evidence they concluded that it wasn't enough to secure a conviction.

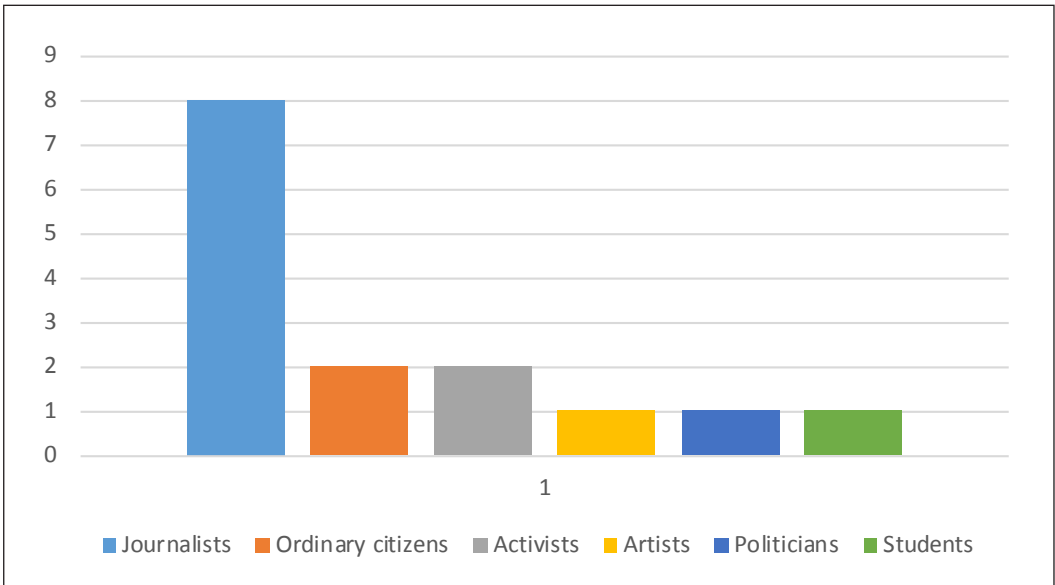
On December 29, 2018 Dem Gaster Opondo, brother to Government spokesman and Media Center Director Ofwono Opondo was arrested in Tororo days after he posted on social media denouncing the ruling National Resistance Movement (NRM) and claiming that Uganda's problem is President Museveni who has been in power since 1986.⁴

Police deputy publicist Patrick Onyango was quoted in the media preferring charges of Offensive Communication against Gaster who has stayed in police custody for over 2 weeks without trial.

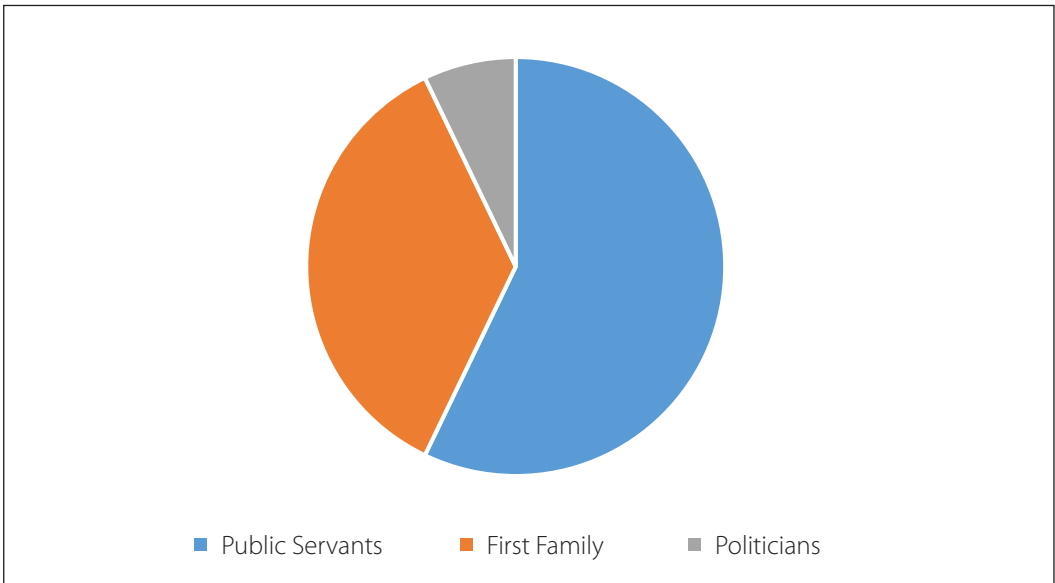
3 <https://www.monitor.co.ug/News/National/Woman-charged-harassing-President-Museveni/688334-4830300-cxh06hz/index.html>

