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# Legal Protection of Women in Informal Digital Economies in Kenya and Uganda

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**ABSTRACT**

The fast growth of informal digital economies has presented new opportunities for economic engagement of women in Kenya and Uganda via social commerce, digital markets, mobile money transfers, and online gig-economy platforms. On the other hand, the lack of full legal protection has resulted in vulnerability of many women to digital fraud, cyber harassment, unfair contractual terms, privacy violations, and limited ability to resort to law. This paper analyzes the legal framework regulating the protection of women engaging in informal digital economies in Kenya and Uganda, focusing on the identification of regulatory gaps and ways of improving the legal position and economic security of these women. The research utilizes a doctrinal comparative legal approach based on primary legislative materials, case law, policy papers, and academic literature. The results obtained show that while both Kenya and Uganda have adopted legal instruments regulating the matter of digital economy and cybersecurity, there is much room for improvement concerning the protection of the peculiar vulnerability of women engaged in informal digital economies. It is concluded that a set of gender-sensitive digital policies, strong enforcement, improved digital literacy, and effective dispute resolution mechanisms are needed to enhance the participation of women in informal digital economies.

***Keywords:*** Informal Economies, Digital Economies, Legal, Women, Kenya, Uganda



## 1. INTRODUCTION

The two countries have experienced tremendous developments in informal digital economies, especially because of the Silicon Savannah tech hub and M-Pesa revolution, among others[1]. In Kenya, the share of the informal economy is 85% of total employment, while Uganda has made great strides in business development thanks

[1] Nóra Gőbel, Uma Rani, Rishabh Dhir, Monica Kerretts-Makau, Ben Muhindi Abasand, Grace Muraya, and Abigail Osiki, *Digital Labour Platforms in Kenya: Exploring Women's Opportunities and Challenges across Various Sectors* (Geneva: International Labour Organization, 2024).

to ICT hubs such as Kampala[2]. Indeed, the COVID-19 pandemic played an important role since companies and individuals were forced to turn to digital platforms for transactions, loans and educational purposes. In fact, there have been 4 times more local digital labor platforms in Kenya within the last decade, covering such industries as taxis and healthcare[3]. Nevertheless, there are still huge gaps in digital access since internet penetration is unevenly distributed across urban-rural areas and gender barriers. The current developments have created a hybrid economy based on informal practices and standardised digital infrastructure[4]. On the other hand, these developments are fragile and are connected to the "taskification" of work, which implies de-skilling of labor and working in informal environments.

Women in both countries play an important role in such digital economies due to the significant number of income-generating opportunities in the sector since formal employment is not available[5]. For instance, in Uganda, businesses owned by women have increased at 1.5 times the rate of those owned by men in the last decade, and it has the second largest share of female-owned firms compared to other countries around the world. Women in this part of the world have used social media like WhatsApp, Instagram, and Facebook to generate an online presence and turn their phones into shops for selling different kinds of products[6]. Digital financial systems such as M-PESA have played an essential role in breaking down the barriers to finance and making it possible for poor women to access banking through their phones[7]. The concept of participation is becoming more and more digital and concerns digital labour platforms used in women-dominated industries such as domestic services, beauty treatment and virtual teaching. Digital platforms in Kenya such as Gwiji make the lives of domestic workers much easier, as now they do not need to look for jobs at street corners anymore[8]. However, participation of women still happens in stratified and often restricted forms, with women involved only in low-productivity and less technical jobs. The use of online platforms for writing and micro-tasking is now an important way of earning money for well-educated young women in Nairobi and Kampala[9]. Although having a university degree, they find themselves doing repetitive

[2]Uma Rani, Ruth Castel-Branco, Shivani Satija, and Mahima Nayar, "Women, Work, and the Digital Economy," *Gender & Development* 30, no. 3 (2022): 421–35.

[3] Robert Okello, *Rural Women's Legal Empowerment through Digital Technology*, African Studies Collection 83 (Leiden: African Studies Centre, 2023).

[4] Simon Suwanzy Dzreke and Semefa Elikplim Dzreke, "Formalizing Africa's Informal Economy: Balancing Digital ID Systems and Livelihood Protection in Kenya and Ghana," *Frontiers in Research* 5, no. 1 (2025): 57–73.

[5] Robert Okello, *Rural Women's Legal Empowerment through Digital Technology: A Case Study in Northern Uganda* (Leiden: African Studies Centre Leiden, 2023).

[6] Grace Mutung'u, "The United Nations Guiding Principles on Business and Human Rights, Women and Digital ID in Kenya: A Decolonial Perspective," *Business and Human Rights Journal* 7, no. 1 (2022): 117–33.

[7] Caroline Wamala Larsson and Jakob Svensson, "Mobile Phones in the Transformation of the Informal Economy: Stories from Market Women in Kampala, Uganda," *Journal of Eastern African Studies* 12, no. 3 (2018): 533–51.

[8] Pierre Nguimkeu and Cedric Okou, "Leveraging Digital Technologies to Boost Productivity in the Informal Sector in Sub-Saharan Africa," *Review of Policy Research* 38, no. 6 (2021): 707–31.

