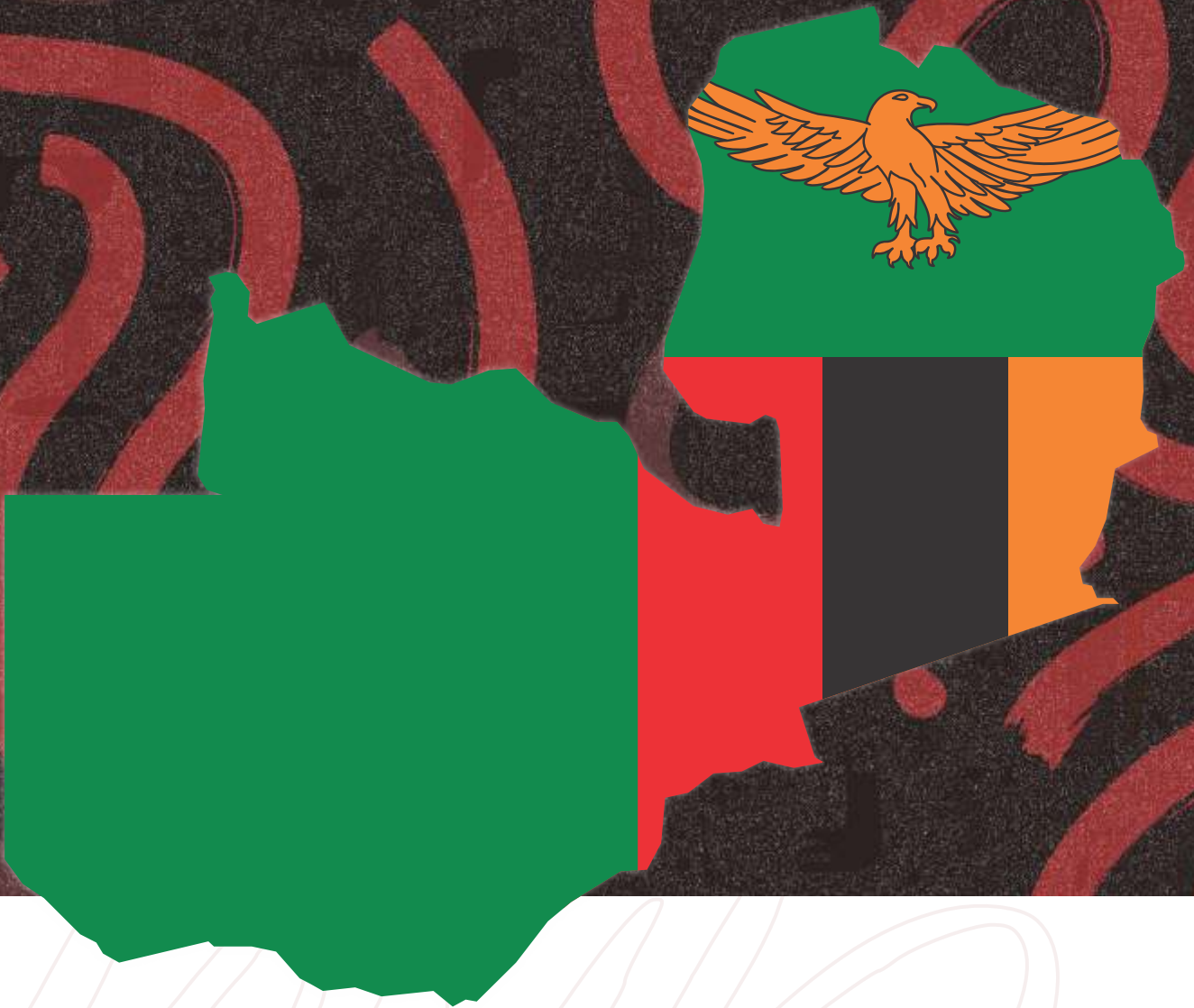


LONDA



2021



Zambia Digital Rights and Inclusion Report

LONDA

ZAMBIA DIGITAL RIGHTS AND INCLUSION 2021 REPORT

A PARADIGM INITIATIVE PUBLICATION

Published by Paradigm Initiative

374 Borno Way, Yaba, Lagos, Nigeria

Email: media@paradigmhq.org

www.paradigmhq.org

Published in May 2022

Report written by Bulanda Nkhowani

Editorial Team: 'Gbenga Sesan, Kathleen Ndong'mo, Hlengiwe Dube, Margaret Nyambura

Ndung'u, Mawaki Chango, Nnenna Paul-Ugochukwu and Thobekile Matimbe.

