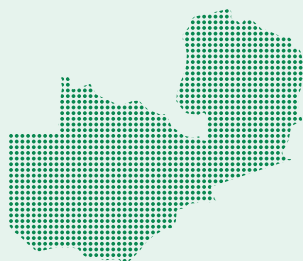
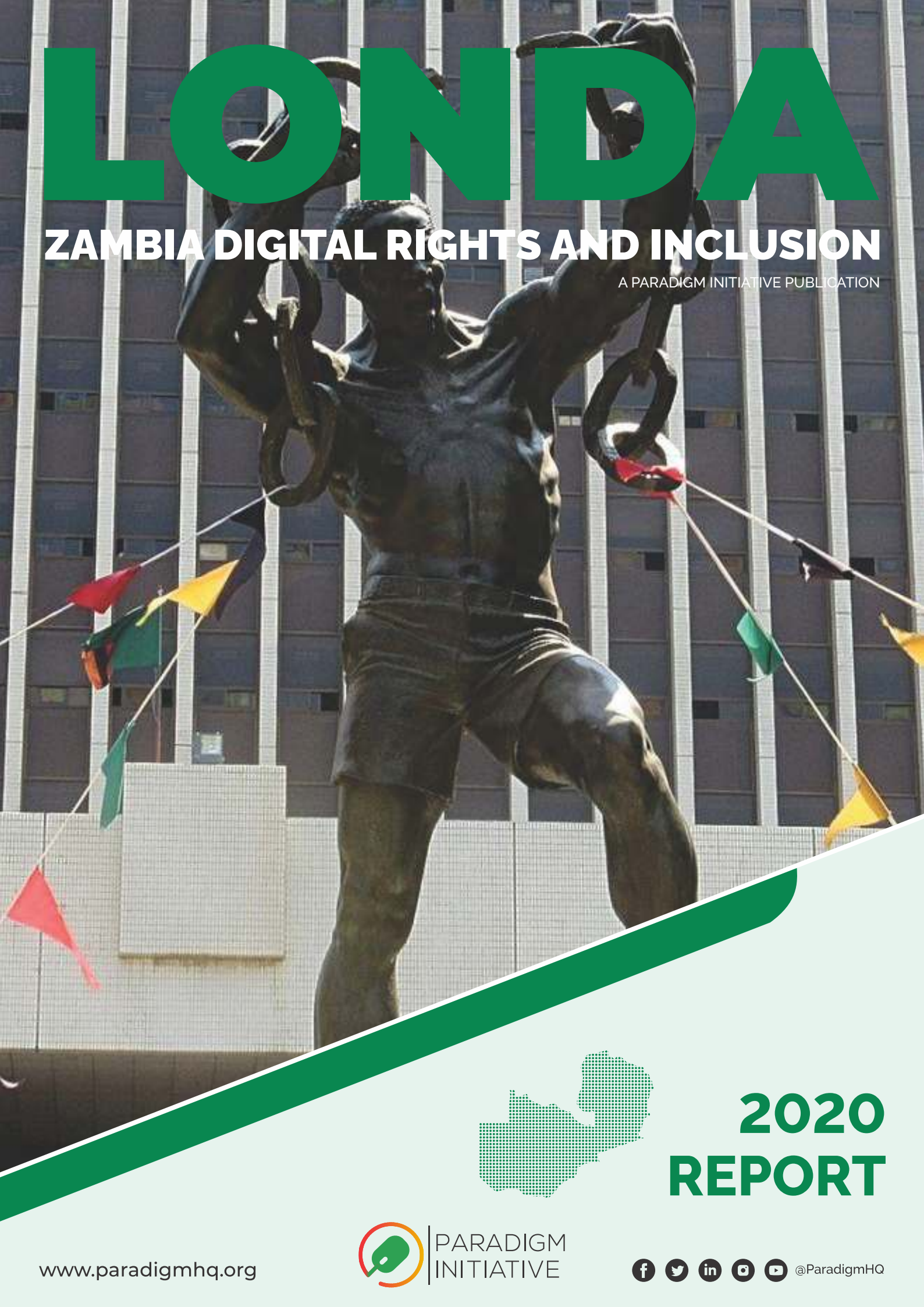