[9]Mamourou Sidiki Konate, "The Role of the Digital Economy in the Financialisation and Optimal Integration of the Informal Sector, in a Context of Economic Development" (PhD diss., COMUE Université Côte d'Azur, 2018).

and underpaid jobs like annotating data for artificial intelligence technology. Moreover, the gender digital divide is very evident; there is a 42% difference in the use of mobile internet in Kenya and women in Uganda earn about thirty per cent less profit than men[10].

The problem statement is the exclusion of women in the informal economy from digital and legal protections. Despite having articles such as Article 41 of the Kenyan Constitution that provide labour rights for everybody, the law applies only to the traditional form of labor, but not digital and platform work[11]. Moreover, the Employment Act and Labour Relations Act exclude independent contractors by denying them the rights to collective bargaining, social protection, and fair pay. Another example of how women are disadvantaged in the process of legalization is the failure of the digital identification system, such as Huduma Namba in Kenya, due to failures of biometric enrolment and lack of documentation[12]. Data protection legislation is still at its early stage of development and does not protect women from discrimination in algorithmic loans and account suspension. Moreover, there are inconsistencies between informal justice and international standards, and high costs of legal processes make it hard for rural women to use formal court procedures; thus, there is a huge "justice gap".

What distinguishes this study is the decolonial lens applied to understanding the issue of gender justice in the informal digital sphere by liberating the use of technology from the historical context of identity recording and social control associated with colonization. This study shifts from technocratic approaches in examining how the concept of "digitalized informality" is able to create a space where surveillance grows while the lack of labor protection remains unchanged. First and foremost, the research aims to explore how digital technologies intersect with women's access to justice and legal empowerment in Kenya and Uganda. The second aim is to explore how digital technologies can be used as a tool for achieving legal awareness among disadvantaged communities. Finally, it will be essential to uncover socio-technological barriers to digitalization that prevent its socio-economic empowerment capacity. Thus, by presenting a new concept of "digital justice," the study will provide practical recommendations on how to balance administrative effectiveness and livelihood security of informal workers.

## 2. METHOD

The methodology used in this study is doctrinal in nature, focusing on the legal protection of women in the informal digital economy. The approach is qualitative and interpretive, emphasizing understanding of the social and cultural context in which ICT is adopted. The primary sources of doctrinal research include a comprehensive literature review of the relevant laws such as the Standards Act, Employment Act, and Data Protection Act, and the rulings of the Employment and Labour Relations Court.

[10] Esther Ngari, Joshua Mugendi Njiru, Caroline Ntara, Vincent Onywera, Charles Githira, Ann Rintari, Evalyne Njeru, Geoffrey Muriira, Henry Rotich, and Peter Kaigwara, "Formalising Informal Trade: Redefining Kenya's Micro, Small, and Medium Enterprise Standards and Regulatory Environment," *Frontiers in Behavioral Economics* 5 (2026): 1860727.

[11] Kenneth Besigomwe, "Administrative Law and the Regulation of Informal Sector Enterprises in Uganda," *Cognizance Journal of Multidisciplinary Studies (CJMS)* (2024).

[12] Ibid

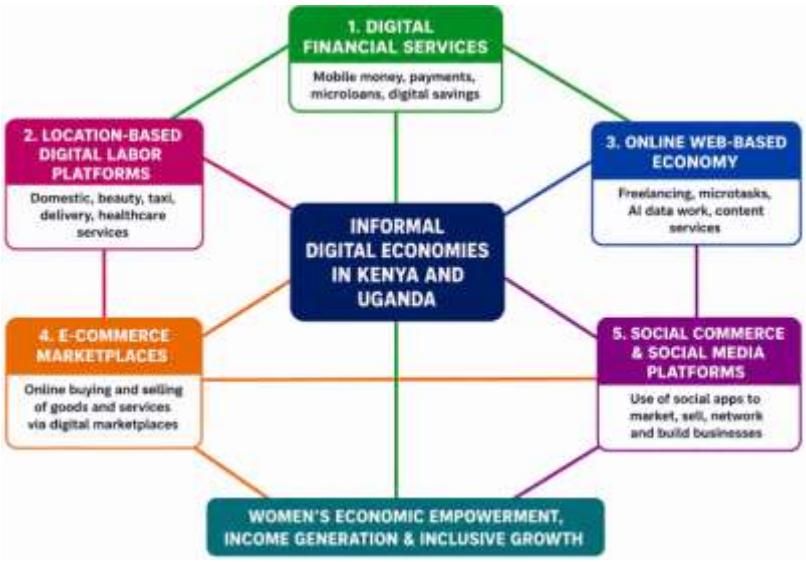
Secondary sources of doctrinal research will include peer-reviewed journals, policy blueprints such as Vision 2030, and institutional documents from the ILO and other relevant institution. Instruments of data collection will include systematic literature review and a database scanning process. Data analysis techniques will include thematic analysis and content analysis in order to derive patterns, identify regulation gaps and validate themes.

## 3. RESULTS AND DISCUSSION

### 3.1. The Growth and Development of Informal Digital Economies in Kenya and Uganda

Both Kenya and Uganda have recorded impressive growth in the informal digital economy, attributable to increased internet connectivity and the availability of mobile phones[13]. Digital economies have changed the face of entrepreneurship through innovative ventures such as digital financial services, location-based employment platforms, online freelancing, e-commerce and social media marketing[14]. Overall, digital economies have increased income earning, financial inclusion and entrepreneurship for the informal sector, especially for women and young people. The different informal digital economies in Kenya and Uganda will be illustrated through diagrams and discussed in detail below[15].