Cover Page design by Kenneth Oyeniya

Design & Layout by Luce Concepts

Images credit @ Pexels

This publication may be reproduced for non-commercial use in any form provided due credit is given to the publishers, and the work is presented without any distortion.

Copyright © 2022 Paradigm Initiative



Creative Commons Attribution 4.0 International (CC BY 4.0)

TABLE OF CONTENTS

01

EXECUTIVE SUMMARY

02

INTRODUCTION

03

GENDER AND ICT

04

COMPLIANCE WITH REGIONAL
AND INTERNATIONAL FRAMEWORKS,
POLICY DEVELOPMENT

05

FREEDOM OF EXPRESSION IN 2021

06

PRIVACY AND SURVEILLANCE

06

IMPACT OF COVID-19 REGULATIONS,
ONLINE GBV AND ELECTIONS ON
DIGITAL RIGHTS AND INCLUSION

07

INTERNET DISRUPTIONS AND
OTHER DIGITAL RIGHTS VIOLATIONS

AN ANALYSIS OF THE COUNTRY'S
PERFORMANCE FROM THE PREVIOUS YEAR

08

CONCLUSION

09

RECOMMENDATIONS

LONDA

ZAMBIA DIGITAL RIGHTS AND INCLUSION 2021 REPORT

A PARADIGM INITIATIVE PUBLICATION

EXECUTIVE SUMMARY

The Londa Zambia report highlights the state of digital rights and inclusion in the country in the year 2021. The year under review was notable in the Zambian ICT policy and legal landscape and the African Union Convention on Cybersecurity and Personal Data Protection was ratified. In addition, the Cybersecurity and Cybercrimes Act and Data Protection Act came into force while the Electronic Commerce and Transactions Act was repealed. Furthermore, there was commitment to review and enact the long awaited Access to Information bill which has been in existence for about 20 years. The country experienced a partial internet shutdown, which was challenged by a local human rights organisation during the highly contested August general elections which saw the introduction of a new government. Generally, there was a spike in cases of online gender based violence, especially during the election period where female politicians were targeted.

This report proposes some key recommendations targeted at government, CSOs, academia and human rights defenders focused on harmonisation of the country's ICT legal frameworks in line with the standards of the African Union Convention on Cybersecurity and Personal Data Protection, enforcement of the new data protection law and review of the Cybersecurity Act. Further recommendations on maintaining an open, safe and secure internet environment, raising awareness among the public on the new cyber and data protection laws as well as generating efforts to understand the nature and prevalence of online GBV in the country are made.





INTRODUCTION

DIGITAL RIGHTS AND INCLUSION IN ZAMBIA

Known as one of the first countries in sub-Saharan Africa to receive full internet connectivity in late 1994,¹ Zambia's population rose to 18.4 million in 2021.² The population of Zambia continues to be dominated by a youthful citizenry representing over 50% of the country's total population.³

In August of 2021, Zambia ushered in a new government after a tightly heated race that saw President Hakainde Hichilema emerging as the winner, having secured 59% of the total votes.⁴

**USD 18.1
BILLION**

**2020 GROSS DOMESTIC
PRODUCT (GDP)**

The Gross Domestic Product (GDP) decreased to USD 18.1 billion in 2020 from USD 23 billion in 2019.⁵ At the close of 2021, the country's annual inflation rate decreased to 16.4%⁶ from the highest record of 22, recorded earlier in February 2021.⁷ The projected growth was due to growth in the ICT, manufacturing and construction sub-sectors coupled with investor confidence in the new administration which is expected to enact business friendly policies and negotiate for a comprehensive debt restructuring deal with the International Monetary Fund (IMF).⁸

1. Robinson, N. (1996), "Bringing the Internet to Zambia" in Bridge Builders: African Experiences with Information and Communication Technology. Washington: National Academy Press.

2. Zambia Statistics Agency (2021) - <https://www.zamstats.gov.zm/> (accessed 11 January 2022).

3. Zambia Statistics Agency (2021) (n 1 above).

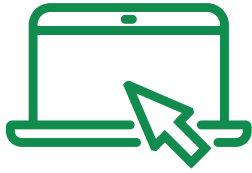
4. Election Institute of Sustainable Democracy in Africa (2021) Zambia: 2021 Presidential election results <https://www.eisa.org/wep/zam2021results.htm> (accessed 11 January 2022).

5. World Bank (2020) Zambia Data GDP <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=ZM> (accessed 11 January 2022).

