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Zimbabwe Digital Rights and Inclusion Report

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ZIMBABWE DIGITAL RIGHTS AND INCLUSION 2021 REPORT

A PARADIGM INITIATIVE PUBLICATION

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ZIMBABWE DIGITAL RIGHTS AND INCLUSION 2021 REPORT

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EXECUTIVE SUMMARY

This report highlights new developments in Zimbabwe's digital rights and digital inclusion landscape. It analyses freedom of expression, access to information and privacy in the digital age. Emerging technologies such as Artificial Intelligence (AI); internet use and access including gender and ICTs; and digital rights in the context of the COVID-19 pandemic are also discussed. The African Commission on Human and Peoples' Rights (ACHPR) adopted the 2019 Declaration of Principles on Freedom of Expression and Access to Information in Africa (the ACHPR Declaration).¹

The ACHPR Declaration elaborates the scope of article 9 of the African Charter on Human and Peoples' Rights (the African Charter), which provides for the right of freedom of expression and access to information. The Declaration provides a yardstick against which Zimbabwe's performance in this report will be assessed. The report concludes with proposed key recommendations for key stakeholders that can foster a digital rights culture in Zimbabwe. These include the need for the government to respect and promote human rights in the digital age through the adoption and implementation of legal, policy and institutional frameworks that are aligned with international standards.



1. ACHPR Declaration of Principles on Freedom of Expression and Access to Information in Africa (2019) <https://www.achpr.org/legalinstruments/detail?id=69> (accessed on 20 January 2022).



**USD 25.79
BILLION**

**2021 GROSS DOMESTIC
PRODUCT (GDP)**

INTRODUCTION

DIGITAL RIGHTS AND INCLUSION IN ZIMBABWE

Zimbabwe is a Southern African country with an estimated population of 15 209 973 people,² of which 67.7% live in rural areas and 32.3% in urban areas.³ The digital divide is a serious concern as the majority of the population lives in rural areas. This was more evident in the context of the COVID-19 pandemic. This divide calls for the government to prioritise rural areas and employ a digital rights budgeting lens in ICT development and increase broadband access.

The Zimbabwean ailing economy worsened by the impacts of COVID-19 is on a slow recovery trajectory.⁴ The country's ailing economy slightly improved in 2021, a development attributed to a good agricultural yield, improved use of capacity in the industry and stable exchange rates.⁵ The Gross Domestic Product (GDP) was US\$25,79 billion at the end of 2021.⁶

The education sector was hard hit as the school calendar remained wavering.⁷ Children's erratic access to education in 2021 was a result of the constant shifts in the school calendar spotlighting the need for the Internet as an enabler of human rights such as the right to education.

1. ACHPR Declaration of Principles on Freedom of Expression and Access to Information in Africa (2019) <https://www.achpr.org/legalinstruments/detail?id=69> (accessed on 20 January 2022).

2. Worldometer <https://www.worldometers.info/world-population/zimbabwe-population/> accessed on 23 January 2022).

3. DataReportal 'Digital 2021: Zimbabwe' <https://datareportal.com/reports/digital-2021-zimbabwe> (accessed on 23 January 2022).

4. DataReportal 'Digital 2021: Zimbabwe' <https://datareportal.com/reports/digital-2021-zimbabwe> (accessed on 23 January 2022).

5. The World Bank <https://www.worldbank.org/en/country/zimbabwe/overview#1> (accessed on 23 January 2022).

6. Statista <https://www.statista.com/statistics/455285/gross-domestic-product-gdp-in-zimbabwe/> (accessed on 4 March 2022).

7. Chronicle 'Government amends 2021 school calendar' <https://www.chronicle.co.zw/government-amends-2021-school-calendar/> (accessed on 23 January 2021).

COMPLIANCE WITH REGIONAL AND INTERNATIONAL FRAMEWORKS

Zimbabwe is a state party to the African Charter, the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of Persons with Disabilities (CRPD), the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). These frameworks entrench human rights standards for promoting equality, non-discrimination and human dignity.⁸ Zimbabwe's commitment to human rights is reflected in its efforts to comply with these international standards.

