DIGITAL IDS ROOTED IN JUSTICE:

lived experiences and civil society advocacy towards better systems

CONTENTS

EXECUTIVE SUMMARY

Digital ID systems across the globe act as de facto gatekeepers for marginalised communities, at times making it difficult for citizens to realise their rights. Most of these systems are developed and implemented without civil society consultation, and without any meaningful involvement by the communities they most affect. This severely compromises the systems' ability to serve these populations properly.

With that in mind, this research looks at how organised civil society actors are seeking to shape the design, implementation, and oversight of digital ID systems so as to eliminate harms to vulnerable populations. We analyse experiences derived from existing digital ID advocacy strategies in four case study countries – Indonesia, Jamaica, Pakistan, and Uganda – with the goal of understanding how better systems, grounded in justice, might be achieved.

THIS REPORT'S KEY INSIGHTS INCLUDE THE FOLLOWING:

▶ What a **justice-based system** looks like differs across contexts. Marginalised communities will experience digital ID systems differently, depending on the context they're within. As such, any advocacy campaign focused on justice must first **identify what justice means in its specific context and, crucially, for whom.**

▶ Many digital ID systems are shrouded in secrecy and in need of **myth-busting** for accurate advocacy to take place. Digital ID systems are complex and often lack transparency. We find that there are many inaccurate claims regarding what digital ID systems can and can't do, sometimes perpetuated by governments themselves. If civil society organisations are to **advocate successfully for changes to systems, they must first understand the existing systems.**

▶ Civil society is currently **driven to act reactively,** rather than proactively. Groups find themselves pushing for change within problematic proposals and systems, rather than being able to proactively advocate for a system that could meet the needs their communities actually face.

▶ Large international organisations are playing a **key role in instigating and shaping advocacy.** They can be of great assistance in helping local civil society organisations articulate concerns and organise their own activities. But it can be tricky to navigate contexts where they and local groups have different ideas. If the international organisations lack members with knowledge of the local context, or fail to include such individuals in their processes, they risk orienting their advocacy work towards targets that do not fit with local organisations' actual priorities.

▶ Engaging with digital ID systems' **technical specifications is often considered by grassroots organisations as being out of the scope** of digital ID advocacy. We observe relatively little advocacy by grassroots social justice organisations that focuses on the technical elements of digital ID; this fact is probably attributable to the prevailing lack of transparency, along with the relatively high degree of technical sophistication needed to understand the options available and the likely ramifications of such details.

Additionally, when looking specifically at our countries of focus, we identify several cross-cutting themes:

▶ One of the main challenges faced by civil society organisations is that of **advocacy sequencing.** Social justice actors often engage with the issue only after systems have already been rolled out. Organisations are consequently pushed into damage control mode, which leads them to prioritise **issues of access** rather than addressing systems' design features.

▶ As a result, we observe a lot of activity centred on **engaging with marginalised communities, raising awareness and providing other forms of support.** Moreover, many organisations **engage directly with implementers,** with the goal of facilitating marginalised groups' access to digital ID systems.

▶ **Collaboration between CSOs** is still nascent in most national contexts, but the successes such strategies have shown point to considerable future potential.

▶ **Litigation**, whether focused on specific aspects of a system or seeking to impede the overall implementation of a system, has been a valuable resource across all contexts researched.

We hope that the findings of this research will support civil society efforts to push for and participate in the crafting of identification systems that can in fact serve communities' goals and aspirations.

INTRODUCTION

Every day, millions of people around the world navigate complex digital identification systems in order to access essential government and humanitarian services, establish their legal identity, and access the protections and rights that ID entails. More often than not, such systems are developed and implemented without any participation or input from civil society or the communities most significantly affected by such programmes.

In 2020, The Engine Room published a global report on the lived experiences of marginalised communities with digital ID systems, focusing on Bangladesh, Ethiopia, Nigeria, Zimbabwe, and Thailand (The Engine Room, 2020). Through a combination of participatory, locally led research, and a focus on the experiences of those whose perspective is often ignored, we highlighted the ways in which those with the least power are subjected to and interact with schemes that affect their ability to exercise their rights.

Building on this previous research, we turn our focus in this report to how organised civil society is interacting with these systems, and how these various actors are seeking to shape the design, implementation, and oversight of digital ID schemes. Looking at the cases of Indonesia, Jamaica, Pakistan, and Uganda, we aim to produce evidence on the success and failure of existing advocacy strategies around digital ID systems in these countries. In doing so, we hope to identify lessons learned that will be useful to other civil society actors across the globe who face the same challenges.

In addition, we aim to further expand knowledge about people's real-world experiences with digital ID systems, a topic that has become especially important in light of the Covid-19 pandemic. The pandemic has sped up discussions around the digitisation of services and consequently sped up the rollout of digital ID systems as well. During the past 18 months, many governments have implemented digitised schemes hastily; this movement has often happened with little to no oversight, and in non-transparent and unaccountable ways (COVID-19 and Digital Rights, n.d.).

In the past year, we have also seen worst-case scenarios of biometric-based digital ID schemes become reality, with potentially devastating consequences for entire populations. In Afghanistan, the Taliban took charge of biometric databases left behind by the US forces, possibly endangering thousands of people who worked with the US during the 20-year occupation (Guo and Nori, 2021). In Bangladesh, biometric data collected by UNHCR from Rohingya refugees was shared with the Myanmar government – that is, those responsible for their genocide and displacement in the first place (Rahman, 2021).

Our current reality highlights the urgent need for civil society to advocate meaningfully and effectively for digital ID systems that meet the needs of the most marginalised.

Our case studies were chosen with the goal of having sufficient variety with regard to geography, the age of digital ID systems (both in terms of development and implementation), and the level of civil society advocacy in relation to the system. Our aim was to gain a cross-cutting understanding of advocacy around the issue of digital ID as it appears in different forms around the world, while also highlighting lessons learned.

These four countries are each at critical junctures in the development and implementation of digital ID systems – whether this be a moment of increased public attention on the issue or the aftermath of a recent success by civil society advocates.

THIS REPORT IS DIVIDED INTO FOUR SECTIONS:

▶ Section one provides context for our research. It addresses the importance of civil society advocacy work, describes our own standpoint and understanding of justice, and outlines the key insights from this work.

▶ Section two offers an overview of the current civil society advocacy landscape in relation to digital ID systems.

▶ Section three covers our main research findings, based on in-country research.

▶ Section four offers our conclusions, and includes recommendations based on our findings.

I. CONTEXT FOR THIS RESEARCH

I.I WHY CIVIL SOCIETY ADVOCACY ON DIGITAL ID MATTERS

INCREASED UPTAKE OF DIGITAL ID SYSTEMS

The idea of digital identity systems has long been attractive to governments wishing to streamline the process of identity verification. Prompted in large part by the United Nations' Sustainable Development Goal (16.9) to "provide legal identity for all, including birth registration" (SDG Indicators, n.d.) by the year 2030, there has been a surge in the number of digital identity schemes being piloted and implemented across the globe. By some estimates, the identity verification market is forecast to more than double from $7.6 billion in 2020 to $15.8 billion in 2025 (Burt, 2020).

In the past five years alone, new national electronic identity (eID) programmes (including card and mobile-phone-based schemes) have been introduced in Cameroon, India, Kenya, Ecuador, Jordan, Kyrgyzstan, Iran, Senegal, Thailand, Pakistan, Turkey, the Philippines, and Jamaica, amongst other countries. Some of these programmes also include a biometric component, for instance by collecting iris scans or fingerprints ("Digital identity trends – 5 forces that are shaping 2021", 2020). Other countries are in the process of inking deals, or are already piloting national identity programmes. Thus, it is likely that the list of countries with digital identification systems will continue to grow.

This trend is especially visible in the global South,[1] where digital ID systems are being advanced by the international community – including powerful international financial institutions like the World Bank – as a cure-all for many of the challenges faced by developing countries. In particular, digital ID systems are seen as a solution to "corruption, inefficient service delivery, high costs of doing business, and security threats" (Pallavi & Khan, 2019, p.3) — an argument that makes problematic assumptions about the ability of technological solutions to influence deeply rooted social and economic practices.

IMPACT OF COVID-19

The pandemic has had multiple effects on the push for digital ID systems; first, by diverting civil society attention away from these systems and instead towards more immediate needs, and second, by strengthening the push for digitised systems given the reduction of in-person interaction. Additionally, with perceptions of necessity and security shifting, digital ID systems have been promoted as a potential answer to the challenges countries will face as they emerge from the pandemic.

The pandemic has also given governments cover to override opposition to digital identification systems. In March 2020, the Tunisian government revived a proposal for the introduction of a biometric ID card, although previous advocacy work had helped defeat a similar legislative bill in 2018. This time taking the

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1 A broad term to refer to low- and middle-income countries, commonly referred to as "developing countries", located in Latin America and the Caribbean, Africa, Asia, and Oceania. We use it in part to acknowledge political economy matters and realities that are related – but not limited – to histories of colonisation, domination, exploitation, inequity, etc. The global North, then, refers to countries mainly located in North America and Europe, often referred to as "developed countries", themselves with histories as colonisers and dominant powers. We continue to reflect and invite conversation on the terms we use for various regions.

form of a governmental decree, the measure includes an e-passport, and envisions a system that will store information on identity, civil status, social security status, income, and tax status, amongst other data points, all retrievable using a single ID number (Sayadi & Tackett, 2020). Tunisia's former prime minister, Elias Al-Fakhfakh, identified the digital ID system as one of the key elements of the government's response to the pandemic (Sayadi & Tackett, 2020).

Tunisia exemplifies how governments have leveraged the pandemic to push towards digitisation as the answer to a myriad of challenges. As a part of this trend, digital ID has been touted for its ability to enable access to online services, while facilitating know-your-customer (e-KYC) verification tools. Many enthusiasts point to Estonia — the golden child of digitised government services — whose extensive e-service

functions allowed it to continue offering government services when many other countries were temporarily forced to shut down access to such programmes ("Covid-19 strengthens the case for digital ID cards", 2020).

Even where the push for large, national-scale digital identification systems has been more muted, digital ID systems are still being considered for the purposes of verification within specific sectors. In the United Kingdom, for example, National Health Service (NHS) staff have been asked to upload the information from NHS ID cards, provided by the company Yoti, to an app on their mobile phones, thus enabling them to use contactless ID to establish their identities both online and offline (Pascu, 2020).

CASE STUDY INSIGHT
Welfare, vaccination passports, and digital ID systems during the pandemic

In Uganda, Pakistan, and Indonesia, the provision of emergency pandemic relief was linked to registration within the national digital ID system. In Jamaica, the government cited the pandemic as one reason to accelerate implementation of a digital ID system, although this proposal was met with vociferous criticism (Bitzionis, 2020).

Linking such systems to the provision of relief has exacerbated inequalities and increased discrimination against those who are not registered within national ID systems. In Uganda, where a third of the population remains unregistered due to hurdles in obtaining the Ndaga Muntu biometric ID, the decision to link benefit payments to membership in the digital ID system has caused disproportionate suffering among the most vulnerable and marginalised communities (Hersey, 2021). For trans individuals in Indonesia who face significant barriers in accessing that country's digital ID system, the requirement that vaccine recipients have a digital ID card has meant that many trans individuals have been unable to get vaccinated (Advocates for Justice and Human Rights, 2021).

Vaccine passports[2] are now a particularly well-known example of a sector-specific use of digital ID. As vaccination processes advance, with class and nationality playing a strong role in determining who has access to the vaccines, calls to reopen countries to travel have steadily increased. Many such discussions have focused on the creation of a vaccine/health passport or digital immunity certificate. This is a digital document that confirms the holder is vaccinated, has recovered from Covid-19, or has tested negative prior to travelling. It is worth noting that with the current state of sharply unequal access to vaccination between low and high income countries, which social justice actors have called a vaccine apartheid (Dearden, 2021), this means a de facto restriction on movement for people living in large swaths of the world.

The digital ID industry is nonetheless advancing its products and technology for use in this context (Venkataramakrishnan, 2020) — and it is not alone: the travel industry, airports, governments, and think-tanks are also encouraging the introduction of immunity passports (Privacy International, 2020). These ideas are not abstract, as airlines such as British Airways and American Airlines have already begun trialling verification tools (Burt, 2021), and the European Union recently signed a regulation on the use of EU vaccine passports for travel ("EU Presidents Officially Sign Regulation on EU Vaccine Passports for Travel", 2021). In Pakistan, vaccination certificates have been made mandatory in different regions for domestic air travel ("Vaccination certificate mandatory for domestic air travel: NCOC", 2021), intercity public transport ("Vaccination certificate made mandatory for using public transport in Sindh", 2021), and access to fuel (Shahid, 2021).

HOW DOES CIVIL SOCIETY FIT INTO THIS PICTURE?

During the pandemic, social justice organisations have come up against the sharp edge of harms and challenges related to data and digital rights (DDR), including barriers to access (e.g. of services), security threats and discrimination. Though not all of these challenges are specifically related to digital ID, the increased exposure to digital rights concerns has meant that many organisations have witnessed first-hand the ways that DDR intersect with their social justice missions and the communities they serve – in potentially harmful ways.

As governments increasingly embrace digital identification systems, and even attempt to accelerate their implementation, there is a serious risk that they will deploy systems that have been subject to only minimal oversight. The digital ID systems implemented during this period are likely to remain in place even after the pandemic has passed, with long-term consequences. As a result, it is becoming increasingly crucial to understand how civil society organisations have engaged in advocacy on digital ID issues in the past, and how their capacity to engage meaningfully on this issue can be strengthened. The stakes are high; by acting effectively, they may be able to halt or moderate the implementation of systems that would otherwise infringe on the rights of millions, if not billions, of people around the world.

1.2 OUR UNDERSTANDING OF JUSTICE

Following The Engine Room's previous work on the lived experiences of marginalised communities

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2 When discussing vaccine passports, we are referring to what the Ada Lovelace Institute describes as tools with "the common properties of linking health status (vaccine status and/or test results) with verification of identity, for the purpose of determining permissions, rights, or freedoms (such as access to travel, leisure, or work). The vaccine passports under debate primarily take a digital form" (Ada Lovelace Institute, 2021).

across the globe with digital ID schemes (The Engine Room, 2020), this research focuses on the experiences of organised civil society groups that have sought to address the fundamental challenges posed by these systems, especially in regard to their impact on marginalised communities.

We begin our analysis by considering what a justice-oriented system might look like — that is, a system that has social justice as its orienting principle. Class, racial and ethnic identity, gender, sexuality, nationality, and other social markers impact the way individuals and communities experience life, the way they are made visible or invisible by overarching power structures, and whether they are able to realise their rights. Social justice is concerned with issues of distribution of wealth and the recognition of diverse identities as politically and socially equal. This requires "social arrangements that permit all (adult) members of society to interact with one another as peers" (Fraser, 2001). By introducing and advancing a social justice perspective, we are thus concerned with imagining and achieving "just, equitable, and liveable futures" (D'Ignazio & Klein, 2020, p.6).

As we are dealing with a system which effectively entangles themes of identity, citizenship, political participation and belonging with tech and data, justice needs to be thought through a lens that considers the impact of the technical aspects of digital ID schemes. Linnet Taylor's data justice framework is useful in this regard; in imagining what a justice-based system might look like, it proposes the fundamental pillars of visibility (referring both to access to representation

This has also meant that the character of communities' ongoing interactions with digital ID systems are just as (if not more) important than the often-cited statistics relating to enrolment rates or the possession of digital ID cards.

and the right to informational privacy), digital (dis) engagement, and the ability to counter data-driven discrimination (Taylor, 2017).

We also draw from the Design Justice Network Principles, a set of propositions developed with the goal of rethinking design processes so that they centre people who are often marginalised by design (Read the Principles, 2018). Particularly pertinent for our purposes are Principle 2 – which calls for centring the voices of those who are directly impacted by the outcomes of the design process – and Principle 8, which places a high priority on sustainable, community-led, and community-controlled outcomes (Read the Principles, 2018).

Taking these influences as our starting point, what we found was that justice, in the context of digital ID systems, is in practice rarely an endpoint or outcome; rather, it is more about ongoing processes of meaningful inclusion, dialogue, and collaborative decision-making with civil society. Many of the issues identified by civil society groups working in this area as being most pressing fall under the general categories of exclusion and lack of access (see more in section 3), and arguably create barriers preventing marginalised communities from being treated justly. Many of these issues could have been addressed in the planning process for new digital ID schemes if civil society groups had been consulted and included in the first place, and if their perspectives had meaningfully shaped the systems' design and implementation from the beginning.

This has also meant that the character of communities' ongoing interactions with digital ID

systems are just as (if not more) important than the often-cited statistics relating to enrolment rates or the possession of digital ID cards. For example: are members of certain communities subject to violence when seeking to register? Are some people subject to discrimination in trying to access the system, or are people denied vital public services if they lack a digital ID card? Of course, these ongoing interactions are much harder to assess, and are impossible to quantify in quite the same way; this once again highlights the need to continually seek out and listen to qualitative information on communities' lived experiences with digital ID systems.