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ZAMBIA DIGITAL RIGHTS AND INCLUSION

A PARADIGM INITIATIVE PUBLICATION



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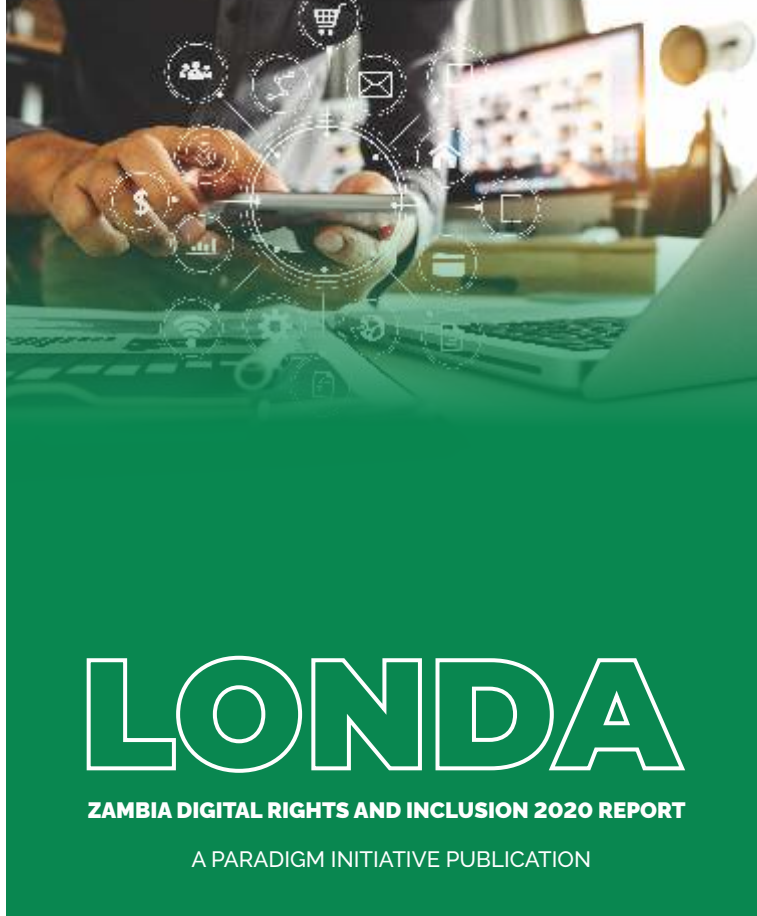
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ZAMBIA DIGITAL RIGHTS AND INCLUSION 2020 REPORT

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Civil society organizations continue to work to advance digital rights and inclusion in Africa, ensuring best practices are adopted into policy and legislation. This report analyses the state of digital rights and inclusion in Zambia, examining violations and gaps, investigating the use and application of policy and legislation, highlighting milestones and proffering recommendations for the digital landscape in Zambia. This edition captures among other issues, the digital divide worsened by the COVID-19 pandemic and unearths infractions on different thematic areas such as privacy, access to information, and freedom of expression with the legislative and policy background well enunciated.

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Zambia is a landlocked country at the crossroads of Central, Southern and East Africa.

In 2020, Zambia's population stood at 17.9 million.¹ Hailed as one of the fastest growing economies in Africa, with a GDP of \$23 billion.²

INTRODUCTION

DIGITAL RIGHTS AND INCLUSION IN ZAMBIA

Zambia's economic performance continued to dwindle due to declining copper prices, energy shortages, fiscal deficits that can be attributed to the country's severe debt crisis, and more recently economic pressures caused by the COVID-19 pandemic.