4 <https://www.monitor.co.ug/News/National/Police-explain-why-they-arrested-Ofwono-Opondo-brother/688334-4921764-r3pblcz/index.html>

Persecuted Groups



Key complainants





Kidnap:

The proprietor of The Investigator, an online publication, Stanley Ndwula was in July 2018 at midnight kidnapped by operatives working with Internal Security Organ (ISO) and kept in a safe house for two days. His offence then was writing a story about a man who was allegedly tortured by ISO.

Although Ndwula is currently a free man his tormentors are still at large.

On realizing the negative implication of the law to the enjoyment of digital rights, in 2017 Unwanted Witness filed a petition at the constitutional court challenging section 25 of the computer Misuse Act, 2011.¹

November 29th, 2018 was meant to be conferencing day for the case unfortunately the respondent, Attorney General did not turn up at court.

Court rescheduled conferencing to January, 24th 2019.

1 <https://unwantedwitness.or.ug/computer-misuse-act-section-25-petition/>



More Surveillance, Less Privacy.

Today, if you are using the internet, mobile phone or walking on the streets in Uganda and being tracked by government through wide sweeping mass surveillance, it is not just part of life in the 21st century, it's a human rights violation. Mass surveillance by definition is arbitrary.

Uganda's 1995 Constitution provides for the protection of the right to privacy under Article 27, freedom of expression and speech under Article 29 and the right to access information under Article 41.

However, in the year under review, the state has intensified application of policies and practices that negate these constitutional guarantees.

In early March 2018, the telecommunication regulator, Uganda Communication Commission (UCC) downplayed all human rights abuse concerns and issued a countrywide ban on the sale of new and replacement of SIM Cards, requiring all telecom operators to acquire and install card readers in order to validate SIM cards with National Identity Card data,¹ highly compromising anonymous communication.

Despite criticism by both National and International human rights bodies over open surveillance, Uganda adopted and continues to apply laws requiring mandatory registration of SIM Cards, giving broad powers to state/agencies to intercept and monitor private communications.²

1 <https://www.dignited.com/29118/new-ucc-directives-telecom-companies/>

2 <https://unwantedwitness.or.ug/unlawful-sim-card-validation-exercise-is-a-threat-to-anonymity-and-privacy/>

Government of Uganda derives its surveillance powers from the Regulation of Interception of Communications Act, 2010 although unregulated sweeping surveillance practices are also evident.

The SIM Card registration exercise began on March 1st 2013 and has since evolved with technology to include Biometric data collection.

The government's Human Rights watchdog, Uganda Human Rights Commission described the exercise as a total infringement on citizens' right to privacy.³

Millions of Ugandans connect to the Internet via mobile enabled devices making it easy to track their online activities using metadata collected by telecom companies. Metadata in this case describes the data surrounding one's communications including the number called, time of the call and the location from which the call was made.

Perhaps what makes communication surveillance more threatening is the way Ugandans use phones. Ugandans use phones for almost every aspect of their lives, it is not just a means of communication, it is a way in which Ugandans manage their social lives, apply for jobs, seek information about health, do shopping, banking, seek and find romance and participate in the democratic discourse among others.

Anecdotal evidence shows that often the actions of private companies are as a result of pressure from states to ensure that companies are able to facilitate state surveillance of their users. Recent research by Unwanted Witness highlights how the existing weak private companies' policies compromise the rights of users including freedom of expression, right to privacy and access to information.⁴

There are grave direct implications on journalism including reducing the trust required for confidential discussions with sources, chilling effects on not just in terms of the output of journalism but the correspondence and communication.

