

An assessment of the citizen centricity of
Kenya's digital governance.

Digitising Kenya

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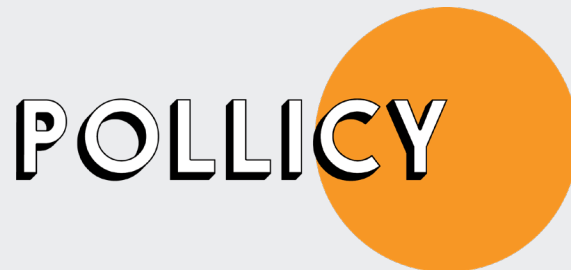


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Lead Authors: Bobina Zulfa, Mumbi Kanyogo and Irene Mwendwa

Reviewers: Neema Iyer, Garnett Achieng, Miriam Wanjiru, Bonnita Nyamwire

Contributors: Varaidzo Faith Magodo-Matimba

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List of Acronyms and Abbreviations

AI - Artificial Intelligence

CSO - Civil Society Organizations

ICT - Information Communication and Technology

KIAMIS - Kenya Integrated Agriculture Management Information System

KII - Key Informant Interview

MALD - Ministry of Agriculture and Livestock Development

MDA - Ministries, Departments and Agencies

MICTDE - Ministry of ICT and Digital Economy

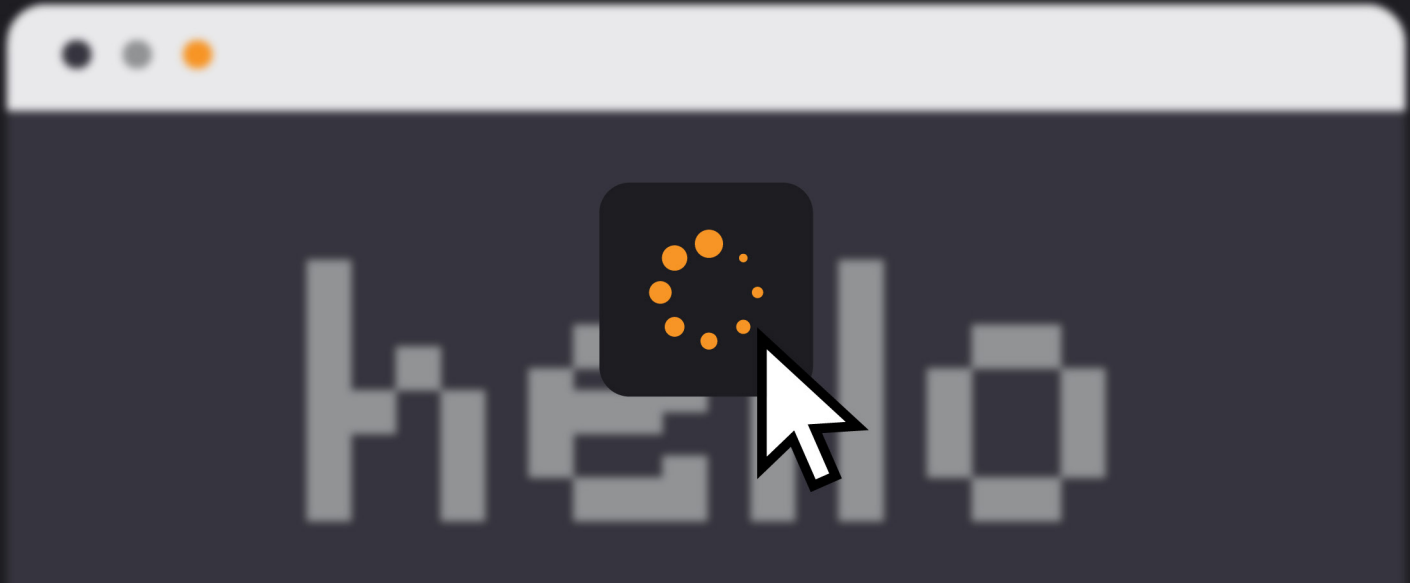
NGO - Non-Governmental Organisation

NIIMS - National Integrated Identity Management System

OGP - Open Government Partnership

OGP NAP IV - Open Government Partnership 5th National Action Plan

UNDP - United National Development Programme



Introduction

In 2023 a collaborative forum of CSOs and government agencies developed Kenya's first Open Government Partnership Digital Governance Commitment as part of Kenya's 5th OGP National Action Plan. Here, these stakeholders commit to addressing **"exclusion in digital services and the digital divide"** by establishing a coordination mechanism for digital transformation and enhancing **"open channels for meaningful citizen engagement and feedback on digital services and policies,"** among other solutions. This commitment is ultimately shaped by the shared understanding that, although the state has pursued multiple initiatives to enhance access to digital services, including digitising 12,000 public services, implementing various connectivity initiatives, including establishing free-WiFi hubs, and extending fibre optic connectivity to remote and rural communities, Kenya still **"grapples with several challenges on its path toward achieving inclusive digital governance."**

These challenges include the inaccessibility of digital technologies to marginalised citizens who are also the most dependent on public services as well as public scepticism on the government's capacity to deliver digital governance in a transparent and participatory manner as identified by cluster members. On top of that, as we explore in this report, these challenges also include fundamental differences in definitions and priorities in delivering inclusive digital governance, the de-prioritisation of gender data-informed decision-making in Kenya plus a lack of meaningful public participation in digital governance decision-making.

Therefore, this report is an important intervention for establishing a common understanding of what inclusive digital governance means and how to achieve it using a citizen-centred approach—exploring Kenya's state and framing of it, the factors that inhibit inclusivity, the drivers to inclusive digital governance such as gender data as well as the role of emerging technologies herein. The report also considers the extent to which inclusivity is imagined as an objective of digital governance strategising and implementation in Kenya as a means of strengthening efforts to deliver an inclusive digital governance in OGP and beyond.

The report begins with a literature review which explores global debates and concerns surrounding digital governance implementation, it then details the research methodology, analyses the current state of play of inclusive digital governance in Kenya and ends with a conclusion to the study.



Literature Review

Digital Governance

The terms “**digital governance**” and “**digital government**” are periodically used interchangeably in the literature. This is mainly because digital governance has largely been reduced to a technical question, yet as Erkut argues digital governance is largely a political question: how do we use technical affordances to create governance structures that involve people in decision-making?¹ Therefore, it is important to think about digital government as a component of digital governance.

Digital governance or e-governance is defined expansively as the creation and maintenance of digital affordances that enable citizens to communicate with government agencies and actors, participate in decision-making and communicate with each other.² Further, it also speaks to the “**governance of digitalization**” which according to the UNDP involves government arrangements that ensure that digital transformation is rights-based, inclusive, and supports the achievement of the Sustainable Development Goals.³

Basically, digital governance refers to the provider-client service delivery functions that define digital government, in addition to two-way communication channels that enable citizen participation in governance, transparency, accountability, and responsiveness by governments to their citizenry. On the other hand, digital government (or what the Kenyan government has often referred to as ‘**digitization**’ or digital transformation) is an approach that uses information and technologies to enable one-way government to government (G2G), government to citizen (G2C), or government to business (G2B) level transactions in which citizens or businesses are imagined as customers and the state as a service provider. Here, interactions and processes that were previously facilitated through paper or face-to-face interaction are now facilitated through digital means.⁴

1 Erkut, Burak. “From Digital Government to Digital Governance: Are We There Yet?” *Sustainability* (2019): 860.

2 Calista, Donald J., and James Melitski. “E-GOVERNMENT AND E-GOVERNANCE: CONVERGING CONSTRUCTS OF PUBLIC SECTOR INFORMATION AND COMMUNICATIONS TECHNOLOGIES.” *Public Administration Quarterly* 31, no. 1/2 (2007): 87–120.

3 United Nations Development Programme. In *Development Futures Series Working Papers [Report]*. “A Shared Vision for Digital Technology and Governance: The role of governance in ensuring digital technologies contribute to development and mitigate risk.” (2024).

4 Tan, E., and J. Cromptvoets. “Chapter 1: A New Era of Digital Governance”. In *The New Digital Era Governance*, ed. Tan, E. (Leiden, The Netherlands: Wageningen Academic, 2022).

The above two categories can also be differentiated on the basis of expected outcomes. Erkut argues that, while the intended outcome of digital government is an improvement in the efficiency of state service delivery, the expected outcome of digital governance is an interactive system wherein citizens have more influence over government policies and governments are able to access more data with which to respond to citizen concerns.⁵

In some Asian and EuroAmerican contexts, government access to large datasets, in many cases through open data initiatives, has enabled the application of emerging technologies, such as artificial intelligence and blockchain technologies, in order to drive a **'big data-driven digital governance.'** Here, governments are using artificial intelligence to analyse large datasets and, in turn, observe new patterns in public service use; responding to citizen queries using automated chatbots, personalising government services; making policy decisions based on predictive analytics, and managing tax and social benefit schemes using automated systems.⁶ These applications of predictive power and automation work to support governments in better understanding citizens' evolving needs. They also enable various government entities to integrate their databases in order to deliver tailored government responses to each individual citizen.⁷

Inclusive digital governance

Importantly, critics of digital governance implementation suggest that the delivery of digital government services, the digital facilitation of citizen participation, transparency, and accountability should be implemented concurrently. However, in practice certain aspects of digital governance are prioritised, while others are notably neglected. As Misurca argues, many African governments have vigorously pursued digital service delivery (digital government) because it is perceived as a tool that enables government's internal and external communication to gain **"speed, precision, simplicity, outreach and networking capacity."**⁸ Often, the drive towards efficiency and modernity overshadows urgent issues of inequality and democracy (e-democracy).

More specifically, Kenya's digitisation ideology is largely buttressed in the **"digital for development"** approach together with visions of **"modernity"** in terms of efficient service delivery by government as well as enhancing the participation of citizens in governance following closely. This deduction is informed by the core policy and legal frameworks guiding the nation's digitalisation, including the Kenyan National Digital Master Plan of 2022-2032, the e-Government Strategy of 2004 as well as the National ICT Policy.⁹

The Digital Master Plan, for instance, articulates that with the government being entrusted with sustainable development, it is then upon it to ensure use of ICTs to foster economic growth and job creation with this Blueprint document being cited as pivotal to achieving Vision 2030. In addition, the e-Government Strategy positions e-Government as one of the government's priorities towards the realisation of national development goals and objectives for wealth and employment creation. The National ICT policy expresses similar notions towards the attainment of Kenya's Vision 2030 development goals and objectives for wealth and job creation through achievement of an industrialised information society and knowledge economy. Therefore, across the board, the country's Vision 2030 which centres a long term development approach primarily guides how digital government and ultimately, digital governance are ideated and implemented.

5 Erkut, "From Digital Government to Digital Governance: Are We There Yet?"

6 Tan, "Chapter 1: A New Era of Digital Governance."

7 Tan, "Chapter 1: A New Era of Digital Governance."; World Bank. "Development Topics," n.d. <https://www.worldbank.org/en/topic/digitaldevelopment/brief/digital-government-for-development>.

8 Gianluca Misuraca, "E-Governance in Africa," from *Theory to Action: A Handbook on ICTs for Local Governance* (IDRC, 2007).

9 Ministry of ICT, Innovation and Youth Affairs. "The Kenya National Digital Master Plan 2022-2032," 2021. <https://repository.kippra.or.ke/handle/123456789/3580>; "E-GOVERNMENT STRATEGY: THE STRATEGIC FRAMEWORK, ADMINISTRATIVE STRUCTURE, TRAINING REQUIREMENTS AND STANDARDIZATION FRAMEWORK." REPUBLIC OF KENYA CABINET OFFICE OFFICE OF THE PRESIDENT, 2004. <https://lands.go.ke/wp-content/uploads/2021/04/Kenya-E-Government-Strategy-2004-1.pdf>; Ministry of Information Communication and Technology. "National Information, Communications and Technology (ICT) Policy 2019," 2019. <https://repository.kippra.or.ke/handle/123456789/1728>

Even so, this broader conceptualisation has been fortified, so to speak, with the additional aspects of “**modern**” government which speak to Kenya’s intention to take full advantage of ICTs in order to achieve better service delivery as stated in the Digital Master Plan. This approach, as well as the aspect of promoting the participation of citizens in government and empowering them through ICTs, is stated in the e-Government Strategy. More specifically, modernization of government is looked at as a means towards enhancement of transparency, accountability, and good governance. Here, the e-Government strategy defines good governance as making the government more service oriented, efficient and citizen-centred, which includes giving citizens access to government information. Given that Kenya’s digital governance policies suggest a commitment to citizen-centred and inclusive digital governance, it then becomes critical to understand whether Kenya’s practical implementation of digital governance emulates inclusivity.