**Figure 1:** Showing the various types of informal digital economies in Kenya and Uganda




**Source:** Design by authors based on data obtained

The informal digital economies of both Kenya and Uganda have witnessed unprecedented growth, particularly in the context of Kenya's 'Silicon Savannah' and the development of informal urban ICT in Uganda[16]. The Kenyan economy, being the largest in East Africa, has witnessed a change from sectors such as agriculture and manufacturing into a developing digital economy where the share of the informal

[13] Saadat Nakyejwe Lubowa Kimuli, Kasimu Sendawula, and Shakilah Nagujja, "Digital Technologies in Micro and Small Enterprise: Evidence from Uganda's Informal Sector during the COVID-19 Pandemic," *World Journal of Science, Technology and Sustainable Development* 18, no. 2 (2021): 93–108.
[14] Martha Garcia-Murillo and Jorge Andres Velez-Ospina, "ICTs and the Informal Economy: Mobile and Broadband Roles," *Digital Policy, Regulation and Governance* 19, no. 1 (2017): 58–76.
[15] Ibid
[16] Ibd

sector in the total employment stands above 83%. On the same note, the economy of Uganda has recorded a significant rise in the share of the informal sector, where more than 60% of the market vendors happen to be women[17]. The growth of the economy is attributable to factors such as high-speed internet connection, as well as the youth utilizing digital technologies to generate jobs and wealth. The recent global pandemic played a significant role in catalyzing the change, whereby many firms and employees had to go digital in order to survive[18]. This is because of the acceleration of the "digitalization of informality." Nonetheless, there still exist imbalances, including a digital divide between men and women, where the latter lag in device ownership and high-speed data access.

One major element that defines such economies is the digital finance service revolution, especially mobile money services such as M-PESA and MTN MoMo[19]. Currently, Africa accounts for more than 40% of mobile money accounts in the world, where Kenya and Uganda are leading countries in terms of financial inclusion. The fintech ecosystem has changed the way people can access banks for underprivileged women because the technology allows them to deal with issues like credit, savings, and transactions without any traditional collateral. In Kenya, there have been efforts through the use of digital IDs such as the Huduma Namba to formalise such processes by working together with mobile lenders such as M-Shwari to facilitate microloans[20]. Nevertheless, this "fintechization" can pose other challenges since many women encounter problems like biometric enrollment challenges or higher transaction costs for many small and frequent transactions. Despite all such challenges, the mobile money service has become a "god-sent" tool for informal traders who can do cashless transactions and bargain directly with their suppliers using mobile phones[21].

The emergence of location-based digital labor platforms signifies a paradigm shift in the organization of domestic and personal services in urban areas. In Kenya, the number of local digital labor platforms has quadrupled within the last decade, cutting across different industries including domestic services, beauty, taxis and healthcare among others[22]. Platforms such as Gwiji and Sweep South Kenya provide structure to domestic workers who had been depending on street corner bureaus and give them better access to employment as well as ensure their safety through vetting. Similarly, the beauty industry has also experienced a digital revolution through platforms like Tausi, which enable mostly women practitioners to provide their on-demand services[23]. Other male-dominated industries have also experienced penetration by

[17] Silas Mbogo Gitari, *Reforming the Institutional and Legal Frameworks of E-Commerce in Kenya: Consumer Rights Protection in the Digital Economy* (master's thesis, Strathmore University, 2020).
[18] Munyiva Mutinda, Justine Magutu, and Michel Tshiyoyo, "Licensing Women into the Economy: A Gendered Review of Kenya National Trade Policy and Socio-Economic Empowerment of Women Traders in Nairobi County," *Journal of Public Policy* 9, no. 3 (2025): 163–76.
[19] Jacques Charmes, "Women in the Informal Economy and the Impact of Technological Change," in *Research Handbook on Development and the Informal Economy* (2020), 410–34.
[20] Ibid
[21] Ibid
[22] Margaret Kyakunda, "Exploring the Extent & Impact of ICT Use on Small and Medium Enterprises in Developing Countries: The Case of Urban Women Enterprises in Kampala, Uganda" (PhD diss., PQDT-Global, 2024).
[23] Ibid

digital labor platforms through the use of app platforms like Uber, Bolt, Little, and Glovo that provide algorithmic management of matching workers with clients. Despite all these, workers are mostly classified as "independent contractors" and thus are excluded from the benefits of labor laws, social security and collective bargaining[24].

Web-based economies have also flourished, turning Kenya and Uganda into dynamic centres for freelance writing, microtasking, and AI development worldwide. Freelance websites such as Upwork, Fiverr, and Kenyawriters offer highly educated youth opportunities to work internationally on diverse projects from writing to IT data analytics[25]. An interesting feature of this area is a high rate of academic and article writing, when employees take advantage of their ability to write in English in order to offer special services. Microtasking websites including Remotask and Scribie assign mundane tasks of data annotation and picture tagging, which are required to develop artificial intelligence globally[26]. Taskification gives workers a chance to earn money at home, which is especially valuable for women with family responsibilities. However, there is often a skill mismatch in this area, as many university graduates end up working on mundane assignments that are far from their STEM background. In addition to that, invisible workers have to deal with numerous problems, such as task rejections, geographic discrimination, and a lack of any regulation and social protections altogether[27].