While the political climate remains relatively stable, the August 2021 elections are widely viewed as a decider and true test on the country's political situation judging from protest action and social media outbursts witnessed during the year about youth unemployment, high commodity and energy prices, load shedding, fluctuating foreign currency rates and high foreign debt coupled with defaults on repayments. Zambia's credit rating was downgraded after the government missed an interest payment and announced a suspension of debt service to external creditors.³

ICT SECTOR

Considerable investments have gone into upgrading the country's ICT infrastructure, including erecting about 1000 communication towers. The year 2020 saw a 25.7% increase in the number of communication



1000
Communication
Towers Erected

1. Zambia Statistics Agency, <https://www.zamstats.gov.zm/> [Accessed 23 November 2020]

2. World Bank: Zambia Country Data, <https://data.worldbank.org/country/ZM>

3. "Zambia Economic Outlook", Focus Economics, 17 November 2020, <https://bit.ly/2JgMgkL>

sites between June 2019 and June 2020.⁴ Zambia continues to maintain three mobile network providers and 17 internet service providers,⁵ although a call for issuance of a fourth mobile operator was made following the cancellation of Vodacom's license. In the third quarter of 2020, internet penetration stood at 57% accounting for over 10 222 million internet users, indicating a 2% decline from the 59% (representing 10 289 million users) recorded in the third quarter of 2019.⁶ This decline can be attributed to the depreciation of the Kwacha and inflationary pressure which led to the general increase in the cost of goods and services, leaving people with less disposable income that could be used to access internet services. Interestingly, mobile network subscriptions stood at 18,619 million, representing a 104% mobile penetration rate, indicating that there are more registered SIM cards than the total population.⁷ This could be because most individuals may own more than one mobile phone and utilise up to three SIM cards. Mobile money transactions increased by 89% from the number of transactions recorded in the first half of 2019.⁸

LOCAL AND REGIONAL POLICY DEVELOPMENTS

In terms of the ICT legal and policy environment, the Information and Communication Technologies Act of 2009, the Electronic Communications and Transactions Act of 2009, and the outdated National ICT Policy of 2006 continue to govern the use of telecommunications in the country.

While there is no clear indication regarding the drafting of a new National ICT Policy, in August

2020 the Minister in charge of Transport and Communications confirmed that four ICT Bills had been drafted and were undergoing harmonisation at the Ministry of Justice, namely: Cybersecurity and Cybercrimes Bill, Data Protection Bill, Electronic Commerce, and Transactions Bill and E-Government Bill. In June 2020, Parliament through the Committee on Media, Information and Communication Technologies adopted a committee report to enhance e-governance across all government operations.⁹ In the same month, the Ministry of Transport and Communications alongside the regulator, Zambia Information and Communication Technology Authority (ZICTA), launched the National Child Online Protection Strategy¹⁰ aimed at providing children with the necessary safeguards against online vulnerabilities.

In June 2020, Cabinet passed a resolution to approve the African Union Convention on Cybersecurity and Personal Data Protection which is a welcome step that will ensure harmonisation of the new cyber laws and regional cooperation on matters of cybersecurity, cybercrime, and data protection.

NETWORK DISRUPTIONS

In February 2020, residents of Southern Province, an opposition stronghold reported an internet blackout that affected all three mobile services. The blackout brought business to a standstill in the severely affected towns of Monze and Livingstone and it is unknown how long it lasted or what could have caused it, however, the ICT regulator, ZICTA, attributed the disruption to a technical fault.¹¹

4. ZICTA: ICT Sector 2020 Mid-Year Market Performance, 10 September 2020, <https://bit.ly/3698kXv>

5. ZICTA Statistics Portal: Operator Statistics, <https://bit.ly/37akYFa>

6. ZICTA Reports: Quarter 3, 2020, <http://onlinesystems.zicta.zm:8585/statsfinal/>

7. ZICTA Reports: Quarter 3, 2020, <http://onlinesystems.zicta.zm:8585/statsfinal/>

8. ZICTA: ICT Sector 2020 Mid-Year Market Performance, 10 September 2020, <https://bit.ly/3698kXv>

9. "Parliament adopts committee report to enhance e-governance", News Diggers, 26 June 2020, <https://bit.ly/2JhBb38>