Understanding that a justice-oriented system will centre the needs and wants of marginalised communities, our research also prioritised groups that often lack a seat at the table when digital ID systems are discussed, even in civil society settings (specifically, we deliberately reached out to groups outside the digital rights space). Our motivation in doing so is the belief that better outcomes for these groups would mean improved outcomes for society as a whole. By focusing on the shortcomings of these systems, examining how diverse organised civil society actors are trying to address and advocate for better systems, and bringing previously unheard perspectives into the narrative, we hope to have an impact on future digital ID strategies, and help civil society improve such systems for all communities.

1.3 KEY INSIGHTS

1. What a justice-based system looks like differs across contexts

Justice can mean different things in different contexts. For example, it may mean granting access to a digital ID system, may mean that aspects of a system's design take a certain form, or may even require that a digital ID system be eliminated or prevented from coming into use. As sociotechnical systems, digital ID systems are experienced differently by people depending on their position in society, their identities, and their access to power and resources. Ultimately, this contextual difference affects how people in marginalised communities experience digital ID systems and what they see as a justice-based system.

This means that any advocacy campaign focused on justice must first identify what justice means in its specific context, and, crucially, for whom. Many of the digital rights advocates we spoke to indicated that their advocacy is directed primarily towards blocking or abolishing digital ID systems. However, for social justice actors outside of the digital rights space, advocacy targets were more pragmatically focused on shaping existing systems to allow for access by excluded communities. These fundamental differences in desired outcomes can present a potential barrier to collaboration between distinct communities or movements.

Additionally, this implies that justice-oriented systems will look different in different localities, and that the targets or standards of success for advocacy work will differ across geographic regions. This potentially makes it harder for groups to share materials, and complicates international or regional advocacy

efforts, although there are likely some shared advocacy targets that different groups with a social justice orientation can agree upon (for example, the exclusion of facial recognition technology from any digital ID system).

2. Many digital ID systems are shrouded in secrecy, and in need of myth-busting for accurate advocacy to take place

Digital ID systems are incredibly complex and often lack transparency in their design and implementation; moments for complexity and opacity include the tendering of contracts, the design of the systems, the integration of myriad technical elements, the process of database management and data storage, the associated campaigns of public outreach and communications, the efforts to ensure interoperability with other systems, and more. Our research also found that there are many inaccurate claims regarding what digital ID systems can and can't do, sometimes perpetuated by governments themselves. If civil society organisations are to advocate successfully for changes to systems, they must first understand the existing systems.

This complicates advocacy efforts, particularly for newcomers to the topic. For example, it is often difficult to identify the institutional or political level at which advocacy is most likely to be helpful, or what goals are most urgent – or even what specific aspects of a digital ID system need to change in order to have the desired end effect. Moreover, it is difficult to direct advocacy work at somewhat invisible stakeholders (eg developers and implementers divorced from civil society realities), or to know where and how to obtain information on private sector involvement.

International actors that have pushed for and funded digital ID systems have not prioritised issues of accountability in the past, thus further complicating the task of local advocates focused on this issue.

All of this highlights the need for accurate and trusted sources of information on the systems in the first place. Access-to-information regulations, which often require the disclosure of contract details, are a vital tool here. This, then, underscores the importance of involving people with diverse sets of expertise who will be able to decode that information – from technical experts who understand the intricacies of database design and technical functionalities offered by a system, to community members who will understand the impact of such systems on their communities, and lawyers who can highlight any problematic contract clauses.

3. Civil society is currently driven to act reactively, rather than proactively

The rush towards and push for digital ID systems has placed civil society organisations in the position of opposing hastily implemented proposals and schemes, often while feeling that they have too few resources and too little relevant information to carry out such a task successfully. But as facilitator and writer adrienne maree brown notes, "we are in an imagination battle" (Brown, 2017) – and with the contours of digital ID systems so seemingly fixed, civil society is often put in the position of advocating against a system in a reactive rather than proactive way. Groups are forced to push for change while faced with problematic proposals and systems, rather than being able to advocate for a system that could meet the very real needs that their communities actually

face. In fact, some form of identification system could likely address some real problems faced by historically excluded communities. But as long as civil society's attention is focused on highlighting the shortcomings and problems of the current systems, organisations are distracted from imagining what these systems could be if designed using a justice-based approach.

In such contexts, and given the foundational importance and impact of digital ID systems on people's livelihoods – influencing access to food, water, shelter, and other key services – it is difficult to encourage people to consider the relatively intangible technical aspects of such systems, such as longer-term privacy impacts.

4. Large international organisations are playing a key role in instigating and shaping advocacy. But this can be tricky to navigate when they and local groups have different ideas

In our research, we found that large international organisations are currently playing a key role in shaping advocacy around digital ID systems. They are amassing and providing resources and technical knowledge, and are able to attract attention in a way that can raise public awareness around these issues and galvanise advocacy campaigns. They can be of great assistance in helping local civil society organisations articulate concerns and organise their own activities.

However, if international groups of this kind lack members with knowledge of the local context, or fail to include such individuals in their strategy-development processes, they risk orienting their

advocacy work towards targets that do not fit with local organisations' actual priorities.

5. Digital ID systems' technical specifications are often considered by grassroots organisations as being out of the scope of digital ID advocacy

Many key decisions about digital ID systems are made at a technical level – for example, regarding how biometric data is to be stored (eg as a template or using a full image),[3] or in choosing what system will be used in collaboration with which private sector partner. However, given the prevailing lack of transparency, and the relatively high degree of technical sophistication needed to understand the available options and likely ramifications of such details, we identified relatively little advocacy by grassroots social justice organisations focusing on these technical elements. In this sense, technical specifications are mostly considered by digital rights groups, with less activity in this area by other civil society actors.

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3 Biometric data, once collected, can be stored as a full integral image (eg a picture or fingerprint image) or as a numeric template that is a string of numbers representing the biometric data point collected. For more on the particularities of biometric collection in contexts permeated by power imbalances see: https://blogs.icrc.org/law-and-policy/2021/09/02/biometrics-humanitarian-delicate-balance/.

2. CURRENT STATE OF ADVOCACY

Advocacy on digital ID issues is often fragmented and haphazard even within individual countries, with organisations employing a wide range of strategies motivated by different goals. There is also great variation within regions — for instance, advocacy in India is more cohesive and developed than the more nascent work being done in Pakistan. Such differences speak to the diversity of contexts in which civil society organisations and digital ID systems each are operating. However, as organisations respond to the challenges specific to their own digital ID systems, we are seeing a growing awareness of the need for more sustained advocacy.

In the past, governments have done little to engage CSOs in a proactive way when conceiving or developing digital ID systems. Consequently, such organisations often enter the process "too late to influence structural changes in the design of these projects" (Kak et al., 2020, p.11). This is not to say that CSO advocacy has been without success — in Tunisia, Jamaica, Mauritius, and Kenya, for example, CSOs have been effective in pushing back against digital ID systems. However, in many other countries, organised opposition to digital ID systems has been minimal. Where there are efforts to engage the public and government in dialogue over such systems, advocacy is often undertaken by a small handful of dedicated organisations.[4]

In our research, we observed three key themes and trends within civil society advocacy: the use of litigation as a primary means of confronting digital ID systems, a division between advocacy efforts respectively focused on access and system features, and a schism between international and local advocacy.

2.1 LITIGATION

Litigation-based advocacy has proven to be a particularly successful means of instigating change. Court cases have forced governments to reconsider the design of their systems, or to suspend attempts to implement systems altogether. Legal arguments based on the issue of proportionality have been the most common strategy in this regard, with litigants arguing that a given digital ID system's infringement on the right to privacy is disproportionate, or unnecessary, for the system's functioning and benefits (Privacy International, 2020, p.36).

We found this approach to be more common in the global North than in the global South. CSOs in richer countries typically have greater access than their counterparts elsewhere to the financial resources needed to initiate court proceedings, and can often rely upon a more robust legal precedent.

However, there are some limitations to this approach; for example, litigation is expensive and can take considerable time. If a lawsuit takes months or even years to run its course, it can be difficult for advocates to sustain public attention and pressure. Moreover, although litigation has in some cases been clearly successful in limiting or halting the implementation of digital ID systems, some activists who have participated in litigation efforts say that once legal decisions have been rendered, this can

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[4] From interview with representative of digital rights CSO.

be a somewhat constraining approach; a successful lawsuit can easily feel like a destination, they say, as opposed to one step in a larger advocacy journey. [5]

In the global North, civil society organisations have been both active and successful in using the legal system to delay or prevent digital ID systems from being implemented. In the United Kingdom, Canada, and Australia, civil society groups have intervened

before digital ID systems could be implemented. In the global South, by contrast, there have been fewer legal efforts, and results have been more mixed. However, four notable and much-discussed legal cases have come to be seen as landmark efforts in this area, targeting respectively Aadhaar in India, Huduma Namba in Kenya, the digital ID system in Mauritius, and the National Identification System (NIDS) in Jamaica (see section 3).

INDIA'S AADHAAR[6]

India's Aadhaar is the world's largest identification system, containing personal information on more than 1.2 billion individuals, along with their 12-digit unique identification codes and a host of biometric information. Since 2012, 30 petitions have been submitted challenging various aspects of Aadhaar, from its constitutionality to its mandatory nature and its infringement on the right to privacy (Bhuyan, n.d.; "Right to Privacy a Fundamental Right, Says Supreme Court in Unanimous Verdict", n.d.).

Two court cases have produced what are considered to be seminal decisions on Aadhaar's status. The first was in 2017, when the Indian supreme court ruled that the right to privacy was a fundamental right — a decision many activists anticipated would mean that use of Aadhaar would at least have to be paused ("Supreme Court affirms the Right to Privacy as a fundamental right", 2017). However, their hopes were dashed when, rather than axing the system outright, the court instead outlined uses of Aadhaar that would be acceptable under its conception of protected rights ("SC extending Aadhaar linking deadline indefinitely for only banking, mobile leaves most vulnerable with no protection for privacy or basic rights to welfare", 2018).

A year later, in 2018, the supreme court ruled that Aadhaar was constitutional, and that the government could continue using it to facilitate the distribution of subsidies and benefits. This ruling struck a blow to activists and campaigners who had long argued that Aadhaar's passage as part of a "money bill" that could not be amended or rejected by India's upper legislative house was impermissible ("Initial analysis of Indian Supreme Court decision on Aadhaar", 2018). However, the court also ruled that benefit recipients could not be denied access to government benefits if their ID verification failed, and that private entities could not require Aadhaar-based verification for access to their services. For many in India's civil society, this verdict was deeply disappointing (Safi, 2018). Though

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[5] From participants of community call. See more in Annex A: Methodology.

[6] The case of Aadhaar has been extensively documented and researched. For more on this topic, see https://rethinkaadhaar.in/ and Singh Sawhney et al., 2021.

Prime Minister Narenda Modi's government did subsequently introduce a bill in Parliament to bring the Aadhaar system into compliance with the court's ruling, this new bill has been critiqued as a continuation of previous rights violations, and as a contravention of the court's dictates regarding the appropriate uses of Aadhaar by private companies ("Why Modi Government Is Amending the Aadhaar Act and What It Means for You", 2019).

Despite these challenges, civil society has pressed on, filing petitions against the 2018 ruling that are now under review by a five-judge bench of the supreme court (Rajagopal, 2021).

KENYA'S HUDUMA NAMBA

Kenya's digital ID system, the biometric National Integrated Identity Management Scheme (NIIMS), or Huduma Namba, was first introduced in 2018. Kenyan authorities intended for the Huduma Card associated with this system to be the official government-issued document used in accessing government services such as voting, getting married, paying taxes, and selling land. Most importantly, the government made Kenyan citizenship reliant upon having a Huduma Card. In its first iteration, the Huduma Namba system was intended to collect DNA data and registrants' GPS locations (Dahir, 2020). Almost immediately after the system was introduced, Kenya's lively civil society sprung into action, filing legal challenges to the programme.

Three petitions filed by the Nubian Rights Forum (NRF), the Kenya National Commission on Human Rights (KNCHR), and the Kenya Human Rights Commission (KHRC) were consolidated and brought before the Kenyan high court. Along with seven other interested parties (the Law Society of Kenya, InformAction, HakiCentre, Muslims for Human Rights, Article 19 East Africa, and the Inuka Trust), the NRF, KNCHR, and KHRC noted several key concerns, including the system's violation of the right to privacy, the lack of public consultation in its development, the inadequate protection afforded to sensitive data, the compulsory nature of the registration system, the exclusion of vulnerable and historically marginalised groups such as the Nubian community ("Kenyan Court Puts Hold on Digital Identity Scheme", 2020), and the problematic nature of the links between the Huduma Namba system and welfare services (Mahmoud, 2019).

These same organisations played a critical role in advocacy around the court case, informing affected communities and engaging the wider public (Foxglove, 2020). The NRF worked on a local level to mobilise communities, focusing on the Nubian community and raising awareness about the ways in which Huduma Namba was playing a gatekeeping role in access to state services (Mahmoud, 2019). As part of these efforts, the NRF provided grassroots legal assistance, using community-based paralegals to track the application process for Nubian individuals. This allowed the NRF to collate data and identify instances of mistreatment (Goodwin, n.d.).

In its eventual ruling, the high court suspended the system's implementation pending "an appropriate and comprehensive regulatory framework on the implementation of NIIMS" (Petition 56, 58 & 59 of 2019 (Consolidated)-

Kenya Law, 2020). The judges also ruled that the collection of DNA data and GPS information on the location of a person's home was unconstitutional, and noted the likely and potentially devastating risks of being excluded from the system (Kenya Human Rights Commission, 2020). Following the judgment, the Kenyan government put together two sets of draft regulations — the Registration of Persons (National Integrated Information System) Regulations and the Data Protection (Civil Registration) Regulations Act — which were then presented to the public. However, the NRF, KHRC, and KNCHR have expressed disappointment over the government's response to the case, stating that the government has yet to deliver on its promises to be more inclusive and allow for active public participation (Macdonald, 2021).

MAURITIUS' DIGITAL ID SYSTEM

Mauritius introduced its ID system in 2013 (Republic of Mauritius, 2013). The system's smart ID cards include an electronic chip used to store biometric information. The cards, advanced as a way to "increase security and improve public services" as well as to combat fraud (Vrankulj, 2013), were to be issued to all Mauritians over the age of 18. The system was designed and implemented with the assistance of the Singapore Cooperation Enterprise, an entity controlled by the government of Singapore; Singaporean firm Singapore Immigration Checkpoints Authority was awarded the development contract (Vrankulj, 2013).

The Mauritius case differs from India and Kenya in that civil society organisations were relatively uninvolved. Instead, the case was filed by an individual who refused to apply for the eID card, questioning the constitutionality of the government's plan to collect and store fingerprints as a part of the ID card system (Hersey, 2021).

In Madhewoo v. The State of Mauritius, the Mauritian supreme court upheld the constitutionality of the digital ID system, along with the collection of fingerprint data, but rejected the use of a centralised database for the storage of this data (Madhewoo (Appellant) v The State of Mauritius and another (Respondents) (Mauritius), 2016, pp. 28, 34). Despite agreeing that the compulsory collection of fingerprint data violates the individual right to privacy, the judges argued that this was acceptable in the interest of public order. Unlike the Indian and Kenyan judgments, which focused on a broad range of arguments relating to exclusion, the Mauritian judgment focused almost exclusively on right-to-privacy concerns (Privacy International, 2020, p. 9).

In 2021, Madhewoo took the issue to the United Nations Human Rights Committee, filing a complaint under the International Covenant on Civil and Political Rights (Hersey, 2021). As the Mauritian government failed to provide information on measures used to protect the biometric data stored on the smart ID cards, the Committee found that Madhewoo's privacy had been violated, calling on Mauritius to "review the grounds for storing and retaining fingerprint data on identity cards based on the existing data security concern" and to provide Madhewoo with "an effective remedy" (Hersey, 2021).

2.2 ADVOCATING FOR ACCESS VS ADVOCATING ON SYSTEM'S FEATURES

Our research found that advocacy around digital ID is often divided by different — and at times clashing — concerns relating respectively to system access and system features. Advocacy around access frequently centres on the manner in which digital ID systems amplify existing forms of marginalisation, while also creating new kinds of discrimination. Campaigning that focuses on the technical aspects and design features of digital ID systems, on the other hand, typically draws on traditional digital rights concerns in areas such as privacy, surveillance, and data security, and tends to mobilise digital rights groups.

At times there is tension between these two approaches. For example, especially in contexts where digital ID systems have already been implemented, issues of access are often seen as more relevant to people's direct experience, with the harms visible in everyday life. In such contexts, it is difficult to ask people to consider the relatively intangible technical aspects of a scheme when their livelihoods depend on access to the system.

2.2.1 ADVOCACY TARGET: ACCESS TO DIGITAL ID SYSTEMS

Key actors: Social justice, issues-based, community, and human-rights-based groups

Our research revealed a number of successes by civil society groups advocating on diverse issues which fall broadly speaking into the category of access to or access granted by digital ID systems.