Lastly, the emergence of e-commerce marketplace platforms and social media sites has created digital economies, transforming mobile phones into "virtual shops". In Kenya, there is a growing number of such platforms, including Jumia, Kilimall, and Sky Garden, used for selling clothes, electronics, and beauty products[28]. Besides structured marketplace platforms, the majority of informal vendors make use of social media platforms, including WhatsApp, Facebook, and Instagram, to connect with their customers. Such social platforms provide for personalised communication and marketing tools, such as "WhatsApp status", which became a major tool of promotion for female micro-entrepreneurs[29]. In Uganda, urban women entrepreneurs benefit from these social innovations by bypassing the intermediaries and earning higher profits in the process of expanding their business to national markets. Though social commerce provides the sellers with low costs and reduced fees, it poses additional risks associated with potential fraud, failure to pay, and harassment online[30].

[24] Regean Mugume and Enock W. N. Bulime, "Post-COVID-19 Recovery for African Economies: Lessons for Digital Financial Inclusion from Kenya and Uganda," *African Development Review* 34 (2022): S161–S176.
[25] Savita Bailur and Silvia Masiero, "Women's Income Generation through Mobile Internet: A Study of Focus Group Data from Ghana, Kenya, and Uganda," *Gender, Technology and Development* 21, nos. 1–2 (2017): 77–98.
[26] Ibid
[27] Ibid
[28] Mark Graham, *Digital Economies at Global Margins* (Cambridge, MA: MIT Press, 2019).
[29] Christine Bischoff, Ken Kamoche, and Geoffrey Wood, "The Formal and Informal Regulation of Labor in AI: The Experience of Eastern and Southern Africa," *ILR Review* 77, no. 5 (2024): 825–35.
[30] Ibid

### 3.2. Women Participation in Informal Digital Economies in Kenya and Uganda

The involvement of women in the informal economies of Kenya and Uganda is integral to the country's economic structure, but it is characterised by deeply embedded gendered precarity. According to the International Labour Organization (ILO), "the informal economy provides 85.8% of all total employment in sub-Saharan Africa"[31]. In Kenya, the informal economy represents 83.1% of the total employment in the country, with 90.2% of the female labor force employed informally. The informal economy in Uganda has expanded considerably, with more than 60% of the market vendors being women, forming a new entrepreneurial stratum that makes a considerable contribution to the national GDP. However, women-owned micro-enterprises generate up to 30% lower profits compared to those owned by male entrepreneurs[32]. This gap is further widened due to the fact that women enter the informal economy out of necessity as a result of a lack of other options, with 32% of Kenyan freelancers and 50% of domestic platform workers motivated by this consideration.

DFS acts as the backbone for women's economic participation, although the gender digital divide hinders their full capabilities. Kenya is at the forefront in this regard, with mobile money usage among the adult population standing at 82%, majorly attributed to Safaricom's M-PESA[33]. DFS technology has enabled financial inclusion of disenfranchised women who had been denied access to traditional banking services. Nevertheless, institutional and technological constraints still exist; for example, the gender gap in using mobile internet in Kenya stands at 42%. Studies show that African women have a 14% lower likelihood, on average, of owning a mobile phone compared to males, and only 27% of African women have access to the internet. In addition, biometric identification such as Huduma Namba in Kenya has marginalized women working in sectors of manual labor, for example, food processing or charcoal vending, due to having "worn" fingerprints and no foundational documentation. Females are 30% less likely to perform DFS transactions in Uganda and 19% in Kenya than males[34].

With the development of location-based digital labor platforms, structured opportunities have emerged in women-dominated industries such as domestic and beauty service sectors[35]. The number of local digital labor platforms in Kenya has quadrupled over the last ten years. In a study carried out on domestic workers in the use of platforms such as Gwiji and SweepSouth, it was found out that 68% of the

[31] Veronica Akaezuwa, Anindita Chakraborty, Brian Chang, Shruti Manian, Aarushi Prabhakar, Shruti Sriram, and Chutong Zhu, *Ethical Cross-Border Trading between Kenya and Uganda by Women-Led Micro and Small Enterprises* (New York: Columbia School of International and Public Affairs, 2020).

[32] Jacklyne A. Ashubwe, Maureen Ambasa, Joseph Siyumbu, Inès C. van Zuijlen, Nick Mutegi, Sabine Verschuur, Tobias F. Rinke de Wit, Dorien Mulder, Wendy Janssens, and Charlotte M. Dieteren, "The Potential of Digital Loans to Reduce Gender Disparities in Financial Inclusion among Female Health Entrepreneurs in Kenya," *Scientific Reports* 15, no. 1 (2025): 39453.

[33] Uma Rani, Nóra Gőbel, and Sueda Uludağ, "Unmasking Gender Disparities in the Digital Economy: Beyond Access and Numbers," in *Women in Turbulent Times* (2026), 275–96.

Serena Natile, *The Exclusionary Politics of Digital Financial Inclusion: Mobile Money, Gendered Walls* (London: Routledge, 2020).