10. ZICTA: National COP Strategy, <https://bit.ly/3l8xny5>

11. "Southern Province in internet blackout", News Diggers, 21 February 2020, <https://bit.ly/3gGme5p>, "Southern Province In Internet Network Shut Down", *Zambian Observer*, 20 February 2020, <https://bit.ly/2YNmLwh>



THREATS TO DIGITAL RIGHTS AND DIGITAL ACTIVISM

Despite a lack of comprehensive data protection laws, in December 2019 the Zambian government resumed the Lusaka Safe City project and approved a proposal by Huawei Technologies to turn Lusaka into a Smart City by mounting 24 hour CCTV cameras across the city including public markets and bus stops.¹²

Further, cautionary statements by government officials on the use of the internet and social media persisted. In February 2020, the Minister of Transport and Communications warned against alleged social media abuse by the public¹³ and in June 2020, Chief Government Spokesperson announced that the government “will not tolerate anyone using any social media platform to insult the President or any citizen.”¹⁴

In June 2020, a group of 13 activists staged a protest on the outskirts of Lusaka, after being denied a permit to peacefully march

To protect the lives of the protesters and avoid causing damage to public property, the activists opted to protest at a secret location in the bush and live-streamed the event across their social media pages, holding placards and taking turns to give moving speeches. The live streams attracted almost half a million viewers.¹⁵ Meanwhile, riot police armed in full body armor were deployed all over Lusaka and fruitlessly searched for the venue of the protest in order to dispel protesters and enforce COVID-19 restrictions. One of the activists popularly known as ‘Pilato’ said, “There are these physical streets and social media streets. I think this had more influence than if we’d gone to the physical streets.”

In March 2020, a 15-year-old male juvenile¹⁶ was arrested on charges for the defamation of the president, alongside several other Facebook page admins.¹⁷ The juvenile, who was charged with three counts of libel, operated under the pseudonym ‘ZOOM’ and allegedly published defamatory posts about the president and three others. In another incident, a famous photographer was charged with four counts of criminal libel after he allegedly aired derogatory remarks against several government officials on his Facebook page.¹⁸ In June 2020,¹⁹ an online editor of online newspapers - Zambia Reports and Eagle One - was arrested for publishing and widely circulating criminal libellous material against the Home Affairs Minister. In November 2020, a man of Kitwe was arrested for insulting the ruling Patriotic Front (PF) government and its leaders in a video that went viral on social media.²⁰

12. “Huawei to plant 24 Hour cameras across Lusaka”, 7 December 2019, <https://bit.ly/368Nesm>

13. “Stop social media abuse- Kafwaya”, News Diggers, 24 February 2020, <https://bit.ly/34qAtJ7>

14. Social media Abusers warned”, Ministry of Information and Broadcasting Services - Zambia Facebook Page, 22 June 2020, <https://bit.ly/3l5UpH8>

15. “Zambian Youth Outsmart Police”, Lusaka Times, 22 June 2020, <https://bit.ly/2Yt5OHZ>

16. “ZOOM Arrested For The Offence Of Defamation Of The President”, Zambia Reports, 12 March 2020, <https://bit.ly/3hIfjsS>

17. “ZICTA and Police Arrest Admins for Zed Hule, Zambia Watch and others Admins for a WhatsApp group”, Mwebantu, 11 March 2020, <https://bit.ly/2V5hYUS>

18. “POLICE ARREST CHELLAH TUKUTA FOR CRIMINAL LIBEL”, Zambia Reports, 18 June 2020, <https://bit.ly/32F9WGD>

19. “Police arrest Zambia Reports editor for criminal libel”, Mwebantu, 25 June 2020, <https://bit.ly/3qekSFh>

20. “Tulefwaya, ukuchinja, ubuteko”, man arrested in Kitwe for insulting the PF Government and its leaders”, Mwebantu, 24 November 2020, <https://bit.ly/2VmbLnL>



“

In December 2019 the Zambian government approved a proposal by Huawei Technologies to turn Lusaka into a Smart City by mounting 24 hour CCTV cameras across the city.