6. Zambia Statistics Agency (2021) Monthly Bulletin-December <https://www.zamstats.gov.zm/> (accessed 11 January 2022).

7. Zambia Statistics Agency (2021) (n 5 above).

8. Focus Economics (2022) Zambia Economic Outlook <https://bit.ly/2JgMgkL> (accessed 11 January 2022).



8,552,221

ZAMBIA INTERNET PENETRATION



107%

MOBILE PHONE PENETRATION

Information Communication Technologies (ICTs) are governed under the newly created Ministry of Technology and Science⁹ and regulated by the Zambia Information Communications Technology Authority (ZICTA).

The internet penetration rate in 2021 stood at 56.3% representing 10.4 million people while the mobile phone penetration rate stood at 107%, a percentage that is attributed to the fact that people in Zambia often own more than one mobile phone and multiple sim cards.¹⁰ In contrast, estimates from DataReportal's Digital in 2022 report identify an internet penetration rate of 29.4%.¹¹ Majority of the population accessing internet services in the country use mobile broadband (56%) compared to those who use fixed line subscriptions (0.5%).¹²

Zambia continues to maintain 17 internet service providers and three mobile network providers,¹³ although a licence was granted to Beeline Telecommunications in February 2021, whose operations are now expected to launch in June 2022, after the company failed to launch six months after securing a licence.¹⁴

GENDER AND ICT

In terms of the mobile gender gap, the 2018 ZICTA ICT survey revealed a relatively small difference in percentages of mobile phone access and ownership by women and men.

Out of all the active mobile phone users 51% were women while 57% were men, and as for mobile phone ownership more men at 87% owned mobile phones compared to women at 81%. On the other hand, 6% of women had knowledge on how to use a computer, compared to their male counterparts who were pegged at 8%.¹⁵



9. IT Web Africa (2021) (n 11 above).

10. Zambia Information and Communications Technology Authority (ZICTA) (2021) ICT Indicators <http://onlinesystems.zicta.zm:8585/statsfinal/ICT%20Indicators.html> (accessed 11 January 2022).

11. Hootsuite & We Are Social (2022) Digital 2022: Zambia <https://datareportal.com/reports/digital-2022-zambia> (accessed 7 March 2022).

12. ZICTA (2021) (n 8 above).

13. ZICTA (2021) (n 8 above)

14. IT Web Africa (2021) Zambia's Beeline Telecoms runs into early trouble <https://itweb.africa/content/JBwEr7nBOnE76Db2> (accessed 11 January 2022).

15. Zambia Information and Communications Technology Authority (ZICTA), (2021) ICT Statistics, <http://onlinesystems.zicta.zm:8585/statsfinal/index.html> (accessed 01 March 2022)

COMPLIANCE WITH REGIONAL AND INTERNATIONAL FRAMEWORKS, POLICY DEVELOPMENT

The Constitution of Zambia, 1996¹⁶ recognises and guarantees the rights to freedom of expression,¹⁷ access to information,¹⁸ freedom of assembly and association¹⁹ and the right to privacy.²⁰

In March 2021, Zambia enacted its first Data Protection Act (2021) and Cyber Security and Cybercrimes Act (2021)²¹ and passed a National Cybersecurity Policy (2021)²² and National Postal Policy.²³ In addition, the Electronic Commerce and Transactions Act (2021) was reviewed while several other bills such as the e-Government Bill (2021) and the Postal and Courier Services Bill (2021)²⁴ were drafted. The National ICT Policy of 2006 is still under review.

The right to privacy is to some extent protected through the Cybersecurity and Cybercrimes Act 2021 and Data Protection Act 2021 while freedom of expression and the press is protected through the Independent Broadcasting Authority Act (as amended in 2010) and Zambia National Broadcasting Corporation (ZNBC) Act (as amended in 2017), however, these two legislations do not apply to non-broadcast areas such as the Internet. Furthermore, Zambia lacks explicit laws on the right to assembly and association, and on access to information.

The 20 year old Access to Information bill (2013) is still awaiting enactment and reasons for the delay could be attributed to the previous government's concerns over national security in that the bill could compromise classified information.²⁵

However, in November 2021, government announced that it was prioritising the enactment of the Access to Information Bill (2013) and Zambia Media Council (ZAMEC) bill (2019),²⁶ a bill meant to provide media self-regulation mechanisms and promote professionalism and accountability in the media sector. In 2020, then Ministry of Information and Broadcasting Services launched the revised Media Development Policy 2020²⁷ that aims to set out the Government's vision and mission to promote freedom of expression by guaranteeing press freedom.