The knowledge or even the perception of being surveilled can have a chilling effect. The ability to communicate anonymously, without government knowing one's identity, is critical in safeguarding free expression, and strengthening of political accountability. It's generally agreed that people are more likely to speak out on issues of public interest if they can do so without fear of reprisal or persecution.

3 <http://uhrc.ug/statement-recent-human-rights-concerns-country-0>

4 <https://unwantedwitness.or.ug/download/uploads/Your-Communication-and-Personal-Data-are-Not-safe-Anymor1e.pdf>



Surveillance technology

Uganda has adopted facial recognition surveillance on city streets, around traffic lights junctions and at public events. However, there are growing concerns that the controversial technology is likely to be abused due to lack of known application guidelines.¹

In August 2018, police confirmed receiving 900 supplies of surveillance cameras from the contracted Chinese technology firm Huawei. The firm was to supply 5,552 cameras required by government to aid police surveillance, crime investigations and monitoring traffic flow.² The funds were passed by parliament of Uganda under a supplementary budget of 60 billion Uganda Shillings (over \$200 million).

The programme was initiated by president Yoweri Museveni following the spate of murders in the country which claimed the lives of several Ugandans including Assistant AIGP Andrew Felix Kaweesi and Arua Municipality Member of Parliament Ibrahim Abiriga.

1 <https://unwantedwitness.or.ug/ugandas-facial-recognition-technology-threatens-privacy/>

2 <https://unwantedwitness.or.ug/chinese-firm-supplies-900-surveillance-cameras-to-uganda/>



Museveni launching CCTV monitoring cameras in 2018

Later on October 9th 2018 President Museveni launched a multi-billion Shillings national command and control centre at Nateete police station in the outskirts of the capital, Kampala.³ The CCTV Cameras recognize faces, vehicle number plates and unusual crowd surge. This is particularly concerning for a country where public assemblies have been criminalized using repressive laws like the Public Order Management Act (POMA).

In November 2018 Kampala Capital City Authority (KCCA) unveiled a traffic control centre to monitor and manage the performance of the traffic network and crime in the city. Launching the centre, the then city Executive Director Jennifer Musisi said the pilot system supported by National Information Technology Authority –Uganda (NITA-U) was monitoring 12 city junctions through surveillance cameras with plans for expansion.⁴

Although the general argument fronted by government for building facial recognition surveillance systems and gathering of citizens' data is to improve security systems, without proper legal regime and oversight, the entire process can be prone to abuse by wrong elements in hampering the efforts to enhance the country's security status, including increasing the risks.⁵

3 <https://www.softpower.ug/museveni-launches-cctv-camera-command-centre-at-nateete-police-station/>

4 <https://www.monitor.co.ug/News/National/KCCA-unveils-traffic-control-centre/688334-4858914-9rkchm/index.html>

5 <https://unwantedwitness.or.ug/ugandas-facial-recognition-technology-threatens-privacy/>



Intrusion on personal data.

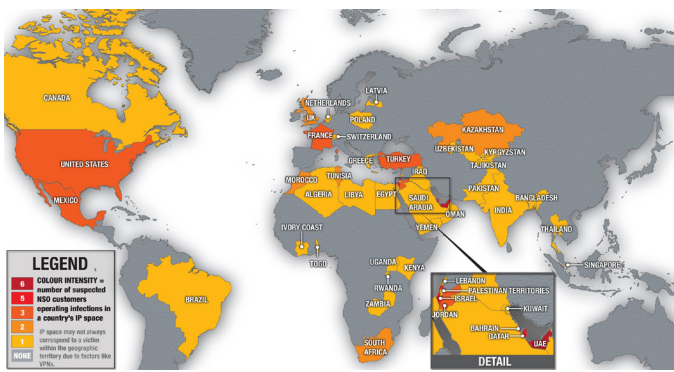
Security agencies in Uganda have throughout the year illegally accessed personal data by confiscating electronic gadgets of suspects and forcing them to reveal passwords to their emails, computers, iPad and mobile phones, sometimes using “easy to get” court orders.

