

Technology and Disability:

An Examination of the Regulatory Frameworks on Access to Information and ICT for Persons with Disabilities in Africa

June 2025



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1. Introduction

Despite the exponential growth and penetration of new and emerging information and communication technologies (ICT), including the internet and generative artificial intelligence (Gen AI), Persons with Disabilities have continued to suffer exclusion due to lack of meaningful efforts to design and implement progressive technologies that are inclusive and multimodal.

Barriers such as unavailability of appropriate assistive technologies, non-adapted communication methods, gaps in service delivery, and discriminatory prejudice hinder full social and economic inclusion of Persons with Disabilities. While technology is widely viewed as one of the biggest opportunities to address the exclusion faced by vulnerable and marginalised groups, the lack of and poor implementation of ICT and disability enabling laws has greatly widened the digital divide, especially for Persons with Disabilities.

The 2008 adoption of the *Convention on the Rights of Persons with Disabilities (CRPD)* provided a springboard that has seen several African countries enact disability laws that provide for ICT access for Persons with Disabilities. While the enactment and implementation of ICT and disability enabling laws would not automatically result in narrowing the disability digital divide, it serves as a critical step to ensuring that the design and implementation process of emerging technologies is done in an inclusive manner that is empowering and non-discriminatory.

The coming into force of the *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa* breathed a new lease of life into the Disability rights advocacy movement and CIPESA was quick to call upon the *African Commission to establish a Special Mandate* to enhance the respect for and protection of the rights for Persons with Disabilities in Africa.

Over the last few years, CIPESA has been advocating for enactment and implementation of progressive disability laws and policies across the continent. In furtherance of this mission, CIPESA, with support from Trust Law, the Thomson Reuters Foundation's (TRF) global pro bono legal programme, engaged a team of law firms from Cameroon, Ghana, Nigeria, Rwanda, Senegal, South Africa, Zambia, and Zimbabwe to undertake legal research on disability and ICTs.

As a leading ICT policy research and advocacy organisation, CIPESA believes that this research will support advocacy on inclusive disability laws and policies and capacity building work to strengthen the protection of the rights of Persons with Disabilities to access ICT. For CIPESA, it is important that as countries engage in amending or enacting laws and regulations, they are progressive and conform with international frameworks and standards as well as best practices.

In addition, this research will further enrich CIPESA's *Disability and ICT Accessibility Framework Indicators* developed to guide the assessment of compliance by different countries and companies with obligations enshrined in the CRPD and other regional and national laws and policies.

CIPESA would therefore like to thank the following law firms that undertook the research. CIPESA is also grateful to the TRF team that oversaw and supervised the team of law firms – Lynnet Onyango, Jane Nzomo, and Sarah Ngachi.

Lastly, CIPESA is grateful to its staff Paul Kimumwe, Juliet Nanfuka, Edrine Wanyama, and Wairagala Wakabi for reviewing and editing the final report.

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2. Definitions

CIPEsa	Collaboration on International ICT Policy for East and Southern Africa
Committee	The UN's Committee on the Rights of Persons with Disabilities (established under the CRPD)
CRPD	The UN's Convention on the Rights of Persons with Disabilities
CRPD Accessibility Provisions	Article 4, Article 9 and Article 21 of the CPRD
Equality Act	Equality Act 2010
ICT	Information and communications technologies
ITR	The ITU's International Telecommunication Regulations
ITU	The UN's International Telecommunication Union
Marrakesh Treaty	Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled
Protocol	The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa
SDGs	The UN's Sustainable Development Goals
UN	United Nations
W3C	World Wide Web Consortium
WCA Guidelines	The W3C's Accessibility Guidelines Working Group's publication entitled 'Web Content Accessibility Guidelines 2.1'



3. Executive Summary

This Report is divided into sections by countries. This executive summary provides a general overview of the current position pertaining to the accessibility and use of ICT by Persons with Disabilities in the countries. The sections of this Report that follow this Executive Summary contain a more detailed analysis of the legal framework for the accessibility and use of ICT by Persons with Disabilities in each of the countries.

3.1 Cameroon

Zangue & Partners-Avocats

The legal framework for access to Information and Communication Technology (ICT) for Persons with Disabilities in Cameroon comprises a series of laws, decrees, orders, and circulars aimed at protecting and promoting the rights of Persons with Disabilities across various spheres of life. While there are no specific national laws or policies exclusively governing ICT accessibility for Persons with Disabilities, several general laws ensure their access and rights in different aspects of society.

The Constitution of Cameroon, amended in 1996, establishes the obligation of the State to protect and promote the welfare of its citizens, including Persons with Disabilities, in accordance with international instruments. Additionally, Law No. 2010/002 of 13 April 2010 focuses on the protection and promotion of Persons with Disabilities' rights, emphasising equal access to opportunities and a conducive working environment. Furthermore, Decree No. 2021/250 ratified the Marrakesh Treaty, facilitating access to published works for individuals with visual impairments or print disabilities.

Decree No. 2018/6233/PM lays down the modalities of application of Law No. 2010/002, ensuring its effective implementation for Persons with Disabilities holding a National Disability Card. Moreover, Decree No. 2018/6234/PM reorganises the National Committee for the re-adaptation and socio-economic reinsertion of Persons with Disabilities, enhancing coordination efforts for their inclusion and participation.

Various joint circular letters and orders address specific issues, such as the admission of disabled children into public secondary schools and their participation in official examinations. Additionally, Joint Circular Letter No. 002/LCC/MINMAP outlines measures for facilitating accessibility for Persons with Disabilities in the built environment, aligning with international standards.

While Cameroon's legal framework reflects alignment with international standards, some gaps exist. The absence of provisions mandating accessible formats for legal documents, as required by the CRPD, poses challenges for Persons with Disabilities' awareness of their rights. Similarly, the national copyright law lacks specific provisions to facilitate access to published works for visually impaired individuals, contrary to the requirements of the Marrakesh Treaty.

Nevertheless, the legal framework imposes penalties for non-compliance, including imprisonment and fines, underscoring the importance of adherence to disability rights laws. Citizens can file complaints with relevant authorities, initiating criminal actions against perpetrators of discrimination.