For example, organisations and activists concerned with democracy and women's rights have both advocated for change in digital ID systems. In Pakistan, for instance, democracy campaigners have sought to expand access to biometric voter ID cards on the grounds that citizens must possess a National Database and Registration Authority (NADRA) card in order to vote. Further, discriminatory policies built into the system — such as the provision that grants women access to a NADRA card and its associated services only upon provision of male relatives' identification documents — limits women's ability to be independent. These policies brought the issue of digital ID to the agenda of women's rights advocates as well as to the transgender and khawaja sira[7] community. Similarly, in Afghanistan, women have successfully fought to have mothers' names included on their children's ID cards ("Afghan Mothers' Names to Be Included on Children's ID Cards", 2020) — a change that will enable women, especially those who are widowed, divorced, or separated from their partners, to access education and healthcare on behalf of their children (Barr, 2020).

Though many of these campaigns have been about transposing existing rights campaigns onto the issue of digital ID, it is clear that there is potential for a more integrated civil society approach to advocacy in this area.

7 The preferred terminology used for gender identities that deviate from the hetero and cisnormative binary is deeply contested in Pakistan. Given the legacy of colonialism in the country, many of the terminologies used globally do not map onto local manifestations of gender and sexuality, and are seen as "Western" rather than being of indigenous origin. "Khawaja sira" is an overarching umbrella term used in this report to capture these local gender-variant identities in a context-specific manner.

2.2.2 ADVOCACY TARGET: DIGITAL ID SYSTEM FEATURES

Key actors: data and digital rights groups, technologists, security experts

Advocacy focused on digital ID systems' design and features is usually prioritised by digital rights groups and is mostly policy-driven in nature. This work is aimed at shaping conversation and offering advice on how to create, regulate, and implement digital ID systems. It often offers broad-based recommendations for digital ID systems in the abstract, rather than proposing changes to specific identity systems. The goal is to persuade policymakers to incorporate such suggestions into their approaches to developing digital ID systems.

Some key recommendations that frequently come up in this regard include providing alternatives to e-ID systems; engaging in public consultation and outreach; using a process of intentional design, or privacy by design; creating a strong data-protection framework; and ensuring that clear legal rules keep the system's powers within defined limits (see more in Annex C).

2.3 LOCAL VS INTERNATIONAL ADVOCACY

We additionally observed a broad split between advocacy taking place at the country or regional level and advocacy conducted by international organisations. Of course, there are many nuances within each of these categories, but local advocates showed more overlap with one another than with international advocates, and vice versa.

One of the main differences between the two levels of advocacy is in the terminology employed to describe and critique systems. There was a wide range in the language used across regions and locales. Indeed, even the use of the term "digital ID" to describe systems was far from universal; in some places, "electronic identification" was more common, or the name of the system specifically used in that country, such as e-KTP, NADRA, Ndaga Muntu or CNIC, or Aadhaar. International advocates tend to group all these systems under the umbrella term of digital ID — something our project has also done — but local advocates do not always use this terminology, and instead prefer to write and think about the ID system they actually use themselves. This lack of a shared language to describe digital ID schemes had also surfaced in our previous research on lived experiences with these systems (The Engine Room, 2020).

Differences in such a fundamental aspect of the conversation can make it difficult to sync international conversations about digital ID with country-specific questions. Moreover, these contrasts can also affect the way concerns are framed. For example, digital rights groups dominate international debates over digital ID at both the local and international levels; such organisations often draw on language having to do with themes of privacy, transparency, and data security, and often use highly technical terms in their advocacy. The digital rights jargon used by international organisations can be alienating to those unfamiliar with it, or whose concerns lie elsewhere. By contrast, we found that local advocacy efforts tended to be driven by community-based or social justice organisations, often focusing on issues of system access, exclusion, and discrimination.

This imbalance in technical knowledge, terminology use, power, and funding has consequences for advocacy campaigns. Large international digital

rights organisations often have greater capacity and resources to set the agenda, while local organisations need to spend relatively more time and resources gaining familiarity with general data and digital rights concerns, and even the specifics of their own digital ID systems. The asymmetries between international and local organisations in turn limit opportunities for meaningful and equitable collaboration in civil society advocacy, and make it harder for local concerns to be surfaced.

Local advocacy and reporting tends to focus on domestic issues, emphasising individual stories of harm in order to illustrate the dangers of being unable to access a digital ID system. Such advocacy and storytelling is naturally restricted in geographic scope, but is able to go deeper in its depiction of the different ways in which access is important. In our research, local advocates in Uganda and Indonesia were often eager for the government to involve them in the registration process, arguing that they could help expand access for communities that had been excluded due to system design flaws. By contrast, international civil society work has been more focused on the technical intricacies of digital ID systems, and has thus typically taken the form of policy analysis and recommendations.

The fact that each type of group is appealing to a different audience plays a key role in these distinctions. The community information campaigns, sensitisation programmes, and local-level government lobbying efforts mounted by local organisations are generally focused inwards, seeking change in policies and systems that are close to home. For their part, large international organisations are often attempting to influence big multinational entities such as donors, technology developers, philanthropic organisations, and so on. To bridge this gap, some international organisations try to amplify work being done at the local level — an approach that Namati, Access Now, and Privacy International have all employed, for example. These organisations often act as conveners and help to fund work; but even in such instances, their concerns do not always match those identified as most pressing by the local groups.

As power brokers and gatekeepers, international nongovernmental organisations (INGOs) may define priorities for action and advocacy that do not resonate with grassroots actors (The Engine Room, 2020). In Jamaica, for example, where a civil society coalition was formed between Access Now and 12 other local and international organisations, participating groups were unable to reach consensus around the use of biometrics in the digital identification context (see section 3.1). In this case, the difficulty in reaching agreement between groups that had previously highlighted the issues associated with biometrics (Access Now, 2018), while some of the local partners expressed more mixed opinions. Another case is that of Tunisia, where the implementation of a digital ID system was halted in 2018 due to civil society advocacy organised through an internationally supported coalition. However, the government made a new push to revive the system in 2021; as explained by an interviewee working in an INGO, local organisations that had previously supported civil society action against the digital ID system rollout this time resisted such an approach, indicating that their priorities had shifted.

3. IN-COUNTRY FINDINGS

For this research, we selected digital ID advocacy efforts in four countries — Indonesia, Jamaica, Pakistan, and Uganda — to serve as illustrative case studies. Research in each was carried out by in-country researchers familiar with the national context. The cases were chosen with the goal of maximising variety in several respects: with regard to geography, the age of the local digital ID system (both in terms of development and implementation), and the political and institutional level at which civil society advocacy has been focused. We also hoped to illustrate both successes and shortcomings in this civil society work, as defined by local researchers.

For additional insight and more detailed description and analysis of these case studies, we recommend consulting the full case studies included in the annex.

3.1 INTRODUCTION TO THE CASE STUDIES

INDONESIA'S E-ID CARD
Indonesia's current digital ID system was first introduced in 2009 through the country's Population Administration Act, which established a single identification number for all citizens. Follow-up regulations created a framework for the digitisation of the system and the compulsory biometric data collection that defines the Kartu Tanda Penduduk Elektronik (e-ID card or e-KTP) as it is today. Initially, the entire regulatory framework for the e-ID system was created via executive order, and was therefore not

subject to legislative debate.[8] In 2016, the Population Administration Act was revised to include the e-ID program. The implementation of the system has been marred by procurement-related corruption scandals, with more than 80 public officials reportedly involved in an embezzlement scheme which ultimately stole over a third of the $440 million earmarked to fund the project ("Senior Indonesian politician sentenced to 15 years", 2018).

Registration for the e-ID card system is conducted by the General Directorate of Population and Civil Registration offices, also known as Dukcapil, an agency within the Ministry of Home Affairs. The process requires the collection of 31 points of personal data, including sensitive information such as gender, blood type, marital status, disability information, and religion. Biometric data (fingerprints and iris scan) is also collected. In addition to the e-ID card, the digital ID system as a whole also includes the Kartu Keluarga (family card), which collects and contains information related to household family members and relationship status. Both the individual e-ID and the family card are required in order to access many government services, and registration for the e-KTP requires presentation of a family card.

The data collected for the system is stored primarily in a centralised database maintained by the Ministry of Home Affairs. In 2020, 54 government agencies and more than 3,400 private actors were given some sort of access to e-KTP information, with different

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8 The e-ID card programme is based on Presidential Regulation No. 26 Year of 2009 on the Implementation of a National Identity Card based on the National Population Identification Number, which has been amended four times, as infra:
1. Presidential Regulation No. 35 Year of 2010;
2. Presidential Regulation No. 67 Year of 2011;
3. Presidential Regulation No. 126 Year of 2012; and
4. Presidential Regulation No. 112 Year of 2013.

levels of detail provided (from yes/no verifications to full access) according to the requesting institution's sector and functions.[9] In return, these bodies are required to share so-called feedback data with the Ministry of Home Affairs — that is, the personal information of people serviced by these institutions (eg driver's-licence numbers, national health insurance card numbers, taxpayer identification numbers, bank account status, vehicle registration plates, phone numbers, passport numbers). According to research participants from the government, the data collected from the private sector is used to support decision-making concerning social assistance programmes. However, due to the lack of transparency regarding the data-sharing agreements between these private and public entities and the Ministry of Home Affairs, it is impossible to know with certainty what the data collected is used for, and who has access to it.

Participants in our research flagged issues related to access, discrimination, and exclusion as major consequences of Indonesia's e-ID implementation. Groups including women, LGBTQI+ people, people with disabilities, and indigenous communities have been disproportionately affected by a lack of access. The e-ID cards are required to access government services and welfare programmes in the country; thus, a person who lacks a card is generally unable to access welfare benefits, healthcare, and other essential services. Moreover, representatives of local organisations also cited problems related to privacy and sexual harassment based on unauthorised access to personal data, as well as a lack of transparency and accountability mechanisms in the system.

JAMAICA'S NIDS

The Jamaican government introduced the National Identification and Registration Act (NIRA) in 2017, seeking to establish a comprehensive identification system known as the National Identification System (NIDS). The process was controversial, and the government was accused of rushing the NIDS legislation through parliament (Lee, 2017) and leaving little opportunity for consultation (Campbell, 2019). The government claimed that the need to secure loans worth $68 million from the Inter-American Development Bank contributed to the hastiness of the process (Miller, 2019). Nonetheless, many civil society organisations, as well as the main opposition party, were left frustrated by the lack of engagement.[10]

Despite such concerns, NIRA became law in December 2017, paving the way for the introduction of the national identity system. However, the law was swiftly challenged in the Jamaican supreme court, which ruled in 2019 that the National Identification System was unconstitutional, and that the collection of biometric data and mandatory enrolment was an infringement on Jamaicans' privacy rights ("NIDS Struck down in Landmark Ruling", n.d.). In their ruling, the presiding judges cited the dissenting opinion from the Aadhaar legal case in India, thus demonstrating the positive impact of strategic litigation and advocacy from other countries (Julian J Robinson (Claimant) and the Attorney General of Jamaica (Defendant), 2019).

After the ruling was issued, the government of Jamaica began the process anew in December 2020, creating a joint select committee of parliament tasked with taking submissions from members of the public.

[9] From focus group participant. See more in Annex B section 1.

[10] From interview with director of a social justice CSO. See more in Annex B, section 2.

Civil society groups, academics, and community representatives subsequently submitted information to this body. Though the committee produced a report in July 2021, critics note that it did not include many of the recommendations made by CSOs during the consultation process ("Jamaica's NIDS bill: there's still time to safeguard human rights", 2021).

Jamaican civil society groups' main concerns over NIDS revolve primarily around the issues of privacy — that is, the amount of data collected, the necessity of such collection, the safety of the data that is collected and stored, and the potential for the abuse and misuse of such data. It is worth noting that Data Protection Law had not passed in parliament when the first NIDS bill was rushed through, and though it has since been passed in anticipation of the new bill, it has not yet been enacted. Groups have also raised concern about the scope of system use and the possibility of state overreach and mission creep as other government and private entities seek access to NIDS. Issues of access and exclusion have also emerged, especially for minority groups such as Rastafarians and people with disabilities.

PAKISTAN'S NADRA

Pakistan's National Database and Registration Authority (NADRA) was created in 2000 with the goal of modernising the country's civil registration process. Its establishment led to the creation of the Citizen Database and the National Data Warehouse — the former containing extensive information about Pakistani citizens, and the latter housing information from an array of other public databases (NADRA Ordinance, 2000 – NADRA Pakistan, 2019). A Computerised National Identity Card (CNIC), containing a full set of fingerprints and a digital photograph, was issued to each registered citizen,

drawing upon information from the registration process.

A CNIC is required to navigate numerous public and private services, from applying for welfare benefits and voting to opening a bank account, getting a SIM card, paying utility bills, and accessing education and healthcare. This means that despite claims that registration is voluntary, the reality of the system makes registration de facto mandatory.

The pandemic brought to light gaps in registration and access. Vital government services such as receiving emergency relief (Zakaria, 2021), testing, and vaccination (Khurshid, 2021) were all made contingent upon having a CNIC, with potentially devastating impacts on people who weren't part of the system.

Civil society concerns centre on the key themes of access and safety. For women, trans and khawaja sira people, ethnic minorities, and people with disabilities, NADRA registration is often not a straightforward process. Women are reliant on men to access the system — for instance, if they lack a male relative, women often cannot register or make changes to their stored information. Single mothers, divorced women, and those residing in rural areas have been especially affected by this rule, and they and their children are at risk of being locked out of the system. Within the trans and khawaja sira community, transgender individuals face particular difficulties. Though they can self-identify as belonging to a third gender, known as "X", such individuals reported experiencing discrimination at government offices, where bureaucrats have denied service based on discriminatory attitudes.

Ethnic minorities also face issues of state inflexibility or oversimplification that result from the system being

unable to capture their lived realities. Members of the Hazara, Bengali, and Pashtun minorities, as well as Afghan refugees, described instances in which their applications had been blocked and state services had been denied to them. Interviewees and advocates described experiences in which identities had been purposefully miscaptured in order to dispossess minorities of land and carry out evictions, with the digital ID system used to single out the affected individuals for additional surveillance. For people with disabilities, the challenges sometimes start at home. Disability rights advocates told us about individuals with disabilities whose own families had denied them registration. Inaccessible government buildings that lack wheelchair ramps and other accessibility features additionally make it more difficult for these individuals to advocate for themselves independently or fill out forms at NADRA registration offices. In the face of such access issues, minority and vulnerable communities lose out repeatedly.

Issues of access are further compounded by safety and privacy concerns. Security issues stemming from the ageing, centralised, locally housed database leave the system vulnerable to attacks. Despite these issues, and despite the highly sensitive nature of the data stored within the digital ID system, Pakistan lacks sufficiently strong data-privacy laws. This means that citizens are exposed to the misuse and abuse of their information, with no legal recourse.

UGANDA'S NDAGA MUNTU

Uganda's national digital ID system, known as Ndaga Muntu, was formally introduced in 2015 through the country's National Registration of Persons Act. It consists of two main components: the National ID Number (NIN), which is used to uniquely identify each person in the ID database, and the National ID Card (NIC), which is the physical and most visible representation of the system. Before the introduction of the centralised database and ID card, Ugandans relied on an array of functional IDs to access services and verify their identity (eg driver's licence, voter's ID card, etc). While these older forms of ID continue to be used in some contexts, an NIC is required to access important and essential services such as healthcare and welfare support (Katelyn Cioffi (CHRGJ) et al., 2021). Registration in the digital system requires documentation such as a birth certificate or marriage licence. Biometric data including fingerprints and facial scans are collected.

The government's argument for introducing Ndaga Muntu was twofold. First, the new system was said to be a means of identifying "illegal residents" as part of a national security agenda; and second, the government said the system would enhance social inclusion by facilitating access to social services, largely by simplifying verification procedures.

The main entity responsible for the system's planning, implementation, and rollout was the National Identification and Registration Authority (NIRA), a government agency subordinate to the Ugandan Ministry of Internal Affairs. Six years into implementation, it is estimated that up to one-third of Uganda's adult population still lacks a national ID card (Katelyn Cioffi (CHRGJ) et al., 2021). This compromises many people's access to basic services such as healthcare and financial assistance.

The system is heavily centralised, as there are no NIRA regional offices. Registration takes place at desks in select districts located within local authorities' offices. This has a significant impact on system access, especially for rural populations, as they have to travel

long distances both to register and collect their ID card. The Covid-19 pandemic has increased these difficulties, as it has further limited people's ability to travel.