The Constitution of Zimbabwe (the Constitution) provides for the right to privacy under section 57, freedom of expression under section 61, access to information in section 62, equality and non-discrimination under section 56 and human dignity under section 51.⁹ Zimbabwe is yet to ratify the 2014 African Union Convention on Cyber Security and Personal Data Protection (Malabo Convention). The Malabo Convention seeks, among other things, to address issues related to the protection of personal information, the risks and dangers associated with the use of electronic data and cybercrimes.¹⁰ However, there is an inadequate implementation of the stated standards.

IMPACT OF COVID-19 REGULATIONS ON DIGITAL RIGHTS AND INCLUSION

The COVID-19 pandemic necessitated the migration of offline education to online platforms. However, in Zimbabwe, children in rural communities were left behind in accessing virtual learning. Learners in rural areas constitute about 70% of the total learner enrollment in the country but they do not have meaningful internet access.¹¹ COVID-19 in essence unearthed the need for internet access for all. The reliance on COVID-19 regulations to stifle freedom of expression and access to information in the form of criminalisation of disinformation has an adverse impact on digital rights. Section 14 of Statutory Instrument 83 of

2020 (S.I 83) criminalises false publishing of information about any public officer, official or enforcement officer involved with enforcing or implementing the national lockdown or any private individual that has the effect of prejudicing the implementation of the national lockdown with a criminal penalty not exceeding level fine or 20 years imprisonment.¹² The criminal penalty has a chilling effect on freedom of expression and access to information offline and online. This offence has in the past been used to prosecute media practitioners for sharing information online.¹³

8. See arts 2, 5 and 9 of the African Charter, arts 3, 10 and 19 of the ICCPR, arts 2 and 3 of the Maputo Protocol and art 2 of CEDAW.

9. Constitution of Zimbabwe Amendment (No.20) Act of 2013 (the Constitution). See secs 51,56, 57, 61 and 62.

10. See the African Union Convention on Cyber Security and Personal Data Protection preamble.

11. Good Governance Africa Reimagining rural education in Zimbabwe post COVID-19 <https://allafrica.com/stories/202004210574.html> (accessed on 16 March 2022).

12. Statutory Instrument 83 of 2020 (S.I 83) <https://www.veritaszim.net/node/4046> (accessed on 23 January 2021). Section 14 reads as follows: 'For the avoidance of doubt any person who publishes or communicates false news about any public officer, official or enforcement officer involved with enforcing or implementing the national lockdown in his or her capacity as such, or about any private individual that has the effect of prejudicing the State's enforcement of the national lockdown, shall be liable for prosecution under section 31 of the Criminal Law Code ("Publishing or communicating false statements prejudicial to the State") and liable to the penalty there provided, that is to say a fine up to or exceeding level fourteen or imprisonment for a period not exceeding twenty years or both.'

13. See Aljazeera Zimbabwe president threatens fake news author with 20 years' jail <https://www.aljazeera.com/economy/2020/4/14/zimbabwe-president-threatens-fake-news-author-with-20-years-jail> (accessed on 16 March 2022) and All Africa Zimbabwe: Man Remanded in Custody for Circulating Fake News <https://allafrica.com/stories/202004210574.html> (accessed on 16 March 2022).

FREEDOM OF EXPRESSION

Freedom of expression is a fundamental right that is guaranteed in international law and standards. It is provided for under article 9 of the African Charter and further elaborated in the ACHPR 2019 Declaration. In terms of compliance, States must 'facilitate the rights to freedom of expression and access to information online and the means necessary to exercise these rights'¹⁴ In view of the incidents in 2021, this right is not fully protected in Zimbabwe. The Movement for Democratic Change Alliance (MDC) politician, Job Sikhala was charged for communicating falsehoods on Facebook and Twitter.¹⁵ This was in violation of the declared unconstitutional section 31(a) (iii) of the Criminal Law (Codification and Reform) Act, 2004 (the Criminal Code).¹⁶ A journalist, Hopewell Chin'ono and then MDC politician Advocate Fadzayi Mahere were arrested and charged with the same outlawed provision.¹⁷ Such charges tend to impose undue self-censorship on political actors, human rights defenders or media practitioners, thwarting the enjoyment of freedom of expression.