To enhance access to and use of ICT by Persons with Disabilities, proposed legal measures include increasing their representation in the National Assembly, effective implementation of the Marrakesh Treaty through specific national laws or amendments, and ensuring all laws are available in accessible formats.

3.2 Ghana

Renaissance Law Chambers

Ghana's policy on the rights of Persons with Disabilities and the legislative landscape predate the CRPD. The principal laws that govern the rights of Persons with Disabilities are the Constitution of the Republic of Ghana 1992 (as amended) (the "Ghana Constitution"), which recognises the rights of Persons with Disabilities, and the Persons with Disability Act, 2006 (Act 715), which expands on the general rights contained in the Ghana Constitution. The rights provided are however general in nature, and they do not contain any specific provisions concerning access and use of ICT by Persons with Disabilities, as envisaged by the CRPD. Thus, despite the fact that Ghana is a signatory to some international instruments that provide specifically for the right of access to ICT by Persons with Disabilities, there are no specific provisions under domestic law that provide this right. There are however no laws that directly or indirectly exclude access of Persons with Disabilities to ICT


However, there are other statutes, namely the Electronic Transactions Act, 2008, the National Communications Authority Act, 2008, the National Information Technology Agency Act, 2008 and the Electronic Communications Act, 2008 that contain provisions that have an impact on the rights of Persons with Disabilities to access ICT. These statutes essentially require communications service providers to take measures to ensure that Persons with Disabilities have access to their services as a condition for obtaining licenses, and to submit annual reports that include information relating to access of Persons with Disabilities. A right of access to ICT by Persons with Disabilities may thus be derived from a purposive interpretation of these statutes.

An infringement on the rights of Persons with Disabilities may have both civil and criminal consequences. As PWD rights are human rights, it is possible for Persons with Disabilities to seek damages and injunctive relief against a breach of their rights from the High Court, or the Commission on Human Rights and Administrative Justice. Infringing the rights of Persons with Disabilities may also constitute a criminal offence punishable by a fine or term of imprisonment.

The rights of Persons with Disabilities in Ghana to access ICT may be enhanced by amending the existing laws to provide a specific right of same. Current legislation can also be interpreted to include a specific right to access ICT and same should be enforced.

3.3 Nigeria

Udo Udoma & Belo-Osagie



In Nigeria, the Constitution of the Federal Republic of Nigeria, 1999 (as amended), provides a general framework supporting ICT access for Persons with Disabilities by guaranteeing every person's right to freedom of expression, including the right to receive and impart ideas and information without interference, implicitly supporting the right of Persons with Disabilities to access ICT. The Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 (“DAPD Act”) is a significant piece of legislation that directly addresses the rights of Persons with Disabilities, including access to ICT by mandating the translation of general information into accessible formats suitable for Persons with Disabilities. Additionally, the DAPD Act empowers the National Commission for Persons with Disabilities to collaborate with the media to make information accessible and to procure assistive technology for various disabilities. The Copyright Act 2022 also includes provisions that enhance ICT accessibility for Persons with Disabilities by authorising entities to create and distribute accessible format copies of works for blind, visually impaired, or print-disabled persons without needing permission from copyright holders, provided certain conditions are met. This aligns closely with the Marrakesh Treaty, which aims to remove barriers created by copyright laws for the benefit of Persons with Disabilities.

In Lagos State, the Lagos State Special Peoples Law 2010 (“LSSPL”) further supports ICT accessibility for Persons with Disabilities by mandating that information intended for the public must be provided in accessible formats and technologies appropriate to different kinds of disabilities, at no additional cost.

The National Information Technology Development Agency (“NITDA”) has issued Standards and Guidelines for Government Websites (“SGGW”) to ensure that government websites are accessible to all users, including Persons with Disabilities. These guidelines require government websites to adopt the Web Content Accessibility Guidelines developed by the World Wide Web Consortium, which aim to make web content more accessible to people with various disabilities.

Comparing Nigeria's national laws with international standards reveals some gaps and areas for improvement. The CRPD includes comprehensive provisions on ICT accessibility that are partially reflected in the DAPD Act and other national laws. However, Nigeria's laws are not as detailed in setting specific responsibilities for public and private entities as the CRPD. Similarly, the Sustainable Development Goals (SDGs) emphasize inclusive education, economic growth, reduced inequalities, and strong institutions, which are supported by various provisions in the DAPD Act and LSSPL. The Protocol aligns with sections of the DAPD Act concerning access to transportation and assistive technologies. However, like the CRPD, the Protocol provides a more comprehensive framework that Nigeria's laws do not fully match.


3.4 Rwanda

RR Associates & Co. Advocates

Rwanda has undertaken legislative reforms designed to empower and support Persons with Disabilities. The Constitution of Rwanda recognises the same fundamental rights for all citizens as the Universal Declaration of Human Rights and forbids discrimination on the basis of physical and mental disability while committing the nation to supporting genocide survivors with disabilities and to providing special measures to educate Persons with Disabilities. However, there are gaps and challenges that need to be addressed to ensure full inclusion of Persons with Disabilities in the national development agenda. Since Rwanda ratified the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) in 2008, the country has made progress in protecting the rights of Persons with Disabilities through legislative reforms, national policies and programs designed to protect Persons with Disabilities. Even though there is progress, Persons with Disabilities are not fully included in all political and social economic aspects. Persons with Disabilities still struggle to access ICT services. To continuously address the challenges that are hindering the full inclusion of Persons with Disabilities across all sectors, the Local Government has developed the National Policy of Persons with Disabilities whose mission is to establish a multi-sectorial and coordinated system that overcomes all barriers faced by Persons with Disabilities to ensure and promote their full inclusion. There are also avenues available to Persons with Disabilities to enforce their rights in case there is an infringement, such as, lodging a complaint at the National Council for Persons with Disabilities. Although the policies and legal reforms to protect Persons with Disabilities are in place, the relevant authorities should establish mechanisms for monitoring and enforcing compliance with accessibility standards and implementation of laws.