Chief among the complaints voiced by CSOs in our research was the lack of civil society participation and inclusion in the Ugandan government's planning and rollout of the digital ID system. Interviewees also cited a high level of distrust towards the system, with widespread fears that data will be mishandled. In addition, members of local organisations highlighted issues related to access and exclusion. For example, the requirement that citizens have a national ID card in order to access basic services such as healthcare and welfare benefits functions as a de facto barrier to marginalised communities, with disproportionate impact on people with disabilities and the elderly. Grassroots organisations also repeatedly flagged bureaucratic hurdles related to the heavily centralised registration process, with other procedural requirements (such as fees associated with the issue of a replacement card, or for amending incorrect information) being key points of contention.

3.2 CROSS-CUTTING THEMES

Our research into civil society advocacy on digital ID issues in these four countries identified a number of similar experiences, which can be broadly divided into the following themes:

- ▶ Advocacy sequencing
- ▶ Engagement with communities for awareness and support
- ▶ Engagement with implementers
- ▶ Collaboration between CSOs
- ▶ Use of strategic litigation

- ▶ Targeting specific aspects: Indonesia, Pakistan and Uganda
- ▶ Targeting overall system and implementation: Jamaica

3.2.1 ADVOCACY SEQUENCING

With the exception of Jamaica (see section 3.2.5), grassroots organisations' advocacy work on digital ID in the countries of focus occurred after these systems were implemented, as marginalised communities began grappling with issues brought about by the process and system.

This meant that the work done by these actors often took the form of damage control, as they attempted to mitigate harms already taking place. This led to several key strategies shared across locations, including campaigns to raise community awareness about the systems and their impact, and efforts to help people navigate complex registration processes in order to allow them to access essential services. Civil society groups operating in this way have sought both to engage directly with implementers, and where possible, to challenge them through litigation efforts – a pragmatic approach given the presence of real and ongoing harms.

When asked what justice in these systems would mean to them, respondents working in these contexts focused primarily on issues with implementation, citing existing and visible harms. For example, they noted that possessing a digital ID card is a requirement for accessing social welfare programmes and healthcare services in Uganda, and criticised the documentation requirements associated with registration in Indonesia.

This lived exclusion, brought about by digital ID

systems' role as a gatekeeper to essential services, was thus the key challenge addressed by many civil society organisations. In a very real sense, the reality of the current harms has even constrained advocates' abilities to imagine better alternative realities.

3.2.2 ENGAGEMENT WITH COMMUNITIES FOR AWARENESS AND SUPPORT

As previously noted, substantial issues related to access and exclusion were present in all of the countries we examined. As a result, much of the advocacy by grassroots organisations working with marginalised communities has focused on helping people access the digital ID systems in the first place. This support has largely taken two forms: first, a focus on raising community awareness about the systems' existence and implications, and explaining why it is important to register; and second, providing direct assistance to individuals during the registration process. Both functions have proved to be essential in mitigating the digital ID systems' harmful exclusionary effects; moreover, our focus group participants told us that the work has had real impact within the communities most in need of assistance. This type of advocacy also helps place a spotlight on marginalised groups' stories and experiences, thus providing further insights for advocacy, research, and documentation purposes.

In Uganda, our research found that most grassroots work was related to community support and engagement. Research participants said current CSO advocacy around the country's digital ID system was mainly directed towards the communities served and represented by those specific organisations, with activities centred on sensitisation, information sharing, and raising awareness about the importance of registering in order to access services. Multiple

interviewees said the radio was a vital tool in disseminating information about registration to marginalised groups, such as residents of rural communities and elderly people. For instance, organisations used the radio to appeal for information on how people have benefited from having the national ID or have faced challenges in obtaining it, and have also sought to raise awareness of how civil society groups could help overcome these hurdles.[11] In some cases, lost ID cards have been brought to radio stations, and the fact of their finding announced on air in order to allow owners to retrieve them, since the process of getting a replacement card is burdensome and costly.[12]

The radio has also been used as a storytelling tool. For instance, groups have used it to raise awareness of the challenges experienced by people when navigating the Ndaga Muntu system, and to build support for actions protesting the requirement that residents have a digital ID in order to get the Covid-19 vaccine (see section 3.2.5). This work was described as follows by a representative of a social justice CSO: "It is very impactful, especially when we have the victims themselves speaking to the issues. The beauty about the radio stations is that they are able to reach a very wide community, and when you use radio you make sure you are using English, but also the local language, [like] Luganda. So many people are able to listen, other than just restricting it to television and print media, many people do not get access to that."

In Indonesia, organisations serving and representing indigenous peoples and LGBTQI+ communities,

11 From interview with representative of youth rights CSO. See more in Annex B, section 4.

12 From focus group participant. See more in Annex B, section 4.

with a special focus on trans people, have provided direct support in navigating registration processes. For example, indigenous rights organisation MLKI offers support to community members as they register for the e-ID by providing religion statements, a requirement for enrolment, to individuals who do not belong to formalised indigenous organisations. MLKI is also engaged in capacity building, helping faith communities form their own official entities. This helps ensure that people can identify their religious status accurately when registering, and thus expands community members' access to the ID system. In the case of trans individuals, civil society organisations established a channel of communication and cooperation with the government in order to facilitate the registration process (see section 3.2.3).

In Jamaica, since the digital ID system has not yet been rolled out, campaigners have focused on raising awareness about the upcoming NIDS and its underlying problems, with the goal of galvanising public opposition to the system's implementation, and pushing the government to engage in dialogue with civil society. Most if not all of the various groups involved in advocacy on the issue have utilised social media posts, as well as articles and special interest columns in more traditional news outlets, to disseminate their views. As groups began to engage with the parliamentary joint committee formed to address the issue of NIDS, they also employed social media, radio talk shows, television programmes, and special church services to discuss and share their ideas. At the time of writing, in October 2021, the same mediums were being used by a range of individuals and groups to advocate for a system that respected citizens' rights, as debates on the new NIDS bill were still ongoing in parliament.

3.2.3 ENGAGEMENT WITH IMPLEMENTERS

In addition to the work done with communities, organisations have often sought to engage with implementers (ie governments) more directly, with the goal of advocating for system changes, and in some instances even seeking a role in the registration process. Such efforts have had varying degrees of success, particularly as authorities' willingness to include civil society organisations in the conversation in a meaningful way has varied.

In Indonesia, trans people often face difficulties in the process of registering for the e-ID, up to and including violence and harassment. To address this problem, some organisations advocating for LGBTQI+ rights in the country have opted to work with the government to secure better access to the system for transgender individuals. For example, the Arus Pelangi and Suara Kita organisations support registration efforts by collecting data from trans women who lack e-IDs and providing this information to the Dukcapil agency so that it can issue identity cards. By cooperating with the government in this way, the groups aim to guarantee trans people access to the system, while also shielding individuals from harassment and violence. According to Suara Kita, as many as 350 trans women attended a registration push held in June 2021 in the city of Tangerang, and will be issued ID cards as a result (Abdi, 2021).

In Uganda, organisation members said they would like to set up a similar arrangement, as they felt they would be better positioned than public officials to help their communities through the registration process. As noted by the representative of a women's rights CSO: "If the government does not have the capacity to decentralise to different districts, they could give

authority to specific CSOs to handle some of the aspects." To be sure, a relationship of this kind would bring challenges in itself, for instance in terms of privacy and data handling; however, it could also help to improve access for communities currently excluded from the system, as seen in Indonesia. However, the government's unwillingness to involve civil society in any aspect of the Ndaga Muntu programme as yet represents a significant barrier.

In Pakistan, any type of advocacy or attempted engagement with the government represents a significant risk to personal and community security, as organisations fear that they will become targets of repression. However, research participants described experiences of localised engagement with individual agency staffers, in which members of marginalised communities (eg transgender individuals) have advocated for their particular needs and helped sensitise staffers in the process.

In Jamaica, most advocacy efforts have been focused on the parliamentary joint select committee responsible for taking submissions from members of the public, which was established after NIDS' implementation was halted by the supreme court (see section 3.2.5).

3.2.4 COLLABORATION BETWEEN CSOS

Civil society organisations in our focus countries have engaged in a variety of different kinds of collaboration, at different levels. These efforts have at times been both facilitated and impeded by local conditions, and have met with varying degrees of success.

In Jamaica, the framework for collaboration between CSOs is more institutionalised than in any of our case-study countries. This is largely due to the fact that a civil society coalition comprising 13 national and international CSOs emerged following the release of the supreme court decision. Led by Jamaicans for Justice, SlashRoots Foundation, and National Integrity Action, the coalition is funded by Access Now and the Open Society Foundation.

This group has been largely responsible for representing the views of civil society before the parliamentary select committee. It is worth noting that the committee has faced a number of challenges in its work, finding it difficult to reach consensus on topics such as the collection of biometric information.[13] There is also a de facto coalition formed by religious (Christian) groups that hold similar views, which also made a joint presentation to the joint select committee.

In Indonesia, collaboration efforts are still small scale. A noteworthy example is that of disability rights organisation PSHK, which runs empowerment programmes with CSOs representing people with disabilities' communities across the country, supporting their policy advocacy work. According to a PSHK representative, work on the topic of digital ID is still very concentrated in Jakarta, the country's capital, while many communities in other regions lack access to knowledge and information on digital ID issues, and on the policy-making process more generally. Recognising that local knowledge is essential to amplifying the organised civil society agenda in the area of digital ID, PSHK works with grassroots actors to include them in the conversation.

13 From interview with director of digital rights CSO. See more in Annex B, section 2.

We also found examples of legal aid groups collaborating with LGBTQI+ organisations to support victims of data explotaiton and sexual harassment, in the context of loans given by fintech companies involving access to data from the country's digital ID system (see section 3.2.5). However, coordination and cross-theme collaboration between civil society organisations is on the whole rare in Indonesia.

In Uganda, collaboration between CSOs, while limited, has led to important advances. One such example is that of Unwanted Witness, a CSO focused on digital rights, and ISER, a CSO focused on social and economic rights, which collaborated on litigation against the requirement that residents have an ID card in order to access the Covid-19 vaccine. This petition was ultimately successful (see section 3.2.5). The two groups have also conducted research on the social and economic impact of the Ndaga Muntu programme in partnership with international actors.

In Pakistan, joint advocacy remains rare given the restrictive conditions for this type of work, and also due to the various groups' differing priorities.

3.2.5 USE OF STRATEGIC LITIGATION

Strategic litigation has been a method deployed in all contexts as a way to force governments to halt agendas and engage with civil society. Broadly speaking, the litigation efforts identified by this research can be divided into two categories: those targeting specific aspects of the system, as seen in Indonesia, Pakistan, and Uganda; and those targeting a system's overall rollout and implementation, as was the case in Jamaica.

TARGETING SPECIFIC ASPECTS: INDONESIA, PAKISTAN, AND UGANDA

In Indonesia, legal action has been used both to challenge aspects of the country's digital ID system and to address harmful impacts brought about by the way the e-KPT programme is organised. In terms of changes to the system itself, the prime example is that of indigenous rights CSO MLKI's legal petition for the inclusion of indigenous religions in the registration process, which ended with an amendment to the ID law in 2017 (Regus, 2018). Before this time, members of these communities, most of which profess faiths other than those of the majority groups (Muslims, Christians, and Hindus), were unable to register correctly in the system using their actual religion.

Litigation has also been used as a mechanism to address harms caused by flaws in the system, most notably with instances in which e-ID data has been exploited by third parties for the purposes of harassment and coercion. This issue has emerged as particularly relevant in the context of Indonesian fintech firms' peer-to-peer (p2p) lending. These institutions provide online loans that are more easily accessible than conventional credit for those without reliable income or assets, with women and LGBTQI+ people making up a significant portion of their clientele. LGBTQI+ rights and legal aid organisations have documented dozens of reports of sexual harassment by debt collectors based on access to private data derived from the e-ID system (Irfananda, 2020). In some instances, debt collectors have attempted to coerce victims by leveraging access to individuals' legal names, e-ID pictures, and debt status. Groups such as the Jakarta Legal Aid Organisation (LBHJ) and the APIK Legal Aid Organisation (LBH APIK) have represented victims in cases against these companies.

Similarly, in Pakistan, litigation has been used both to change aspects of the system and to support victims who have been harmed. In 2009, a supreme court ruling determined that trans individuals did not need to provide family members' documents in order to register for a CNIC (Ali, 2017). The supreme court also ruled that orphanages can themselves register the children in their care, which was not previously possible (Iqbal, 2014). In both cases, civil society pressure was crucial and for both groups concerned, this has been an important step towards gaining greater access to the NADRA system.

In our research, interviewees described instances in which the Pakistani government has arbitrarily cancelled the identity cards of activists and their families in response to their advocacy (for more on this topic, see section 3.2.6). Lawyers are now engaged in litigating individual cases, seeking to restore these CNICs.

In Uganda, litigation has just started to be used as a tool in advocacy, with a petition to the country's high court in March 2021 leading the government to drop the requirement that residents be registered in the Ndaga Muntu digital ID system in order to receive a Covid-19 vaccination.

TARGETING OVERALL SYSTEM AND IMPLEMENTATION: JAMAICA

Jamaica became a prime example of successful litigation in the global South after advocates managed to halt implementation of a digital ID system implementation. The aftermath has helped give civil society a broader role in discussions on the issue.

As outlined above, the country's implementation of its NIDS system was stopped after the law establishing the system was challenged in the country's supreme court by Julian Robinson, at that time the general secretary of the opposition People's National Party (PNP). The court sided with Robinson in 2019, finding that the NIDS system, as proposed, was unconstitutional. Moreover, it said, the system's mandatory collection of biometric data was impermissibly intrusive ("NIDS Struck down in Landmark Ruling", Loop Jamaica, n.d.). The ruling cited the dissenting opinion from the Aadhaar legal case in India (Julian J Robinson (Claimant) and the Attorney General of Jamaica (Defendant), 2019), indicating that jurisprudence on digital ID issues is coming to have global, or at least cross-border, impact.

Advocacy in Jamaica is concentrated within the People's National Party (PNP) — Jamaica's political opposition — and prominent civil society organisations. Criticism of NIDS was largely spearheaded by opposition politicians, who challenged the ID legislation from the outset, raising concern when the bill was initially introduced. To some extent, this has politicised both NIDS itself and the advocacy undertaken in relation to the system (Miller, 2019).

Even so, the halt in the implementation of NIDS led the government to establish a joint parliamentary committee tasked with hearing civil society perspectives and documenting these contributions in a report. This prompted a broader civil society discussion on the issue, and perhaps more importantly, helped educate a broad range of constituencies about the system's implications and shortcomings.

It remains to be seen whether this process will ultimately have any significant impact in the crafting of the future version of NIDS. It is worrisome to note that key recommendations from civil society organisations, such as the adoption of a data minimisation principle,

were left out of the joint committee's final report ("Jamaica's NIDS bill: there's still time to safeguard human rights", 2021).

3.2.6 EMERGENT FINDINGS

Beyond these common advocacy experiences, our research also surfaced some case-specific findings worth noting within the context of Pakistan – and which may hint at similar trends elsewhere.

In Pakistan, our research identified a clear punitive use of the digital ID system by the government, as NADRA is opportunistically used against ethnic minorities and critics as a way to discriminate and quench dissent.

Afghan refugees in the country were previously subject to a parallel system of identification, and have only recently been able to register for a biometric identity smartcard as part of the UNHCR-supported Documentation Renewal and Information Verification Exercise ("Government Delivered First New Proof of Registration Smartcards to Afghan Refugees", 2021). However, Pakistani citizens of Afghan ancestry are also sometimes caught within this dragnet, labelled as refugees, and denied access to state services. One interviewee described a purposeful effort to mislabel internally displaced members of the Pashtun community from federally administered tribal areas as Afghan refugees; this was then used as an excuse to cancel these individuals' CNICs and evict them from informal settlements.[14]

Other ethnic minorities, such as members of the Hazara and Bengali communities, have also experienced access issues. One CSO representative recalled how NADRA and the accompanying computerisation of the ID system led to systematic discrimination against their community, with many individuals seeing their renewal applications blocked. As a consequence, they were forced to verify their identities with the intelligence services.

Moreover, questioning the system in any capacity is framed in Pakistan as subversion and disloyalty. The state's conflation of NADRA with national security and antiterrorism efforts has led the government to actively punish those who critique the system. Bolstered by ambiguous colonial-era laws that leave broad scope for the interpretation of what constitutes anti-state activity,[15] and taking advantage of NADRA's expansive reach, the state is able to inflict collective punishment upon the entire families of those who speak out.

In some cases, for example, the state has threatened to revoke the CNICs of critics.[16] Our interviewees described instances in which the government has cancelled the identity cards of activists and their families in response to their advocacy, a punishment that effectively locks those affected out of essential services.

While these are troublesome trends, the Pakistani government is likely not the only one that deploys such tactics against ethnic minorities and critics, actively weaponising a digital ID system to advance a regressive agenda. Further documentation on cases such as this would be beneficial in supporting advocacy and civil society responses to such abuses.

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15 From interview with representative of digital rights CSO. See more in Annex B, section 3.