[34] Ibid

[35] Naila Kabeer, *Gender & Social Protection Strategies in the Informal Economy* (New Delhi: Routledge India, 2014).

domestic workers are females aged at least 28 years. Even though these platforms offer the benefit of enhanced visibility and safety from the vetting process, the work is precarious[36]. In the beauty service industry, men earn a much higher average income than women per hour despite the fact that women earn approximately 252 Kenyan shillings per hour, considering the unpaid work. Furthermore, women in these industries experience the 'double burden of domesticity' because they spend, on average, between six and eight hours every day engaged in unpaid care activities, thus reducing the time spent working for pay on these platforms[37]. Since women do not access social protection like health or unemployment insurance benefits, 66% of women in the healthcare platform industry and 57% of women in the domestic platform industry lack such social protection.

Online freelance and microtasking jobs constitute a new opportunity for very well-educated young women; however, there is a significant mismatch in skills for those types of jobs. In Kenya, 51% of women participate in online freelance activities, while 56% of them have university-level education[38]. Likewise, 55% of microtaskers are women, among whom 40% graduated from university. Even though they have such education, they are mostly involved in taskification – repetitive and low-skill jobs like data entry or labelling images for AI learning, which do not require specialized knowledge. For example, when we talk about the IT and computer science sector, it is clear that there is an existing gender gap, because 8% of women specialise in this field against 24% of men[39]. Additionally, women-owned firms in the sphere of digital lending suffer from "double discrimination" and, therefore, face 37% underfunding from algorithms. However, despite the negative aspects mentioned above, the main advantage of working online is the ability to work remotely, and that is why 11% of women are attracted by this aspect[40].

Mobile phones are among the key means used by women in the region to conduct their e-commerce or social commerce business. Women make up the majority (58%) of sellers operating through Kenyan online marketplaces, such as Jumia and Kilimall. Overwhelmingly, 96% of them advertise their products through social media networks, including WhatsApp, Facebook, and Instagram, since such platforms enable direct negotiations with clients without paying any commissions [41]. Nonetheless, there are specific differences in the gender dynamics observed. Although 90% of the women determine their prices, the earnings of women are considerably lower than those of men. Namely, women receive an average of 7,745 Kenyan shillings weekly, while men receive 10,203 Kenyan shillings[42]. One of the reasons for this may

[36] Damilola Joseph, Domnan Miri, and Walter Mswaka, "Digital Technology Affordance and Constraints in Informal Economies: A Micro-Entrepreneurial Study," *Journal of Small Business and Enterprise Development* 32, no. 4 (2025): 788–816.

[37] Juma Kasadha, "Information Technology to Support Digitally Networked Action in Developing Economies: A Case of Nyanzi's #Pads4GirlsUg Campaign," *The Electronic Journal of Information Systems in Developing Countries* 84, no. 1 (2018): e12009.

[38] Ibid

[39] Ibid

[40] Marie Sicat, Ankai Xu, Ermira Mehetaj, Michael Ferrantino, and Vicky Chemutai, *Leveraging ICT Technologies in Closing the Gender Gap* (Washington, DC: World Bank, 2020).

[41] Ibid

[42] Ibid

be the fact that men more frequently sell electronics of high value and use more data analytics. Besides, women combine online and offline businesses, working 64 hours weekly in both spheres despite the fact that they take care of children and other household chores[43].

**Table 1:** Showing women's participation in informal economies in Kenya and Uganda

| Digital Economy Sector | Participation & Earnings Statistics | Primary Motivations | Key Legal & Socio-Economic Challenges |
|---|---|---|---|
| **General Informal Economy** | Approximately 90.2% of the female workforce in Kenya is engaged in informal employment. In Uganda, over 60% of market vendors are women. | A lack of formal employment opportunities in the local labor market. | Lack of formal contracts and access to social protection or safety nets. |
| **Location-Based Platforms** (Domestic & Beauty) | 68% of domestic workers using platforms in Kenya are women. The beauty sector is 74% female-dominated. | Domestic: Inability to find other jobs (51%). Beauty: Enjoyment of the work (53%). | Domestic workers earn roughly 81–100 KES/hour, which is below the statutory minimum wage. Safety concerns when working in private homes. |
| **Online Work** (Freelance & Microtask) | Women comprise 51% of online freelancers and 55% of microtask workers in Kenya. | The flexibility to work from home to balance childcare (1.8 hours/day) and domestic chores. | Skills mismatch: 31% of women in BPO feel their skills are underutilized. High risk of unfair task rejections. |
| **E-commerce & Social Commerce** | Women represent 58% of sellers on Kenyan marketplace platforms. 96% of sellers utilize social media for marketing. | Supplemental income (28% of female sellers) and business expansion prospects (21%). | Weekly earnings gap: Women average 7,745 KES compared to 10,203 KES for men. Gender gaps in social media usage persist. |
| **Digital Financial** | Kenya adult mobile money penetration is 82%. Women in Uganda are 30% less likely to use | Promoting financial inclusion for unbanked women previously | Algorithmic bias: Women-led SMEs face a 37% underfunding penalty from credit |

[43]

| | | | |
|---|---|---|---|
| **Services (DFS)** | digital financial transactions than men. | excluded from formal banking. | scoring models. Biometric exclusion for manual laborers. |

Sources: ILO[44], Kyakunda[45], Mugume and Bulime[46], Dzreke[47]