On 26 May 2021, a journalist, Jeffrey Moyo was arrested in Harare and charged with violating the Immigration Act, 1979.¹⁸ The allegations were that he misrepresented to an immigration officer about the accreditation of two New York Times journalists.¹⁹ Arbitrary arrests of journalists are tantamount to intimidation and harassment of media practitioners in the performance of their mandate and interfere with their ability to express themselves freely both offline and online. On 2 March 2021, a ZANU-PF legislator moved the motion in Parliament for a debate on the Patriotic Bill.²⁰



14. See n 1 above, principle 37(1).

15. ZimLive 'Sikhala, Chin'ono charged under non-existent falsehoods law' <https://www.zimlive.com/2021/01/10/sikhala-chinono-charged-under-non-existent-falsehoods-law/> (accessed on 23 January 2022).

16. Criminal Law (Codification and Reform) Act (Chapter 9:23), 2004 <https://www.veritaszim.net/node/225> (accessed on 23 January 2022).

17. Amnesty International Zimbabwe: Authorities must drop malicious charges against opposition leaders and journalist <https://www.amnesty.org/en/latest/news/2021/01/zimbabwe-authorities-must-drop-malicious-charges-against-opposition-leaders-and-journalist/> (accessed on 16 March 2022).

18. Immigration Act (Chapter 4:02) of 1979.

19. Committee to Protect Journalists Zimbabwe detains NY Times freelancer Jeffrey Moyo over alleged accreditation misrepresentation' <https://cpj.org/2021/05/zimbabwe-detains-ny-times-freelancer-jeffrey-moyo-over-alleged-accreditation-misrepresentation/> (accessed on 23 January 2022).

20. Veritas 'BILL WATCH 15/2021 - Debate on the Need for a "Patriotic Bill"' <http://www.veritaszim.net/node/4827> (accessed on 23 January 2022).

Veritas 'BILL WATCH 15/2021 - Debate on the Need for a "Patriotic Bill"' <http://www.veritaszim.net/node/4827> (accessed on 23 January 2022).

The proposed law poses a threat to freedom of expression in that it proposes criminalisation of any acts that are deemed to give a bad image of the country or false news made to foreign governments about Zimbabwe.²¹ If passed, the Patriotic Bill will likely be used to stifle the voices of human rights defenders, civil society organisations and political activists in performing their designated mandates. While a possible motivation behind such a law is to categorise such speech as prohibited speech, principle 23(1) of the ACHPR Declaration states that prohibited speech is speech that *'advocates for national, racial, religious or other forms of discriminatory hatred which constitutes incitement to discrimination, hostility or violence.'* Merely presenting a bad record of a country cannot fall within the definition of prohibited speech to warrant a justifiable limitation on freedom of expression. The Declaration provides that States must not prohibit speech that merely lacks civility or which offends or disturbs them. In this lies the reason Zimbabwe should not adopt this law that will infringe on freedom of expression.

PRIVACY, DIGITAL IDS AND SURVEILLANCE

The Constitution guarantees the right to privacy.²² Privacy is not an absolute right and any limitation must be fair, reasonable, necessary and justifiable in a democratic society.²³ While the COVID-19 pandemic presented some justifiable limitations to the right to privacy, some of the limitations were unjustifiable. In May 2021, the city of Kwekwe was in a state of panic after the disclosure of the first case in Zimbabwe of what became known as the Delta variant. The case had been identified in the

city and was directly linked to many other COVID-19 cases in the city.²⁴ The Ministry of Health released a health report disclosing that the now deceased Kwekwe businessman Robson Kadenhe and his wife had both contracted COVID-19, suspectedly, the Delta variant following contact with a relative, Nataly who turned out to be COVID-19 negative upon testing.²⁵ The story was reported by the media²⁶ and the government disclosed the health status of the late Kadenhe together with other contacts, supposedly linked to him who tested COVID-19 positive. The report paid no regard to the protection of his personal health data disclosing his health history, age, home address and the personal data of other individuals concerned like Zvichauya Midzi. Also, the report disclosed that three minor children in contact with Midzi aged between 4 and 12 years and learning at Goldridge Primary School also tested positive leaving anyone interested in the identity of the children with a good lead. This example raises critical questions about the protection of individuals' health data.