3.5 Senegal

Geni & Kebe



In Senegal, the legal framework concerning access to ICT for Persons with Disabilities comprises several laws and policies aimed at promoting their rights across various sectors. While the Senegal Constitution does not explicitly address ICT accessibility for Persons with Disabilities, it guarantees fundamental rights to all citizens, irrespective of their physical or mental condition.

One significant law is the Loi d'orientation sociale n° 2010-15, enacted in May 2010, which focuses on promoting and protecting the rights of Persons with Disabilities, including their access to ICT. Additionally, at a political level, Senegal has launched the Digital Senegal 2025 Strategy, which includes a program called ICT & Disability. This program, a component of the broader strategy, aims to provide open and affordable access to digital networks and services, with a specific emphasis on accessibility for Persons with Disabilities.

However, when compared to international standards such as the CRPD and the Marrakesh Treaty, Senegal's legal framework reveals some gaps. While the Social Orientation Act aligns with the CRPD, it lacks implementing decrees, hindering its effectiveness in ensuring ICT accessibility for Persons with Disabilities. Similarly, Senegal has not yet ratified the Marrakesh Treaty, which could enhance the provisions of the Social Orientation Act by ensuring access to training and ICT for visually impaired individuals.

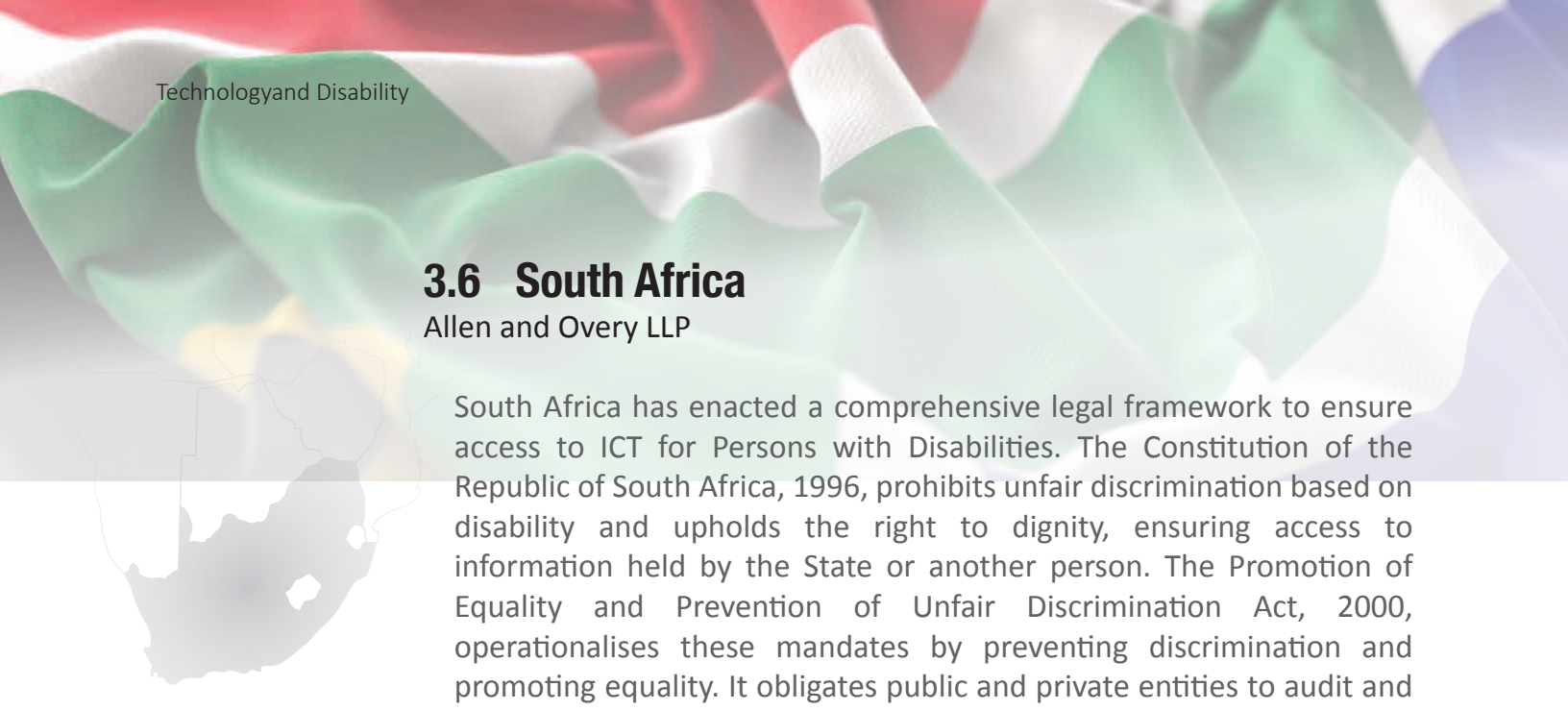
Regarding progressive implementation, Senegal currently lacks specific legislative measures. The absence of implementing decrees for the Social Orientation Act hampers its effectiveness, with only two signed decrees out of the planned fourteen. Despite this, there are no provisions within the law that directly or indirectly exclude Persons with Disabilities' access to ICT.

In terms of consequences for non-compliance, while they are outlined in decrees implementing the Social Orientation Act, these decrees are not yet available. Aggrieved parties can appeal to appeal courts under general law for remedies.

To enhance access to and use of ICT by Persons with Disabilities in Senegal, it is crucial to sign implementing decrees for the Social Orientation Act. These decrees would provide the necessary guidance for the effective implementation of the law, thereby ensuring ICT access and inclusion for Persons with Disabilities.

3.6 South Africa

Allen and Overy LLP



South Africa has enacted a comprehensive legal framework to ensure access to ICT for Persons with Disabilities. The Constitution of the Republic of South Africa, 1996, prohibits unfair discrimination based on disability and upholds the right to dignity, ensuring access to information held by the State or another person. The Promotion of Equality and Prevention of Unfair Discrimination Act, 2000, operationalises these mandates by preventing discrimination and promoting equality. It obligates public and private entities to audit and amend laws and policies to eliminate discrimination.