### 3.3. Legal Protection of Women in Informal Digital Economies in Kenya and Uganda

Legal protection of women in Kenya and Uganda is embedded within constitutional frameworks. The Kenya Constitution under Article 27 provides for equality and non-discrimination of individuals based on grounds including sex and pregnancy[48]. Likewise, in Uganda, the Constitution in Article 33 guarantees equal treatment with men in all aspects of political, economic, and social life to women. The Constitution's supremacy guarantees that any policy relating to the digital economy should consider equality between men and women[49]. Moreover, the Ugandan Constitution under Article 32 gives the State the mandate to take affirmative action towards balancing past injustices. This is highly significant for women in the informal digital economy because of the high-level mandate provided by the provision[50]. The major challenge in this case is the fact that digital economies have an informal aspect which escapes regulation. The constitutional guarantee of equality may not be sufficient because of the need to make secondary legislation targeting the peculiarities of the platform economies.

Both the Employment Acts of the two countries set out the standards of fair labour practices but are unable to address this issue in the digital economy. The Kenyan Employment Act (2007)[51] and the Ugandan Employment Act (2006)[52] state that discrimination is prohibited, and equal remuneration is given for the work of equal value. The protection from sexual harassment stated in Section 6 of the Kenyan Act and Section 7 of the Ugandan Act is crucial as it requires the employer to have a mechanism that prevents sexual harassment. Nevertheless, such a provision is often made depending on the presence of a "contract of service" which is not always valid

[44] International Labour Organization, *Digital labour platforms in Kenya: Exploring women's opportunities and challenges across various sectors* (Geneva: International Labour Office, 2024), 5, 33–40, 143, 212.
[45] Margaret Kyakunda, "Exploring the extent & impact of ICT use on Small and Medium Enterprises in Developing Countries: The case of urban women enterprises in Kampala, Uganda" (DBA thesis, University of Wales Trinity Saint David, 2024), 8–9.
[46] Regean Mugume and Enock W. N. Bulime, "Post-COVID-19 recovery for African economies: Lessons for digital financial inclusion from Kenya and Uganda," *African Development Review* 34, no. S1 (2022): S161–S176.
[47] Simon Suwanzy Dzreke and Semefa Elikplim Dzreke, "Formalizing Africa's informal economy: Balancing digital ID systems and livelihood protection in Kenya and Ghana," *Frontiers in Research* 5, no. 1 (2025): 54–55, 71.
[48] Awuor Ponge, "Bridging the Gender Digital Divide: Challenges in Access and Utilization of ICTs for Development at the Devolved Level in Kenya," *International Journal of Innovative Research and Development* 5, no. 7 (2016): 328–39.
[49] Ibid
[50] Ugandan Constitution 1995
[51] The Kenyan Employment Act (2007)
[52] Ugandan Employment Act (2006)

in the case of the digital gig economy[53]. Women in the digital economy often work as independent contractors and "users" of the platform instead of being employees, which might deprive them of the maternity leave right – three months in the case of Kenya and sixty working days in Uganda.

Women are increasingly exposed to cyber violence in digital economies, and the Computer Misuse Acts enacted in Kenya and Uganda aim to tackle this problem. The Computer Misuse and Cybercrimes Act, 2018 in Kenya under Section 27[54] criminalises cyber harassment by making it illegal for any person to communicate through a computer in a way that causes apprehension, fear, or a detrimental effect on someone. In Uganda, the Computer Misuse Act, 2011, under Section 24[55] makes illegal the use of computers for making obscene and indecent requests or threatening someone with physical harm. Additionally, the Act criminalizes cyber stalking and offensive communication, which are essential for the protection of women because their private and working lives are interconnected through the internet. This is important as the work done through digital economies makes the personal data of women vulnerable to doxxing and cyberbullying. However, the effectiveness of the Act is limited due to a high burden of proof and the international nature of the digital platform. While the Act exists to punish offenders, the informal economy of digital platforms necessitates moderating responsibilities of service providers. Otherwise, the burden of proving and punishing harassment remains an individual responsibility of the woman herself.

Empowerment of women in the informal sector has been achieved through frameworks such as the Micro and Small Enterprises Act, 2012 in Kenya[56]. It is quite revolutionary in its efforts to formalize and modernize informal business organizations and explicitly requires the mainstreaming of gender into all MSE initiatives under Section 31. There is a legislative framework allowing women-led digital ventures to be eligible for financing from the Micro and Small Enterprises Development Fund for capacity building and procurement of technology. In Uganda, there is no mirror act, but they depend on the Equal Opportunities Commission Act, 2007,[57] where the Commission has power to monitor and enforce affirmative action policies in private enterprises. Notably, both countries acknowledge that women in the informal digital sector need not only negative protection (protection against any abuse) but also positive measures such as provision of credit and technical training. But the key problem is the gap between registration and benefit because most women do their business in a "shadow" digital economy to escape taxes, and thus they remain unable to benefit from the legislative framework of these countries[58].