**Privacy is not an absolute right
and any limitation must be fair,
reasonable, necessary and justifiable
in a democratic society.**



21. Veritas 'BILL WATCH 15/2021 - Debate on the Need for a "Patriotic Bill"' <http://www.veritaszim.net/node/4827> (accessed on 23 January 2022).

22. See section 86(2) of the Constitution, n 8 above.
fair, reasonable, necessary and justifiable in a democratic society

23. See section 86(2) of the Constitution, n8 above.

24. New Zimbabwe <https://www.newzimbabwe.com/indian-covid-19-variant-scare-as-man-returning-from-india-dies-in-kwekwe/> (accessed on 23 January 2021).

25. Ministry of Health Kwekwe City Outbreak Preliminary Report (2021) <http://pillars.mohcc.org.zw:2020/covid19-pillars/2021/06/01/kwekwe-city-outbreak-preliminary-report/> (accessed on 23 January 2023).

26. New Zimbabwe <https://www.newzimbabwe.com/indian-covid-19-variant-scare-as-man-returning-from-india-dies-in-kwekwe/> (accessed on 23 January 2021).

Although the right to privacy is guaranteed in the Constitution, the Kadenhe COVID-19 case occurred at a time when Zimbabwe was in the process of adopting a data protection law. Therefore an adequate data protection framework was not yet in place. The possible effects of the stigma and effects of such disclosures on the public were not considered. The former United Nations (UN) Special Rapporteur on the right to privacy, Prof. Joe Cannataci presented in a report to the UN General Assembly that states must, on one hand, protect the health of citizens and also protect their privacy. The Special Rapporteur indicated that both rights are not contradictory.²⁷ Policy or legislation should in effect promote privacy even where there is a need for surveillance. However, in the Kadenhe case, the disclosure was overly broad and unjustifiable. In reporting the incidents, attention should have been paid to ethical and human rights considerations and protected the data and identity of the identified individuals, in line with the UN Recommendation on the protection and use of health-related data.²⁸

The National Development Strategy 1 (NDS1) included the enactment of a Cyber Security Act.²⁹ The government enacted the Data Protection Act, 2021 (DPA) whose objective is *“to increase data protection in order to build confidence and trust in the secure use of information and communication technologies by data controllers, their representatives and data subjects”*.³⁰ The DPA is a welcome development as it provides for data

protection in Zimbabwe. Section 12 is instructive on the processing of personal health data. It highlights the need for consent from data subjects before processing personal health data and also provides for the option for a data subject to withdraw their consent. While there are several circumstances for derogating from the requirement to get consent under section 12(3), fundamental rights and freedoms must remain a guiding factor in the processing of health data.³¹

The DPA also amends sections 162 to 166 of the Criminal Code. It provides for the investigation and collection of evidence of cyber crimes and unauthorised data collection and breaches, and the admissibility of electronic evidence for such offences. It also amends the Interception of Communications Act [Chapter 11:20], 2007 establishing a Cyber Security and Monitoring Centre for monitoring cyber security, a unit to be established in the Office of the President. Its functions include effecting authorised interceptions and advising the government on cyber crime policies.³² There are concerns that this Centre may facilitate violations of fundamental rights and intensify state surveillance.³³ The Act bestows the role of the data protection authority on the Postal and Telecommunications Regulatory Authority (POTRAZ), over and above its mandate as a telecommunications industry regulator which may be an overload of mandates on POTRAZ. This may interfere with the effective execution of both roles.³⁴

27. United Nations Report on the Right to Privacy (2020) <https://undocs.org/A/75/147> (accessed on 23 January 2022). See paragraph 39.