The South African Library for the Blind Act, 1998, establishes a library service specifically for blind and print-handicapped individuals. The Electronic Communications Act, 2005, promotes universal access to electronic communications services, particularly addressing the needs of Persons with Disabilities. The National Integrated ICT Policy White Paper, 2016, aims to create an inclusive ICT sector, addressing barriers faced by Persons with Disabilities. Additionally, the White Paper on the Rights of Persons with Disabilities, 2016 (WPRPD), outlines strategies for the inclusion and empowerment of Persons with Disabilities, including directives for ensuring all ICT policies and standards are disability inclusive.


South Africa has aligned its national framework with international standards, such as the CRPD. However, gaps exist in specific legislation for ICT accessibility and effective implementation. While the country has not acceded to the Marrakesh Treaty, the Constitutional Court's ruling in *Blind SA v Minister of Trade, Industry and Competition* addressed key aspects by creating exceptions in the Copyright Act to allow accessible formats for the visually impaired.

The National Development Plan 2030 and the Medium-Term Strategic Framework 2019-2024 incorporate strategies to enhance ICT access for Persons with Disabilities. Challenges include resource constraints, inadequate data, and lack of effective participation by Persons with Disabilities.

Consequences for non-compliance with ICT accessibility laws vary, with mechanisms including constitutional remedies, equality courts, and the South African Human Rights Commission (SAHRC). Effective implementation, monitoring, and alignment with international standards remain critical areas for improvement in ensuring ICT accessibility for Persons with Disabilities in South Africa.

3.7 Zambia

Corpus Legal Practitioners



In Zambia, various laws and policies work together to facilitate access to ICT for Persons with Disabilities. Firstly, the Constitution of Zambia establishes freedom from discrimination. Secondly, the Information and Communication Technologies Act No. 15 of 2009 mandates the Zambia Information and Communication Technologies Authority (“ZICTA”) to promote ICT accessibility for Persons with Disabilities. Thirdly, the Persons with Disabilities Act No. 6 of 2012 ensures Persons with Disabilities' inclusion across different spheres, including ICT accessibility. Moreover, ZICTA's Consumer Protection Guidelines 2019 and Code of Conduct for ICT Service Providers outline obligations, including accessibility measures for Persons with Disabilities. Additionally, the Value Added Tax Act exempts VAT on equipment designed for Persons with Disabilities' use. Lastly, the National Policy on Disability 2030 sets ambitious goals for enhancing Persons with Disabilities' access to new technologies, such as ICT, by 2030.

When examining Zambia's laws and policies in comparison to international standards for the rights of Persons with Disabilities, several key observations emerge. Zambia's legal framework, notably the Persons with Disabilities Act, reflects principles outlined in the CRPD. However, while Zambia aligns with the CRPD's emphasis on equal access to information and communications technologies, clear mechanisms for affordable accessibility are lacking. Similarly, the Marrakesh Treaty, focused on facilitating access to published works for visually impaired individuals, reveals a gap in Zambia's legislation. While the ZICTA Code of Conduct addresses some accessibility concerns, it falls short of the comprehensive provisions outlined in the Marrakesh Treaty. Regarding the SDGs, Zambia demonstrates alignment, particularly in education and ICT access for Persons with Disabilities. However, there is a notable absence of explicit pathways in national laws for achieving SDG targets, which could hinder effective implementation.

While legal provisions exist to facilitate the access and use of ICT by Persons with Disabilities, their effective implementation remains a work in progress. The Constitution of Zambia prohibits discrimination and lays the foundation for equal access to ICT services for Persons with Disabilities. However, the translation of this constitutional mandate into practical measures by policymakers and regulators is essential for meaningful implementation. The Persons with Disabilities Act mandates the Minister of Community Development and Social Services to ensure equal access to ICT services for Persons with Disabilities. Yet, however, we are not aware of any concrete measures that have been put in place by the ministry. Court cases, such as *Brotherton v Electoral Commission of Zambia*, illustrate the judiciary's role in setting deadlines for implementation, emphasising the need for clearer guidance and timelines within the law. Additionally, while the ZICTA Code of Conduct and Consumer Protection Guidelines require ICT service providers to consider accessibility for Persons with Disabilities, they lack specific timelines for compliance.

In the event of non-compliance, legal avenues exist for redress. The High Court, Public Protector, and Human Rights Commission offer channels for complaints, with potential penalties for violations, although improvements in accessibility to these mechanisms are needed.

To enhance access to ICT for Persons with Disabilities in Zambia, legal measures should focus on clear implementation provisions with definitive timeframes of when measures should be implemented, amendments to existing legislation, and actively challenge any instances of unfair discrimination against Persons with Disabilities through the court to ensure alignment between laws and the rights of Persons with Disabilities.

3.8 Zimbabwe

Kanokanga & Partners

In Zimbabwe, the legal framework concerning access to ICT for Persons with Disabilities is primarily governed by the Constitution of Zimbabwe Amendment No 20 of 2013 and the National Disability Policy of 2021. The Constitution of 2013 guarantees the rights of Persons with Disabilities, mandating the State and all government institutions to assist Persons with Disabilities in achieving their full potential and minimising disadvantages. It specifically emphasises the importance of developing welfare programs, prioritising Persons with Disabilities' needs in development plans, encouraging the use of suitable communication forms, and ensuring accessibility to public buildings and amenities. The National Disability Policy, although not legally binding, aims to facilitate access to ICT for Persons with Disabilities. It highlights the need for access to new ICT systems, including the internet, and promotes the design, development, production, and distribution of accessible ICT and systems. The policy sets a goal for full accessibility by 2030, outlining benchmarks, budget allocations, and timeframes.

Despite aligning with international standards such as the CRPD and the Marrakesh Treaty, Zimbabwe's legal framework reveals some gaps. While the National Disability Policy incorporates aspects of the CRPD, there is no specific legislation to domesticate the rights envisaged in the CRPD regarding ICT accessibility. Similarly, although Zimbabwe signed the Marrakesh Treaty, it has not yet been domesticated into specific legislation. Furthermore, although Zimbabwe's Constitution guarantees various rights, including economic, social, environmental, civil, cultural, and political rights, the National Disability Policy is yet to be enacted into law.