Digital divides as barriers to inclusive digital governance

Analyses of the social change that digital governance is purported to make possible should be tempered by the fact that large parts of the global population do not have access to the technology that would enable them to benefit from digitised service delivery, let alone meaningfully participate in digital decision-making processes or public participation. In fact, as Bannister and Leahy point out, the poorest citizens who are also the most frequent users of government services, often constitute the segments of the population that do not have access to the necessary technologies to access digital service delivery. Here, the digital divide drives exclusionary digital governance.¹⁰

The term “**digital divide**” refers to the gap between individuals, households, businesses and geographic areas at different socio-economic levels with regard to opportunities for them to access information and communication technologies (ICTs).¹¹ Wessels argues that the digital divide has to be interrogated contextually—taking into consideration how ethnicity, socio-economic status, gender, locality and education background are influential in determining access to connectivity.¹² At the same time they also argue that the digital divide must be considered in relation to a broader geopolitical dynamic wherein extractive and colonial dependency-driven dynamics ensure that global majority countries have less infrastructure to enable their citizens to connect to the digital economy.

On the other hand, Munga argues that this ‘**gap**’ can be differentiated into two categories: a coverage gap and a usage gap.¹³ While a coverage gap describes a situation in which people live in areas where there is no access to broadband connection, a usage gap describes populations that are living in areas where there is broadband network, but are unable to use internet services. The importance of this differentiation is supported by evidence from the Global System for Mobile Communications which argues that as a result of continued investments in broadband coverage between 2017 and 2022, 3G coverage in Africa increased from 65% to 85% and, in the same period, average download speeds almost doubled.¹⁴ Additionally, internet connectivity has increased from 17% to 25%. However, as noted in the same report, as of 2022 most Africans who live within the footprint of a mobile broadband network are still not able to use the

10 Bannister, Frank, and Denise Leahy. “Different Divisions: A Taxonomy and Examination of the Role of E-Government in the Digital Divide.” in *E-Governance and Social Inclusion: Concepts and Cases*, ed. Scott Baum and Arun Mahizhnan (IGI Global, 2014), 10-24.

11 OECD. “Understanding the Digital Divide.” *OECD Digital Economy Papers*, January 1, 2001.

12 Wessels, B. “The reproduction and reconfiguration of inequality: differentiation and class, status and power in the dynamics of digital divides”. In *Digital Divide: the Internet and Social Inequality in International Perspective* eds. Ragnedda, M. and Muschert, G. W. (London, UK: Routledge (Taylor & Francis Group), 2013), pp. 17-28.

13 Munga, Jane. “To Close Africa’s Digital Divide, Policy Must Address the Usage Gap.” *Carnegie Endowment for International Peace*. April 26, 2022. carnegieendowment.org/research/2022/04/to-close-africas-digital-divide-policy-must-address-the-usage-gap?lang=en.

14 Matthew Shanahan, Kalvin Bahia, and GSMA, *The State of Mobile Internet Connectivity 2023* (GSMA, 2023), <https://www.gsma.com/r/wp-content/uploads/2023/10/The-State-of-Mobile-Internet-Connectivity-Report-2023.pdf>.

internet—which indicates that the largest contributor to the low rates of internet access on the continent is an inequality-fueled usage gap, rather than internet coverage limitations.¹⁵

For example, as Zerai points out, even as the progressive increase in mobile phone use on the continent continues to be celebrated, these phones are often basic handsets that do not allow access to the platforms that would enable African citizens to access digital government service.¹⁶ The GSMA noted that as of 2022, 16% of Africans do not have access to a smartphone and 40% do not have access to any device at all.¹⁷ Additionally, internet data continues to be unaffordable and, despite having access to mobile devices, many Africans cannot use them due to high electricity costs. As Zerai notes, there is a neoliberal contradiction between the statistics that are broadcast in order to suggest that the digital divide is closing and the reality of access to connectivity on the continent.¹⁸

The question of who has access to smartphones and internet connectivity is refracted through existing social, economic, and cultural inequalities.¹⁹ Put another way, those who are connected to the internet, and therefore have the tools required to access digital government services, are often those who are well-positioned socio-economically, geographically, educationally, and have a relatively high degree of digital literacy. For example, as a result of higher levels of poverty, lower levels of digital literacy and lower levels of national investment in rural broadband coverage, people in rural areas are 16% less likely to own a phone and 35% less likely to be connected to the internet. Wealthy people and young people are more than two times more likely to be connected to the internet than the poorest and older individuals in society.²⁰ Importantly, education inequalities seem to produce the sharpest differences in internet connectivity—85% of those with post-secondary education are connected with the internet, while only 13% of Africans with no formal schooling have access to the internet.²¹

These inequalities are compounded for women whose access to internet connectivity is limited by these same socio-economic, geographical, education-fueled inequalities in addition to gendered, social, and cultural dynamics surrounding mobile phone ownership and internet use. In a study of digital government service delivery in Tanzania, Mwigusa et al., found that Tanzanian women have lower digital literacy than men, which not only impacts their capacity to use digital tools, but also their ability to navigate online platforms, including those through which Tanzanians access digital government services.²² As such, even though Tanzanian women are fledgeling business owners, they are unable to reap the benefits of digital commercialisation as much as their male counterparts.

15 Matthew Shanahan, Kalvin Bahia, and GSMA, *The State of Mobile Internet Connectivity 2023*.

16 Zerai, *African Women, ICT and Neoliberal Politics: The Challenge of Gendered Digital Divides to People-Centered Governance*.

17 Shanahan, Bahia, and GSMA, *The State of Mobile Internet Connectivity 2023*.

18

19 Wessels, B. "The reproduction and reconfiguration of inequality: differentiation and class, status and power in the dynamics of digital divides"; Zerai, *African Women, ICT and Neoliberal Politics: The Challenge of Gendered Digital Divides to People-Centered Governance*.

20 Shanahan, Bahia, and GSMA, *The State of Mobile Internet Connectivity 2023*.

21 Shanahan, Bahia, and GSMA, *The State of Mobile Internet Connectivity 2023*.

22 Mwigusa, Dennis N., Lanta Daniel, and Bitrina Diyamett. "Leaving No One Behind in Digital Delivery of Public Services: The Case of Online Business Registration in Tanzania," *Occasional Paper Series*, vol. 77 (Southern Voice, June 2022). <https://southernvoice.org/wp-content/uploads/2022/06/LNBO-Business-registration-Tanzania-Mwigusa-et-al-2022-1.pdf>.

E-democracy: an overlooked component of digital governance

While there exists a wealth of literature making a case for the importance and usefulness of integrating ICTs in Kenya's public sector, much less scholarship has been undertaken in understanding the impact of the reforms ushered in by digitization towards the enhancement of democratic processes. This then points to the need to take stock of digitization through this lens with this evaluation seeking to ascertain the extent to which e-democracy has been facilitated.

Here, while there are other starting points for an assessment of Kenya's digitisation reforms on e-democracy, existing global frameworks can similarly be employed in this exercise, including the World Bank GovTech Maturity Index (GTMI)²³, the OECD Digital government framework²⁴ as well as the UN eGovernment Development Index (EGDI). Taking an example of the World Bank's GTMI, we see how this framework presents a measure of GovTech Maturity explored through four focus areas which are;- supporting core government systems, enhancing public service delivery, mainstreaming citizen engagement and fostering Govtech enablers. For purposes of this report, we highlight the Digital citizen engagement index under which are listed six indicators, including public participation platforms, citizen feedback mechanisms, open data, and open government portals. More concretely, for example, the Regional brief of the GTMI for East and Southern Africa (2023)²⁵ indicated that all countries in the region, including Kenya, needed to improve through investment in platforms that encourage citizen engagement. Such takeaways point to the broader approach of this framework and similar others, which is not to create a ranking or capture the extent of Govtech implementation or assess a country's readiness but rather to provide the 'state of play' of Govtech Maturity in the country.

Underlying the e-democracy aspirations of Kenya, such as public participation, adherence to rule of law, transparency and accountability, responsiveness, and being consensus-oriented as stated in the policy frameworks above squarely lies the notion of inclusive digital governance. In this regard, inclusive digital governance can be conceptualised as the availability of opportunities for citizens to influence policy decision-making. Techno-optimists have argued that the provision of ICTs and the emergence of new forms of networked platforms can transform the democratic process or generate new processes altogether that decentralise policy making.²⁶

Here, the availability of decentralised information sources has been perceived as having the potential to improve the process of political information exchange. For example, the existence of forum platforms, such as social media, has supported public debate, deliberation and community formation, and governments have utilised various technological affordances, including email to facilitate public participation and citizen involvement in decision-making.²⁷ In Kenya's case where social media has a special placement due to its reach and ease in use to especially persons or groups that were largely not part of the public sphere, there is a case to be made for its facilitation of political discussions that go beyond the narrow confines of politics to include the personal, the gendered and the cultural.²⁸ This space has been said to enable inclusions into

23 World Bank. "GTMI." n.d. <https://www.worldbank.org/en/programs/govtech/gtmi>.

24 OECD. "The OECD Digital Government Policy Framework." October 7, 2020. https://www.oecd.org/en/publications/the-oecd-digital-government-policy-framework_f64fed2a-en.html.

25 World Bank. "Regional Briefs," n.d. <https://www.worldbank.org/en/programs/govtech/gtmi/regional-briefs>.

26 Zach Bastick. "Digital Limits of Government: The Failure of E-Democracy," in *Public Administration and Information Technology* (2007): 3–14.

27 Jan A.G.M. Van Dijk. "Digital Democracy: Vision and Reality," in *Public Administration in the Information Age: Revisited*, ed I.Th.M. Snellen, M. Theans, W.B.H.J. van de Donk (IOS, 2012), 49–62.

28 Fenton, Natalie, and Veronica Barassi. "Alternative Media and Social Networking Sites: The Politics of Individuation and Political Participation." *The Communication Review* 14, no. 3 (July 1, 2011): 179–96. <https://doi.org/10.1080/10714421.2011.597245>.

power by and through which those on the margins may speak. A great case example here is the WhatsApp group “**Nakuru Analytics**” which convened citizens and elected county authorities in one digital space as a way for the citizens to deploy their voice in shaping local political agendas. Even more significantly, this group was able to shift online discourse to offline action by mobilising around grassroots politics.²⁹

However, in most contexts, a combination of factors have limited the realisation of a digital democracy that generates transformative public participation. These barriers include ideological limitations wherein politicians and government technocrats fundamentally approach democracy as a representative endeavour rather than a participatory one or, at best, approach public participation as a procedural requirement that does not impact decision-making or rigid legal and institutional structures that are resistant to the decentralised, participatory possibilities that digital platforms can offer.³⁰

Importantly, it wouldn’t provide a full picture if the nature of participation wasn’t critically analysed. The question then to be asked is, participation by whom and for what purpose? The realisation here is digital publics are not a panacea of inclusion—participation in these publics is itself mediated by the accessibility and affordability of digital technologies and internet access. And as Nyabola argues, the potential of these spaces to serve as platforms for public participation—as it has for digitally-facilitated movements, such as Black Lives Matter in 2020 and African feminist movements which have used online channels to contest sexual violence—is often thwarted by governments who are more eager to regulate and censor citizen use of digital social network sites than enable a digitally-facilitated participatory democracy.³¹ This has been through internet shutdowns and other restrictive measures, such as heightened internet connectivity costs, app restrictions and the enactment of draconian legislation meant to stifle citizen engagement online.