Data privacy is one of the pillars of women's security and financial independence in the digital world. Through the Data Protection Act of 2019, Kenya[59] protects the constitutionally entrenched right to privacy (Article 31). The Act regulates personal

[53] Ibid
[54] Computer Misuse and Cybercrimes Act, 2018 in Kenya
[55] Uganda Computer Misuse Act, 2011
[56] Micro and Small Enterprises Act, 2012 in Kenya
[57] Equal Opportunities Commission Act, 2007
[58] Cynthia Mutinda, *Determinants of Socio-Economic Empowerment of Women Traders in Nairobi County: Case of Kenya Trade Policy Financial Inclusion Strategies* (Nairobi: Kenya National Commission for UNESCO, 2025).
[59] Data Protection Act of 2019, Kenya

data processing and mandates "data protection by design or by default". The application of section 37 of Kenya's Act, which limits the commercialization of data without express consent, is crucial for women working in the digital economy to safeguard themselves against any illicit sale of their profiles[60]. In Uganda, the regulation is supported by the Electronic Transactions Act, 2011[61], which enhances secure e-commerce and consumer protection for end-users. Nonetheless, the emphasis of Uganda in this particular law is more on the validity of the contract and transactional security compared to Kenya, whose regulations are more human-rights based. This critique reveals that although Kenya has an up-to-date data protection law, enforcement in the informal digital sector is still in its infancy[62]. Women exposing their data to informal lending apps and digital marketplaces risk being subjected to exploitative practices[63]. There is a need for both countries to align their data legislation with cybercrime legislation to ensure physical harm following a data breach.

Institutional oversight is the final criterion for legal protection of women[64]. The institution responsible for investigating violations of the equality principle and giving advice on gender mainstreaming in Kenya is the National Gender and Equality Commission (NGEC). In Uganda, the Equal Opportunities Commission (EOC) has quasi-judicial power to summon and compensate people who are discriminated against. Such institutions play an important role in closing the gap between the constitutional rights and reality of women working in the informal digital economy. However, one of the key critiques of such institutions claims that they do not have enough funding and special technical knowledge to regulate digital platforms[65]. Additionally, the term "informal" acts as the main restriction to institutional actions because if women cannot be qualified as formal "employees" or their businesses are not registered, they will not be able to use the help of these institutions. Legal protection of women in the digital space will only become efficient if these institutions learn how to regulate algorithmic bias and discrimination through digital platforms[66]. At the moment, the law creates a good protective shield but does not give the means to change the structure of the digital economy.

**Table 2:** Comparison of Kenyan and Ugandan Laws

| Area of Protection | Kenya (Relevant Act & Sections) | Uganda (Relevant Act & Sections) |
|---|---|---|
| **Constitutional Equality** | Constitution 2010, Art. 27 | Constitution 1995, Arts. 32 & 33 |

[60] Ibid
[61] Uganda Electronic Transactions Act, 2011
[62] Ibid
[63] Carolyn Pedwell, *Women, Gender and the Informal Economy: An Assessment of ILO Research and Suggested Ways Forward* (Geneva: International Labour Organization, 2008).
[64] Ibid
[65] Mariama Deen-Swarray, Mpho Moyo, and Christoph Stork, "ICT Access and Usage among Informal Businesses in Africa," *info* 15, no. 5 (2013): 52–68.
[66] Ibid

| | | |
|---|---|---|
| **Sexual Harassment** | Employment Act 2007, Section 6 | Employment Act 2006, Section 7 |
| **Cyber Harassment** | Computer Misuse & Cybercrimes Act 2018, Section 27 | Computer Misuse Act 2011, Section 24 |
| **Maternity Rights** | Employment Act 2007, Section 29 (3 months) | Employment Act 2006, Section 56 (60 working days) |
| **Data Protection** | Data Protection Act 2019, Section 25 | Electronic Transactions Act 2011 (Securing transactions) |
| **Empowerment Bodies** | National Gender and Equality Commission (NGEC) | Equal Opportunities Commission (EOC) |
| **Small Business Support** | Micro and Small Enterprises Act 2012, Section 31 | EOC Act 2007, Section 14 (Oversight of private businesses) |

### 3.4. Legal Gaps

This is the key normative gap, and it emanates from the narrow interpretation of the terms "employee" and "contract of service." The Employment Acts of Kenya and Uganda stipulate that certain worker protections only apply in cases where there is a service contract in place[67]. Women participating in the informal digital economy function as independent gig workers or as participants in the online marketplace. As such, they fall out of the definition of employees, thus losing entitlement to statutory protection. First of all, the lack of a service contract means that the women will not be able to take advantage of provisions related to maternity leave[68]. Second, the lack of an employer means that women cannot make use of protection against dismissal. Even though the Constitution of Kenya guarantees fair labor practices to "every person," the subsidiary laws fail to make up the gap between this constitutional right and informal digital labor. Thus, thousands of women using digital labor platforms find themselves in a precarious position, having no access to social security and job stability[69].

An important legal problem in the case is the insufficient platform liability regime in respect of cyber harassment and digital violence. In this sense, the Computer

[67] Nanjala Nyabola, *Digital Democracy, Analogue Politics: How the Internet Era Is Transforming Politics in Kenya* (London: Bloomsbury Publishing, 2018).
Alison Gillwald, Onkokame Mothobi, Ali Ndiwalana, and Tusu Tusubira, *The State of ICT in Uganda* (Ottawa: International Development Research Centre, 2019).
Njuguna Ndung'u, *Digital Technology and State Capacity in Kenya* (Washington, DC, 2019), 1–43.