Regarding progressive implementation, Zimbabwe lacks specific legislative measures for staggered implementation of ICT accessibility requirements for Persons with Disabilities. There are also no provisions within the law that directly or indirectly exclude Persons with Disabilities' access to ICT in Zimbabwe, and there are no consequences for non-compliance with legal and policy requirements on access and use of ICT by Persons with Disabilities, as there is no specific law addressing this issue.

In the absence of binding legal measures, potential avenues for enhancing access to and use of ICT by Persons with Disabilities in Zimbabwe include advocacy by pressure groups, enactment of laws mandating service providers to offer information in accessible formats, domestication of ratified international laws, ratification of The Protocol, adoption of the National Disability Policy as law, and consideration of the Private Bill procedure.

4. Country Reports

This section provides an overview of the state of each of the country's compliance to the existing International and Regional human rights instruments on the rights of access to ICT for Persons with Disabilities. It also examines the existing national laws and other subsidiary policies on the digital rights for Persons with Disabilities. In terms of approach, the researchers in each country responded to a set of questions that aimed at interrogating the compliance levels and assessing the existing legal gaps.



4.1 Cameroon

Legal Framework for access to ICT for Persons with Disabilities in Cameroon

What relevant national laws or policies mandate accessibility by/ facilitate access and use of ICT by Persons with Disabilities? Please provide the name of the law and a summary of its provisions regarding access to ICT by Persons with Disabilities. (Where such provisions exist, specific mention should be made of the constitution and its provisions, followed by any other applicable laws).

There are no specific national laws or policies that generally govern the accessibility by/ facilitate access and use of ICT by Persons with Disabilities. There are however general laws that ensure Persons with Disabilities enjoy their rights of access to various areas and aspect of life in society. These laws include the following;

a) The Law No. 96-6 of 18 January, 1996 to amend the Constitution of 2 June, 1972 (the “Cameroon Constitution”)

Based on the provisions of the Cameroon Constitution, the State of Cameroon has the obligation to protect and promote the welfare of its citizens including that of Persons with Disabilities, irrespective of their social class in accordance with international instruments.

b) The Law n°2010/002 of 13 April, 2010 relating to the protection and promotion of Persons with Disabilities;

This law provides for the protection and promotion of Persons with Disabilities and requires that the State together with families, natural or legal persons combine their efforts to implement and ensure that Persons with Disabilities have the same access as any other person to a conducive working environment and life.

c) Decree n° 2021/250 of 27 April, 2021 to ratify the Marrakesh Treaty to facilitate access to published works for persons who are blind, visually impaired or otherwise print disabled.

According to section 43 of the Cameroon Constitution and Law n° 2021/008 of 16 April, 2021 authorising the President of the Republic to ratify the Marrakesh Treaty, the President of the Republic, through this instrument, has ratified the Marrakesh Treaty integrating it into Cameroonian national laws.

d) Decree No. 2018/6233/PM of 23 July, 2018 laying down the modalities of application of Law No. 2010/002 of 13 April, 2010 on the protection and promotion of Persons with Disabilities

This decree lays down the conditions under which the Law No. 2010/002 of 13 April 2010 on the protection and promotion of Persons with Disabilities shall be applied to Persons with Disabilities holding a National Disability Card justifying a permanent potential disability rate of at least 50 percent.

e) Decree No. 2018/6234/PM of 26 July, 2018 on the re-organisation of the National Committee for the re-adaptation and socio-economic reinsertion of Persons with Disabilities

This decree sets out the re-organisation and functions of the National Committee for the socio-economic readaptation and reintegration of Persons with Disabilities (the “**National Committee**”) in relation to the re-adaptation and socio-economic reinsertion of Persons with Disabilities. The National Committee is an advisory body that is responsible for facilitating the coordination of the efforts of public authorities, civil society organisations and private individuals for the benefit of and with the participation of Persons with Disabilities. The functions of the National Committee includes, assisting the government in formulating a policy in this regard, opining on technical questions relating to Persons with Disabilities and proposing measures likely to promote the full participation of Persons with Disabilities in economic, cultural and social development actions, proposing measures aimed at raising awareness, informing and educating the public on the rights and specific needs of Persons with Disabilities and promoting the inclusion of the disability approach into the politics, programmes and sectoral projects of development.

f) Joint Order N° 0001/MINSANTE /MINAS of 13 August, 2018 laying down the conditions for drawing up and issuing the special medical certificate

The special medical certificate is an official document issued exclusively to Persons with Disabilities, which enables them have access to services free of charge or with a discount depending on the nature of the impairment.

g) Order N° 2010/A/MINAS of 27 August, 2010 relating to the stipulations specifying the technical terms and conditions for exercising the powers transferred by the State to the municipalities with regard to the allocation of aid and assistance to the indigent and needy

Through this order, the State has decentralised its powers with regard to the allocation of aids and assistance to the indigent and needy to the various municipalities by setting out terms and conditions for the exercise of these powers by the latter. This is to facilitate accessibility of Persons with Disabilities to aids and assistance.

h) Joint Circular Letter N°34/06/LC/MINESEC/MINAS of 2 August, 2006 relating to the admission of disabled children and children born of indigent disabled parents into public secondary schools

The Ministry of Secondary Education and the Ministry of Social Affairs through this joint circular letter denounced the negative reports regarding the increasing disparities and difficulties faced by children with disabilities as well as those born of indigent disabled parents in accessing public secondary schools. The joint circular letter also prescribes measures to be taken in order to facilitate their admission into public secondary schools.

i) Joint Circular Letter No. 282/07/LC/MINESEC/MINAS of 14 July, 2007 relating to the identification of children with disabilities and children born of indigent disabled parents enrolled into public secondary schools and their participation in official examinations

The Ministry of Secondary Education and the Ministry of Social Affairs through this joint circular letter prescribes measures to be taken in order to implement the instructions contained in the Joint Circular Letter N°34/06/LC/MINESEC/MINAS of 02 August, 2006, with the aim of promoting the admission of children with disabilities as well as children born of indigent disabled parent into public secondary schools as well as their effective participation in official examination.