In Kenya, social media-based public participation is often thwarted by government non-response. Multiple government agencies have incorporated social media channels into their communication apparatus, largely to disseminate information to citizens, rather than to engage the public in two-way discussion. And even when citizens have received responses from a state agency online, it is often a generic response. Some studies have shown the need to reengineer the portals and institute a communications approach or avenue that will engage users in a two-way symmetrical communications dedicated to enabling citizens to highlight needs, interests, and concerns, and receive a government response.³²

Kenya’s networked publics facilitate other safety-oriented threats that hinder citizen participation in digital political and governance-focused discourses. Social media, for instance, is rife with technology-facilitated gender based violence (TfGBV) taking forms, such as image-based abuse, doxxing and cyberbullying, and harassment mostly targeted at women.³³ This TfGBV crowds out meaningful engagement, which marginalises certain critical conversations and women’s ability to participate in online discourses on critical national and local issues. Additionally, AI has been used to interfere in democratic processes. In the 2017 Kenyan

29 Omanga, Duncan. “WhatsApp as ‘digital publics’: the Nakuru Analysts and the evolution of participation in county governance in Kenya.” *Journal of Eastern African Studies* 13, no. 1 (November 17, 2018): 175–91. <https://doi.org/10.1080/017531055.2018.1548211>.

30 Zach Bastick. “Digital Limits of Government: The Failure of E-Democracy.”; Van Dijk. “Digital Democracy: Vision and Reality.”; Sebastian Berg and Jeanette Hofmann. “Digital Democracy.” *Internet Policy Review* 10, no. 4 (December 20, 2021).

31 Nanjala Nyabola. *Digital Democracy, Analogue Politics: How the Internet Era Is Transforming Politics in Kenya* (London: Zed Books, 2018).

32 Aswani, Daniel Robert, and Sylvia Ndanu Mutua. “G2C Communication Through Government Service Portals: An Assessment of Kenya’s e-Citizen and eFNS Portals.” *Multidisciplinary Journal of Technical University of Mombasa* 2, no. 2 (2023): 28-36.

33 Kakande, Arthur, Bonnita Nyamwire, Bonaventure Saturday, and Irene Mwendwa. “A report on Online Violence Against Women in the 2022 Kenya General Election.” Edited by National Democratic Institute, Kenya Women Parliamentary Association, Design 4 Democracy (D4D) coalition, Akoth Carvota, Kanyali Mwikya, and Elaine Wangari Thuo, 2023. https://pollicy.org/wp-content/uploads/2023/05/Byte_Bullies_report.pdf.

election, Cambridge Analytica used psychographic profiling and targeted political campaigning to nudge and persuade voters based on their profiles. This polluted the information space and undercut the capacity of citizen opinion to shape the political agenda.

Ultimately, the contributing intricacies and unwillingness to pursue and design dynamic, citizen-centric digital democracy initiatives that promote meaningful public participation exists as a kind of digital divide of its own in terms of access to political power: one between governments and their citizens.

Emerging technologies and digital governance discrimination

As with digital governance initiatives more broadly, gendered, class, and geographical inequalities are reified in the application of emerging technologies to digital governance. The strength of predictive power and automation is mediated by algorithms. Algorithms are what endow artificial intelligence technologies with their ability to engage in functions that would typically be carried out by humans. Algorithms are created when machines are fed with data that enables them to progressively “**learn**” a statistical logic that informs their capacity to complete a task or analysis.³⁴ As Binns argues, “**If an algorithm is trained on data that are biased or reflect unjust structural inequalities of gender, race or other sensitive attributes, it may ‘learn’ to discriminate using those attributes or proxies for them.**”³⁵ For instance, in the United States, it has been found that current algorithm models reinforce gender and racial discrimination with regard to financial loans, test scores and school admissions, parole setting, and health monitoring, furthering economic and social inequality.³⁶

Driving inclusive digital governance

A citizen-centric digital governance requires a deep understanding of a citizenry through timely, relevant, and just data which is utilised to inform decision-making. As Abrahams et al.,³⁷ note, evidence-based policymaking and decision-making and evidence-informed strategies are becoming regular mantras in the governance and management discourse of governments across Africa and internationally. They also argue that some government sectors, for example, in Benin, Kenya and South Africa have been experimenting with governance systems where 60% of the resources and efforts were focused on capacity building, and 40% on evidence use. Further, they add that this strategy has also been inverted in some cases wherein 60% of the resources were allocated to evidence gathering and manipulation, and 40% was focused on capacity development which is indicative of progress in that regard.

However, in line with the reflections of this report’s literature review on citizen-centric digital governance, we are reminded that data does not necessarily always produce inclusive decision-making. In fact, data ecosystems have been shown to entrench biases and consequently amplify marginalities,³⁸ especially in the Big data era, which Boyd and Crawford³⁹ frame as being advanced on the myth that large datasets offer a higher form of intelligence and knowledge that can generate insights that were previously impossible with the aura of truth, objectivity, and accuracy. Rather, they argue that big data is not always better data, and instead, propose more emphasis being placed on methodology in understanding the “**sample.**”

34 Binns, Reuben. “Algorithmic Accountability and Public Reason”. *Philos. Technol.* 31, 543–556 (2018). <https://doi.org/10.1007/s13347-017-0263-5>.

35 Binns, Reuben., “Algorithmic Accountability and Public Reason”.

36 Feeney, Mary K., and Federica Fusi. “A Critical Analysis of the Study of Gender and Technology in Government.” *SSRN Electronic Journal*. January 1, 2021.

37 Abrahams, Mark. 2021. “Evidence-based Decision-making in the Era of Big Data.” *www.Academia.Edu*. https://www.academia.edu/98417685/Evidence_based_decision_making_in_the_era_of_big_data.

38 Neema, Iyer, Chair Chenai, and Achieng Garnett. “Afrofeminist Data Futures.” In *Oxford University Press eBooks*, 347–69, 2023. <https://doi.org/10.1093/oso/9780192889898.003.0020>; D’Ignazio, Catherine, and Lauren F. Klein. *Data Feminism*. MIT Press, 2020

39 Boyd, Danah, and Kate Crawford. 2012. “CRITICAL QUESTIONS FOR BIG DATA.” *Information Communication & Society* 15, no. 5: 662–79. <https://doi.org/10.1080/1369118x.2012.678878>.

Instead, gender data can be used as a guiding framework to identify inequities and biases in data ecosystems and overcome them.⁴⁰ Gender data, which is a step further from sex-disaggregated data, helps us consider the norms and sociocultural factors that introduce gender bias into data since sex-disaggregated data often hides the effects of intersectional identities that change how different people experience the world.⁴¹ In practice, gender data demands that researchers and other persons working with data firmly comprehend how bias and power dynamics are embedded in the study design, sampling methodologies, data collection, and raw data itself.⁴²

Unequal access to and adoption of digital government services is partly driven by limited government efforts to gather gender data and, in turn, quantify the digital divide and evaluate the skill-based, socio-cultural, and economic factors, including gendered cultural norms that prevent adoption of digital government services.⁴³ In their analysis of digital government adoption in Dubai, Rodrigues, Sarabdeen, and Balasubramanian, argue that a gender analysis is critical for understanding the differences in digital government usage between men and women users, as well as the factors driving low digital government adoption.⁴⁴ In order to remedy these challenges, governments should prioritise generating, analysing, and using gender data to inform digital governance policymaking. In their exploration of inequalities in digital government services in Brazil, Macaya et al., suggest that incorporating data on e-government adoption, peak adoption rate, and usage depth segregated according to age, location, and gender is one critical method for developing a gender-data informed approach to digitising critical government services. In making this recommendation, they are attentive to how digital governance efforts could reduce or increase access to women's health, equality, and empowerment, given low levels of internet usage and e-government adoptions among women in Brazil.⁴⁵ They also suggest that digital government decision makers should consider data on women-specific issues, given that, for example, intimate partner violence can impact victim's access to resources, including digital government services.

At the same time, the literature suggests that digital governance designers and implementers should consider how cultural and social norms impact citizen's availability to use digitised services—particularly given that most citizens in global majority countries can only access digital government services through cybercafes—and gain the skills necessary to navigate these platforms. A study in Nigeria found that it is important to consider how cultural gender norms can influence citizen capacity to use and learn about digital government services.⁴⁶ For example, in Yoruba communities women are often burdened with so

40 United Nations, Statistics Division Department of Economic and Social Affairs, Hedman, Perucci, Sundström, United Nations, Economic Commission for Europe United Nations, World Bank Institute, and Ionica Berevoescu. "Integrating a Gender Perspective into Statistics." *Studies in Methods, Series F*. United Nations, 2016. <https://unstats.un.org/unsd/demographic-social/Standards-and-Methods/files/Handbooks/gender/Integrating-a-Gender-Perspective-into-Statistics-E.pdf>.

41 Bobina, Z. "Unlocking the power in gender data: An Afro-feminist approach to data governance." *Bibliography*, n.d., 16. <https://policy.org/wp-content/uploads/2024/02/Unlocking-the-Power-in-Gender-Data-1.pdf>.

42 Neema, Iyer, Chair Chenai, and Achieng Garnett. "Afrofeminist Data Futures." In Oxford University Press eBooks, 347–69, 2023. <https://doi.org/10.1093/oso/9780192889898.003.0020>

43 Mwighusa, Dennis N., Lanta Daniel, and Bitrina Diyamett. "Leaving No One Behind in Digital Delivery of Public Services: The Case of Online Business Registration in Tanzania"; Daniela García Villamil, Onyekachi Eke, and Onyekachi Eke, "Advancing Gender Equality and Women's Digital Empowerment in the Global South." *Southern Voice - Southern Perspectives. Global Debates*. April 14, 2023. <https://southernvoice.org/advancing-gender-equality-and-womens-digital-empowerment-in-the-global-south/>; Javiera F.M. Macaya, et al., "Gendering the Digital Divide: The Use of Electronic Government Services and Implications for the Digital Gender Gap," *Information Polity* 26, no. 2 (June 3, 2021): 131–46.

44 Gwendolyn Rodrigues, Jawahitha Sarabdeen, and Sreejith Balasubramanian. 2016. "Factors That Influence Consumer Adoption of E-government Services in the UAE: A UTAUT Model Perspective." *Journal of Internet Commerce* 15, no. 1: 18–39. <https://doi.org/10.1080/15332861.2015.1121460>.

45 Javiera F.M. Macaya et al., "Gendering the Digital Divide: The Use of Electronic Government Services and Implications for the Digital Gender Gap".

46 Jyoti Choudrie, Emeka Umeoji, and Cynthia Forson, "Diffusion of e-government in Nigeria : a qualitative study of culture and gender," UH Business School Working Papers, January 1, 2012, <http://globdev.org/files/Proceedings->

much reproductive labour that they do not have the time to learn how to use digital government services. They also found that gender segregation in Hausa communities has resulted in situations where women are excluded from digital government training initiatives, given that most trainers are male. These examples demonstrate that an inclusive digital governance model should be based on diverse types of gender data—from information on gendered perceptions to ethnographic observation of gendered cultural norms.

Another critical challenge at the crux of digital governance and data is the siloed existence of the digitization ecosystem at both national and county levels. This risks the emergence of a fragmented data ecosystem when it comes to public decision-making. The Government of Kenya has, for instance, implemented electronic systems in various state departments and state owned institutions over the years, including national tax systems, immigration information systems, legal information systems, integrated financial management systems, education systems and so on. However, information exchange between these agencies has typically been manual in the past, involving the use of fax, email, and electronic media. With most of these e-government platforms being independent, the result has been a lack of integration, inconsistency of meaningful data as well as a redundancy of efforts. This challenge of the absence of a unified data flow system among these Ministries, Departments and Agencies can be described as evidence of a lack of systems' interoperability (Ronoh et al., 2018). Here, developing an interoperability framework for the e-government information system can improve efficiency and effectiveness of government services through various information systems easier communicating with each other.

Using data for inclusive digital governance also requires attentiveness to critical security and ethical issues that emerge at the intersection of data and inclusive digital governance. Digitization relies on voluminous amounts of data. Although the collection, processing, and storage of citizen's data to inform policy making, including digital governance policymaking, is important for improving governance, given the large volumes of data, practitioners must be careful to avoid creating an opaque state data ecosystem where citizens have no knowledge of how their personal data is being utilised and which actors have access to it. A bidirectional data system between state and citizens, therefore, allows for greater state transparency and openness to be held accountable by its citizenry.