16 From interview with representative of digital rights CSO. See more in Annex B, section 3.

14 From interview with representative of digital rights CSO. See more in Annex B, section 3.

4. CONCLUSIONS AND RECOMMENDATIONS

Advocacy in support of justice-based digital ID systems faces significant challenges, as evident in the experiences documented in this report. Below, we offer a set of recommendations intended to fill gaps identified in the support currently being provided for civil society work on digital ID issues. These recommendations could be addressed by funders and/or by larger international organisations working on the theme.

1. Create interdisciplinary and multilingual knowledge resources on digital ID that are accessible to civil society

Our research showed that many civil society organisations still have significant gaps in their thematic and technical knowledge regarding the implications of digital ID systems. This is especially true of groups outside the digital rights space. Access to this knowledge would strengthen advocates' ability to mobilise early, as opposed to after systems have already been rolled out. Moreover, in addition to providing actors with the information needed to act, it would help them develop the imaginative frameworks necessary to redirect digital ID systems into forms more attuned to actual articulated needs.

While considerable research and resources on digital ID have been produced in recent years, much of this remains available only in English. Similarly, such resources are often circulated primarily in spaces where participants are already familiar with the theme.

Accessible toolkits and guides are needed, created by people situated in a variety of national contexts. Moreover, strategic engagement is necessary to make sure that such materials are reaching a diverse set of communities. To this end, contextual, participatory research on digital ID matters is also needed, as this can be used as a means of consolidating local knowledge while also mobilising actors to engage in advocacy.

2. Support the maintenance of the knowledge infrastructure necessary for digital ID advocacy

Many mechanisms comprise the knowledge infrastructure that provides civil society with the information needed for successful advocacy. These include right-to-information legislation, transparency and anticorruption laws, parliamentary watchdog initiatives, investigative journalism, and more. Such legal instruments and civil society initiatives should be advanced, supported, and strengthened.

Civil society advocates require solid and robust information and evidence regarding the actual efficacy and effectiveness of digital ID systems. This infrastructure also serves the purpose of myth-busting, allowing civil society organisations to quickly identify digital ID "dog whistles", such as rhetoric on combating fraud and improving service delivery.

3. Amplify and foreground the experiences and agendas of those most affected by digital ID systems

Documenting and spotlighting the lived experiences of marginalised communities with digital ID systems

has proven to be an essential way of combating narratives alleging the success of digital ID systems. These stories are proof that systems that work for only a segment of the population cannot be advanced as an all-encompassing solution to social issues. Continuing to document these experiences, amplify their reach, and support the inclusion of these groups' needs and wants is necessary in order to strengthen advocacy efforts.

4. Support the establishment of spaces for diverse civil society actors to meet and collaborate on digital ID issues

A number of participants in this research expressed the need for more spaces in which they could discuss and learn about digital ID issues. Indeed, many participants were being asked about their thoughts on the matter for the first time. Such spaces could be constructed through participatory research efforts, as well as by supporting the establishment of national and international coalitions. In such spaces, civil society actors would have the opportunity to imagine and formulate the conditions that would support the creation of digital ID systems grounded in justice.

It is important to note that even if INGOs are funding or enabling these efforts, local and regional actors should take the lead, as they are better positioned to express local priorities and define local agendas. Taking the time to understand local priorities, exploring ways to strengthen local, national, and regional ecosystems, will be essential for the success of sustained advocacy on the issue of digital ID. Such work will also be necessary to develop watchdogs able to monitor such systems over the long run. Crucially, the current absence of local knowledge repositories means that

international advocacy organisations often play an outsized role in shaping local advocacy priorities. Ensuring that local organisations have access to relevant knowledge can help them articulate their own ideas and develop goals rooted in their experience with digital ID systems, and thus take leadership in campaigns driven from the local level.

5. Support capacity building for local CSOs

Broader capacity-building efforts for local groups and organisations that may not be tied to an international digital rights agenda in relation to digital ID is also important. As we have seen, these actors are at the forefront of their communities, organising and providing support, as different groups are impacted by implementation. Responding to their capacity needs in the areas of advocacy and campaigning skills, as well as helping them develop technical knowledge on the theme, is a way of ensuring that broader segments of organised civil society can partake in advocacy efforts in a more effective way.

6. Push for alternative indicators to define digital ID implementation success

International organisations and flagship funders have the power to influence supporters and proponents of ID schemes such as the World Bank, UN agencies, and national governments. They should use this power to advocate for alternative ways of defining the implementation success of digital ID systems. Collectively, there needs to be a shift from metrics such as the number of ID cards issued to other measures that can advance a justice-based process. Some examples of such indicators might be:

▶ Civil society participation in the design and rollout of the system.

▶ Actual, attestable realisation of rights and increased access to services, as opposed to the mere implementation of a system or the number of people registered.

▶ Inclusion of accountability (eg grievance and redress frameworks) and transparency (eg access to information about private sector involvement) mechanisms as part of the system's design.[17]

▶ Inclusion of impact assessments that assess social justice repercussions (eg human rights impact surveys) as part of implementation.

While the most important measures of success are unlikely to be quantifiable, governments need to work alongside civil society to create mechanisms and frameworks to assess the potential repercussions digital ID systems may have on marginalised communities before their rollout.

7. Support and fund digital ID advocacy work by grassroots actors and diverse coalitions

Finally, the provision of support and funding for digital ID research and advocacy, especially provided to grassroots and local civil society actors, is crucial. It is these organisations that work directly to address the issues felt most keenly by the communities they represent in interacting with these systems. While support for strategic litigation remains important, providing direct funding for such grassroots organisations and for coalitions that integrate a

diverse set of actors can be a powerful way of ensuring sustainable advocacy across national contexts.

Generally speaking, INGOs have the ability to strengthen local groups' capacities, share knowledge with them, and support regional and local organisations' ability to engage in advocacy work on their own terms.

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17 Aspects of this are outlined in the Centre for Internet and Society's "Governing ID: Principles for Evaluation". See: https://digitalid.design/evaluation-framework-02.html.

ANNEX A:
METHODOLOGY

Our research for this project consisted of desk research, community calls, and interviews conducted by The Engine Room and independent in-country researchers, who were paid for their work.

DESK RESEARCH

Our desk research focused on updating our general knowledge of digital ID issues, landscape mapping specifically around advocacy in this area, and creating a literature review that attempted to capture critical themes including justice in the context of digital ID systems, barriers to advocacy, advocacy methods and strategies, and less widely discussed examples of challenges to digital ID systems. This research helped us select the countries for our case studies, and allowed us to identify key individuals and organisations to interview.

COMMUNITY CALLS

In order to capture experiences with advocacy from across the globe, we hosted a kick-off community call and invited organisations to join us to discuss local, regional, and global advocacy strategies employed by different social justice communities when addressing digital ID systems. The community call also played an important role in helping us map key actors, coalitions, and networks in our case-study countries.

Towards the end of the project's research phase, we hosted a visioning community call that was attended by individuals and organisations that either we or our in-country researchers had interviewed. This call focused on conceptualising a justice-driven digital ID system. In it, we encouraged participants to imagine what a digital ID system that actively centred and served vulnerable and marginalised communities would look like.

INTERVIEWS AND FOCUS GROUPS

Between April and July 2021, we conducted six interviews with actors working on transnational advocacy around the topic of digital ID systems. In these interviews, we sought to understand issues related to advocacy work, collaboration, and the role of funders. Our in-country researchers also conducted their own interviews and hosted focus groups between April and May 2021, collectively interviewing 40 people and completing a total of 13 focus groups. Different types of support for participation were offered, depending on the context (eg stipends for travel, the provision of Wi-Fi during interviews and focus groups, meals and refreshments). To protect the parties involved and to allow for frank participation, all interviewees and focus group participants were anonymised in this report.

ANNEX B:
CASE STUDIES

I. INDONESIA

METHODOLOGY

Research in Indonesia was conducted by ELSAM's (Lembaga Studi & Advokasi Masyarakat, The Institute for Policy Research and Advocacy) research team. They performed a total of nine activities, including four focus group discussions and five in-depth interviews with representatives of CSOs working in areas including LGBTQIA+ rights, disability rights, indigenous community rights, and women's rights. Focus group discussions were divided into four segments. The first segment included participants from the private sector, the second was focused on gathering information from representatives of public institutions, the third included individuals working for CSOs and with vulnerable groups, and the last was conducted with three experts (an academic, a representative of a CSO that addresses LGBTQIA+ rights, and a representative of a CSO focused on indigenous rights). In each group discussion, ELSAM's researcher introduced the aim of the discussion and presented an overview of the governance environment for Indonesia's current digital ID system. ELSAM also provided participants with a set of questions they could use to guide their responses.

BACKGROUND

Indonesia's current digital ID system was first introduced in 2009 through the Population Administration Act, which established a single identification number for all citizens. Follow-up regulations shaped the digitisation

of the system and the compulsory biometric data collection that created the Kartu Tanda Penduduk Elektronik (e-ID card or e-KTP) as it exists today. Initially, the entire regulatory framework referring to the e-ID was generated via executive order, and therefore was not debated in a legislative process.[18] In 2016, the Population Administration Act was revised to include the e-ID program. The implementation of the system has been marred by procurement-related corruption scandals, with more than 80 public officials reportedly being involved in an embezzlement scheme which ultimately stole over a third of the $440 million destined to fund the project ("Senior Indonesian politician sentenced to 15 years", 2018).

Registration for the e-ID card system is conducted by the General Directorate of Population and Civil Registration, also known as Dukcapil, an agency within the Ministry of Home Affairs. The process requires the provision of 31 points of personal data, including sensitive information such as gender, blood type, marital status, disability information, religion, and biometric data (fingerprints and iris scan). In addition to the e-ID card, the broader digital ID system includes the Kartu Keluarga (family card), which collects and contains information related to household family members and relationship status. Many public services require both the individual e-ID and the family card to be accessed, and registration for the e-KTP requires the presentation of a family card.

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18 The e-ID card programme is based on Presidential Regulation No. 26 Year of 2009 on the Implementation of a National Identity Card based on the National Population Identification Number which has been amended 4 times, as infra:
    1. Presidential Regulation No. 35 Year of 2010;
    2. Presidential Regulation No. 67 Year of 2011;
    3. Presidential Regulation No. 126 Year of 2012; and
    4. Presidential Regulation No. 112 Year of 2013.

Data collected is stored primarily in a centralised database maintained by the Ministry of Home Affairs. In 2020, 54 government agencies and over 3,400 private actors were given some sort of access to the information of the e-KTP, with different degrees of access (from yes/no verification to full access) conferred according to the institution's sector and functions.[19] In return, these bodies are mandated to share "feedback data" with the Ministry of Home Affairs — that is, the personal information of the people serviced by these institutions (eg driver's licence numbers, national health insurance card numbers, taxpayer identification numbers bank account status, vehicle registration plates, phone numbers, passport numbers). According to research participants from the government, the data is used to support decision-making concerning social assistance programmes. However, due to the lack of transparency in the data-sharing agreements private and public entities have with the Ministry of Home Affairs, it is impossible to know precisely what the data collected is used for and who has access to it.

I.I WHAT ARE THE KEY POINTS OF CONCERN FOR CIVIL SOCIETY?

Participants flagged issues related to access, discrimination, and exclusion, disproportionately impacting women, LGBTQI+ people, people with disabilities, and indigenous communities, as major consequences of the implementation of the e-ID system in Indonesia. Moreover, problems related to privacy and harassment based on unauthorised access to personal data, as well as a lack of transparency and accountability mechanisms in the system were highlighted as serious concerns.

ACCESS, DISCRIMINATION, AND EXCLUSION

Research participants reported that issues related to access, discrimination, and exclusion stemming from the registration process itself, as well as from the consequent lack of an e-ID card, were relevant in the Indonesian context. Such issues disproportionately impact women, LGBTQI+ people, people with disabilities, and those from indigenous communities in the country. As in other countries, having an e-ID card is a requirement for accessing government services and welfare programmes. Thus, not having acard implies being unable to access aid, healthcare, and other essential benefits.

The issues start with the registration requirements, which disproportionately affect those without previous documentation. For example, LGBTQI+ advocates flagged the requirement that an individual have a family card to register for the individual e-ID and/or to access services directly as being particularly burdensome for transgender people, many of whom have left their homes and no longer have contact with their families.[20] Transgender people are also particularly vulnerable to violence and stigmatisation when registering for the e-ID system and while accessing services, as the perceived distinction between legal name and gender expression often lead to situations of harassment and humiliation.[21]

Moreover, for women, the family card requirement in practice means that they need the permission of a husband, who is listed as the head of the household, to access services.[22] A simple solution, as proposed by a representative of a CSO working on the rights of

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19 From focus group participant.

20 From focus group participant.

21 From focus group participant.

22 From focus group participant.

people living with HIV, would be to abolish the family card altogether.

Others who move from one place to another, such as violence victims, also face additional challenges, as they usually cannot provide sufficient documentation to verify their identity and register for the e-ID card. [23]

The process is similarly taxing for and discriminatory against people with disabilities. Even though Dukcapil currently provides alternatives to the mandatory collection of biometric data for people with disabilities,[24] such individuals still face hurdles in the registration process, as registration offices lack basic accessibility features.[25] In addition, disability rights advocates explained that the current normative framework classifies all people with disabilities as unable to register for themselves, and establishes the agency as the sole entity responsible for reaching this population and ensuring that registration occurs. As stated by a disability rights advocate: "The result of the single classification of the disability group into people who are unable to register themselves is that there is no effort from the Dukcapil to improve the quality of accessibility in the offices, so that people with disabilities can be independent because they removed the barriers. For the Dukcapil, if people are in the disability category, [they say] 'we're going to visit them', even though not all of them are comfortable

to be visited, and it is expensive, too".[26] The e-ID card is itself not accessible, as it does not have Braille features, and therefore cannot be read by the visually impaired.[27]

For indigenous minority communities in the country, the registration process is burdensome and discriminatory, since most people from these communities profess faiths other than those of the majority groups (Muslims, Christians, and Hindus), and until 2017 could not have their religion properly and correctly registered (Regus, 2018). While this is now possible following a civil society petition for changes, and a subsequent decision by the constitutional court, problems remain. For example, for an indigenous person ("penghayat kepercayaan") to have their religious status registered in their ID, they need a declaration from an official organisation representing their indigenous community. However, not all indigenous communities are organised in such a manner, which then either prevents people from registering or from having their religion properly accounted for. In this context, an indigenous rights advocate estimated that over 1 million people from these communities do not have an e-ID card, and are therefore prevented from voting and accessing services.[28] Additionally, the e-ID card uses the term "belief" to refer to indigenous religions, while identifying the majority faith groups as religions. This distinction is considered demeaning by some indigenous communities.[29]

23 From focus group participant.

24 In an in-depth interview, a representative of a disability rights CSO additionally stated: "EKTP recording by the Ministry of Home Affairs already has a technique if there are people who do not have fingerprints (people who suffered lupus disease and people who [have] amputated [limbs] due to accidents) or do not have an iris, then a photo must be taken to show that the person's finger or eye to prove that they do not have fingerprints/iris. So the absence of such data is possible, but must be accompanied by other evidence. I think this is progress in terms of removing barriers."

25 From interview with representative of disability rights CSO.

26 From interview with representative of disability rights CSO.

27 From focus group participant.

28 From focus group participant.

29 From focus group participant.

Other issues raised by research participants were related to bureaucratic and burdensome processes for amending information in the e-ID system, such as efforts to change pictures and names. In some instances, these requests had to be taken to court to be addressed.[30]

These hurdles in the registration process, and consequently in peoples' access to the e-ID system, tremendously impair the ability of marginalised communities to access services and realise their rights. Covid-19 vaccinations and pandemic-relief aid, for example, are accessible only to those who are part of the e-KTP system.[31] Access to enrolment in schools for children is also contingent on parental registration in the digital ID system.[32] A lack of official identification also renders these populations vulnerable to harassment by security and police forces.[33]

PRIVACY AND HARASSMENT

As mentioned previously, registration for the e-KTP requires the collection of more than 30 data points, including biometrics. Different degrees of access to the centralised database are granted to hundreds of public and private entities, generally for the purposes of verifying identity. Given the lack of information and transparency around the data-sharing agreements clarifying exactly what data is shared with whom, and in light of serious occurrences related to data breaches, civil society organisations have justified worries about privacy and data protection. It is worth noting that the country does not have a solid legal framework for data protection. Legislation on this

topic has been debated since 2014, but lawmakers have been unable to reach an agreement with the government on the matter (Gorbiano, 2021).

This issue has emerged as particularly relevant in the realm of Indonesian fintech firms' peer-to-peer (p2p) lending. These institutions provide online loans which are more easily accessible than traditional loans for those without reliable income and assets, and serve women and LGBTQI+ people as a large part of their clientele. LGBTQI+ rights organisations like Suara Kita and Arus Pelangi and legal aid organisations such as Jakarta Legal Aid have documented dozens of reports of sexual harassment by debt collectors based on access to borrowers' private data. In some instances, debt collectors have attempted to coerce victims by leveraging access to their legal names, e-ID pictures, and debt status (Irfananda, 2020). The number of complaints by transgender people has increased over the course of the pandemic, as job losses in the informal sector of the economy have led more people to seekout this type of loans.[34] Given the gravity of the situation, fintech companies have been urged to develop a code of conduct to prevent this type of abuse;' however, implementation has not yet been effective.[35]

LACK OF TRANSPARENCY AND ACCOUNTABILITY

In addition to the lack of data-protection laws and the ensuing vulnerability this entails, participants also flagged the lack of accountability mechanisms in Indonesia's digital ID system as an important issue, as guarantees provided by implementers cannot be independently verified. As stated by a privacy rights advocate: "Ideally there should be an auditor or a

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30 From interview with representative of LGBTQI+ rights CSO.