For instance, on July 2nd 2018, security operatives attached to Internal Security Organization (ISO) raided MTN Uganda’s data centre at Mutundwe, a Kampala suburb and forcefully gained access to millions of subscribers’ personal data. This was after they had kidnapped the facility manager Keefah Musasizi. ¹ The telecom giant which has since threatened to sue government for intrusion, insists without providing evidence that the raid did not in any way compromise customers’ private data.

In June 2018, the criminal Investigations Department (CID) of Uganda police obtained a court order issued by the Chief Magistrate Jamson Karemani to seize phones, Computer and tablets belonging to the then hospitalized and imprisoned Mukono Municipality Member of Parliament Betty Nambooze.²

1 <https://www.monitor.co.ug/News/National/MTN-complain-raid-data-centre-688334-4649640-12tkq9x/index.html>

2 <s://www.monitor.co.ug/News/National/Court-orders-hospitalized-MP-Nambooze-handover-her-phones/688334-4625054-isylmi/index.html>



Use of Spyware.

September 2018 report by Canadian Internet watchdog Citizen Lab listed Uganda as being among the 45 countries globally in which operators of NSO Group's Pegasus spyware may be conducting operation.³

Pegasus infects individuals' phones by sending them text messages that tempt them to click an attached link resulting into the company's gaining full control over the phone, including its content and history, and the ability to activate its microphone and camera at will.

This however is not the first time Uganda government is cited for surveilling on critics and journalists. Privacy International report of 2015 detailed government's secret operations codenamed Fungua Macho (Open your eyes) which implanted FINFisher intrusion malware on the Wi-Fi of several hotels in Kampala, Masaka and Entebbe.⁴

3 <https://citizenlab.ca/2018/09/hide-and-see-Tracking-nso-groups-pegasus-spyware-to-operations-in-45-countries/>

4 Surveillance in Uganda "for God and my Country" by privacy international



Infiltration of China's Surveillance Tactics.

The Chinese government has become increasingly bolder in providing likeminded regimes with technology and trainings that enable them control their own citizens.

Uganda is among the benefiting countries where Chinese model of surveillance and censorship to control information is being exported, threatening digital rights for all Ugandans.

FreedomontheNet2018 report by Freedom House indicated that China trained representatives from 36 countries on new media or information management.⁵ Every year 10 Ugandan students participate in a two weeks' hands on ICT training in China. The students are funded by the Chinese firm Huawei,⁶ which is also contracted by Government to supply facial recognition surveillance equipment.

In July 2018, a Ugandan contingent led by state Minister for Privatization and Investment, Evelyn Anite signed an agreement with China National Electronics Import and Export Corp (CEIEC) to build the capacity of Uganda Communication Commission, Police and Ministry of Internal Affairs, guard against terrorism, online fraud, human trafficking and pornography.⁷

Details of the agreement have remained secretive although the CEIEC vice president, Zhou Xin devoted to sharing technology with Uganda and establish a cellphone factory in Uganda.

Human rights activists are increasingly concerned about Uganda's adaptation of China's blatant internet censorship, as a threat to democracy and human rights.

5 <https://freedomhouse.org/report/freedom-net/freedom-net-2018>

6 <https://www.softpower.ug/ugandans-on-huawei-seeds-for-the-future-program-excited-to-learn-chinese>

7 <https://www.monitor.co.ug/News/National/China-Uganda-Internet-Evelyn-Anite-Africa-Internet-Users/688334-4032626-u1161r/index.html>



Internet Content Filtering.

A grand ambition to control Independent journalism was crafted in March 2018 when the regulator, Uganda Communication Commission (UCC) issued a directive requiring all online data communication service providers including news platforms, online radios and television as well as online publishers to register with an annual payment fee of \$20 and obtain UCC authorization to operate.⁸

Later in April 2018, UCC directed internet service providers countrywide to suspend provision of carriage to any data communication service provider that has not been authorized by UCC.