Similarly, as noted above, government use of big data and algorithmic models to generate automated and predictive digital service delivery approaches has raised concerns of AI-facilitated discrimination. The OGP argues that, in order to avoid these biases and discrimination, governments should pursue algorithmic transparency. Algorithmic transparency focuses on **“providing information about algorithmic systems to the general public (e.g. affected persons, media or civil society) so that individuals or groups can learn that these systems are in use, and demand answers and justifications related to such use.”**⁴⁷ However, as Stoyanovich and Howe (2018) argue, practitioners of algorithmic transparency should begin with ensuring data transparency because ultimately algorithms are trained using data.⁴⁸ Furthermore, it is critical that practitioners approach AI data systems as socio-cultural constructs which are modelled on their creators' beliefs, interests, or motivations. This understanding helps guide a more nuanced and critical analysis of these systems as they are being integrated into digital governance policy making and detect the possibilities for bias and harm before technologies are deployed (Birhane, 2022; Sinha and Zulfa, 2023). This approach is critical in ensuring that AI-use in digital governance is grounded in citizens' contexts and local value systems.

Third%20Annual%20SIG%20Globdev%20Workshop/11-PAPER-Choudrie-Diffusion%20of%20Technology-revised.pdf.

47 Binns, R., “Algorithmic Accountability and Public Reason”; Ada Lovelace Institute, AI Now Institute and Open Government Partnership. (2021). *Algorithmic Accountability for the Public Sector*. Available at: [https:// www.opengovpartnership.org/documents/ algorithmic-accountability-public-sector/](https://www.opengovpartnership.org/documents/algorithmic-accountability-public-sector/).

48 Stoyanovich, Julia and Bill Howe. “Follow the Data! Algorithmic Transparency Starts With Data Transparency.” *New America*, December, 14, 2018. <https://www.newamerica.org/pit/blog/follow-data-algorithmic-transparency-starts-data-transparency/>.



Methodology

Research design

This study's research design was informed by a commitment to ensuring that the study is representative of perspectives of Kenya's Open Government Partnership community, including government and civil society actors, and linking those perspectives to the overall implementation of digital governance in Kenya through the inclusive digital governance lens. A literature review was conducted firstly to better understand the existing debates and discussions surrounding inclusive and broader digital governance globally and in Kenya. In addition, qualitative primary research was conducted to gather perspectives from various actors on inclusive digital governance in Kenya. Being qualitative in nature, the core research approaches employed aligned with this. Here, data collection was undertaken through Key Informant Interviews (KIIs) with both CSO and government actors with some of these interviews being conducted in person and others virtually using Key informant semi-structured interview guides.

The sample size of this study was seventeen participants, including eleven CSO respondents as well as six government officials. Purposive sampling was used to attain this sample due to this study's need for participants with specific experience working on the ideation and implementation of digital governance in Kenya. Therefore, the selection criteria of this sample was mainly driven by multidisciplinary, which meant that respondents were from a range of fields and disciplines, including ICT and tech policy as well as development and private sector, digital rights researchers and lawyers, ICT technical persons, including AI developers, program officers from different CSOs and government agencies, and so forth. All interviews were carried out with interviewees' explicit consent and interviewee data is anonymised to protect interviewees' identities.

Based on the study objectives outlined below, thematic analysis was undertaken to come up with overarching themes and frameworks through which its findings are contextualised and presented.

Objectives

1. To understand how digital governance and inclusive digital governance are understood by digital governance commitment cluster and ecosystem actors.
2. To explore and establish the processes and mechanisms through which inclusive digital governance is realised, if at all, in Kenya.
3. To situate the use of gender data across Kenya's broader approach to inclusive digital governance.

Limitations

The findings of this study are limited by the pool of respondents interviewed. Firstly, the study aimed to include the perspectives of a diverse range of actors involved in digital governance decision-making, implementation and accountability. As such we did not survey the general public. This study had aimed to capture the thoughts and perspectives of a wider pool of subject experts. However, as a result of scheduling conflicts and in some cases restrictions such as bureaucratic gatekeeping and institutional policies we were not able to connect with more government representatives. Additionally, low levels of active participation within the digital governance cluster, despite strong and consistent participation by some actors, resulted in low levels of participation in the study.

In order to strengthen their research and gain higher levels of participation, future researchers working on this topic may benefit from diversifying data collection methods in order to gain a larger study participant pool. For example, scheduling focus group discussions during sector gatherings and conferences. While our study was designed to capture the perspectives of digital governance specialists, our findings demonstrate that non-engagement with the general public, especially marginalised communities including remote communities and persons with disabilities, in part shapes the non-inclusive status of Kenyan digital governance. Future research should engage the general public, and marginalised groups in particular.

On the whole, this report is structured in five key sections which chronologically are the introduction, the literature review, the methodology, findings and analysis section as well as the conclusions.



Findings

In this section, the study analyses respondent interviews in order to achieve the study's objectives. It begins by exploring how inclusive digital governance is defined by actors in the digital governance landscape and the state at play of inclusive digital governance implementation in Kenya. The discussion then probes the extent to which gender data along with data collection and processing practices shape digital governance, and, in turn, facilitate inclusivity in Kenya's digital governance design. Further, the aspect of algorithmic integration and its impact on citizen-centric digital governance is explored with the section concluding with an analysis of how public participation is taking place within the Kenyan digital governance ecosystem today.

As noted in the literature review and the OGP digital governance commitment in Kenya's 5th National Action Plan, digital governance consists of a broad, complex web of interventions that range from digitised service delivery to the use of technological affordances to facilitate broader access to the internet. As such, how actors define inclusive digital governance at the level of strategy reflects their implementation priorities and, in turn, the ways in which they measure the extent to which digital governance is inclusive or not. This study finds that there are dissonant priorities among digital governance actors within and in relationship to government. In turn, this has resulted in fractured approaches to implementing inclusive digital governance amongst different actors within government and dissonant assessments of whether Kenya's pursuit for inclusive digital governance is being achieved or not.

Defining Digital Governance

In defining inclusive digital governance, CSOs primarily imagine inclusive digital governance as the bridging of digital divides. For CSO respondents, in order for digital governance to have a coherent, cohesive, and systematically inclusive approach, then it should be designed with consideration for the various barriers that prevent broad societal access to digital service delivery. Respondents list multiple sites of probable and existent exclusion, including internet connectivity, language barriers, disability, literacy, affordability, and income level. Here, CSO respondents are specifically concerned about how these factors influence the usability of digitised public services, including Kenya's primary digital service delivery platform, e-Citizen.

CSO actors also measure the extent to which digital governance is inclusive in relation to how accessible digital service delivery projects are to communities that have been historically marginalised in the Kenyan

public sphere, including women, children, persons with disabilities, individuals from rural and remote communities, and ethnic groups that have been historically marginalised. As one respondent puts it, these groups

“are already excluded from not just corridors of governance, but governance opportunities and services. So, if you keep on generating and pushing for such solutions without taking them into account, then what you’re doing is [implementing] a double exclusion” (KII 11).

Here, data protection also emerges as a critical concern in guaranteeing citizen data rights and ensuring digital governance does not compound the vulnerability of marginalised communities.

Lastly, CSOs champion data governance frameworks that enable data interoperability and integration as a means of ensuring data-informed citizen-centric decision-making. For CSOs, such frameworks would enhance digital governance inclusivity by increasing the government’s capacity to make decisions that consider all barriers experienced by marginalised groups, including low-income women and people in rural and remote areas.⁴⁹

Within the government, there are differing definitions of inclusive digital governance. This dissonance, in turn, shapes which inclusive digital governance efforts are prioritised and the extent to which different sectors of government are able to access the coordination and organisation that is required to meaningfully and effectively pursue inclusive digital governance. The Ministry of ICT and Digital Economy (MICTDE) and its affiliated agencies conceive of inclusive digital governance in terms of at-scale connectivity—an observation that is affirmed by other line ministries, for example, the Ministry of Agriculture and Livestock Development (MALD) and CSO respondents alike. According to respondents, policy makers in MICTDE are invested in expanding last mile connectivity, expanding the electricity grid and also creating digital hubs around the country in order to make higher levels of access to computer infrastructures possible. Under this logic, for MICTDE in particular, connectivity is equivalent to access. As one official in the Ministry of ICT and Digital Economy puts it,

“inclusive digital governance therefore means that we not only concentrate on one area of governing the digital resources. We look at ways and under which digital governance can be managed top-down, meaning from a central point of view maybe being in the government sector from the ministry, all the way to the last person that needs to use these digital resources. So we speak about ‘Last Mile’ a lot in government, so inclusive digital governance will mean how we govern these digital resources from a central point of view and spread it out to the last beneficiary of these digital resources” (KII 8).

At the same time, similarly to CSOs, officials in other line ministries and departments, such as the Ministry of Health, the Ministry of Agriculture and Livestock Development and the Executive Office of the President, imagine data integration and interoperability through platforms, such as the Kenya Integrated Agricultural Management Information System and the development and implementation of (national) data governance frameworks, as pathways for implementing inclusive digital governance. For these entities, datafication (i.e., the transformation of aspects of social life into digital data points) and data sharing initiatives have the capacity to render service delivery more efficient and inclusive by using data to deliver public services that are tailored to citizens’ needs.

49 Walubengo, John.. 2024. “Why Data Governance Is Crucial for Public Sector Success.” KICTANet. August 15, 2024. <https://www.kictanet.or.ke/why-data-governance-is-crucial-for-public-sector-success>.

Ultimately, inclusive digital governance incorporates multiple facets under citizen-centric governance as explained in the literature review and this is reflected in the diverse priorities in Kenya's inclusive digital governance landscape. However, in Kenya's context, these differing definitions have resulted in a fractured approach to designing and implementing inclusive digital governance across the board. Furthermore, this also shapes the extent to which gender data influences all aspects of digital governance from service delivery to connectivity to policy formulation and implementation. Therefore, as we further explore below, this has also resulted in dissonant evaluations of the extent to which Kenya is pursuing inclusive digital governance, which has consequences for what stakeholders perceive as necessary interventions for pursuing inclusive digital governance in the future. Officials associated with the Ministry of ICT and Digital Economy perceive Kenya as meaningfully pursuing inclusive digital governance through its internet connectivity and accessibility interventions. At the same time, for other line ministries, individual ministries' efforts to promote data integration and interoperability are evidence of their commitment to inclusive digital governance. However, for line ministries such as the Ministry of Agriculture and Livestock Development, the lack of coordination and data governance frameworks at a national scale by the MICTDE hinders not only the government's capacity to make digital governance more inclusive, but also threatens individual ministries' inclusive datafication and data governance efforts. Lastly, CSO actors largely do not believe that Kenya is pursuing inclusive digital governance. This is because the government is not meaningfully working to ensure digital governance efforts do not doubly exclude historically marginalised groups particularly those in rural and remote areas and persons with disabilities. They also argue that the absence of frameworks and policies that protect digital rights compounds the risk of perpetuating exclusion.

The state of play of Inclusive Digital Governance

Digital Infrastructures

All respondents noted that the top digital governance priority in the MICTDE has been scaling national and local digital infrastructures to ensure citizens can access the digital realm. These initiatives have included extending fibre internet connectivity to rural and remote areas, establishing free Wi-Fi zones and digital hubs across the country, and collaborating with private sector partners to provide access to low-cost digital devices. MICTDE and other CSO and government official respondents agree that such initiatives are critical for bridging the digital divide and turn building towards inclusive digital governance, given that low-income and marginalised users are often those who are most dependent on public services and simultaneously least likely to access them when digitised due to issues, such as in-access to broadband connectivity and smartphones.⁵⁰ Here government is working to bridge the connectivity and usage gaps that constitute the digital divide, given that as one official put it

“as much as you’re providing connectivity there are also the devices that are affordable to the citizens to ensure that yes, you provided connectivity, but how do they access government services, government public information as well (KII 8).”

However, as CSO respondents note, the usage gap that drives the digital divide is also constituted by digital illiteracy, gender, income status, and other socio-economic inequalities that cannot solely be solved through digital governance infrastructural investments.⁵¹ They argue, as demonstrated in the literature, that inclusive digital governance requires a systematic and intersectional approach that considers all aspects of potential exclusion in order for efforts to expand connectivity to be meaningful.⁵² One CSO respondent illustrates how this systematic consideration should be approached:

⁵⁰ Bannister, Frank, and Denise Leahy. *“Different Divisions: A Taxonomy and Examination of the Role of E-Government in the Digital Divide.”* In *E-Governance and Social Inclusion: Concepts and Cases*. IGI Global, 2014.