[68] Zitha Mokomane, Laurel Grzesik-Mourad, Aleta Sprague, and Jody Heymann, "Accessing Maternity Protection: Structural Barriers in the Informal Economy in Sub-Saharan Africa," *The Economic and Labour Relations Review* (2025): 1–20.

[69] Saadat Nakyejwe Lubowa Kimuli, Juliet Joy Apio, Ismael Nkambwe, Samuel Walulumba, Eunice Ninsiima, and Nashua Kimuli Nabaggala, "Wheels of Opportunity: Social Factors and Humane Entrepreneurship in Uganda's Boda-Boda Sector," *Journal of Work-Applied Management* (2025): 1–14.

Misuse Acts in both Kenya and Uganda are preoccupied with the criminalization of individual offenders, not the responsibilities of digital intermediaries. According to the Kenyan Act, cyber harassment is a criminal offence, but there is a normative silence in terms of proactive liability for preventing such acts on the part of platforms. Likewise, Ugandan regulations punish offensive communications and cyber stalking, but at the same time, the liability lies on victims to report offences and prove them[70]. For women working in informal digital economies, such regulation creates a hazardous environment since platforms where they conduct business activities do not have to follow any mandatory standards. In other words, current laws provide only punitive measures (retrospective remedy) but do not contain any means of prevention that would compel platforms to design "safety by design". Moreover, such a situation is enhanced by the cross-border character of digital service provision when the platform operates outside the jurisdiction of a local law enforcement agency[71].

Data protection laws in place create a gap in the economic freedom of women concerning their personal data. The Data Protection Act of Kenya provides principles of lawfulness and prohibition of using data without consent for commercial purposes; however, these rules imply high levels of digital literacy. Women operating in the informal digital economy sector are forced to accept "take it or leave it" terms of service wherein giving consent becomes a prerequisite to joining the digital marketplaces. As for the Electronic Transactions Act of Uganda, it concerns mainly the security of the transaction and not the rights of the data subject[72]. There is a complete absence of specific legal provisions that allow women to leverage or claim property rights to aggregated data collected from these platforms. The normative gap lies in the failure to recognise the value of data as an economic good that belongs to the worker. Moreover, due to a lack of algorithmic transparency, women do not realise the impact of their data on the price or visibility on the platform[73]. This informational imbalance enables the digital platform to use the data of the informal worker without giving anything in return.

The fourth normative gap is jurisdictional limitations of oversight mechanisms such as the National Gender and Equality Commission (NGEC) and the Equal Opportunities Commission (EOC), which are required to protect gender equality and deal with cases of discrimination in both the public and private spheres. The problem here lies in the fact that while their operational acts were made under the assumption that there would be a traditional organizational structure and registered firms, in Kenya, the Micro and Small Enterprises Act seeks to formalise the informal sector, but

[70] Raphael Gitau, Euzobia M. Mugisha Baine, Racheal Ninsiima, Naomi C. Chelang'a, Emily Korir, Bright Wekesa, Philip Philemon Harawa, and Njile Isack Shashi, "Gendered Barriers Faced by Food Vendors in Providing Low-Income Consumers with Safe, Affordable, and Nutritious Foods: Evidence from Urban Markets in Kenya and Uganda," *VeriXiv* 2, no. 217 (2025): 217.

[71] Susan Nicolai, Moizza Binat Sarwar, and Yasser Kosbar, *Digitally Powered "Learning to Earning" for Displaced Young People and Adolescent Girls and Young Women* (New York: UNICEF, 2023).

[72] Nandini Dasgupta and Tony Lloyd-Jones, "Heterogeneity and Vulnerability in the Urban Informal Economy: Reworking the Problem in the Current Context, the Case of Uganda," *World Development Perspectives* 10 (2018): 64–72.

[73] Glenrose Velile Jiyane, *Information and Knowledge Society and Its Impact on Poverty Alleviation and Economic Empowerment among Informal Sector Women Entrepreneurs in South Africa* (PhD diss., University of Zululand, 2012).

the women running their digital businesses do not register to escape tax payments. As a result, the women may be operating outside the direct jurisdiction of the aforementioned bodies. In addition, they lack the technological capacity to audit algorithmic discrimination or gender bias in digital labor allocation. The legal challenge lies in the discrepancy between the wide mandate of these bodies and the narrow jurisdiction they have when it comes to digital spaces.

## 4. CONCLUSION AND RECOMMENDATION

In order to have the legal protection of women in the informal digital economy of Kenya and Uganda, both states need to shift from aspirational constitutionalism to specialized regulation. According to the analysis, the main barriers are the restrictive interpretation of work, non-liability of the platform for safety, and the lack of capacity to regulate the algorithmic space. Thus, it is advised that both states adopt "Gig Work Amendments" to their Employment Acts to introduce the new legal classification of "Digital Platform Workers", who will enjoy essential rights such as maternity benefits and a fair dispute resolution process despite their contractual relations. Moreover, it is important to unify the data protection legislation and legislation on consumers' rights in order to make consent valid and let women benefit economically from their personal data. It is necessary to give more technical mandate and ring-fenced funding to oversight authorities such as NGEC and EOC to actively supervise the platforms for gender discrimination and cyber violence.

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