j) Joint Circular Letter No. 08/0006/LC/MINESUP/MINAS of 09 July, 2008 on the strengthening of the improvement of reception conditions and supervision of disabled or vulnerable students in State Universities in Cameroon

The Ministry of Higher Education and the Ministry of Social Affairs, through this joint circular letter, seeks to encourage vice-chancellors of various universities to implement measures to guarantee the constant improvement on the reception of students with disabilities or vulnerable students and their ongoing assistance. This is to ensure that the reception and ongoing assistance of the said students preserve their dignity as citizens at the same level as other citizens.

k) Joint Circular Letter No. 002/LCC/MINMAP/MINTP/MINH DU/MINAS of 16 July, 2013 relating to the facilitation of accessibility of Persons with Disabilities or reduced mobility in the built environment

The Ministry of Public Contracts, the Ministry of Public Works, the Ministry of Housing and Urban Development and the Ministry of Social Affairs through this joint circular letter denounced the fact that Persons with Disabilities have difficulties in accessing public infrastructure and buildings, as contrary to the Cameroon Constitution and international instruments, citing as an example the inaugural speech of the President of the Republic of Cameroon in which equality for every citizens was promised by the President.

I) Order N° 0 4 0 /PM of 19 May, 2022 to lay down the terms and conditions for granting age exemption to Persons with Disabilities during competitive examinations and recruitment into public service

This order lays down terms and conditions for granting age exemption to Persons with Disabilities during competitive examinations and recruitment into public service.

How do above-mentioned laws compare to international standards such as those contained in the following international frameworks:

For all the comparisons, please provide a summary of any gaps within the national legislative or policy framework.

- a. The Convention on the Rights of Persons with Disabilities;
- b. Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (the Marrakesh Treaty);
- c. The Sustainable Development Goals;
- d. The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa; and
- e. Any other international laws, conventions or standards relating to the rights of Persons with Disabilities that the respective countries are a party to.

a) The Convention on the Rights of Persons with Disabilities

The CRPD and Cameroonian national laws share a common objective: the protection, promotion, inclusion, rehabilitation, and reintegration of Persons with Disabilities into society. Indeed, Cameroon's national laws cited above ensure the implementation of international agreements as ratified by the country, as authorised by the Cameroon Constitution through various legislative measures such as laws, decrees, orders, and circulars.

However, the sole distinction between the CRPD and the aforementioned national laws lies in Article 49 of the CRPD, which mandates that "the text of the present Convention shall be made available in accessible formats." Regrettably, this provision is absent in the cited national laws. Consequently, while these laws cater to the needs of Persons with Disabilities, the absence of accessible formats means that Persons with Disabilities may struggle to access the legal framework governing their rights, resulting in a lack of awareness of their entitlements.

b) Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (the Marrakesh Treaty)

While the Marrakesh Treaty requires contracting state parties to provide in their national copyright laws for exceptions to allow the reproduction, distribution, and making available of published works in accessible formats for individuals with visual impairments without seeking permission from copyright holders, the above cited national laws (particularly the copyright law in Cameroon) do not make any particular provision in this regard. Consequently, there is a lacuna in relation to the facilitation of access to published works for persons who are blind, visually impaired or otherwise print disabled.

c) The Sustainable Development Goals

While the Sustainable Development Goals are seventeen universal goals set out by the United Nations, to be attained by every country for the improvement of everyone in respect to all the areas of life, the above cited national laws make specific provisions for the protection, promotion, insertion, rehabilitation and reinsertion of Persons with Disabilities into the society.

d) The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa

The objective of the Protocol is to promote, protect and ensure the full and equal enjoyment of all human and people's right by all Persons with Disabilities and to ensure respect for their inherent dignity. The Cameroonian national laws have the same purpose and aim, which is, the protection, promotion, insertion, rehabilitation and reinsertion of Persons with Disabilities into the society. In fact, all the above cited national laws ensure the implementation of international instruments as ratified by Cameroon as authorised by the Cameroon Constitution through various legislative measures such as laws, decrees, orders, and circulars.

To the best of our knowledge, there are no gaps within the national legislative or policy framework.

e) Any other international laws, conventions or standards relating to the rights of Persons with Disabilities that the respective countries are a party to.

To the best of our knowledge, we are not aware of any other laws, conventions or standards relating to the rights of Persons with Disabilities that Cameroon is a party to.

Are there any provisions within the law that allow progressive/ staggered implementation of the requirements on access and use of ICT by Persons with Disabilities?

To the best of our knowledge, we are not aware of any provisions within the law that allow progressive/staggered implementation of the requirements on access and use of ICT by Persons with Disabilities.

Are there provisions within the law that directly or indirectly exclude Persons with Disabilities' access to ICT (such as taxation of assistive equipment or legal provisions on digital access to goods and services that are silent on development of technologies in disability-accessible formats?

While there is no national law /policy which specifically mandates accessibility by/ facilitates access and use of ICT by Persons with Disabilities, the *Cameroonian General Tax Code*, in section 128(21), exempts certain items from Value Added Tax (“VAT”), including “materials and equipment specifically designed for Persons with Disabilities”, with the list of qualifying items to be determined by regulation. In this regard, the *Decision n°. 00000340/MINFI/DGI/LRI/L of 07 May 2019* specified the list of specialised materials and equipment for disabled individuals eligible for VAT exemption.

In addition, the General Tax Code goes further in section 28(c) to provide that such exemptions shall apply automatically without the need for the prior issuance of an exemption certificate.

**Discrimination
in the
admission,
recruitment or
remuneration
of Persons
with
Disabilities**



3 to 6
with a fine from
FCFA 100,000
to
FCFA 1,000,000
or **1** of the **2**
penalties

Are there any consequences to public and private bodies for non-compliance with legal and policy requirements on access and use of ICT by Persons with Disabilities.