⁵¹ Munga, Jane. *“To Close Africa’s Digital Divide, Policy Must Address the Usage Gap.”*

⁵² Munga, Jane. 2022. *“To Close Africa’s Digital Divide, Policy Must Address the Usage Gap.”* Carnegie Endowment for International Peace, carnegieendowment.org/research/2022/04/to-close-africas-digital-divide-policy-must-address-the-usage-gap?lang=en; Assata Zerai, *African Women, ICT and Neoliberal Politics: The Challenge of Gendered Digital Divides to People-Centred Governance* (Routledge, 2018).; Wessels, B. *“The Reproduction and Reconfiguration of Inequality: Differentiation and Class, Status and Power in the Dynamics of Digital Divides”*..; Mwighusa, Dennis N., Lanta Daniel, and Bitrina Diyamett. 2022. *“Leaving No One Behind in Digital Delivery of Public Services: The Case of Online Business Registration in Tanzania.”* Occasional Paper Series. Vol. 77. Southern Voice. <https://southernvoice.org/wp-content/uploads/2022/06/LNBO-Business-registration-Tanzania-Mwighusa-et-al-2022-1.pdf>.

“The policies that they are coming up with should address these intersections to ensure that there is inclusivity. But I think one of the key things for me is access. Because I feel like this space is moving really, really fast. And it’s the reason at the beginning I asked whether we are solving the right problems, because we’re talking about people in different social classes, we’re talking about people in different geographical locations. So those people, for example, in the remote rural areas, do they have access to these digital solutions? And those who have access, do they have the necessary skills, what is their digital literacy levels, for example (KII 7).”

Data Interoperability and Digital Governance Frameworks

At the same time, other line ministries have approached inclusive digital governance in terms of improving open data interoperability and integration. Data interoperability allows for access to and processing of data from multiple sources and then integration of those various databases in order to guide decision-making. Data interoperability and integration has enabled governments to develop inclusive digital governance efforts by firstly ensuring accessibility of information to citizens and civil society, and also ensuring that service delivery is shaped by a comprehensive and intersectional understanding of citizen needs.⁵³ In the Ministry of Agriculture, for example, data interoperability and integration is already having significant positive impacts on farmers and other agriculture sector stakeholders. For example, the Ministry of Agriculture and the Office of the President have collaborated to develop KIAMIS (Kenya Integrated Agriculture Management Information System). Through this system, the Ministry of Agriculture is collecting data from farmers in different value chains to support counties, the Ministry of Agriculture, and development actors in developing interventions that account for specific input-based, environmental, and capacity challenges experienced by farmers in different regions. As one official notes,

“We are digitizing the sector because farmers need more efficient services. The ministry [of agriculture] needs to actually know which farmer is where and then work with extension officers to provide them with good agronomic practices (KII 16).”

However, as officials in other line ministries and CSO respondents note, the lack of system-wide coordination towards the implementation of existing policies, the development, and implementation of policies that can guide data interoperability have negatively impacted the capacity of line ministries to apply data interoperability interventions, and, in turn, their ability to deliver data informed and citizen-centric digital governance. Of particular concern here is the absence of national data governance frameworks that enable the regulated exchange of information within and across ministries and beyond government to CSO and development partners. Two officials note that the delay of the MICTDE in creating an overarching data governance framework has resulted in a situation in which there is no national framework around which to model their own sector-specific data and digital governance frameworks (KII 4; KII 16). While it is critical that line ministries create their own sector-specific frameworks, given technical nuances across thematic issues, the absence of an overarching framework results in incoherence, inconsistencies, and in some cases, redundancy of important innovations developed within individual ministries due to the absence of general open data governance frameworks. For example, as one official notes, county governments cannot access or share their own data through the Agriculture Sector Development Gateway created by the Ministry of Agriculture to facilitate the sharing of data between different government and development actors (KII 16). This has, in turn, impacted their capacity to support their local farmers and promote open data within the agriculture sector.

Importantly, CSO and government respondents alike note that the MICTDE has prioritized the development of specific legal frameworks to guide some aspects of national and local digital governance efforts and coordinating entities to guide their implementation. For example, the ICT authority was established in 2013 to **“set and enforce ICT standards and guidelines for the human resource, infrastructure, processes and system and technology for the public office and public service.”**⁵⁴ In 2018, the National Computer and Cybercrimes Coordinating Committee was established to oversee cybersecurity functions as outlined in the Computer Misuse and Cybercrimes Act No. 5.⁵⁵ The existence of various digital governance frameworks

53 “Data Interoperability Collaborative.” n.d. www.data4sdgs.org/initiatives/data-interoperability-collaborative.

54 “About ICT Authority.” n.d., ICT Authority. www.icta.go.ke/page?q=6&type=about_ict_authority.

55 “Home.” n.d., National Computer and Cybercrime Coordination Committee. <https://nc4.go.ke/>

can be treated as evidence that the state is keen on transparency and holding itself accountable, a critical aspect of inclusive digital governance as defined by CSOs or put another way evidence of government “**reigning itself in**” as one CSO respondent puts it (KII 1). However, non-implementation of existing digital governance frameworks exists as another example of how lack of coordination of digital governance at a national level impacts the ability of the government to deliver inclusive digital governance. Both CSO and other line ministry officials note, government has rarely used these policies to guide how it applies digital governance and regulates its engagements with the private sector in particular. For instance, a few CSO respondents were concerned about the lack of transparency with which the government engages big tech firms when procuring technological software solutions (KII 3; KII 11). As another respondent explains, if the MICTDE were using existing law and policy to guide how it applies digital governance, then even as it purchases and adopts technologies from foreign big tech firms, it would involve the Ministry of Interior in order to address cybersecurity concerns (KII 3).

In another example, one CSO respondent observes that a lack of coordination and implementation of existing legal frameworks has led to the duplication of existing ICT Authority roles in the Ministry of Health. She says,

“The ICT Authority [under the Ministry of ICT and Digital Economy] should set the technical standards for any tech that is used and the ministry of ICT should be a policy coordinating function for all the different frameworks and strategies that are coming in different sectors. And one place where we see this emerging, just to show how uncoordinated part of it has been, is that the government has passed the Digital Health Bill and they’re going to set up another agency to focus on data protection, yet we have an office of a data protection commissioner (KII 3).”

Additionally, the state’s non-application of digital governance frameworks can be observed in the non-implementation of the Data Protection Act. CSO and government respondents note that, although the Data Protection Act has been adopted and ministries have been registered as data controllers and processors, there is a lack of knowledge on data subject rights and creation of systems of accountability within government, meaning that there is a lack of systems or protocols for preventing or responding to data protection violations in individual ministries (KII 13). At the same time, it is important to note that the Office of the Data Protection Commissioner frequently engages in workshops to support citizen groups, professional associations, and government ministries and agencies to support them in ensuring that their policies are compliant with the DPA. This may suggest that there is non-implementation of ODPC advice among different government ministries and agencies. Data collected in this study suggests this non-implementation may be due to an attitude among many government officials that situates citizens as mere recipients of public service delivery, rather than benefactors of service delivery, and therefore, owners of the data that guides these efforts with rights.

The Impact of the digital divide on Digital Service Delivery

According to CSO actors, the state’s approach to onboarding citizens onto digital service delivery platforms has prioritised speed and broad adoption as opposed to inclusivity. Here, government is perceived as often rushing to institutionalise digital service delivery approaches in order to drive revenue generation without accounting for citizens’ critical understanding of the intervention, as well as other factors that shape the digital divide, including (digital) literacy, income, and access to resources, such as data required to access these services or disposable income required to afford transaction fees, and gendered factors, such as women’s lack of time to learn how to access digital services due to their preoccupation with reproductive labour. As one respondent puts it, the government pursues a ‘**digital first**’ attitude

“with no fall back plan for those who are not digitally literate or even literate enough to still get the job done (KII 5).”

CSO respondents argue that this approach has been shaped by the progression of the state's historical digital governance priorities (KII 3; KII 4; KII 5). They observe that, in the 2000s and early 2010s, the government's first priority was the digitisation of information and databases, for example, efforts to digitise the national civil registry, the creation of open data portal in 2011, the Kenya Law Initiative to digitise case law and the e-procurement system and the introduction of the Integrated Financial Management Information System in 2003. However, currently they argue that the Kenyan state prioritises the development of digital platforms through which citizens can access service delivery, for example, the national digital service delivery platform eCitizen and various attempts to introduce digital identity cards. Within this paradigm, the state prioritises mass scaling of digital service delivery by citizens is itself a measure of inclusive digital governance. However, as noted in the literature review, mass scaling of digital service delivery does not necessarily mean effective adoption due to inequalities refracted through the digital divide, including digital illiteracy, gendered exclusion and income disparities.

Respondents also assessed the state of inclusivity of three specific digital governance initiatives: e-Citizen, digital identification card initiatives Huduma Namba, now Maisha Namba, and lastly government digital literacy initiatives.

e-Citizen

e-Citizen is Kenya's digital government portal through which the government facilitates access to a range of government services from identity cards to business registration, initially launched in 2014. In June 2023, President William Ruto announced that the government had onboarded 5,000 government services onto the platform in an effort to **"enhance efficiency and inclusivity in service delivery."**⁵⁶ By December 2024, the Cabinet Secretary, Mercy Wanjau, had announced that the state had onboarded 16,000 services onto the platform. Three respondents raised concerns about the data that the government uses to determine which services it will onboard first. In line with the observation that government takes a 'digital first' attitude discussed earlier, government seems to onboard essential services onto the e-Citizen platform without considering citizens' realities as influenced by different causes of the digital divide—across different localities (rural/urban), gender, and class and, in turn, their ability to access the services. One CSO respondent anecdotally noted that, even as the state progressively onboards more services onto the platform, there continues to be long queues at physical government service delivery points. This, according to him, might indicate a still unresolved contradiction between government's efforts to upload public services to the digital governance platform and citizens' material realities that constrain their ability to access internet-based public services due to lack of bundles or access to WiFi (KII 7).

Digitised Integrated National Population Register and Digital ID

In December 2018, legislators introduced the National Integrated Identity Management System (NIIMS), then colloquially referred to as Huduma Namba, through an amendment to the Registration of Persons Act. In 2018, the then-president of Kenya, Uhuru Kenyatta, assented to an amendment to the Registration of Persons Act which established a NIIMS – a **"central master database"** for citizens, popularly known as **"Huduma Namba."**⁵⁷ Under the weight of litigation, the "Huduma Namba" project collapsed, and although millions registered for the digital ID, these citizens never received their digital IDs. In late 2023, the Kenya Kwanza government under William Ruto officially replaced the Huduma Namba with the **'Maisha Namba'** project. Again, the project was subject to legal scrutiny pertaining to lack of public participation, lack of effort to subject the project to a data protection assessment, and possibility of exclusion for marginalised

56 Oruta, Brian. "We're 80% Done Onboarding State Services on Digital Platform – Ruto." *The Star*. April 22, 2024. <https://www.the-star.co.ke/news/2024-04-22-were-80-done-onboarding-state-services-on-digital-platform-ruto>.

57 Kivuva, Mwendwa. "Implementing Huduma Namba: Challenges and Prospects." *KICTANet*. October 23, 2020. <https://www.kictanet.or.ke/mdocs-posts/implementing-huduma-namba-challenges-and-prospects/>.

groups who are currently subjected to vetting that prevents them from accessing second generation IDs.