The Constitution of Zambia, 1996 recognises and guarantees the rights to freedom of expression, access to information, freedom of assembly and association and the right to privacy.

16. Constitution of Zambia Act 18 of 1996

17. Constitution of Zambia Act 18 of 1996 art 20.

18. As above n 13.

19. n 13 above, art 21.

20. n 13 above, art 17.

21. Lusaka Times (2021) President Lungu has Signed the Cyber Security and Cyber Bill into Law, <https://www.lusakatimes.com/2021/03/26/president-lungu-has-signed-the-cyber-security-and-cyber-bill-into-law/>, (accessed 11 January 2022).

22. MISA Zambia (2021) National Cyber Security Policy approved, <https://zambia.misa.org/2021/01/27/national-cyber-security-policy-approved/> (accessed 11 January 2022).

23. National Postal Policy of 2021, <http://www.mtc.gov.zm/wp-content/uploads/2021/06/National-Postal-Postal-Policy-2021-2031.pdf> (accessed 11 January 2022).

24. E-Government Bill of 2021, <https://www.parliament.gov.zm/node/8951> (accessed 11 January 2022).

25. K Manchishi (2021) The Struggle for Access to Information in Zambia: Looking to new media as an enabler, Mulungushi University.

26. Zambia National Broadcasting Corporation (ZNBC), (2021) ACCESS TO INFORMATION BILL <https://www.facebook.com/znbctoday/videos/access-to-information-bill/571311514201071/> (accessed 11 January 2022).

27. Media Institute of Southern Africa (MISA) (2022) Media Development Policy launched <https://misa.org/blog/media-development-policy-launched/> (accessed 11 January 2022).



In November 2021, Zambia ratified the African Union Convention on Cybersecurity and Personal Data Protection (Malabo Convention)²⁸ which fosters harmonisation of the new cyber laws with other national frameworks and regional cooperation on matters of cybersecurity, cybercrime and data protection. Zambia is party to the African Charter on Human and Peoples Rights (ACHPR)²⁹ and International Convention on Civil and Political Rights (ICCPR)³⁰ which affirm the protection of access to information and freedom of expression both offline and online.³¹

FREEDOM OF EXPRESSION IN 2021

In the year under review, the enjoyment of freedom of expression and access to information online was tried. According to a 2021 report by Amnesty International, human rights in Zambia had deteriorated in the last five years with restrictions on freedom of expression, assembly and association both offline and online, which were

based on national security and public health concerns.³² Furthermore, the enactment of the Cybersecurity and Cybercrimes Act (2021) incited fears among internet users that the law would be used to penalise online conversations especially on social media, and this led to a culture of self-censorship among users who feared being cited for cyberbullying. A group of civil society organisations including Chapter One Foundation, Bloggers of Zambia, Gears Initiative and Peoples Action for Accountability and Good Governance in Zambia (PAAGZ) challenged in the High Court, several provisions of the Cybersecurity Act on grounds that it is unconstitutional and threatens the right to freedom of expression, among others.³³

In particular, Section 54 was challenged for being overly vague and prone to abuse by facilitating detentions and arrests of journalists and other internet users.

28. African Union Convention on Cyber Security and Personal Data Protection <https://au.int/en/treaties/african-union-convention-cyber-security-and-personal-data-protection> (accessed 11 January 2022).

29. African Commission on Human and People's Rights (ACHPR) Declaration on Freedom of Expression and Access to Information, <https://www.achpr.org/legalinstruments/detail?id=69> (accessed 11 January 2022).

30. Universal Declaration of Human Rights (UDHR), <https://www.un.org/en/aboutus/universal-declaration-of-human-rights> (accessed 11 January 2022).

31. Article 9 and Article 19 respectively.

32. Amnesty International (2021) Zambia: Ruling by fear and repression <https://www.amnesty.org/download/Documents/AFR6340572021ENGLISH.PDF> (accessed 13 January 2022).

33. Lusaka Times (2021) New Cyber law goes to Court <https://www.lusakatimes.com/2021/04/02/new-cyber-law-goes-to-court/> (accessed 13 January 2022).



Section 54 of the Cybersecurity Act states that:

“A person who, with intent to compromise the safety and security of any other person, publishes information or data presented in a picture, image, text, symbol, voice or any other form in a computer system commits an offence and is liable, on conviction, to a fine of not less than five hundred thousand penalty units or to imprisonment for a term exceeding five years or to both’.