DIGITAL RIGHTS AND INCLUSION IN THE WAKE OF COVID-19 REGULATIONS

Zambia recorded its first two cases of COVID-19 on 18th March 2020 and it is one of the few countries in the region that did not close its borders. The rise in positive cases led to a closure of schools, private and public services, amenities, and non-essential workers were sent to work from home. The unprecedented COVID-19 pandemic saw many Zambians migrating their day-to-day activities to digital platforms for communication, financial transactions, schooling, meetings, entertainment etc. This move forced many citizens to utilise existing digital literacy skills and to develop new ones in order to cope with the disruption.

Unfortunately, with the increased use of the internet and digital services came the rise in cybercrimes such as online fraud, impersonation and mobile money scams.²¹ This reinforced the need for increased user digital security awareness and

consumer protection initiatives. Several mobile network providers zero-rated some browsing services and transaction fees, and increased daily transaction limits to enable free flow of funds and ease remote payments of bills and essentials.²²

The country's digital preparedness was tested as most institutions of learning battled to cope with delivering online lessons and lectures to learners. Students and learners could not access e-learning facilities due to prohibitive costs, lack of access and ownership of gadgets, unavailability and lack of adequate e-learning platforms in some institutions and limited digital literacy skills for both teachers and learners. Further, the pandemic exposed a severe lack of access to digital infrastructure and e-learning platforms for people living with disabilities and lack of digital literacy skills, infrastructure and connectivity for people living in rural areas.

21. ZICTA: ICT Sector 2020 Mid-Year Market Performance, 10 September 2020, <https://bit.ly/3698kXv>

22. "Airtel Zambia scraps transaction fees for money transfers", Telecompaper, 26 March 2020, <https://bit.ly/3ldztgr>

While no significant movement restrictions were imposed in the country, the media were allowed to adequately cover the live COVID-19 briefing sessions and utilised various digital platforms to keep the nation informed. In addition, the Ministry of Health live-streamed the bulletins on their social media pages. However, no media personnel were allowed inside the COVID-19 isolation facilities.

In April 2020, a popular private TV channel, Prime TV, had its license canceled by the Independent Broadcasting Authority (IBA) over a COVID-19 advert dispute. The TV channel allegedly refused to

air COVID-19 adverts for free.²³ Activists described this as an attack on access to information as Prime TV is widely viewed as a balanced and objective media house that provides an alternative to the state-owned ZNBC TV. The Law Association of Zambia described the cancellation of Prime TV's license as illegal and that "it was done prematurely without following the correct channels of the law".

As of November 2020, Zambia had recorded 17,553 total cumulative positive cases of COVID-19, 16,779 recoveries, and 357 deaths.²⁴

CONCLUSION AND RECOMMENDATIONS



There is an urgent need to enact updated ICT laws that will provide cybersecurity, provide protection against cybercrime and ensure data protection and privacy. In addition, if the SMART City project comes into effect, there will be a need to provide strict measures on the protection of data that is captured as well as ensuring that the technology is not used to spy on unsuspecting citizens, human rights defenders, activists, etc. Furthermore, there is a need to ratify the African Union Convention on Cybersecurity and Personal Data Protection to provide a regional framework for combating cybercrimes as well as to ratify an international convention such as the Budapest Convention on Cybercrime, to provide a framework for international cooperation.

Furthermore, there is a need to continue investing in digital infrastructure, skills development, and literacy programs to capacitate users with the know-how on utilizing ICTs in their day to day lives as well as consumer protection and digital security skills for online safety. There is a need to update the National ICT Policy to capture new national ICT aspirations and goals as well as provide a broadband plan which must provide strategies that enhance access and connectivity for under served groups such as people living with disabilities, in rural areas, women, girls, etc.

Zambia Digital Rights and Inclusion Report 2020 Lastly, ahead of the highly contested August 2021 elections, the government of Zambia must commit to keeping the internet on and to not harass online users, but rather to promote online platforms as spaces for communication, access to information, and civic engagement.