28. United Nations Report of the Special Rapporteur on the right to privacy. <https://undocs.org/en/A/74/277> (accessed on 23 January 2022). See Chapter two parts 4, 5 and 6.

29. National Development Strategy 1 (2021-2025) para 558 https://www.veritaszim.net/sites/veritas_d/files/NDS.pdf (accessed on 23 January 2022).

30. Data Protection Act (Chapter 11:22) of 2021 sec 2 https://www.veritaszim.net/sites/veritas_d/files/Data%20Protection%20Act%205%20of%202021.pdf (accessed on 23 January 2022).

31. MISA Zimbabwe Analysis of the Data Protection Act <https://zimbabwe.misa.org/2021/12/06/analysis-of-the-data-protection-act/> (accessed on 4 March 2022).

32. Interception of Communications Act (Chapter 11:20), 2007 <http://www.veritaszim.net/node/252> (accessed on 23 January 2022).

33. MISA Zimbabwe Analysis of the Data Protection Act <https://zimbabwe.misa.org/2021/12/06/analysis-of-the-data-protection-act/> (accessed on 4 March 2022).

34. See n 24 above on the DPA, secs 37(2).



Apart from this legislative development, the Bulawayo City Council (BCC) partnered with a company called Tendency Three to implement a US\$2.2 million project which includes the installation of CCTV cameras in the city of Bulawayo.³⁵ Details of the procurement process and the reasons for the deployment of the CCTV cameras were not publicly disclosed and this raised transparency concerns. Key stakeholders were not consulted before the deployment of the surveillance technology nor was the relevant information proactively disclosed. While public safety is a justifiable ground for limiting fundamental rights such as privacy, the limitation must happen within the confines of human rights standards.³⁶

ACCESS TO INFORMATION

The Freedom of Information Act, 2020 provides the legal architecture for the promotion of the right of access to information in Zimbabwe. It outlines the mechanism for accessing information. The government enacted Statutory Instrument 229 of 2021 as Freedom of Information (General) Regulations 2021 (SI 229).³⁷ The regulations mandate public entities to provide information

institutions and functions within a six-month timeline which promotes the proactive disclosure of information by public bodies.³⁸ The regulations also provide for the designation and function of Information Officers, procedures for requesting information and also creates offences and penalties.³⁹ The SI 229 is a commendable development but could be improved. For instance, the regulations give discretion to the Zimbabwe Media Commission (ZMC) to appoint an appeals committee known as the Public Information Appeals Committee (PIAC). However, the regulations are silent as to the nomination and appointment of members of the PIAC, information that is critical for purposes of transparency.⁴⁰ The ZMC is the authority with the mandate to ensure access to information for all in terms of section 249(1)(f) of the Constitution and the Freedom of Information Act, 2020. However, the ZMC may decide to hear the appeal itself if it so chooses. The provision could have been more resolute as to the establishment of the PIAC and the appeals determining body instead of making that process discretionary. The appointment criteria of the committee members to the PIAC is also not clear in the regulations.

35. CITE <https://cite.org.zw/activists-worried-street-cameras-could-be-used-to-spy-on-citizens/> (accessed on 23 January 2022).

36. See Principle 34 of the Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights <https://www.icj.org/wp-content/uploads/1984/07/Siracusa-principles-ICCPR-legal-submission-1985-eng.pdf> (accessed on 16 March 2022).

37. SI 2021-229 Freedom of Information (General) Regulations, 2021 (SI 229) <http://veritaszim.net/node/5252> (accessed 23 January 2021).

38. See section 2(1) of SI 229 above.

39. See section 3 and 4 of the SI 229 above.

40. MISA Zimbabwe Unpacking the Freedom of Information Regulations <https://zimbabwe.misa.org/2021/10/20/unpacking-the-freedom-of-information-regulations/> (accessed on 16 March 2022).