In addition, the legislation provides excessive powers to the enforcers such as cyber inspectors, law enforcement, and the Minister in charge of ICTs and prescribes broad and vague provisions that have the potential to shrink the democratic space which has largely been aided by online communications.

Attempts for wider consultation with various stakeholders in 2020 and 2021 prior to enacting the three ICT legislations were made through Internal Legislative Committee meetings by the Ministry of Justice and then Ministry of Transport and Communications, however this process was criticised for being done in a rushed manner.³⁴

PRIVACY AND SURVEILLANCE

Despite the erection of Closed-Circuit Television (CCTV) cameras across the country on major highways and in public places under the Smart City Project in 2020,³⁵ legal frameworks specific to CCTV that could govern the use and management of these technologies are still lacking, sparking fears that the cameras could be used for surveillance and spying activities on political opponents, Human Rights Defenders (HRDs) and the public.³⁶

IMPACT OF COVID-19 REGULATIONS, ONLINE GBV AND ELECTIONS ON DIGITAL RIGHTS AND INCLUSION

The COVID-19 pandemic continued to be a growing problem in 2021. The country was hard hit in June and went on a partial lockdown.³⁷ During this period, schools, universities and workplaces turned to remote working as a lifeline. The Zambia National Women's Lobby (ZNWL) noted that online gender based violence (OGBV) increased during this period due to the increased use of internet and digital technologies and further increased during the election period and female politicians were most affected by cyberbullying, hate speech and sexual harassment.³⁸

In the same month, the Electoral Commission of Zambia (ECZ) announced a 14 day suspension on campaigning by two major political parties due to political violence in Lusaka and three other districts, in addition, roadshows and physical campaigning that involved large groups of people were banned to avoid the spread of COVID-19.³⁹

34. TRTWorld (2021) Zambia passes sweeping cyber laws ahead of elections <https://www.trtworld.com/africa/zambia-passes-sweeping-cyber-laws-ahead-of-elections-44869> (accessed 18 January 2022).

35. Lusaka Times (2019) Huawei to plant 24 Hour cameras across Lusaka <https://www.lusakatimes.com/2019/12/07/huawei-to-plant-24-hour-cameras-across-lusaka/> (accessed 13 January 2022).

36. The Potsdam eGovernment Competence Center (IfG.CC) (2020) Surveillance camera projects deployed to watch on people <http://www.ifg.cc/aktuelles/nachrichten/regionen/568-zm-sambia-zambia/58826-zm-surveillance-camera-projects-deployed-to-watch-on-people.html> (accessed 18 January 2022).

37. Crisis 24 (2021) Zambia: Authorities maintain COVID-19 restrictions nationwide, June 30 /update 11 <https://crisis24.garda.com/alerts/2021/06/zambia-authorities-maintain-covid-19-restrictions-nationwide-june-30-update-11> (accessed 13 January 2022).

38. Zambia National Women's Lobby (2021) Statement by the Zambia National Women's Lobby on the social media monitoring initiative and WhatsApp tip line aimed at curbing Cyberbullying, hate speech and sexual harassment against women in Politics <https://znwl.womenslobby.org.zm/#> (accessed 18 January 2022).

39. Xinhua (2021) Zambia's electoral body suspends two major political parties from campaigning due to violence http://www.xinhuanet.com/english/africa/2021-06/15/c_1310009314.htm (accessed 13 January 2022).

Political parties turned to online platforms for campaigning, although the media was also barred from covering political activities in the affected districts. In the same vein, an opposition political party leader was barred from campaigning for using hate speech and breaching the electoral code of conduct.⁴⁰

INTERNET DISRUPTIONS AND OTHER DIGITAL RIGHTS VIOLATIONS

In the period covered by this report, no digital rights related arrests were recorded, however, on polling day on August 12 2021, the country experienced a partial internet shut down which lasted until 14th August 2021.⁴¹ Connectivity to social media platforms such as WhatsApp, Facebook, Messenger and Twitter were slowed down and eventually graduated into a complete social media blackout. Reports from the Open Observatory of Network Interference (OONI) indicate that social media sites were blocked and there was a significant loss in internet connectivity, confirming that the three network providers were using the same technique to restrict internet access and social media sites.⁴² While people used Virtual Private Networks (VPNs) to bypass the partial network shutdown, Chapter One Foundation filed a high court order against ZICTA to restore the Internet.⁴³

AN ANALYSIS OF THE COUNTRY'S PERFORMANCE FROM THE PREVIOUS YEAR

The year 2021 saw a lot of movement in the Zambia ICT policy and legal landscape. Several pertinent ICT related laws and policies were enacted and reviewed - the country enacted its first data protection law, although the institutional frameworks for its enforcement are yet to be established. The Malabo Convention was ratified within record time and the Ministry of Technology and Science established, spurring hope for the growth of ICTs through a new ICT policy, innovation and digital inclusion. Through the swift restoration of the 2021 partial internet shutdown, the year also highlighted a commitment by local authorities to safeguard digital rights and a renewed commitment by CSOs to push back on digital rights violations and internet shutdowns.