Article 45 of *Law n°2010/002 of 13 April 2010 relating to the protection and promotion of Persons with Disabilities* stipulates penalties applicable to heads of schools, vocational and university establishments, employers or managers of companies who discriminate in the admission, recruitment or remuneration of Persons with Disabilities. Such persons are liable to imprisonment for three to six months and with a fine from FCFA 100,000 (one hundred thousand CFA francs) to FCFA 1,000,000 (one million CFA francs) or one of the two penalties only.

Also, according to Article 46, whoever refuses to provide a service due to a Person with Disabilities in accordance with this law and the implementing regulations shall be punished according to Section 242 of the *Cameroonian Penal Code (the "Penal Code")*. According to Section 242 of the Penal Code, whoever excludes another from any place open to the public or from any employment, by reason of his race, religion, sex or health status, where such status does not endanger anyone shall be punished with imprisonment for a term ranging from one month to two years and with fine of FCFA 5 000 (five thousand CFA francs) to FCFA 500 000 (five hundred thousand CFA francs).

If so, please provide a summary of the avenues persons have to file petitions or complaints in relation to infringements of their rights?

As earlier indicated, there is no national law that specifically mandates accessibility by or facilitates access and use of ICT by Persons with Disabilities, however, Section 135(2)(a) of the Criminal Procedure Code (the "**CP Code**") mandates individuals with knowledge of felonies or misdemeanours to promptly inform either the State Counsel, a judicial police officer, or in their absence, any administrative authority of the locality. Section 135 (3) further stipulates that any administrative authority receiving such information must ensure it reaches the nearest State Counsel or Judicial police officer.

**stipulated
time limit**



**For
misdemeanours
and simple
offenses**

Are there specific timelines/ limitation periods to lodge a claim/ complaint and if so when does the 'clock start'?

The lodging of a complaint sets the criminal action in motion. Thus, the clock starts running when a complaint is lodged before any of the authorities cited above.

Section 67 of the Penal Code outlines specific time frames within which penalties must be enforced subsequent to the finalisation of a judgment. Once a judgment attains finality, neither the principal penalty nor any accompanying accessory penalty or preventive measure may be enforced beyond the following periods: a) For felonies, the stipulated time limit is 20 years; b) For misdemeanours and simple offenses tried with misdemeanours, the time limit is reduced to 5 years; and c) For any other simple offense, enforcement must occur within 2 years.

In the event of a successful petition or complaint, what remedies are available to those aggrieved?

This will depend on whether the aggrieved party lodged a complaint with or without a civil claim. In cases where only the complaint was lodged, an aggrieved party will have an imprisonment and/or fine sentence pronounced against the perpetrator. On the other hand, if the complaint was lodged with a civil claim, the court may order a combination of remedies, which consist of an imprisonment term and/or fine and/or damages.

Based on the specific country findings, what legal measures would you propose to enhance access to and use of ICT by Persons with Disabilities?

We would propose the following legal measures to enhance access to and use of ICT by Persons with Disabilities;

- a. An amendment of the law in order to permit more representations of Persons with Disabilities at the level of the National Assembly so that their voices can be heard.
- b. An effective implementation of the Marrakesh Treaty by the enactment of specific national laws or by the amendment of existing laws.

All the above cited law should be made in accessible format to enable Persons with Disabilities to read and be aware of their fundamental rights. This accessibility will empower Persons with Disabilities to advocate for their rights.



4.2 Ghana

Legal Framework for access to ICT for Persons with Disabilities in Ghana

What relevant national laws or policies mandate accessibility by/ facilitate access and use of ICT by Persons with Disabilities? Please provide the name of the law and a summary of its provisions regarding access to ICT by Persons with Disabilities. (Where such provisions exist, specific mention should be made of the constitution and its provisions, followed by any other applicable laws)

Laws

a) The 1992 Constitution of the Republic of Ghana: The Ghana Constitution does not have any specific provisions relating to access and use of ICT by Persons with Disabilities.

b) The Persons with Disability Act, 2006 (Act 715): The Ghana Persons with Disabilities Act does not have any specific provisions relating to access and use of ICT by Persons with Disabilities.

c) Electronic Transactions Act, 2008 (Act 772): This law was passed to facilitate electronic communications and transactions. Section 1(1)(f) states that one of the objectives of the law is to “ensure that, in relation to the provision of electronic transactions services, the special needs of vulnerable groups and communities and Persons with Disabilities are duly taken into account.”

d) National Communications Authority Act, 2008 (Act 769): This enactment, among other things, establishes a National Communications Authority (the “Ghana NCA”). The Ghana NCA licenses and regulates communications activities and services in Ghana. Under section 5(g) of this law, the NCA is required to have regard to the needs and interests of Persons with Disabilities in the performance of its functions. The NCA is also mandated by section 23 to submit an annual report to the Minister responsible for Communications which must include information relating to providing access to Persons with Disabilities, and the NCA’s performance in ensuring compliance with the Ghana Persons with Disabilities Act.

e) National Information Technology Agency Act, 2008 (Act 771): This law establishes the National Information Technology Agency (the “NITA”). The NITA has the objective of regulating the provision of ICT, ensuring the provision of quality ICT, promoting standards of efficiency and ensuring high quality of services. According to section 3(2)(d) of this law, NITA must take into account the needs and interests of Persons with Disabilities in discharging its functions. NITA is also required, by section 24, to submit an annual report to the Minister responsible for Communications. The report must include information relating to providing access to Persons with Disabilities, and NITA’s performance in ensuring compliance with the Ghana Persons with Disabilities Act.

f) Electronic Communications Act, 2008 (Act 775): This statute was passed to regulate electronic communications, broadcasting, and the use of the electro-magnetic spectrum in Ghana. The NCA is empowered by this law to set standards for electronic communications networks, and services. Under section 4(2)(j) of this law, the NCA must require applicants to provide services for Persons with Disabilities as a condition for receiving a licence.

Policies

g) Ghana ICT for Development (ICT4D) Policy, 2003: This policy was launched with a view to using ICT as a catalyst for socio-economic development. In respect of Persons with Disabilities, one of its policy objectives is to promote equal and universal access to ICT services and resources to marginalised persons, including Persons with Disabilities. The policy seeks to achieve this by putting in place policy directives to ensure equal access for Persons with Disabilities.