INTERNET ACCESS

In January 2021, there were 5.01 million internet users in Zimbabwe. Internet penetration was at 33.4% and social media users were 1 300 000 which was an increase from 2020.⁴¹ Zimbabwe has five mobile service providers. TelOne, NetOne and Telecel are owned by the government and Econet and Africom are privately owned. Econet is the leading mobile service provider in Zimbabwe. The cost of data is high. For instance, eight gigabytes of data costs roughly US\$23.⁴² The high cost of data in Zimbabwe affects the growth in internet users. The Internet is enabling the free flow of information and advancing activism. Hopewell Chin'ono released a rap song online which was tweeted on the looting of resources in Zimbabwe by government officials.⁴³ A number of hashtags were trending showing the use of the Internet for digital activism. The [#SaveChilonga](#)⁴⁴ and [#BoycottDendairy](#) were some of the hashtags trending online in 2021 calling for 12500 families to be spared from eviction from the Chilonga area to make way for grass farming by a farmer for the purposes of dairy farming.⁴⁵ During the period under review, no internet shutdown was experienced. However, internet access was inhibited by factors such as erratic electricity supply.⁴⁶

DIGITAL EXCLUSION IN AFRICA AND ITS IMPACT ON HUMAN RIGHTS

The COVID-19 pandemic continues to spotlight the importance of the Internet, access to digital technologies and digital infrastructure. One way of enhancing inclusion is digital literacy for marginalised communities.

From the time the pandemic hit digital Zimbabwe in 2020, less than 30% of children in rural areas were able to access online education as compared to those in the higher-income bracket in urban areas, who were able to access education remotely through online learning.⁴⁷ As a result, those in rural areas and low-income families in urban areas lagged behind in their learning.

In the NDS1, the government proposes mainstreaming ICTs into the national curriculum and rolling out ICT capacity development programmes during the strategy period.⁴⁸ The digital divide is a lived reality for persons with disabilities in Zimbabwe who do not have access to digital technologies. Digital exclusion for persons with disabilities affects important aspects of their lives including access to education, information and economic empowerment.⁴⁹

41. Datareportal 'Digital 2021: Zimbabwe' <https://datareportal.com/reports/digital-2021-zimbabwe> (accessed on 23 January 2022).

42. AA 'Zimbabweans hit by exorbitant internet costs' <https://www.aa.com.tr/en/africa/zimbabweans-hit-by-exorbitant-internet-costs/2307947> (accessed on 23 January 2022).

43. VOA 'Zimbabwe Journalist Hopewell Chin'ono Anti-Corruption Song DemLoot Sets Social Media on Fire' <https://www.voazimbabwe.com/a/zimbabwe-song-demloot-sets-social-media-on-fire/5767607.html> (accessed on 23 January 2022).

44. <https://twitter.com/search?q=%23SaveChilonga> (accessed on 23 January 2022).

45. Savanna News '#BoycottDendairy trends on social media in an attempt to save Chilonga farmers' <https://savannanews.com/boycottdendairy-trends-on-social-media-in-an-attempt-to-save-chilonga-farmers/>

46. See n 31 above.

47. The World Bank <https://www.worldbank.org/en/country/zimbabwe/overview#1> (accessed on 23 January 2022).

48. National Development Strategy 1 (2021-2025) para 559 https://www.veritaszim.net/sites/veritas_d/files/NDS.pdf (accessed on 23 January 2022).

49. See the Article 9(2)(g) of the United Nations Convention on the Rights of Persons with Disabilities which states as follows; 'State Parties shall promote access for persons with disabilities to new information and communications technologies and systems, including the Internet;'. See also The Herald Zimbabwe: People With Disabilities Need Access to Technology <https://allafrica.com/stories/202110130324.html> (accessed on 22 March 2022).

DIGITAL INFRASTRUCTURE AND PRIORITISATION OF ICT

The COVID-19 pandemic resulted in an increase in demand and acquisition for ICT services.⁵⁰ The government plans to increase ICT access centres as indicated in the NDS1 and aims to focus on the development of ICTs.⁵¹ The government seeks to increase the internet penetration rate from 59.1% to 75.42% by 2025.⁵²

In 2021, the Post and Telecommunications Regulatory Authority of Zimbabwe (POTRAZ) installed Community Information Centres in several districts aimed at ensuring marginalised communities have internet access.⁵³ The NDS1 highlights the prioritisation of e-services for enhancing education and health as well as smart initiatives and the development of Community Information Centres (CICs) for marginalised communities.⁵⁴ CICs are places where the public can easily access digital technologies and internet access.