From a government perspective, this system would have streamlined access to government services. A few CSO respondents agree that the state's digital ID program, now Maisha Namba, suggests that the government is committed to delivering inclusive digital governance, given that the existence of a unique service number allows citizens to access government services without repeated registration (KII 1; KII 6). However, most CSO respondents believe that the continued drive to adopt a digital ID without attending to the structures that exclude historically marginalised groups works to replicate logics of marginalisation that exist offline. For example, throughout the legal deliberations concerning both the Huduma Namba and the Maisha Namba, citizen groups have stated that second generation identity cards are already inaccessible for the children of ethnically marginalised communities, given required vetting for parents and grandparents which, in turn, prevents access to critical documents, including identity cards and birth certificates.⁵⁸

Citizen groups argue that developing integrated population registers without addressing this existing discrimination will render these groups vulnerable to even higher levels of discrimination. Other civil society and media groups have argued that the non-inclusivity of the digital ID development process is also evidenced in public scepticism about the purpose of the digital ID, given widespread misinformation and lack of effort on the part of the government to sensitise the public to its benefits and its function or meaningfully involve the public in the development of the system through public participation.⁵⁹

Digital Literacy

CSO respondents note that the government is not invested in ensuring digital literacy as a method of promoting inclusive digital governance. One respondent notes that this exclusion is observable in the government's lack of consideration as to how low levels of digital literacy skills impact the capacity of the public to use and benefit from digital service delivery. When there are low levels of digital literacy, this negatively affects citizens' ability to navigate eCitizen and, in turn, access critical public services, therefore generating a kind of **"double exclusion"** as one participant put it (KII 3). Another respondent's analysis is based on the fact that the state is not at the forefront of the local push to develop STEM programs that specifically target women, children, and persons with disabilities—initiatives that are seen as a pipeline for ensuring higher levels of participation of women and persons with disabilities in digital governance policy making. Instead, these efforts are led by private actors, including multinationals and local NGOs through after-school programs or as community-based programs, and the state's support is only being experienced in its decision to authorise these organisations to operate within public schools. He argues that this lack of commitment to digital literacy, and therefore more gender inclusive digital governance policymaking, is also observable in the fact that ICT is an afterschool, non-examinable extracurricular activity.

Data and gender data's place in Kenya's digital governance

From the earlier editions of Kenya's OGP National Action Plans, government use of data for decision-making⁶⁰ has been situated as a way to complement ongoing advocacy to promote the use of data to track

58 Kiplagat, Sam. 2024a. "High Court stops implementation of Maisha Card." *Nation*, July 25, 2024. <https://nation.africa/kenya/news/high-court-stops-implementation-of-maisha-card-4702756>;

— — —. 2024b. "High Court stops implementation of Maisha Card." *Nation*, July 25, 2024. <https://nation.africa/kenya/news/high-court-stops-implementation-of-maisha-card-4702756>.

59 Ondieki, Elvis, and Dann Mwangi. 2024. "The true mark of cultism in God's name." *Nation*, March 3, 2024. <https://nation.africa/kenya/life-and-style/lifestyle/the-true-mark-of-cultism-in-god-s-name-4543700#story%20https://www.kictanet.or.ke/maisha-namba-project-a-balancing-act-between-modernization-and-public-trust/>.

60 Government of Kenya. "National Action Plan III." 2018. https://www.opengovpartnership.org/wp-content/uploads/2018/12/KENYA_Action-Plan_2018-2020_0.pdf.

progress tied to SDG initiatives in Kenya.⁶¹ While the government collects a lot of data to inform various initiatives, the question of whether the government collects data that specifically informs the development of a more inclusive digital governance, i.e., a citizen-centric digital governance, is central to this study.

This study posits that the engendering of gender data is one of the means for bringing about more inclusive digital governance mechanisms and processes. In the bulk of the interviews conducted, almost all CSO respondents view gender data as encompassing sex-disaggregated data and information illuminating how policies and initiatives impact diverse populations differently. Almost all government respondents, on the other hand, look at it primarily through the sex-disaggregated data lens. Additionally, the majority of the study's CSO respondents view gender data as descriptive data primarily aimed at promoting gender equity, i.e., data pertaining to gender disparities and the empowerment of marginalised groups. Thus, by being descriptive, gender data uniquely offers a framework through which we are able to ascertain how gender bias manifests in a nuanced manner,⁶² and thereby allowing for planning which goes beyond perceived averages and universals to let in the realities of the persons living at the fringes of these presumptions.

While gender data is crucial for designing inclusive systems that cater to the needs of all people, as understood among all CSO actors interviewed, many of them simultaneously agreed that its integration in Kenya's digital governance processes remains minimal at best. For starters, some respondents expressed that generally, a lot of the data collected is more for informing service delivery than to inform digital governance decision-making on the whole. As one CSO respondent remarked,

“There are certain service sector level initiatives that are in place that result in administrative data being collected but I think that the data that is collected through these digital governance platforms are not necessarily for improving digital governance, but probably more about addressing service delivery (KII 5).”

Respondents further list an array of digital public services offered by the government, including tax administration, subsidy programs for agriculture and for social safety net programs, etc., through which data is collected in order to primarily understand and plan for service usage.

All of the government respondents as well validate this CSO perspective through their descriptions of data collected for digital governance with one of them, for instance, saying that,

“To deliver fertiliser subsidies to specific farmers in a certain regional county, then you need that data,” and another adding, “So to me, that is what they are basically using [to assess digital transformation], to say, maybe this number of people are able to use online services, this number of people are buying smartphones and so on (KII 14).”

Overall, this approach points to data being used to inform service delivery at different levels, whether that is at the building of systems to inform programs, like connectivity programs mentioned earlier, or in the deployment of these programs, which includes data on how programs are being received and so forth.

In trying to understand the aforementioned distinction, earlier framing in this study's literature review is relevant. Here inclusive digital governance is situated as going beyond the efficiency of state service delivery

61 “Sustainable Development Report 2024”. 2024. <https://dashboards.sdindex.org/profiles/kenya>.

62 Bobina, Z. “Unlocking the Power in Gender Data: An Afro-feminist Approach to Data Governance.” Bibliography, n.d., 16. <https://policy.org/wp-content/uploads/2024/02/Unlocking-the-Power-in-Gender-Data-1.pdf>.

to creating and enabling citizen-centred governance. Essentially, inclusive digital governance is more concerned with the impact policies have on citizens in regard to what they care the most about which can be understood through the lens of the idea of **‘public value.’**⁶³ The predominance of administrative data collection in Kenya’s digital governance environment thereby signals a gap in determining the public value of policies and making sense of decision-making and the resultant outcomes of both elements. Forms of data that would inform digital governance from this perspective include data that is concerned with issues of socio-economic and political access and equity, rights violations, public trust in institutions, civic space, governance processes, and other such elements that allow upstream decision makers⁶⁴ to then decide

“this digital governance effort that we have in place needs to be in this way in order for it to close this gap or to reach more people or to be more responsive from a system level or from a governance level (KII 5).”

Given that digital governance data collection in Kenya is currently geared more towards downstream decision-making than upstream decision-making, it becomes critical to define what citizen-centric, data-informed decision-making within digital governance should look like. As one respondent put it, informed decision-making in digital governance would entail

“a feedback loop. If you have a feedback loop built into the mechanism, then you’re getting feedback from users, from the general public on what is not working (KII 5).”

Without such actionable feedback loops within digital services and digital governance broadly, accessing information that could potentially address some of the most critical aspects of inclusive digital governance proves elusive.

To further understand the minimal integration of gender data in Kenya’s digital governance, this study also found a predominant state of gender data collection as it relates to digital governance. Generally, most CSO actors believed that gender data in Kenya is typically collected on an ad hoc basis with much of it only being integrated into mammoth data collection activities, such as the National Census by the National Bureau of Statistics (KII 4). This trend is indicative of a low prioritisation of gender data in Kenya, like in many other parts of the world,⁶⁵ where there is frequently limited deliberate efforts to collect and process it. This study found that gender data in Kenya is typically perceived as adequately represented by the generalised sex-disaggregated data in demographics data, and when data is collected that does reflect the particular challenges and experiences of diverse groups, such initiatives are often an add-on usually driven by external funders, like development partners in Kenya (KII 6).

In further attempting to understand why there is limited deliberate gender data collection, respondents identified a number of reasons. First, there is a limited understanding of this data’s significance among data collectors and policy makers which hinders its systematic collection and utilisation for digital governance decision-making. Here, some CSO actors believe there is a need to better define gender data within national data collection efforts, upskill researchers and technocrats in gender data collection and analysis (KII 10) and improve their understanding of its relevance to the data ecosystem as a whole.

Additionally at a foundational level, socio-cultural factors, such as patriarchal bias (KII 3) which has long upheld the myth that data is neutral, has led to the sidelining of the realities of marginalised groups, and thereby many times leading to prejudiced decision-making about them, is another issue that came up prominently. Broader negative attitudes towards gender equity initiatives and the false narrative that **“Kenyan women are over-empowered”** both contribute to societal hostility towards gender equality initiatives, which spill

63 Public value here denotes the impact government actions and policies have on citizens.

64 Upstream decision making here refers to the policy making as opposed to downstream decision making which is about on the ground interventions.

65 “Understanding and Promoting the Use of Gender Data and Statistics.” n.d., Paris21. <https://www.paris21.org/project/understanding-and-promoting-use-gender-data-and-statistics>.

over into digital governance-related workplaces, resulting in organisational bias, in this case resistance to the integration of gender data in Kenya's data ecosystems.

The gender question becoming ever more polarised globally, including in Kenya,⁶⁶ is a central reason as to why some of the aforementioned circumstances have come up over the years, ultimately leading to the prioritisation of women's issues being met with aversion. This study found a critical result of this to be an endurance of some gender issues which might have been addressed quicker as one respondent stated that,

“It's very heartbreaking that we have talked about these issues for many years, but there still isn't a strong understanding of what are the nuances from a gender lens. And that's why TFGBV has taken so long for people to understand (KII 10).”

Additionally, structural and resource constraints have worked to further entrench the de-prioritization of gender data in Kenya (KII 11; KII 9). These challenges encompass a lack of coordination and clear delineation of mandate over the administration of gender data between MDAs, including the KNBS and the line Ministry of Public Service, Youth and Gender Affairs. As one respondent asked,

“Should it be the Ministry of Gender mandated with that or line ministries? How do we decentralise the gender discussion?”

Furthermore, their systems have not been constructed to support gender data generation. For example, while MDAs are required to implement gender specific interventions (KII 4), there are no instruments directing the collection of gender data, and there is little budget available to support these efforts. This erodes political will to collect gender data, given that ultimately

“political will is more about the strategic focus of MDAs and what their programming is focusing on (KII 4),”

including what they have budgets to execute.

As noted above in our analysis of the state of play of digital governance, another apparent issue here is that of data silos, mainly due to a lack of interoperability between different government databases, which impedes much needed data sharing that could potentially allow for analysis that informs a more inclusive design of digital governance. For instance, a number of this study's respondents believed that different line ministries collect a lot of data; however, the issue as noted by one respondent is,

“A lot of this data is actually collected by line ministries but the problem is its uptake (KII 5).”

Uptake here refers to the consideration of data gathered in decision-making processes.

Additionally, respondents noted that there are inhibitors to the flow of data between governments at county and national level, given that a lot of the data collected at county and national level is rarely aggregated when looking at different issues, including those pertaining to women and other marginalised groups (KII 10). Furthermore, on top of capacity issues in database management and a lack of willingness to share data

⁶⁶ Angela Hawke et al., “Back to Normal is Not Enough: the 2022 SDG Gender Index,” interview by Senator María de los Ángeles Sacnun et al., ed. Julie Brunet et al., trans. Strategic Agenda, Erika Cosenza, and Maitén Vargas. *Equal Measures 2030*, 2022. https://equalmeasures2030.org/wp-content/uploads/2022/03/SDG-index_report_FINAL_EN.pdf.

across MDAs, one underlying issue that came up was interruption of government priorities by conflicting funder priorities who often are financiers of these databases as one respondent said,

“The World Bank will say let’s merge these databases while GIZ says let’s create a new one (KII 4; KII 3).”

An added layer to the data issue is that of public information sharing by public officials, as noted by one CSO respondent saying,

“There is a need for a policy to guide sharing of public information so that this information is available on open portals not by request but by law, but again, this can [only] happen as public officials are capacitated with skills and the motivation to do this (KII 9).”

Here, the respondent explains that public information sharing is currently hampered by a lack of motivation to share information with the public, whether due to avoidance of transparency which could prompt public accountability or because of a lack of understanding of how access to information laws fully operate. Filling these gaps necessitates building more open and accountable governance approaches as well as enacting standard guidelines and building of public officials’ capacities to make public information more accessible.