31 From focus group participant.

32 From interview with director of women's rights CSO.

33 From interview with director of women's rights CSO.

34 From interview with representative legal aid CSO.

35 From interview with representative legal aid CSO.

third party supervising the system. In other countries, there is [an obligation to publish] a transparency report to explain how they manage data security and intellectual property, for the public to assess. But this must be conducted by a third party auditor".[36]

Given concerns over the so-called feedback data shared amongst public and private institutions, and additionally over the ability of the Dukcapil to manage and protect the data collected, CSOs working on the theme are pressing for more transparency and accountability on the part of the Indonesian government.[37]

1.2 WHAT DOES ADVOCACY LOOK LIKE?

Civil society advocacy on and around the digital ID system in Indonesia is vibrant and fairly consistent, particularly around organising to help marginalised groups access the system and in creating channels of communication with the government. Most efforts are concentrated on the inclusion of communities in the e-ID scheme, rather than on opposition to the system per se. Some strategic-litigation efforts have been undertaken on targeted issues, with a certain degree of success, as was the case for the formal inclusion of indigenous groups' religious status in the system.

In terms of cooperation with implementers, some organisations advocating for LGBTQI+ rights in the country have opted to work with the government in order to provide transgender individuals with better access to the system. For example, the Arus Pelangi and Suara Kita organisations have collected data from trans women without e-IDs and handed this

information over to the Dukcapil for the purposes of issuing cards. By cooperating with the government in this way, the organisations aim to guarantee trans people access to the system, while also shielding individuals from having to undergo complicated and often violent processes. According to Suara Kita, as many as 350 trans women attended a registration push held in June 2021 in the city of Tangerang, and will consequently be issued ID cards in the future (Abdi, 2021).

Organisations also provide direct community support, helping people navigate the complexities of the digital ID system. For instance, indigenous rights organisation MLKI offers support to community members as they register for the e-ID card by providing religion statements, a requirement for registration, to people who do not belong to formal indigenous organisations. They also engage in capacity building, helping communities form their own entities as a way of guaranteeing their religious-status registration and providing their members with access to identification.

Strategic-litigation efforts have mostly focused on cases on behalf of victims of harassment and coercion related to e-ID data exploitation. This work is performed by groups such as the Jakarta Legal Aid Organisation (LBHJ) and the APIK Legal Aid Organisation (LBH APIK). In terms of changes to the system itself, the CSO MLKI was successful in its legal petition for the inclusion of indigenous religions in the registration process, which ended with an amendment to the law (Regus, 2018).

Some organisations are engaged in capacity building within civil society, with the goal of amplifying and diversifying the pool of actors working on the issue. Disability rights organisation PSHK runs empowerment programmes with local CSOs representing people

with disabilities across the country, aiming to support their participation in policy advocacy projects. According to their representative, digital ID work is still very much concentrated in the capital Jakarta, while many communities in other regions lack access to knowledge and information on the topic of digital ID and on the policy-making process more generally. Recognising that local knowledge is essential to amplify the organised civil society agenda on digital ID issues, they work with grassroots actors to include them in the conversation.

I.3 CHALLENGES

To a certain extent, the Indonesian government seems willing to engage with CSOs advocating and organising around digital ID. However, the lack of transparency, accountability, and enforcement mechanisms hinders the progress made through any such cooperative effort.

Research participants reported that policy changes might be initiated and achieved at the higher levels of the government administration, but they do often fail to trickle down to the grassroots level. A focus group participant representing a children's rights organisation articulated the issue as follows: "I can see that the government produces a lot of regulation, and transwoman groups can now access civil services, and even we have a special regulation for people with indigenous religions. However, such regulations are not followed up by an increase in capability among local [implementers], since such knowledge and skills are only developed and introduced to the national government bodies". This scenario significantly undermines any incremental progress that organisations might achieve.

Additionally, while some cross-CSO collaboration is occurring, as we have seen with the examples of legal aid and LGBTQI+ rights organisations working together on fintech loan harassment cases, coordination and cross-theme collaboration between civil society organisations is rare in the broader environment. As such organisations tend to work solely and individually within their thematic areas, efforts seem to be somewhat siloed. These factors diminish the sustainability of advocacy efforts in the long term, and are particularly taxing for smaller organisations hoping to impact the system in a more effective manner.

I.4 LESSONS LEARNED

After dealing with the impact of the digital ID system for over a decade, CSOs in Indonesia have been somewhat successful in achieving better outcomes for the populations and communities they serve. Through a combination of methods ranging from cooperation with the government to community support and strategic litigation, important advances have been realised, as was the case with the acknowledgement of indigenous religions in the system.

Still, there remains considerable additional space for collaboration between organisations representing distinct marginalised groups. By working together in diverse coalitions, such organisations could achieve more robust outcomes and engage in sustainable action beyond the siloed efforts typical of today's activities.

2. JAMAICA

METHODOLOGY

Research in Jamaica was conducted by Stacey-Ann Wilson, who conducted a review of social media posts on NIDS, with special attention paid to the 2020/2021 period, when the new NIDS bill draft was completed and made public. Additionally, Stacey-Ann reviewed NIDS coverage in the local news from 2017 to 2021. She held 12 one-on-one interviews with key stakeholders in government and the parliamentary opposition, community development practitioners, civil society organisations, tech startup founders, and academics. Interview participants were selected based on their personal or organisational connection to the subject matter, their public commentaries on NIDS, or their involvement in the joint select committee process on NIDS. Interviews were conducted via Zoom, Signal, and WhatsApp. Lastly, she held one secondhand interview of two civil society stakeholders via a local television station's panel discussion on the topic, as well as five focus groups. Three of these were virtual, one was conducted face-to-face with all participants sharing the same space/location, and one was a mix of face-to-face and virtual mechanisms, with participants participating on a face-to-face basis within their own geographical sub-group, but interacting virtually with the other geographical sub-groups.

Our researcher captured a cross-section of Jamaican society through four focus groups. Participants were drawn from all walks of life, from almost every parish of Jamaica, with the overall group including residents of urban, inner-city, peri-urban, suburban, rural, and remote community environments. She identified participants with the assistance of the Women's Resource and Outreach Centre (WROC), Street

Pastors Jamaica, and via a Facebook community group page. Focus groups were conducted with the assistance of community workers who co-facilitated two of the sessions, and a civil society group that hosted one of the sessions at its physical location in Kingston (WROC). Participants were compensated with a combination of lunch and phone credits.

BACKGROUND

The Jamaican government introduced the National Identification and Registration Act (NIRA) in 2017, seeking to establish a more comprehensive identification system known as the National Identification System (NIDS). The process was controversial, and the government was accused of rushing the NIDS legislation through parliament (Lee, 2017) and leaving little opportunity for consultation (Campbell, 2019). The government claimed that the need to secure loans worth $68 million from the Inter-American Development Bank contributed to the hastiness of the process (Miller, 2019), but many civil society organisations, as well as the main opposition party, were left frustrated by the lack of engagement.[38]

Despite such concerns, NIRA became law in December 2017, paving the way for the introduction of the national identity system. However, the law was swiftly challenged in the Jamaican supreme court by Julian Robinson, then serving as general secretary of the opposition People's National Party (PNP). The court sided with Robinson, ruling that NIDS was unconstitutional. In the landmark ruling, the court unanimously declared the collection of biometric data to be an infringement on the privacy rights of Jamaicans ("NIDS Struck down in Landmark Ruling", n.d.). In their ruling, the presiding judges cited the

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38 From interview with director social justice CSO.

dissenting opinion from the Aadhaar legal case in India (Julian J Robinson (Claimant) and the Attorney General of Jamaica (Defendant), 2019), indicating that jurisprudence on digital ID issues is coming to have global, or at least cross-border, impact.

Following the ruling, the government of Jamaica began the process anew, creating a joint select committee of parliament responsible for taking submissions from members of the public. Civil society groups, academics, and community representatives presented their cases to the committee, and a report was produced and approved in the House of Representatives in July 2021 (Houses of Parliament Report of the Joint Select Committee on its deliberations on the bill entitled "The National Identification and Registration Act, 2020", n.d.). It is worth noting that the report as tabled has been criticised for not taking into account many of the recommendations made by CSOs in the consultation process ("Jamaica's NIDS bill: there's still time to safeguard human rights", 2021).

2.I WHAT ARE THE KEY POINTS OF CONCERN FOR CIVIL SOCIETY?

Opposition and concern around the digital ID system is focused on the issues of privacy rights, the use and misuse of data, and access. Many of these concerns overlap with one another, and were cited by civil society representatives, government officials, and members of the Jamaican public in our interviews and focus groups.

PRIVACY RIGHTS

Since the inception of NIDS, campaigners have spoken of concern regarding the amount of data being collected (Campbell, 2021). The NIDS enrolment process requires the provision of extensive information, including a facial image, fingerprints, manual handwritten signatures, and a host of different reference numbers including the user's taxpayer registration number, passport number, and national insurance number (Jamaicans for Justice et al., 2021). If an applicant cannot provide one or more of the above pieces of information, the authority is empowered to decline enrolment. Many campaigners argue that not all of these pieces of information are relevant to establishing legal identity, and question premising enrolment on information of this nature. Indeed, this view was shared by the constitutional court, which found the NIDS process to be intrusive. Observers also expressed concerns regarding the security of the data. Although Jamaica has adopted a Data Protection Act, the measure's two-year transition period is ongoing, meaning that it is not yet in force. As one interviewee noted, without such legislation in force, there is no mechanism protecting people's private information from security breaches. Campaigners argue that NIDS should not be implemented until the Data Protection Act is operational.[39]

USE AND MISUSE OF THE DATA

In several interviews, individuals mentioned Jamaicans' comparatively low level of trust in their government. A history of unfulfilled promises has contributed to a feeling of significant scepticism towards the state, along with a lack of faith in its ability to handle such sensitive information safely.[40] Citizens' fears centre on the issue of state surveillance in particular, and the possibility that information stored in a central database could potentially be used against them.[41] The fact that other entities within the

39 From focus group participant.

40 From focus group participant.

41 From focus group participant.

Jamaican justice system such as the Major Organised Crime and Anticorruption Agency (Maitland, 2021) have sought access to NIDS has amplified fears of misuse. The perception of mission creep and unmitigated access has contributed to concerns that personal identification data will be misused.

ACCESS, DISCRIMINATION, AND EXCLUSION

Access to the NIDS system is also a point of contention. The Jamaican government has a history of discrimination against minority groups such as the Rastafarian community[42] as well as other groups upon which NIDS may have a disproportionate impact. Access is not just about being able to get an ID, but also about being able to have an ID card that accurately reflects the manner in which individuals self-identify. In the Rastafarian community, the question of identity is not always a simple one; the way in which community members self-identify may well be complex in a way that cannot be reflected using the options provided by the ID system.[43] The Rastafarian community is made up of different mansions (or denominations), and some fear that these nuances will not be accurately reflected in NIDS.

The disability community has also posed similar questions regarding the way that NIDS will ask them to self-identify. One interviewee described the government's lack of intentional engagement with people in the disability community, indicating that this has contributed to a perception that individuals with disabilities are an afterthought. Information has not been tailored for the community, and — much as with the Rastafarian community — the disability

community has not been consulted on its specific needs in relation to the identity system.[44]

2.2 WHAT DOES ADVOCACY LOOK LIKE?

Advocacy in Jamaica is concentrated within the People's National Party (PNP) — Jamaica's political opposition — and among prominent civil society organisations. Criticism of NIDS was largely spearheaded by opposition politicians who challenged the ID legislation from the outset, raising concern when the bill was initially introduced. To some extent, this has politicised both NIDS itself and the advocacy undertaken in relation to the system (Miller, 2019).

Following the court case, advocacy broadened, and a civil society coalition comprising 13 national and international CSOs was established. Led by Jamaicans for Justice, the Slashroots Foundation, and National Integrity Action, the coalition is funded by Access Now and the Open Society Foundation, and also receives technical support from these two international organisations. This group has been largely responsible for representing the views of civil society before the parliamentary select committee. In its work, the committee experienced a number of discreet challenges, finding it difficult to reach consensus on topics such as the collection of biometric information.[45]

In addition to the PNP and the civil society coalition, which together constitute the bulk of the advocacy on the issue, there is also a de facto coalition of religious (Christian) groups that hold similar views, which made a joint presentation to the joint select committee.

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42 From interview with representative of religious organisation.

43 From interview with representative of religious organisation.

44 From interview with member of the disability community.

45 From interview with director digital rights CSO.

Some of these organisations have also carried out their own separate protests against NIDS, and written to newspapers on the issue (Campbell, 2019). The legal sector has also assisted with advocacy; for instance, the Bar Association and the Faculty of Law at the University of the West Indies, Mona Campus ("UWI Law Faculty Raises Concerns about New NIDS Bill", 2021) have each contributed legal analysis and raised public awareness as to the risk of privacy-right infringements presented by the NIDS legislation. University researchers have warned about the dangers associated with collecting biometric information, and the risks entailed in combining different sensitive datasets, thus creating metadata ("UWI Law Faculty Raises Concerns about New NIDS Bill", n.d.).

Most if not all of the different groups involved in advocacy on the issue have utilised social media posts as well as articles and special interest columns in more traditional news outlets to disseminate their views. With the formation of the joint select committee on NIDS, much of the advocacy was channelled through presentations to the committee. Groups involved in the process employed social media, radio talk shows, television programmes, and special church services to discuss and share their ideas around NIDS. The same mediums are currently being used by different individuals and groups to advocate for a rights-respecting system as the new NIDS bill is being debated in parliament.

2.3 CHALLENGES

The majority of advocacy around NIDS is centred on improving the system itself, but problems dating back to the inception of the project persist, creating challenges for those engaged in advocacy. Information about NIDS is mostly accessible to the upper and middle classes, as the government does not communicate in creole or patois — a language that is seen by the government as being less formal or proper than English, despite being spoken by the majority of Jamaicans.[46] This communication barrier both actively and passively excludes those who are creole speakers or who are more comfortable with creole, while also indicating to creole speakers that the government is not making an active effort to engage them. Without easily understandable explanations, it is difficult for citizens to fully understand the law and its implications. This knowledge deficit in turn inhibits citizens' ability to critique NIDS.

Many interviewees described challenges in obtaining clear and accurate information on NIDS, and described the information provided by the government on NIDS as resembling advertising. The rushed nature of NIDS' introduction, and the lack of public consultation the first time around, has also produced numerous questions regarding the necessity of a digital identity system.[47] Though the Jamaican government has long claimed that NIDS is for the people of Jamaica, interviewees voiced their ongoing uncertainty regarding the precise nature of these supposed benefits. As long as such questions go unanswered, the gap between those advocating for the adoption of a digital ID system and those who are most vulnerable will only continue to grow.[48]

2.4 LESSONS LEARNED

The process of advocacy and the legacy of the constitutional court case concerning NIDS are still

46 From interview with director of social justice CSO.

47 From interview with director of social justice CSO.

48 From focus group participant.

unfolding. The legal case against NIDS successfully forced a pause in the process, allowing for wider reflection. In our interviews with CSOs involved with the NIDS joint select committee, most said they were satisfied with the process, and that they were pleased that the government is allowing them to contribute to the design of NIDS. Organisations involved were invited to present before the committee, and were given several hours to discuss the issues and challenges they foresee with NIDS. In the absence of a final bill, it remains impossible as yet to assess the impact of such consultation, or to evaluate the extent to which the government has been responsive to the concerns raised. However, criticism of the final joint select committee's report seems to indicate that many of the rights-respecting aspects of the recommendations have been ignored, although organisational oversight issues have been reinforced.

Perhaps more important is the fact that the NIDS process still lacks large-scale inclusion. Though civil society organisations are being consulted on NIDS, this cannot be a substitute for broad public participation.

3. PAKISTAN

METHODOLOGY

In Pakistan, 12 Zoom-based interviews were done with members of the following categories: journalists reporting on digital ID systems; representatives of digital rights organisations; and civil society actors working with transgender groups, refugees and marginalised communities. One respondent was unavailable for a call, and completed a written questionnaire instead. In addition, the researcher held two focus group discussions, each lasting two hours, with four to five attendees in each case. Attendees included representatives of traditional human rights organisations, community organisers, women's rights activists, religious minorities, and people with disabilities. Lastly, a comprehensive desk research review was completed covering themes including access for minority and vulnerable populations, issues with security and the sale of data to third parties, and the role of the state in relation to the National Database and Registration Authority (NADRA) system.