POTRAZ launched a number of CICs in 2021 including a CIC in Murambinda, a rural area on 14 May 2021⁵⁵ and launched four base stations and 13 CICs in one of the provinces, Matabeleland South.⁵⁶ These CICs are a positive step in bridging the digital divide.

ARTIFICIAL INTELLIGENCE AND EMERGING TECHNOLOGIES

In addressing new and emerging technologies such as AI and robotics, the ACHPR adopted Resolution 473 in 2021.⁵⁷ In the Resolution, the ACHPR affirmed the importance of the Internet and *“that new and emerging technologies such as artificial intelligence (AI), robotics and other new emerging technologies present both opportunities and perils for the promotion and protection of human and people’s rights in Africa”*.⁵⁸ The Resolution calls on African States to ensure that the development and use of AI, robotics and other new and emerging technologies is compatible with regional and international human rights standards. In this regard, the development and use of AI, robotics and other new and emerging technologies should be guided by the underlying human rights principles of human dignity, privacy, equality, non-discrimination, inclusion, diversity, safety, fairness, transparency, and accountability.⁵⁹

However, Zimbabwe does not have a national AI strategy and as such, there is a need for such a framework that will take into account human rights protection in the use of AI and emerging technologies.

50. POTRAZ Abridged Sector Performance Report Q3 (2021) <https://www.techzim.co.zw/wp-content/uploads/2021/12/Abridged-Sector-Performance-Report-Q3-2021-HMed.pdf> (accessed on 23 January 2022).

51. National Development Strategy 1 (2021-2025) para 528 https://www.veritaszim.net/sites/veritas_d/files/NDS.pdf (accessed on 23 January 2022).

52. See n 42 above, para 537.

53. See note 19 above (NDS1), paras 544 to 547. See also TechZim ‘POTRAZ unveils Community Information Centre (CIC) in Murambinda’ <https://www.techzim.co.zw/2021/05/potraz-unveils-community-information-centre-cic-in-murambinda/> (accessed on 23 January 2022) and The Chronicle <https://www.chronicle.co.zw/potraz-erects-base-stations-cics-in-mat-south/> (accessed on 4 March 2022).

54. See note 19 above (NDS1), paras 529 to 530.

55. TechZim ‘POTRAZ unveils Community Information Centre (CIC) in Murambinda’ <https://www.techzim.co.zw/2021/05/potraz-unveils-community-information-centre-cic-in-murambinda/> (accessed on 23 January 2022).

56. The Chronicle <https://www.chronicle.co.zw/potraz-erects-base-stations-cics-in-mat-south/> (accessed on 4 March 2022).

57. ACHPR Resolution 473 on the need to undertake a Study on human and peoples’ rights and Artificial Intelligence (AI), robotics and other new and emerging technologies in Africa (2021) <https://www.achpr.org/sessions/resolutions?id=504> (accessed on 20 January 2022).

58. ACHPR Resolution 473.

59. ACHPR Resolution 473 on the need to undertake a Study on human and peoples’ rights and Artificial Intelligence (AI), robotics and other new and emerging technologies in Africa (2021) <https://www.achpr.org/sessions/resolutions?id=504> (accessed on 20 January 2022).



In the absence of a national AI strategy, human rights violations may occur. Some measure of protection to data subjects is now provided for in the DPA. It provides that a data subject *'shall have the right not to be subject to a decision based solely on automated processing, including profiling, which produces legal effects concerning him or her or similarly significantly affects him or her'*. There is room for more to be done to regulate the acquisition and use of emerging technologies.