From the above analysis of the gaps to gender data prevalence in digital governance decision-making, an understanding of the impact of this gender data gap becomes important in relation to inclusive digital governance. While there are efforts in place to collect feedback on the diverse impacts on different groups by government, as noted by one CSO respondent saying,

“We need to appreciate that at least there’s been some level of efforts to collect data and views from people on the ICT Landscape in Kenya (KII 6),”

a question remains as to how robust these efforts are.

As many CSO respondents to this study mentioned, these processes are typically not inclusive, and therefore tend to capture minority views over the majority which point is elaborated by a respondent stating that

“data collected in meeting rooms in x, y, z, or via Google docs are not accessible spaces to many citizens and this problem is not unique for us alone. Even in global digital governance processes like IGF that touch on our space, there seems to be a lack of intentionality for inclusivity. And we assume that if you put out a call for responses somehow it will get to everyone so it’s just about understanding our context— how does that look and if you really want responses for example from Gen Zs, you wouldn’t go calling them at Radisson Blu (KII 6).”

With that context, the impact of the absence of gender data can then be situated. First, the absence of gender data undermines the premise of inclusive digital governance by reinforcing exclusions and further marginalising women, the youth, and other vulnerable groups. This ultimately undermines the very premise of digital governance because

“the biggest issue is that the people who are supposed to benefit from digital governance ultimately will not end up benefiting yet the idea about digital governance is bridging a lot of divides, a lot of gaps, making things easier, making things accessible (KII 11).”

Further, it also hampers the effective measurement of progress since without this data, assessing the effectiveness of digital governance initiatives and their impacts on different marginalised demographics becomes impossible. That means that often we do not see the full picture as some respondents commented on this saying,

“without this data then how do you assess— Is it usable? Is it viable? Who is it impacting and who is it affecting (KII 11; KII 6)?”

Artificial Intelligence and digital governance in Kenya

Emerging technologies, especially artificial intelligence (AI) systems have occupied significant space in the digital governance discourse over the past few years. In line with OGP aspirations towards open and responsive government, discussions around algorithmic transparency and accountability have emerged as central to this discourse.

In Kenya, like in other parts of the developing world, AI development and adoption have been posited as means to the realisation of more thriving societies across different SDG aspirations.⁶⁷ To realise this, as reflected in the digital governance commitment under Kenya’s OGP NAP-V, Kenya aims to promote ethical, safe, inclusive, responsible, and human rights-centred digital transformation, including the integration of AI systems within the country’s digital governance apparatus as well as their effective regulation. In line with that vision, this study sought to understand current AI usage in Kenya’s digital governance as well as map the opportunities, risks, and ethical considerations to be considered in developing a regulatory framework for this landscape.

From a conceptual point of view, AI is understood by this study’s respondents as a tool that can significantly enhance government operations in a number of key areas, including smarter policymaking by providing decision makers with tools for more effective and efficient policy formulation, reimagined service delivery which entails offering higher-quality, personalised services to citizens and efficient operations as well as the optimisation of internal government processes, including the reduction of costs and improving of accuracy in operations (KII 1). More specifically, this study found that the integration of AI systems in Kenya’s digital governance currently is largely predicated on service delivery, while a second priority is governance and regulation of how AI is deployed by a range of actors.

While both CSO and government respondents agree that substantial AI implementation is still a work in progress in Kenya (KII 5; KII 15; KII 16), a number of use cases were found that are currently being adopted by the Kenyan government. Some of these include chatbots for business registration, facial recognition technologies for security, civil identification, including digital IDs as well as other unique identifier systems, such as that of the biometric passports. In addition to these use cases, respondents also mentioned some systems they heard were soon to be deployed, including an AI-powered system for tax administration, a push for biotech in health and agriculture, drones in defence and internal security aspects, the meteorological department using sensors for weather and atmospheric predictions of rainfall among other use cases.

Further, respondents note that a lot of AI usage in Kenya is sectoral-based which means that differing AI models are applied specifically to sectoral MDAs, such as in health, agriculture, or security without their underlying infrastructure such as their databases necessarily being interoperable. Beyond this technical viewpoint however, this observation is particularly critical to understanding why there are varying underlying

67 Akello, Jackline. *Policy Brief: Artificial Intelligence in Kenya*. Paradigm Initiative. January, 2022. <https://paradigmhq.org/wp-content/uploads/2022/02/Artificial-Intelligence-in-Kenya-1.pdf>.

approaches to AI adoption under these different MDAs. These resultant guiding principles to sectoral AI adoption, including making operations more speedy and accurate, the safeguarding of national security, or following of global AI adoption trends in government, become apparent as noted by one respondent saying,

“It’s how different sectors and line Ministries are thinking about it— it’s so varied (KII 3).”

This study also found no use cases of generative AI by MDAs in their decision-making, rather, respondents speak about the use of generative AI in aspirational terms. Most respondents also note that they thought the Kenyan government overall hadn’t reached a point where it is using AI algorithms in government decision-making. Another sentiment that emerged was that the government sometimes uses AI without knowing it is using AI, as one CSO key informant noted that

“AI is happening to the government rather than them going out to look for it”

and also adding that,

“This is because usage is not always deliberate as seen with small systems usually made available by external providers for specific interventions at departmental level which aren’t viewed systemwide as AI (KII 5).”

This is, however, contrary to the larger systems procured by the government, including the computer vision safety and security systems deployed across Kenya.

A number of challenges, risks, and opportunities then come forth from this current state of affairs. In terms of opportunities, this study found that integrating AI systems at a more government-wide level would indeed enhance government efficiency, improve government service delivery, and also aid in informing data driven policy making (KII 14) as seen in the sections above. For example, one government respondent points out the value of the huge databases that different MDAs have which could be used to build digital use cases, including AI systems which can then enable the government to provide more efficient services to their citizenry (KII 16). Efficiency here especially speaks to reductions in the amount of time required to access public services, as remarked by a government official saying,

“If it is not doing that effectively, then I think that process should not be digitised, if it is not reducing time (KII 15).”

Furthermore, both actors from government and CSO point to the opportunity that lies in the private sector’s capabilities in data and AI talent and skills which can be leveraged by the government in its integration of AI in its digital governance. With the private sector being a leader in the AI ecosystem, the public sector can benefit from them to build their own capacities, as one respondent noted saying,

“The private sector also has a lot of data, and therefore how do you also bring them to enrich this ecosystem for exchange and then at the same time allow them to access data from government for either coming up with new initiatives as innovators or scale up some of the use cases or proof of concepts that we’ve actually done already (KII 10).”

Another opportunity this study identifies is Kenya’s position as a hotspot and a stopover post for

“anyone trying to do anything major in tech and AI (KII 3).”

This positioning is currently owed to Kenya being a useful conduit for things that other groups such as tech corporations and development partners want on the African continent (KII 3). However, while this unique positioning presents a window of opportunity for Kenya, CSO actors warned of the reality of things with regard to what benefits Kenyans get to equally reap from this situation. Specifically, significant criticism is raised with regard to the digital jobs that have become concentrated in Kenya due to its engagement with the AI global ecosystem as one respondent noted,

“This idea of we’ll just make our people data janitors without thinking about the value we will get given the level of talent we have in this country..., so because you’re excited about the fact that by chance data labelling has taken off with Kenya as a hub, you’re not making it the policy and you’re not defining it and then we’re seeing by practice that digital jobs is just basically selling people to label AI data, being exposed to all the filth that needs to help these systems know what’s permissible and what isn’t—that cannot be the extent of our dream around this age of AI and that’s what’s really infuriating and I’m hoping that the government can be challenged to articulate this better (KII 3).”

Taking from the above point, on the other hand are challenges and risks which are associated with the integration of AI in Kenya’s digital governance. Key among these is the issue of capacity gaps whereby a limited understanding of AI technologies among government officials (KII 16) hinders meaningful interrogation of AI systems in terms of problem definition (KII 7) as well as where AI’s adoption or development is necessary or not as well as in processes such as strategic procurement of these systems and what to look out for in that exercise. In addressing this challenge, this study’s respondents point to data, digital and social-digital literacy as increasingly being needed to bridge this gap.

In terms of problem definition with regard to AI integration that is likely to foster inclusive digital governance, developing and adopting systems that are complementary to ongoing citizen-centric government efforts is a useful paradigm that was suggested by a couple of this study’s respondents. Here, they raise the need to critically factor in the contexts of the public as they are being called to use these systems. Drawing from the earlier explored aspect of **‘inequality fueled usage gaps’** in the inclusive digital governance section, this study found it critical to consider, beyond integration of these systems, if and how citizens are actually able to meaningfully engage with them which can be ascertained through meaningful public participation.

Additionally, here are issues to do with data sovereignty and the pitfalls of dependence on foreign entities for Kenya’s AI ecosystem needs. Currently, the majority of systems built for government service delivery are developed by the private sector with a lot of Kenya’s AI systems similarly being procured and also hosted externally (KII 5; KII 10). From this study, a number of questions arise:

“Is there oversight over this process? Are actual citizens being involved in the design through implementation of these systems and what ownership or control does the government have over these systems? How is national interest secured? In the case of data centres hosting these systems, who is the authority overseeing these?”

While these questions aren’t exhaustive, they prompt critical thinking regarding concerns about potential exploitation aided by an opaque and extractive AI establishment which threatens the foundational aspirations of an ethical, safe, inclusive, responsible, and human rights-centred digital transformation for Kenya.

An added layer to the issue of foreign dependence is that of geopolitics, where this study found that in giving aid to government, development partners oftentimes include unfavourable conditionalities on e.g.

procurement which, in the end, tend to **“limit organic, local AI development.”** To better elaborate this issue, one respondent paints the picture of this situation clearly, saying,

“So your upstream decision to accept the development assistance from that bilateral partner automatically now ends up with you inheriting the conditionalities that come with that money. So in terms of influence, some of it is indirect and some of it is direct to the extent where you have governments that promote and market their technology companies to developing countries—so you’d have the Ambassador for example facilitating conversations between the American Chamber of Commerce, for instance, with government bodies because the American Chamber of Commerce ICT cluster has AI companies that want to access the market and the assisting government will do whatever it can to open up the market for them. So some of it could look like that kind of lobbying— embedding requirements in development assistance.”

As highlighted by almost all of the CSO respondents to this study, the above issues have to be earnestly discussed between the government and its partners like CSOs, tech corporations, and development partners, jointly and openly, to be able to mitigate their impacts on safety and security, human rights, digital divides, and other critical elements to inclusive digital governance.

Additionally, this study found a number of risks and threats from AI integration to citizen-centric digital governance, especially as seen through the lens of ethical AI adoption and development in Kenya. As severally noted, almost all of this study’s respondents mentioned how the lack of clear ethical and legal guidelines in Kenya at the moment raise concerns about bias, discrimination, and privacy violations to especially the most vulnerable groups of society (KII 4; KII 7). With AI adoption being pushed for across more sectors of government, issues of automated decision-making and subsequent accountabilities have come up in this study greatly as essential to the course of Kenya’s digital governance being truly inclusive. Here, the question of

“what’s the extent to which a public officer is willing to put their neck on the line for decisions being made by an algorithm that they don’t understand (KII 5)”

is among others which this study’s respondents brought up in framing algorithmic decision-making and accountability.

Consequently, respondents have noted that AI Governance has become an integral aspect of the AI discourse in Kenya with key priorities and considerations highlighted here, including the promotion of ethical AI development, data privacy and security, fostering innovation, and addressing potential biases and harms from AI systems (KII 1; KII 6; KII 13). Currently, existing frameworks that cater to some of these issues include the Data Protection Act (2019) which provides some safeguards to AI usage particularly aspects of automated profiling and subsequent decision-making based on that.

However, as established by this study, specific AI regulations are still under development in Kenya. Almost all respondents from both government and civil society mentioned that they know of ongoing efforts to develop a comprehensive AI National Strategy which is meant to

“articulate a clear vision and roadmap for AI adoption and governance in Kenya as well as outline ethical principles, regulatory frameworks, and investment priorities.”

Furthermore, a number of respondents, especially from the government, note that Kenya is adopting a collaborative approach to its AI governance efforts (KII 1; KII 5)) through engaging industry, civil society, and international partners.