One of the main challenges in Pakistan is the lack of academic writing or civil society documentation on the NADRA system. Our researcher thus spoke to other local researchers, academics, and journalists to get a better sense of existing work in those areas.

In the focus groups, our researcher sought to map out the different issues and exclusions faced by various groups, and used this to help focus group attendees envision an alternative vision of digital ID rooted in justice.

BACKGROUND

The NADRA system was created in 2000 with the

goal of modernising Pakistan's registration process. Its establishment led to the creation of the Citizen Database and the National Data Warehouse — the former containing extensive information about Pakistani citizens, and the latter housing information from an array of other public databases (NADRA Ordinance, 2000 – NADRA Pakistan, 2019). A Computerised National Identity Card (CNIC), containing a full set of fingerprints and a digital photograph, was issued to each registered citizen.

A CNIC is required for the navigation of many public and private services. From social welfare programmes and voting to opening a bank account, getting a SIM card, paying utility bills, and accessing education and healthcare, the CNIC has become a critical part of everyday life. This means that despite claims that registration is voluntary, the reality of the system makes registration de facto mandatory.

The pandemic has brought to light gaps in registration and access. The government has made the receipt of relief payments under the emergency cash programme (Zakaria, 2021), Covid-19 testing, and vaccination (Khurshid, 2021) all contingent upon having a CNIC, rendering the implications of exclusion especially severe and potentially even lethal for those who are not part of the system.

3.1 WHAT ARE THE KEY POINTS OF CONCERN FOR CIVIL SOCIETY?

Given the extent to which the digital ID system is embedded in everyday life, it is not surprising that the primary concerns expressed by civil society groups revolve around access and safety. The far-reaching nature of the system means that those who are locked out of it struggle to access basic necessities, while the vast amounts of data gathered by the system have led to fears that sensitive information could be exposed to leaks and data breaches.

ACCESS

Pakistan's historic problems of inclusion have been amplified by NADRA and the digital identification system. Despite attempts to provide women with incentives to sign up — including a state policy offering financial inducements to the female heads of low-income households (Malik, 2014) — many challenges still remain for women, the transgender and LGBTQIA+ communities, refugees, and ethnic minorities. In our interviews, local residents described intentional discrimination against women, transgender individuals, and religious minorities that was both inherent in the system itself and enacted by the people responsible for operating and enabling access to NADRA.[49]

NADRA is a patrilineal system, tying women's access to CNIC to their male relatives or husband. When registering for or renewing a card, or even when making small changes to previously recorded information, women are reliant upon men in ways both big and small. This has significant consequences for divorced women and single mothers, women who are estranged from their families, and those who have fled violent households, as these individuals are unable to access state resources. One interviewee estimated that women who lack an ID card are excluded from 23 benefits "including access to a bank account, a passport, local and international travel, medicine from a government hospital, and education – even getting

[49] From interview with representative of social justice CSO.

your child admitted into a school requires both the parents' ID cards".[50]

Despite the severe consequences of not having an ID card, it is women who are least represented in the system, with an estimated 12.48 million women currently lacking a CNIC.[51] This unregistered group of women includes domestic workers who work in cities and are unable to return to their rural districts to renew their cards[52] and women in rural areas who are hesitant to allow NADRA officials to take their pictures for the ID card.[53] The manner in which the digital ID system perpetuates existing biases while also creating new barriers to access means it was especially concerning to the women's rights advocates we spoke with. Even when the government has tried to address the problem of men preventing women from accessing NADRA, for instance through innovative measures such as the Benazir Income Support Programme (BISP) or the Ehsaas cash stipend programme, advocates say these have been indirect approaches that have failed to address the root causes of the problem.

For the queer community, access issues centre on discrimination and a lack of sensitisation. Though trans and khawaja sira[54] people have the right to self-identify on their identity cards, they still face discrimination in their interpersonal interactions with bureaucrats at registration offices. Interviewees said that some transgender individuals have gone through dehumanising experiences when applying for their cards; they described officials who have laughed at trans people attempting to register, and noted a lack of sensitivity to and awareness of the complex local nomenclature of the trans community.[55] Though the state has made provisions for those who are part of the "Hijra" structure — allowing them to identify as a third gender "X", for example — those who are not part of these more formalised, state-recognised structures often have difficulties registering, as they cannot provide the necessary documentation either from male relatives or gurus.[56] [57]

Pakistan's ethnic minorities also face significant issues with regard to access, with NADRA being opportunistically used by the state as a tool to discriminate against them. Afghan refugees were previously subject to a parallel system of identification, and have only recently been able to register for an identity card containing biometric data as part of the UNHCR-supported Documentation Renewal and Information Verification Exercise (Government Delivered First New Proof of Registration Smartcards to Afghan Refugees, 2021). Pakistani citizens of Afghan ancestry are also sometimes caught within this dragnet, being labelled as refugees and denied access to state services. One interviewee described a purposeful effort to mislabel internally displaced

50 From interview with representative of women's rights CSO.

51 From interview with representative of women's rights CSO.

52 From interview with representative of women's rights CSO.

53 From interview with representative of social justice CSO.

54 The preferred terminology used for gender identities that deviate from the hetero and cisnormative binary is deeply contested in Pakistan. Given the legacy of colonialism in the country, many of the terminologies used globally do not map onto local manifestations of gender and sexuality and are seen as "Western," rather than being of local derivation. "Khawaja sira" is an overarching, umbrella term used in this report to capture these local gender-variant identities in a context-specific manner.

55 From interview with representative of social justice CSO.

56 From interview with representative of trans rights CSO.

57 For those part of the khawaja sira structure, gurus are senior members considered heads of family, maintaining parental relationships with their disciples. To know more see: https://pulitzercenter.org/stories/pakistans-khawaja-siras-perspectives-identity.

members of the Pashtun community from federally administered tribal areas as Afghan refugees; this was then used as an excuse to cancel these individuals' CNICs and evict them from informal settlements.[58] Other ethnic minorities, such as members of the Hazara and Bengali communities, have also experienced access issues. One CSO representative recalled how NADRA and the accompanying computerisation of the ID system led to systematic discrimination against their community, with many individuals seeing their renewal applications blocked, and consequently being forced to verify their identities with the intelligence services.[59] Part of the challenge is that the digital ID system emphasises binary identity structures that are not reflective of reality, meaning that individuals with more complex identities, such as migrants, are not properly accommodated within the yes/no binary. This is especially true for migrants born in other countries, with NADRA failing to recognise their citizenship status due to their origin.[60] This lack of flexibility disproportionately impacts individuals who are already vulnerable and marginalised, who face state-based discrimination and other challenges when accessing services and seeking to ensure that their rights are upheld.

For other groups, access to the digital ID system is mediated by forces closer to home. For example, for individuals with disabilities, pre-existing ideas about access and worthiness can interfere with their ability to register. Disability rights advocates told us of instances in which the family members of people with disabilities did not see the need for them to have an ID card, or did not perceive them as needing access to opportunities such as education or employment.[61] Individuals with disabilities also indicated that gaining physical access to NADRA offices was sometimes difficult; this is problematic because inaccessible buildings and a lack of accommodating transport makes it difficult for people with disabilities to access offices independently, and makes it harder for them to advocate on their own behalf.

SAFETY AND PRIVACY

The access-related concerns felt within specific communities are exacerbated by the pervasive and far-reaching issue of safety. The data stored within the NADRA system is widely believed to be insufficiently secure — a view underpinned by a trust deficit rooted in the government's historical failures to keep data secure or to prevent misuse.[62] NADRA's rapidly ageing data-storage system was built in 2001, and is based on local servers stored at NADRA's own facilities. The system is also centralised, making it easier for the government to create cross-references between disparate sources of information, while also rendering the system comparatively vulnerable to hackers seeking to compromise its security. [63]

Furthermore, the experts we spoke with noted that privacy does not appear to be a priority for the government, with some NADRA officials actively resisting steps that would improve privacy within the digital ID system.[64] Part of the privacy-related confusion stems from a lack of clarity as to which laws apply to NADRA, and uncertainty as to whether

58 From interview with representative of digital rights CSO.

59 From interview with representative of ethnic minorities CSO.

60 From interview with representative of women's rights CSO.

61 From interview with representative disability rights CSO.

62 From interview with representative of social justice CSO.

63 From interview with technology expert working on digital rights.

64 From interview with journalist focused on social justice.

it is classified as a public or private entity.[65] However, the biggest privacy concern remains the lack of legislation regarding data protection, meaning that "one of the world's largest centralised citizen databases" (Albasit, 2016) lacks the legal protections necessary to ensure that its data is secure. This has many in Pakistan worried: the extent of the data stored within the NADRA system — from biometric verification information to data on names, addresses, family trees, and home districts — means that the possibility of a breach is highly concerning, with the potential to cause immense damage.[66]

In many instances, Pakistani citizens are not told how their information is used. Much of NADRA operates without the informed consent of the public, and without any disclosure regarding who will be using the data, what the data will be used for, or how access to the data is authorised.[67] NADRA is being used by the government for ever-expanding purposes, from identifying potential beneficiaries of public services to finding individuals who may be subject to taxes.[68] One interviewee raised concerns regarding the extent of anonymisation within the system, given that it is being used to identify individuals. Popular mistrust and unease is only likely to grow as questions about the use of the information stored within NADRA fail to be addressed, and security and privacy issues remain outstanding.[69]

3.2 WHAT DOES ADVOCACY LOOK LIKE?

Advocacy around the digital ID system has historically been reactive in nature, responding to specific aspects of the system rather than constituting a sustained and holistic discourse. The intensity of advocacy has usually increased around elections, which require a CNIC in order to vote, and more recently has done so in response to the pandemic, as vaccination efforts have also been linked to the digital ID system.[70]

Spontaneous advocacy and conversations on privacy and data protection have sprung up around news of data leaks, but such conversations are rarely sustained, and have yet to develop into a more robust digital rights movement focused on NADRA.
Broadly speaking, two main strands of campaigning have emerged: the first mostly undertaken by digital rights organisations, and focusing on technical aspects of the system such as privacy and data protection; and the second involving organisations and activists working on social justice concerns such as access to the system. Journalists and lawyers have also played important roles, with the former reporting on data leaks and surveillance technology, and the latter litigating individual cases in which CNICs have been cancelled.

Our research also found numerous incidences of more localised engagement with individual agency staffers, in which members of marginalised communities have advocated for their particular needs and helped sensitise staffers in the process.

However, widespread joint advocacy has remained rare, in part due to the various groups' differing priorities,

65 From interview with journalist focused on social justice.

66 From interview with journalist focused on digital rights.

67 From interview with journalist focused on privacy rights.

68 From interview with academic focused on privacy rights.

69 From interview with journalist focused on digital rights.

70 From interview with journalist focused on digital rights.

which have made it difficult to develop cohesive messages.[71] Questioning the system as a whole has proven difficult given that access to government services is so intricately bound up with the digital ID system. In response to such circumstances, most advocacy in Pakistan has coalesced around issues of access. Traditional rights organisations have thus far been relatively uninvolved in advocacy focused on broader opportunity and equality concerns, and have instead framed their campaigns around the issue of human rights violations.[72] This has left smaller, generally community-based organisations to undertake the majority of advocacy work around inclusion in the digital ID system.

Crucially, there is very little collaboration taking place. Instead, journalists, rights groups, community groups, and so on mostly work in silos. However, many interviewees cited the need for a cohesive and collaborative approach. For example, journalists and other media-savvy individuals could play a role in helping to communicate the relevant issues in a more accessible manner.

The strategies and methods employed by advocates are constrained by the risks associated with such work. The Pakistani government regards the digital ID system as a national security issue, and has characterised any questioning of the system as subversion and disloyalty. As a result, some organisations have focused on working directly with representatives as a less politically risky activity.

3.3 CHALLENGES

There are multilayered challenges to advocacy in Pakistan, with hurdles relating to safety, a lack of research and information, and the country's minimal foundation of basic rights.

SAFETY

NADRA is a highly politicised system,[73] a fact that limits opportunities for citizens and civil society organisations to question or critique it. The state's conflation of the NADRA system with national security and antiterrorism efforts has led the government to actively punish those who critique the system. Bolstered by ambiguous colonial-era laws that leave broad scope for the interpretation of what constitutes anti-state activity[74] and taking advantage of NADRA's expansive reach, the state is able to inflict collective punishment upon the entire families of those who speak out. Our interviewees described instances in which the government has cancelled the CNICs of activists and their families in response to their advocacy, a punishment that effectively locks those affected out of essential services.[75]

Threats to advocates' security have made it incredibly difficult for large-scale collective action to take place. Methods such as strategic litigation — which has proven particularly successful in other contexts in which civil society organisations have challenged digital ID systems — are risky, given the way such litigation may expose advocates to state action.[76] We have observed in our research and heard from

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71 From interview with journalist focused on privacy rights.

72 From interview with representative of digital rights CSO.

73 From interview with representative of digital rights CSO.

74 From interview with representative of digital rights CSO.

75 From interview with representative of digital rights CSO.

76 From interview with journalist focused on social justice.

interviewees a preference for helping individuals, instead of taking on the system in its entirety, so as to avoid being seen as challenging the system directly. The acute nature of the security challenge cannot be overstated, nor can the chilling effect of such threats be ignored.[77]

RESEARCH AND KNOWLEDGE

The lack of civil society advocacy is further compounded by the shortage of research and information on the digital ID system.[78] Without in-depth research and information, the intricacies of the digital ID system are likely to remain opaque, and thus go unchallenged — a situation the government perpetuates by stonewalling individuals seeking further information about the system. Interviewees indicated that government representatives are defensive on the issue, and that they refuse to provide specifics on the system when asked. Indeed, journalists said it was difficult even to obtain a quote from a government representative in response to questions on or news about NADRA. Moreover, delayed or evasive responses from the government are just the tip of the problem; journalists also say they have been confronted by intelligence agencies over their work, and threatened with revocation of their citizenship.[79] These circumstances make it difficult for activists to identify and discuss issues relating to the NADRA, or to challenge specific aspects of the system. The result has tended to be overly broad advocacy that does not translate into a sustained discussion.

However, even if such research were available, engagement with such information depends on a basic level of digital and technical literacy — knowledge that much of the country's general population lacks.[80] Understanding the intricacies of a digital ID system or the importance of abstract notions such as privacy[81] is challenging under the best of circumstances, but given that much of the population lacked an official ID prior to the introduction of NADRA, it is clear that a sizeable information gap exists.[82] Civil society thus faces an uphill battle both in educating and engaging the population.[83]

The Pakistani government has displayed enthusiasm for digitisation, for example by planning smart cities and developing a "digital Pakistan" initiative to connect these nodes. But this has not been accompanied by a corresponding embrace of legislative safeguards, transparency, or accountability within these systems. Without the guarantee of rights, advocacy in this area is slipping behind even as the digital revolution continues unabated.

3.4 LESSONS LEARNED

Even in the face of the immense challenges described here, there have been several narrowly focused successes for the trans community and for children in orphanages. CSO advocacy proved critical in both instances, in one case leading to a court ruling that trans individuals do not need to provide family members' documents in order to register for the CNIC (Ali, 2017). Similarly, the supreme court ruled that orphanages can themselves register the children in their care (Iqbal, 2014). For both groups

77 From interview with academic focused on privacy rights.

78 From interview with journalist focused on digital rights.

79 From interview with journalist focused on privacy rights.

80 From interview with journalist focused on privacy rights.

81 From interview with journalist focused on social justice.

82 From interview with representative of social justice CSO.

83 From interview with journalist focused on digital rights.

concerned, this has been an important step towards greater access to the NADRA system. However, these undeniable successes remain dwarfed by the existing and emerging issues related to the digital ID system.

4. UGANDA

METHODOLOGY

Research in Uganda was conducted by Pollicy's research team. They performed a total of 14 activities, including three focus group discussions and 11 interviews with representatives of CSOs focused on women, youth, and/or people with disabilities. All conversations were held during the months of March and April 2021. The focus group discussions and interviews were conducted in the districts of Gulu, Lira, and Kampala. Gulu and Lira districts are located in northern Uganda, and were selected because of the large number of social justice organisations focusing on vulnerable groups that exist in these regions. Kampala was also selected given its centrality and proximity to the ID system's headquarters. The selection of districts was also driven by the need to have a representative sample of both rural and urban CSOs.

Focus group discussions were divided by thematic work areas: women's rights; youth rights and disability rights. Each group consisted of nine participants, a size chosen so as to allow important and unique ideas to be covered. The discussions were guided by a lead researcher, while a second researcher assisted by taking notes on the discussion. This enabled the discussion to be guided throughout, and helped the group provide insightful comments.

Informed consent was sought from all participants before the interviews were conducted. As a way of ensuring confidentiality, no personally identifying information was collected from participants. Participants were compensated monetarily for costs associated with lunches, refreshments, airtime, and transport to the interviews.