GENDER AND ICT

Zimbabwe scored 0.732 in the 2021 global gender gap (GGG Index) which measures economic participation and development. According to the World Bank, in 2020, women comprised 52,3% of the population in Zimbabwe.⁶⁰ Notwithstanding the fact that there are more women than men in Zimbabwe, the majority of mobile subscribers are men.⁶¹ Access to digital technologies enhances economic empowerment.

Government intervention in promoting growth in the use of ICTs should consider the gender gap and map key strategies for increasing women's access to digital technologies. Apart from the low digital literacy rate, women in Zimbabwe experience different forms of violence online such as cyber bullying.⁶² Online violence has an adverse social, economic and political impact on women. For example, it can deter women from participating in public and political affairs online.



**Access to digital
technologies enhances
economic empowerment.**

60. The World Bank <https://data.worldbank.org/indicator/SP.POP.TOTL.FE.ZS?locations=ZW> (accessed on 4 March 2022).

61. Postal and Telecommunications Regulatory Authority of Zimbabwe 'Abridged Postal & Telecommunications Sector Performance Report' (2021) <https://www.techzim.co.zw/wp-content/uploads/2021/07/Abridged-Sector-Performance-report-1st-Q-2021.pdf> (accessed on 4 March 2022).

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CONCLUSION

Zimbabwe's digital rights and digital inclusion records are still not impressive and require improvement. A data protection law was enacted and it is anticipated that it will offer data protection across all spectrums including the area of health. The DPA only came into force in December 2021 and so its implementation will only be witnessed from 2022. There is no marked shift toward the protection of freedom of expression since the publication of the 2020 report. In fact, with the motion for a Patriotic Bill and the DPA facilitating a Cyber Centre housed in the President's Office, freedom of expression online is facing a heightened risk.

RECOMMENDATIONS

In light of the gaps and concerns raised in this report, various recommendations have been proposed.

The government of Zimbabwe is urged to:

- Ratify the African Union Convention on Cyber Security and Personal Data Protection.
- Repeal section 14 of Statutory Instrument 83 of 2020 that deals with the publication of false news during the national COVID-19 lockdown.
- Repeal section 31 of the Criminal Code that criminalises the publication of false news in favour of civil sanctions. This will be in conformity with principle 22 (2) of the ACHPR Declaration which stipulates that States shall repeal laws that criminalise sedition, insult and publication of false news.
- Discard any plans to enact a patriotism law.
- Take measures to protect journalists and other media practitioners from arbitrary arrests and detention, and unlawful surveillance.
- Develop a comprehensive legal and ethical governance framework for AI technologies, robotics and other new and emerging technologies in compliance with international standards.
- Increase the annual budget towards the growth of ICTs and take into consideration the needs of rural communities, PWDs, women and children.
- Engage and partner with the private sector on ensuring affordable data for all.
- Ensure a human-rights respecting application of the DPA.

- Ensure an uncompromised discharge of the function of regulatory authorities such as POTRAZ, the data protection authority and the Zimbabwe Media Commission.
- Take steps to implement the ACHPR Resolution 473 which calls on States to also work towards a comprehensive legal and ethical governance framework for AI technologies, robotics and other new and emerging technologies so as to ensure compliance with the African Charter and other regional treaties.

The Private Sector is urged to:

- Collaborate with the government in ensuring universal, equitable, affordable and meaningful access to the Internet without discrimination.
- Implement appropriate measures to ensure and enhance compliance with the DPA with respect to data governance.
- Produce regular transparency reports disclosing their commitment to upholding human rights.

Civil Society Organisations (CSOs) are urged to:

- Raise awareness on digital rights and digital inclusion in Zimbabwe.
- Conduct advocacy engagements with the government and private sector aimed at policy and legislative reforms.
- Partner with the government in its implementation of Resolution 473 which calls for the respect of fundamental human rights in the use of AI and emerging technologies. In this regard, CSOs can play an oversight role and provide the necessary expertise in the development of human rights-based policy and legal frameworks.

The academia is urged to:

- Conduct more research on digital rights and digital inclusion including studies on Artificial Intelligence and emerging technologies.
- Collaborate with the government in the development of a national AI strategy and other issues related to the enhancement of digital rights

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.



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