23. "Zambia cancels license of private TV channel over COVID-19 ad dispute", International Press Institute, 14 April 2020, <https://bit.ly/2HGeDIC>

24. Zambia National Public Health Institute: Zambia COVID-19 Dashboard, <https://bit.ly/39hr3Ch>



Case Study: COVID-19 and the need for data privacy and protection regulations in Zambia

Compiled by Bulanda Nkhowani

Zambia recorded its first two cases of COVID-19 in March 2020 and was one of the few countries in the region that partially kept its borders open. While most countries battled to find ways to understand, mitigate and stop the spread of the novel coronavirus, Zambian health professionals quickly took to a tried and tested method to prepare, surveil and respond to the looming threat. The Ministry of Health (MoH), through the Zambia National Public Health Institute (ZNPHI), implemented a multi-sectoral emergency response approach to fight COVID-19, an approach that had previously been used to fight reoccurring cholera outbreaks in the country. This involved activating the National Public Health Emergency Operations Centre (PHEOC) located at the ZNPHI and using a multi-sectoral Incident Management System (IMS) approach, supplemented by a dedicated call centre to coordinate efforts.

“It all started with a slight tickle in my throat upon returning from a trip to a neighbouring country for business. At that time COVID-19 had just hit Zambia and there was a general panic across the country. I called the toll-free line where the person from the call centre enquired about my symptoms. They also took down my names, phone number, physical address, occupation, next of kin and information about where I had physically been to in the last few days as well as whom I had interacted with. The person appeared to be typing and capturing my responses on the other end, they ended by promising that I would receive help from a response team that had been dispatched to assist me and that I stay put within my house. I was very lucky to have contracted the virus at a time when response teams were very fast in responding. In no time they arrived at my premises. Sadly, I tested positive for the virus, although I was not exhibiting severe symptoms, I was admitted to the COVID-19 isolation ward,” said Mutale, one of the earliest COVID-19 survivors.

Tamara’s case on the other hand was different, “After experiencing high fever and a dry cough, I visited the nearest health facility to test for COVID-19. My suspicions were right, I tested positive for the virus. I was led to a room where a medical professional manually took down my personal identifying details and those that would be used to trace any individuals that I had been in contact with. I read a lot about data rights so naturally, I was concerned about how my



information would be stored, used and for how long it would be kept seeing as the medical professional was now entering it onto a paper that could easily be lost. Also, my consent was not sought when acquiring this data, however, when I enquired as to what it would be used for, I was assured that it was safe and that it would be used only for purposes of contact tracing and reporting. I was later advised to self-isolate at home for a period of 14 days. In those days I got phone calls from my case manager enquiring how I was faring on a daily basis until the end of my quarantine period. I am not sure what became of my personal information,” she said.

Zambia, like many countries in sub-Saharan Africa, uses a mostly manual contact tracing approach aided slightly by mobile phones and computers to monitor, locate and contact existing and potential COVID-19 patients. While no contact tracing apps exist, all relevant COVID-19 data are captured into a national public health database which then raises concerns on the safety and security of personal health data that is captured, especially for public health emergencies. Other systems and networks exist, for example a network that acts as a communications hub for all emergency field agents involved in the front-line fight against COVID-19.

Amid this data collection and uncertainty on the personnel and protocols involved in accessing the database or principles governing data sharing or third party involvement in the development, supply and management of the database, Zambia continues to lack data protection and privacy laws. Similarly, in 2017, Zambia rolled out an e-health system to deliver digital health solutions, further raising questions on the capacity of public health data handlers to adhere to data protection and privacy ethics.

It is clear that data is key to solving current and future public health threats. The urgent need for enactment of human rights-respecting data protection and privacy regulation, that safeguard personal data and privacy of citizens like Mutale and Tamara, is also more apparent. This need includes frameworks that oversee implementation of best practice policies on the capture, storage, management, transfer or retention of data on information systems. Furthermore, there is a strong need to build the capacity of health professionals and third parties’ obligations when handling sensitive data. Citizen awareness is also critical in ensuring that the correct policies and protocols are implemented and that individuals’ rights are not infringed upon.

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