BACKGROUND

Uganda's national digital ID system, known as Ndaga Muntu, was formally introduced in 2015 through the country's National Registration of Persons Act. It consists of two main components: the National ID Number (NIN), which functions as the individual registry entry for the ID database, and the National ID Card (NIC), the physical and most visible representation of the system. Before the introduction of a centralised database and ID card, Ugandans relied mainly on an array of functional IDs to access services and verify their identity (eg driver's licence, voter's ID card, etc). These older forms of ID continue to be used (Katelyn Cioffi (CHRGJ) et al., 2021). Registration in the digital system requires previous documentation such as a birth certificate or marriage licence. Biometric data including fingerprints and facial scans are collected.

The system's development was driven primarily by a national security rationale, with the centralised database designed to help monitor citizens and identify "illegal residents" (Katelyn Cioffi (CHRGJ) et al., 2021). However, officials in the country also advanced Ndaga Muntu by publicly using the rhetoric of social inclusion, promising that the system would facilitate access to services and public programmes, while also helping to combat fraud and simplify verification procedures, as its collection of biometric data would allow identities to be verified more easily and accurately.

The main entity responsible for the system's planning, implementation, and rollout has been the National Identification and Registration Authority (NIRA), a government agency reporting to the Ugandan Ministry of Internal Affairs. NIRA was given the mandate to register citizens, host all the data, and issue ID cards. Instead of a gradual rollout, NIRA focused on

mass registration pushes, which meant that people faced long lines along with time-consuming and burdensome processes. Six years into implementation, it is estimated that up to one-third of Uganda's adult population still lacks a national ID card (Katelyn Cioffi (CHRGJ) et al., 2021). This makes it difficult for some people to access basic services such as healthcare and financial assistance.

The system is heavily centralised, as there are no NIRA regional offices; rather, digital ID matters are handled by desks in select districts located within local authorities' offices. This has a significant impact on system access, especially for rural populations, as it requires people to travel long distances both to register and to collect their ID cards. The Covid-19 pandemic has increased difficulties, as it has limited people's ability to travel.

4.I WHAT ARE THE KEY POINTS OF CONCERN FOR CIVIL SOCIETY?

Chief amongst the complaints voiced by research participants was the lack of civil society participation or involvement in the Ugandan government's planning and rollout of the digital ID system. Participants also highlighted issues related to access and exclusion, as the requirement that citizens have a national ID card in order to access basic services such as healthcare and welfare benefits functions as a de facto barrier to marginalised communities in realising their rights. Additionally, grassroots organisations representing such communities also repeatedly flagged bureaucratic hurdles related to the heavily centralised registration process, as well as other procedural requirements (such as fees associated with the issue of a replacement card, or for amending incorrect information), as being key points of contention.

LACK OF CONSULTATION WITH CIVIL SOCIETY AND PUBLIC DISTRUST

One of the main grievances voiced by research participants was related to the government's lack of consultation, and the absence of civil society involvement in the design and implementation of the Ndaga Muntu system. There is an overall perception that many of the problems and gaps people now face when interacting with the system, especially those coming from marginalised communities, could have been solved (or would have been addressed from inception) had civil society been consulted in the first place.[84] As stated by one interviewee representing a social justice CSO, government officials failed to see the potential problems because "they don't have a human rights perspective, they just go with it, as a mode [sic] of storage of information about people."

Even if some organisers have been willing to support state efforts, advocacy work around the digital ID system has been shaped by such factors, limiting civil society's ability to engage with and impact the system. An interviewee working on behalf of youth rights argued: "There is no open door for civil society to give a hand to support the process, it is just an entirely private thing." Some civil society advocates indicated a desire for collaboration with the government, as organisations and organisers are privy to the issues faced by the communities they represent. A focus group participant coming from the disability rights community argued that engagement with civil society is vital "because we complement the work of the government. We know the problems of the citizens. We are not blaming you, but complementing you at the end of the day."

Moreover, the government did little to justify the rollout of the new system or to secure buy-in from its citizens, which in turn contributed to an overall climate of distrust. There is a general perception that the Ndaga Muntu is a "political project" (ie partisan), to be used as a means of manipulating people politically.[85] Participants also described the system as being imposed upon the population.[86]

The fact that registration requires the provision of a substantial amount of personal information adds to this perception, as citizens are not given any explanation as to why the data is being collected, and are not told how it is to be stored, managed, or protected. This raises worries that the information might be misused or subject to data breaches, with participants reporting fears that their information will be used for the purposes of fraud or in extortion schemes,[87] or that communities will be subject to political violence.[88] A representative of a CSO dealing with LGBTQI+ rights argued that there should be "a consolidation of data protection, because you might not know where this data is going to end, but also what that person is going to use the data for." It is worth noting that data-protection legislation was introduced in the country in 2019, four years after the implementation of the Ndaga Muntu.

ACCESS, DISCRIMINATION, AND EXCLUSION

Across the board, interviewees and focus group participants indicated that the implementation of the digital ID system in Uganda worsened issues of

84 From interview with representative of social justice CSO.

85 From interview with representative of digital rights CSO and from focus group participant.

86 From interview with representative of disability rights CSO.

87 From interview with representative of youth rights CSO.

88 From interview with representative of digital rights CSO.

access, discrimination, and exclusion. This starts with problems in the registration process, and plays out in the form of restrictions in access to key services and programmes for those who lack an ID. Given that public and private services increasingly require Ndaga Muntu registration for access, those without an ID card are effectively barred from healthcare, social welfare programmes, and bank services such as loans, and even from applying to jobs.[89]

Recent research by ISER, Unwanted Witness, and the Center for Human Rights and Global Justice at NYU has focused on the human rights impact of the Ndaga Muntu system. Their work — corroborating the findings from our interviews — estimates that between 23% and 33% of Uganda's adult population has not yet received a national identity card (Katelyn Cioffi (CHRGJ) et al., 2021). Despite this fact, the government planned to open access to Covid-19 vaccines only to those who possessed an NIC. It dropped this requirement after being challenged in the country's high court by ISER and Unwanted Witness (Katelyn Cioffi (CHRGJ) et al., 2021).

The problematic nature of the system starts with the registration process itself, which was not developed in an inclusive manner, especially with regard to the needs of the elderly and people with disabilities. For example, there is no alternative available to the collection of fingerprints, which puts people without limbs and those with worn-out fingerprints due to manual labour in a precarious situation, effectively barring them from registration.[90]

Moreover, registration materials are available only in English, and not in any local language, making it harder for people who communicate mainly in other dialects to interpret instructions and provide information accordingly. Translating forms and informational posters into some common local languages in different parts of the country was suggested as an easy way of addressing this problem.[91]

Since access to the ID card means access to rights, these barriers effectively turn those who cannot register or be properly accounted for in the system into second-class citizens. As stated by the representative of a digital rights CSO, people "will not feel good because they are unable to sign or have their biometrics captured in the system. It would be inclusive, especially for our marginalised communities, to see that all of them are eligible for registration, that they can be registered."

Errors in the registration process have also left some elderly people excluded from essential social welfare programmes. Since most elderly Ugandans do not have birth certificates, dates of birth are registered in the ID system based on people's own declarations (Katelyn Cioffi (CHRGJ) et al., 2021). Participants reported that many older people have provided incorrect birth dates upon registration; as a consequence, the NIC system registered them as being younger than they were in truth, and they were thus barred from accessing a cash transfer scheme known as Senior Citizens' Grant (SCG), which is available to individuals 65 and above. As a consequence of such

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[89] From interview with representative of youth rights CSO.

[90] From interview with representative of disability rights CSO and interview with representative of agricultural rights CSO.

[91] From interview with representative of youth rights CSO and from focus group participant.

errors, people have reportedly died while waiting to access the programme.[92]

As noted, registration also requires that citizens provide a substantial amount of information, including marital status. However, as the system requires formal documentation, for instance in the form of a marriage licence, it does not allow for the registration of different types of partnerships in which people might be committed to one another but nonetheless lack official documentation, such as informal cohabiting arrangements or polygamous relationships. A focus group participant working on behalf of women's rights explained the issue: "This makes people feel inferior to go and register. Even traditionally married couples are asked to provide certificates or the agreement that was made at home to allow the marriage to take place, and these are not provided in some cultures in Uganda."

The registration environment was described as intimidating, since most of the process is conducted under heavily securitised conditions. This can feel particularly frightening for women and LGBTQI+ people. As a representative of an LGBTQI+ CSO put it: "Even right now many people don't have IDs, they just don't feel much comfortable to go and get it because of the security surrounding. They should make it much more flexible, the environment should be enabling. Some people fear soldiers and the policemen around them. It makes people afraid to get into the process."

CENTRALISATION AND LACK OF INFORMATION

The heavily centralised character of the system was also criticised by a number of research participants. As there are no regional NIRA offices, only desks inside

local authorities' offices within select districts, people from remote villages and rural communities often have to travel long distances in order to register, and then make a second trip to retrieve the ID card once it is ready. Many lack the resources to do so. Participants indicated that decentralisation to at least the sub-county level would go a long way towards ameliorating this difficulty, and recommended that the government allocate funding for this purpose.[93]

The Covid-19 pandemic exacerbated this issue, as it prevented people from visiting NIRA offices in person either to register or retrieve their cards once they became available. Lines were long, and transportation fares across the country became expensive during the period. One registration office in Kololo was reportedly closed for several days in 2020 after a Covid-19 case was detected, which discouraged people from travelling there to register.[94]

The lack of information regarding card availability, especially with regard to dates of availability and the locations in which cards could be retrieved, was also flagged as an important problem. Interviewees said that in many cases, ID cards have been delivered to district offices, but recipients have not been given clear information as to where or when they could be retrieved.[95]

OTHER BUREAUCRATIC ISSUES

Participants highlighted a number of other issues relevant to their communities, including the time

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92 From interview with representative of disability rights CSO.

93 From interview with representative of digital rights CSO and interview with representative of agricultural rights CSO.

94 From interview with representative of digital rights CSO.

95 From interview with representative of digital rights CSO.

taken to get the card once registration has been completed, the lengthy waiting lines at all stages of the process, and the burdensome and costly process associated with obtaining a replacement ID card (for instance if the original is lost, or if there is a need to amend information). As a basis for comparison, while getting a national ID card can take months or even years, registering for and obtaining a driver's licence in Uganda takes just a single day.[96]

4.2 WHAT DOES ADVOCACY LOOK LIKE?

Civil society advocacy centred on Uganda's digital ID system has been mainly reactive and ad hoc. As problems surfaced following the introduction of Ndaga Muntu, organisations have mobilised individually or in small-scale partnerships around selected issues. One example of such activity is the legal petition led by two allied organisations (Unwanted Witness and ISER) against the requirement that residents have an ID card in order to receive the Covid-19 vaccine.

Most participants said that CSOs engaging in advocacy around the digital ID system generally focus on the issues most relevant to the specific communities they represent. For example, activities have included sensitisation, information sharing, and raising awareness about the importance of registering in order to access services. Multiple interviewees said that the radio has served as a vital tool in disseminating information about registration to marginalised groups, such as residents of rural communities and elderly people. For instance, organisations used the radio to appeal for information on how people have benefited from having the national ID or have faced challenges in obtaining it, and have also sought to

raise awareness of how civil society groups could help overcome these hurdles.[97] In some cases, lost ID cards have been brought to radio stations and the fact of their finding announced on air to allow owners to retrieve them,[98] since the process of getting a replacement card is burdensome and costly.

The radio has also been used as a storytelling tool. For instance, groups have used it to raise awareness of the challenges experienced by people when navigating the Ndaga Muntu system, and to build support for actions protesting the requirement that residents have a digital ID in order to get the Covid-19 vaccine. This was described as follows by a representative of a social justice CSO: "It is very impactful especially when we have the victims themselves speaking to the issues. The beauty about the radio stations is that they are able to reach a very wide community, and when you use radio you make sure you are using English but also the local language, [like] Luganda. So many people are able to listen, other than just restricting it to television and print media, many people do not get access to that."

Engagement with the system has been largely indirect (ie not advocating directly with implementers), due to the government's unwillingness to involve civil society organisations in the process.[99]

A number of interviewees expressed the desire to be directly involved in the registration process itself, as organisation representatives felt that they would be better positioned than public officials to support their constituencies in this task. As stated

96 From interview with representative of women's rights CSO.

97 From interview with representative of youth rights CSO.

98 From focus group participant.

99 From interview with representative of youth rights CSO.

by the representative of a women's rights CSO: "If the government does not have the capacity to decentralise to different districts, they could give authority to specific CSOs to handle some of the aspects." This would bring challenges in itself, for instance in terms of privacy and data handling; however, it could also help to improve access for the communities currently excluded from the system.

Prominent organisations in the country (eg Unwanted Witness and ISER) are currently seeking to increase international awareness of the potential problems with the Ndaga Muntu system. For example, they are publishing research that documents marginalised communities' experiences with the system, as well as reports on the issue that they hope will prompt further action. The goal is to increase outside pressure on Uganda's government, and thus open other avenues for advocacy.

4.3 CHALLENGES

The main challenge faced by Ugandan civil society in doing advocacy work relating to the country's digital ID system is the government's lack of willingness to engage with CSOs actively on the matter. A representative of a social justice CSO noted that the Ugandan government, in developing specific programmes and policies, has in other instances formed multi-sectoral committees that have included civil society representatives. This has not been the case for the Ndaga Muntu. In all likelihood, the project's national security rationale has meant that the proactive inclusion of civil society has been neither prioritised nor welcome.

The fact that most local and grassroots groups have lacked previous knowledge on issues related to digital ID systems has also raised difficulties, as CSOs have consequently had to learn about and address problems as they have arisen. Focus group participants reported that it would be beneficial to have more spaces in which to talk about the theme.

4.4 LESSONS LEARNED

Civil society organisations in Uganda face numerous barriers when advocating on behalf of marginalised communities and for a better digital ID system for all. Nonetheless, they have achieved some successes through a combination of methods. For example, litigation on selected issues with the goal of ensuring system access, while simultaneously campaigning to raise community awareness, has achieved important, if limited, advances. The government's decision to drop the requirement that residents possess an ID card in order to receive the Covid-19 vaccine is one such case. As a broader international audience becomes aware of the Ndaga Muntu system's profile and problems, it will be both important and beneficial to include grassroots organisations outside the digital rights space in advocacy efforts. These should primarily be those that act locally rather than nationally, in broad and prominent coalitions, as these organisations are directly in touch with those who are suffering most keenly from the system's flaws. The period ahead could provide a window of opportunity for further engagement, in which support can be provided to generate sustainable local advocacy structures.

ANNEX C:
ADVOCATES' RECOMMENDATIONS FOR DIGITAL ID SYSTEMS FEATURES

Advocacy focused on digital ID systems' design and features is mostly policy-driven in nature. This work is aimed at shaping conversation and offering advice on how to create, regulate, and implement digital ID systems. It often entails broad-based recommendations for digital ID systems in the abstract, rather than proposing changes to specific identity systems. The goal is to persuade policymakers to incorporate such suggestions into their approaches to developing digital ID systems.

Some key recommendations that come up frequently in this regard include the following:

1. Provide alternatives to e-ID systems.

▶ Use opt-in systems (Access Now, 2018) that give users the ability to decide if they wish to sign up for a digital ID. Such an approach would not penalise those who do not opt in.

▶ Pursue a thoughtful and inclusive approach to designing alternatives. This should include options for individuals who cannot provide biometric data due to factors such as age or occupation (Access Now, 2018).

2. Engage in public consultation and outreach.

▶ Implementers should carry out large-scale public consultation processes prior to the introduction of digital ID systems. This process should prioritise participation and trust-building through transparency (Omidyar Network, 2019).

▶ Development processes should include expert consultation, including input from independent technologists and security experts (Ferreyra, 2020).

3. Use a process of intentional design, or privacy by design.

▶ These design strategies are intended to prevent surveillance by giving users greater oversight of system functions, for instance through the use of authentication records to prevent unauthorised information sharing (Kak et al., 2020).

▶ Systems should have clear data-usage policies, especially with regard to use of information by the private sector.

▶ An emphasis on "privacy by design" through decentralised data storage is useful.

▶ Systems will benefit from the use of open standards. Vendor and technology neutrality should be ensured (Gelb & Metz, 2017).

▶ Systems should be designed to retain functionality in low-connectivity environments, so as to ensure access.

4. Create a strong data-protection framework.

▶ Robust privacy frameworks are necessary to protect the sensitive data stored within digital ID systems.

▶ Clear redressal mechanisms and safeguards should be put in place, along with the means to

enforce relevant laws (Kak et al., 2020).

▸ Systems should be technically auditable by external technicians (Kak et al., 2020).

5. Put in place clear limitations.

▸ Data collection, especially of biometric data, should be minimised (Access Now, 2018).

▸ Explicit parameters should be put in place regarding how data can be used, accessed, shared, and stored (Bhandari et al., 2020).

▸ Restrict scope creep (Bhandari et al., 2020) in order to minimise the risk of data breaches and identity theft, and to limit possible state abuses of power.

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