Nevertheless, most CSO respondents critiqued the dearth of public participation in this process, an element that has been raised as very crucial for ensuring that AI systems are designed and deployed in a manner that benefits all segments of society and promotes equitable outcomes for all. For instance, to better explain this point, several of this study's respondents draw attention to how citizen engagement further works to strengthen public trust in digital governance processes which is essential in regard to broader efforts to rectify existing inequalities and addressing historical injustices to ensure that AI integration benefits all communities.

Public Participation and People-Centered Digital Governance

The Open Government Partnership views public participation as a means of facilitating government transparency, accountability, and participatory policymaking—three criteria that are necessary for democratic governance and, in turn, for ensuring inclusive digital governance. While public participation is required in order to pass legislation in Kenya under article 118 of the 2010 constitution, and Kenya rigorously participates in OGP initiatives, there is no standard national policy that specifically provides for how public participation should be implemented. As this study finds in relation to public participation in digital governance interventions, the lack of a public participation framework produces tensions in defining how public participation that is inclusive and meaningful should look like when developing digital governance policy. In turn, the lack of public transparency with the shaping of digital governance fuels distrust of digital governance projects.

Public participation forums are curated around existing professional networks

When seeking digital governance-related public policy engagement from the public, government officials extend invitations to a standard network of stakeholders in the local private sector, civil society, and multinationals. These forums are curated around existing professional networks as high-level civil and public servants have had previous careers in private sector, civil society, and multinationals. Therefore, the forums they constitute for digital service delivery public engagement are often determined by their existing professional networks. As one CSO respondent notes,

“If you're not [already] sitting on certain tables, then the likelihood of you being included [in digital governance public participation exercises] might be low (KII 4).”

This exclusionary approach to digital governance public participation is also a result of an enduring belief within government and among private sector actors that niche technical expertise is required to qualify an individual as capable of providing thoughtful feedback about digital governance policy and the corresponding belief that the majority of Kenyans do not have the requisite digital literacy to engage in these discourses. This, in turn, results in an approach to public participation that excludes most Kenyan people in digital governance policy engagement, despite their existence as the knowledgeable subjects, given their lived experiences and also as consumers of digital service delivery and digital democracy initiatives.

While government officials acknowledge that they primarily consult civil society, donors, and development partners who exist within familiar professional networks when making digital governance policy decisions, they argue that their consistent engagement of these groups is shaped by strategic considerations. For example, government officials justified their limited consultation of civil society with the idea that these stakeholders have technical knowledge specifically on transparency and accountability—a perspective that they believe is lacking within the general public (KII 13; KII 14; KII 15).

Multiple government officers believe that most Kenyans are not equipped to engage in digital governance policy making, and therefore, the lack of openness to design more inclusive policy engagement processes

is also the result of the particularisation of **‘the digital’** – that is, the operational and conceptual siloing of ICT from other government functions. Here, some government officials imagine digital governance as a discrete ICT function, rather than as a tool to enhance initiatives and mandates under other line ministries, such as the Ministry of Health and Ministry of Agriculture. Throughout interviews and within OGP forums, government officials and private sector stakeholders have expressed that technical awareness about digital governance is a prerequisite for meaningful policy engagement. This thematic alienation of ICT results in a government perception of ICT and, in turn, digital governance as policy areas that are beyond the comprehension of everyday Kenyans, despite the fact that digital governance – for example, the digitisation of key public services through e-Citizen – has implications for their everyday lives. However, there are positive examples of approaching ICT as an integrated function. Two government officials and a private sector official noted that they actively engage citizens and incorporate their ideas into decision-making processes, emphasising that the citizens and citizen advocacy groups they engage with to receive feedback are particularly interested in digital governance because they can see its relevance to their line of work, which indicates government officials have sufficiently modelled how digital governance can improve their livelihoods (KII 2; KII 13; KII 16). Therefore, public participation efforts that frame digital governance as a tool that has the capacity to enhance citizens’ ways of working, incomes, and livelihoods, and as a tool that citizens and government are co-developing together, works as an effective pathway generating meaningful engagement from regular citizens and, in turn, incorporating citizens’ ideas into digital governance decisions. Such an approach would require officials to view citizens as **‘benefactors’** of digital governance, rather than simply its **‘beneficiaries,’** a vantage point that is only possible if citizens are viewed as the owners of the data that shapes digital governance, as one government official put it.

“Minimum-threshold” Public Participation

At the same time, according to CSO respondents, even when the state will consult the narrow pool of CSOs, private sector and multinationals, it is ultimately the ideas of multinationals, private sector actors, and government officials that shape digital governance decision-making. This perception is shaped by the fact that even when CSOs are consulted, these engagements are not meaningful—where participants define ‘meaningful’ public participation as the provision of CSOs with ample time to provide both negative and positive feedback and, in turn, the state’s incorporation of said feedback into policy design. In recalling a policy engagement meeting on the digitisation of the national population registry, where several representatives from local NGOs and international organisations were present, one CSO respondent notes that

“there was no opportunity for feedback, there was no opportunity for back and forth [...]. [Public participation] is not [used] to get input or feedback from citizens, but to be able to say we did it, because how they underscore this, they call a half day meeting, where it starts at 10 instead of 9, and then half of it is presentations and people talking to each other. And then they tell you to pick one person to give feedback. You know, it’s not really meaningful. And then they say that they’ve satisfied public participation (KII 11).”

This anecdote illustrates that digital governance-related public participation is what some CSO respondents describe as a **“tickbox”** exercise and others name as a **“minimum threshold public participation”**: stakeholder engagement that is leveraged to meet constitutional or legal public participation requirements and, in turn, seamlessly pass legislation and that does not ultimately include stakeholder feedback in the decision-making processes.

For CSO respondents, this ‘**minimum threshold**’ public participation is made possible by a trend in which government officials involved in digital governance seek out public participation with familiar experts, in physical locations that are inaccessible to low income people (the majority of Kenyans) or online spaces, for example, Zoom calls, that are inaccessible to people who are affected by the digital divide. As one CSO respondent put it, there seems to be a lack of critical consideration of questions:

“Who are the publics that need to be engaged? Are our constituents in the room as representative as possible of other voices?”

This signals the need for digital governance policy makers to intentionally map out their constituents and the relevant publics before even inviting comments and convening community-based barazas (KII 5).

The absence of a framework that provides guidelines on how to constitute inclusive and representative public policy making processes generates exclusionary public participation processes that lack meaning—“**minimum-threshold**” public participation. The result of this ‘minimum threshold’ public participation is the development of digital governance initiatives that “**doubly exclude**” interest groups who already suffer marginalisation from existing inaccess to online service delivery or are impacted by the digital divide, as one CSO respondent put it. The groups that are in the most need of critical public services are often those who are unable to access the digital service delivery platform. For example, stateless individuals, such as the Nubian community, are unable to access analog national identity cards because of the vetting that their communities are subjected to in order to ensure they are authentic citizens. As such, they would be excluded from digital identity initiatives such as Hudumba Namba, now Maisha Namba.

Ultimately, this public participation model, which is devoid of a standardised policy or feedback mechanism for collecting and incorporating feedback into national and county level decision-making, fuels distrust. One CSO respondent provides an example in the role out of Kenya’s first iteration of its digital ID, the ‘**Huduma Namba**’. In October 2021, the 2020 rollout of the Huduma Namba was halted by the High Court of Kenya because of the state’s failures to comply with Section 31 of the Data Protection Act that requires that a Data Protection Impact Assessment be conducted where

“the processing of personal data is likely to result in a high risk to the data subjects’ rights and freedoms.”

Katiba Institute, the complainant, argued that there was no guarantee it did not sufficiently protect Kenyans’ data from theft and misuse. The respondent attributes the emergence of a legal challenge to the digital ID initiative to the MICTDE’s failure to consult “**global players**” and legal experts in its public participation exercises. The consequence of the failure to exercise engaged stakeholders that are truly representative of all relevant expertise is

“a system that we never know if it’s trustworthy just because public participation has been treated as a ‘by the way’ or as an inconvenience along the way (KII 3).”⁶⁸

The degree to which public participation can be determined to be inclusive is not only shaped by the diversity of people consulted, but also the extent to which public trust, safety, and wellbeing are regarded as incentives to conduct the public participation process in the first place.

68 NATIONAL COUNCIL FOR LAW REPORTING and REPUBLIC OF KENYA. “THE DATA PROTECTION ACT, 2019.” Kenya Gazette Supplement, vol. No. 181, pp. 901–06, November 2019, kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/2019/TheDataProtectionAct__No24of2019.pdf.

Influence of the digital divide on citizen influence in digital governance

This study finds that, in relation to policies that have far-reaching impact, government ministries engage in public participation using a combination of channels, including grassroot engagement, the dissemination and announcement of public participation opportunities through social media and traditional media, including gazette and newspapers, as listed by respondents. However those avenues don't often facilitate engagement for people who are low-income, have low levels of literacy, and/or are situated in rural and remote areas.

As such, the digital divide—particularly the usage gap—affects the capacity of different marginalised groups to meaningfully participate in digital governance public participation efforts. Even with the state's efforts to expand internet connectivity and make digital devices more accessible, many citizens are still unable to access public participation channels, particularly social media. This usage gap, which is shaped by income, gender, location (rural/urban), literacy, and language, limits the amount of digital governance-relevant information that individuals in rural and remote areas are able to access, which, in turn, has resulted in low levels of digital governance participation from individuals in those regions. Furthermore, gendered barriers that fuel the digital divide, particularly the unequal distribution of reproductive and domestic labour, have also resulted in a situation where women in rural areas are less likely to be digitally literate, and therefore, unable to contribute to digital governance public participation exercises. One government official notes that, in some cases, women have been unavailable for physical public participation exercises hosted by his ministry due to their domestic workload.



Are you sure you want
to exit?

no

yes

Conclusion

Best practice approaches to inclusive digital governance prioritise a citizen-centric approach to digital governance. Here, rather than solely pursuing efficiency and alignment with global trends and patterns, inclusive digital governance prioritises an intersectional understanding of both the connectivity and usage gaps that could prevent citizens from accessing digital service delivery and other e-democracy initiatives. Furthermore, inclusive digital governance practitioners not only critically consider the civic threats and ethical issues that could prevent citizens from participating in shaping digital governance strategies, they also use technological pathways and harness data in order to both explicitly enable citizen participation in digital governance development and use citizens' lived realities, as documented through data, to guide how digital governance is strategised and implemented.

Through an analysis of Kenyan digital governance actors' perspectives, this research finds that, while all actors understand the necessity of an inclusive approach to digital governance, fractured definitions of inclusive digital governance and, in turn, dissonant implementation priorities and coordination limit the extent to which inclusive digital governance efforts can be successfully implemented. It also finds that, while actors agree that gender data and data more broadly are crucial for implementing a more citizen-centric, evidence-informed digital governance, in practice meaningful gender data that describes the particularities of marginalised people's experiences is not collected and processed. While there are limited existing examples of AI use in government administration and service delivery, almost all respondents to this study mentioned that they knew of the ongoing efforts to develop a comprehensive AI National Strategy which is meant to articulate a clear vision and roadmap for AI adoption and governance in Kenya. However, there is a dearth of public participation in this process, an element that is very crucial for ensuring that AI and other digital systems are designed and deployed in a manner that benefits all segments of society and promotes equitable outcomes for all. Lastly, as several interviewees confirm, the lack of public participation in AI strategy development is indicative of broader trends of citizen participation in digital governance decision-making. Here, the general public, particularly marginalised groups, are rarely consulted intentionally, and more so, there are no mechanisms to ensure that their feedback shapes eventual policies.

Ultimately, the study uniquely explores the gap between vision and implementation of Kenya's digital governance—a gap that is undergirded by dissonance in priorities between government entities and between government and civil society; dissonance between the theory of evidence-based decision-making and data collection and processing to shape decision-making; dissonance between mandate and the actual coordination of digital governance between line ministries. It finds that in order for digital governance to be both citizen-informed and evidence-based, it is necessary for coordination guidelines and digital governance administrative frameworks to be articulated harmoniously at a government-wide level. Without this, even entity-based attempts to deliver a digital governance that takes into consideration citizen needs and perspectives lead to limited, incoherent outcomes.