Connectivity to social media platforms such as WhatsApp, Facebook, Messenger and Twitter were slowed down and eventually graduated into a complete social media blackout.

40. Lusaka Times (2021) ECZ suspends Kambwili indefinitely from taking part in Campaigns <https://www.lusakatimes.com/2021/06/30/ecz-suspends-kambwili-indefinitely-from-taking-part-in-campaigns/> (accessed 13 January 2022).

41. Open Observatory of Network Interference (OONI) (2021) Zambia: Social media blocked amid 2021 general elections <https://ooni.org/post/2021-zambia-social-media-blocks-amid-elections/> (accessed 21 January 2022).

42. OONI 2021 (n 36 above).

43. All Africa (2021) High Court Orders Restoration of Internet Services <https://allafrica.com/stories/202108150063.html> (accessed 21 January 2022).



CONCLUSION

Zambia faced a number of digital rights challenges in the past that have remained detrimental to the tenets of a free internet freedom environment. These challenges have been caused by the existence of certain unconstitutional legal provisions, the absence of laws such as access to information and the non-ratification of the Malabo Convention. However, the policy and advocacy actions in 2021 spurred a renewed hope for enhanced internet freedom in the country. Nonetheless, Zambia has a vibrant ICT sector whose policies and practice require a multi-stakeholder and comprehensive approach.

RECOMMENDATIONS

Legal and Policy landscape

- Following the ratification of the African Union Convention on Cybersecurity and Personal Data Protection, there's a need for the government to harmonise both old and new ICT legal frameworks in line with the standards of the Convention.
- Following the enactment of the Data Protection Act (2021), there is a need for the government to establish institutional frameworks for data protection enforcement - Data Protection Authority, including the appointment of a competent and independent Data Protection Commissioner.
- There is a need for government to review problematic clauses in the Cybersecurity and Cybercrimes Act (2021) and complete the review process of the National ICT Policy (2006) alongside establishing strategies for making the Internet affordable, meaningfully accessible, enhancing citizens' digital literacy skills and facilitating the access to e-services such as e-gov, e-health, e-learning etc.
- There is a need for the government to enact policies to govern the procurement, development and use of Smart City Initiatives in the country.

- Civil society and HRDs must continue to push for the review of the Cybersecurity Act, National ICT Policy and enactment of policies for Smart City initiatives.

Network disruptions and other digital rights violations

- The government must commit to maintaining a free and open internet environment that promotes online platforms as spaces for civic engagement, access to information, innovation and development in line with Part 5 of the African Commission on Human and Peoples' Rights' (ACHPRs) Declaration of Principles of Freedom of Expression and Access to Information on the Internet in Africa.
- In addition, there is a need for civil society organisations and HRD to continue playing the watchdog role to ensure that the Internet is kept open, safe and secure.

Public Awareness on National Cyber Laws and Data Protection

- There's a need for awareness-raising efforts by government, government agencies, civil society and other stakeholders toward creating citizen awareness and understanding of existing cyber laws, particularly for journalists, and their associated safeguards and application to everyday online life. In addition, there is a need to sensitise internet users on data protection and privacy.

Online Gender-Based Violence

- There is a need for civil society organisations, academia and government agencies to further understand the true extent and prevalence of online GBV in the country and to further craft the necessary advocacy strategies and policy protective measures in order to discourage digital exclusion based on gender, especially for women politicians who are most affected during election periods.

Londa 2021 expands on last year's report with findings from 22 countries, examining themes of privacy, freedom of expression, access to information, segmentation and exclusion, digital transformation, affordability, gender and others within existing legislative frameworks, and against the backdrop of a widening digital divide. This edition captures the gaps and proffers recommendations to achieve a digitally inclusive and rights - respecting Africa.



Paradigm Initiative

374 Borno Way, Yaba, Lagos, Nigeria

Email: media@paradigmhq.org

www.paradigmhq.org

     @ParadigmHQ