This development particularly risks journalistic freedom and source protection.

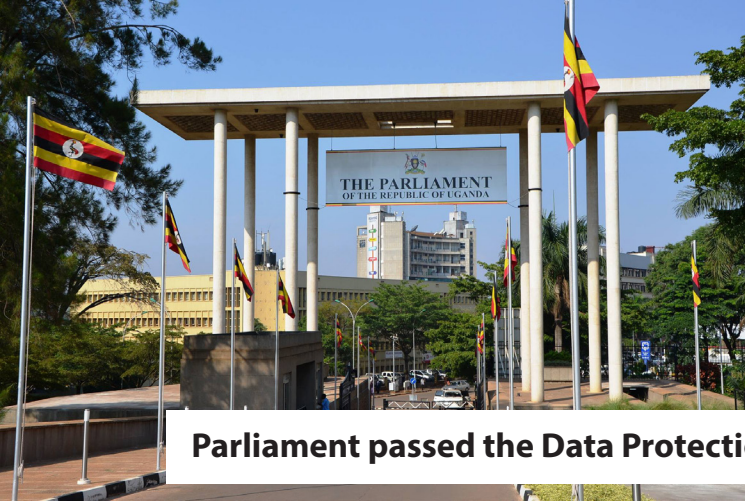
Unwanted Witness Uganda initiated a court challenge against the directive on June 8th 2018⁹ on grounds that it constricts the space for the young and robust independent online media and violating the right to anonymity that often protects sources, whistleblowers and dissidents.

In December 2018, it was reported that the government had ordering the blocking of 27 websites deemed pornographic. The order was issued by the UCC to all internet service providers and telecom companies¹⁰, on advice from the Pornographic Control Committee, set up under the 2014 Anti-Pornography Act.

8 https://www.ucc.co.ug/wp-content/uploads/2018/03/UCC_ONLINE-DATA-COMMUNICATIONS-SERVICES.pdf

9 <https://unwantedwitness.or.ug/online-publishers-petition/>

10 <https://www.monitor.co.ug/News/National/Pornography-sites-blocked/688334-4883140-sj3hbo/index.html>



Parliament passed the Data Protection and Privacy Bill.

On a very positive note, Parliament of Uganda passed the Data Protection and Privacy Bill, 2015. In theory, the bill which is yet to be signed into law by the president, is meant to protect personal data. This accomplished through regulating the collection, processing and usage of data while empowering individuals and entities to have full control over their personal data.¹

The long awaited data protection bill was passed in December 2018 and Unwanted Witness Uganda is among the organizations that submitted comments to the bill before the ICT Committee of Parliament.²

1 <https://unwantedwitness.or.ug/unwanted-witness-welcomes-parliaments-move-to-pass-the-data-protection-and-privacy-bill-2015/>

2 <https://unwantedwitness.or.ug/?p=4128>

CONCLUSION.

Ranked as “partly Free” by recent Freedom on the Net report by Freedom House,³ Uganda has recorded dwindling digital rights in 2018 as compared to 2017. This is reflected by the introduction of new repressive laws, increased control, persecution and detention of internet users throughout the year.

While the Internet is an intuitive boon for democracy, providing Ugandans with greater freedom of expression, opportunities for civil society, education and political participation, all these internet potentials have been ganged leading to limitations in access and self censorship online.

3 <https://freedomhouse.org/report/freedom-net/2018/uganda>

RECOMMENDATIONS.

Unwanted Witness calls upon the Judiciary to nullify section 25 of the Computer Misuse Act, 2011 in order to Protect freedom of expression as a cornerstone for democracy.

The president of Uganda should consider assenting to the Data Protection and Privacy Bill, 2015 as passed by the 10th parliament to end unlawful surveillance and abuse of personal data.

The Ministry of Information Communication Technology and National Guidance Should expedite formulation of regulations that operationalize the Data Protection and Privacy Law.

We urge the Uganda police Force to act more professionally by desisting from arresting internet users before conducting meaningful and conclusive investigations. Unprofessional police actions have resulted into violation of suspects' fundamental freedoms.

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