Ghana National Social Protection Policy, 2015. This policy was developed by Ghana’s Ministry of Gender, Children and Social Protection to provide a framework for delivering social protection in a holistic and coordinated manner. The policy recognises Persons with Disabilities among the categories of persons needing special attention. Under the policy, it is the aim of the Ministry to collaborate the NITA to facilitate the effective employment of electronic resources for social protection.

Ghana ICT for Development (ICT4D) Policy, 2003



Ghana National Social Protection Policy, 2015

How do above-mentioned laws compare to international standards such as those contained in the following international frameworks:

For all the comparisons, please provide a summary of any gaps within the national legislative or policy framework.

- a. The Convention on the Rights of Persons with Disabilities;
- b. Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (the Marrakesh Treaty);
- c. The Sustainable Development Goals;
- d. The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa; and
- e. Any other international laws, conventions or standards relating to the rights of Persons with Disabilities that the respective countries are a party to.

a) Convention on the Rights of Persons with Disabilities

The provisions under Ghana law, in respect of access to ICT, comply partially with the CRPD. This is by virtue of the existence of provisions under Ghana law (i.e the ET Act, the Ghana NCA Act, the NITA Act and the EC Act) that require relevant state institutions in the ICT sector to consider the needs of Persons with Disabilities is in general compliance with Article 9 of the CRPD. These are however broad provisions, and do not contain minimum guidelines and standards for accessibility to ICT in respect of Persons with Disabilities. However, there are no provisions that mandate providing services in disability accessible formats. There are also no laws that specifically require private entities to comply with accessibility requirements for Persons with Disabilities.

b) Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled

Ghana is a signatory to the Marrakesh Treaty, and the treaty has been ratified by Ghana's Parliament. No law has however been passed to provide the necessary legal framework for its implementation in Ghana.

**the African
Charter on
Human and
Peoples' Rights
on the Rights of
Persons with
Disabilities in
Africa**



Ghana is not
a signatory to
The Protocol.

c) Sustainable Development Goals

If properly implemented, the above-mentioned laws fit within the general goal of target 9.8 to significantly increase access to, and affordability of ICT.

d) Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa

Ghana is not a signatory to The Protocol.

e) Any other international laws, conventions or standards relating to the rights of Persons with Disabilities that the respective countries are a party to

Ghana is not a party to any other applicable international laws, conventions or standards relating to the rights of Persons with Disabilities to access and use ICT.

Are there any provisions within the law that allow progressive/staggered implementation of the requirements on access and use of ICT by Persons with Disabilities?

There are no provisions within the law that allow progressive/staggered implementation; the provisions contained in the law are meant to be implemented immediately.

Are there provisions within the law that directly or indirectly exclude Persons with Disabilities' access to ICT (such as taxation of assistive equipment or legal provisions on digital access to goods and services that are silent on development of technologies in disability-accessible formats?

No, there are no provisions of this nature.

Are there any consequences to public and private bodies for non-compliance with legal and policy requirements on access and use of ICT by Persons with Disabilities. If so, please provide a summary of the avenues persons have to file petitions or complaints in relation to infringements of their rights? Are there specific timelines/ limitation periods to lodge a claim/ complaint, and if so when does the 'clock start'?

Generally, non-compliance with legal requirements relating to Persons with Disabilities may have both civil and criminal consequences. These consequences are also applicable in respect of non-compliance with legal requirements on access and use of ICT. A Person with Disabilities whose rights have been violated may also seek administrative law remedies.

Civil Law

As the rights of Persons with Disabilities are recognised as human rights under Ghana law, therefore, a Person with Disabilities whose rights have been infringed can seek redress at the High Court, on an application for the Enforcement of Fundamental Human Rights, under Article 33 of the Ghana Constitution. Under Order 67 Rule 3(1) of the High Court (Civil Procedure) Rules, 2004 (CI 47) such an application must be brought within 6 (six) months of the date of the violation, or within 3 (three) months of the victim becoming aware of the violation.



Non-compliance with legal requirements relating to Persons with Disabilities may have both civil and criminal consequences



Criminal Law

A person who does not comply with the provisions of the EC Act commits an offence. This means that non-compliance with the requirement under section 4(2)(j) of this law to provide service to Persons with Disabilities constitutes a criminal offence. Ghana law does not permit private prosecutions, so all prosecutions are carried out by the relevant state entity. This will usually be the police, or the Attorney-General's department. Lastly, there are no time limits in respect of when criminal prosecution can be commenced.

Administrative Law

Under Article 218 of the Ghana Constitution, a Person with Disability whose human rights have been violated may also file a complaint at the Commission for Human Rights and Administrative Justice (the "CHRAJ"). CHRAJ is a constitutional body with a mandate to protect and enforce human rights. There are no timeline requirements for submitting complaints to the CHRAJ.

Also, under *Regulation 119 of the Electronic Communications Regulations, 2011*, consumers have the right to submit complaints to the NCA. Persons with Disabilities can therefore submit complaints to the NCA for infringements of their rights. There are no specific timelines in respect of when such a complaint may be filed.

In the event of a successful petition or complaint, what remedies are available to those aggrieved?

In respect of applications for the Enforcement of Fundamental Human Rights, the High Court is empowered, under Article 33(2) of the Ghana Constitution to issue any directions or orders that it thinks are appropriate to enforce the human rights of the applicant. These may include awarding damages, an injunction, or reversing a decision taken by a state institution.

The CHRAJ is empowered by Article 218(d) of the Ghana Constitution to take any appropriate action to remedy, correct, or reverse violations of human rights. These remedies include mediating disputes and filing applications to the court for an appropriate order to remedy the wrong done.

Under section 73(3) of the EC Act, the NCA has the power to take certain actions against a person who breaches the law. These actions include issuing a warning, issuing an order to cease and desist, applying to the High Court for an order of injunction, suspending or terminating the licence, or taking any other actions, it considers appropriate within its authority. Additionally, a person found guilty of a crime under the EC Act may be imprisoned or required to pay a fine.

Based on the specific country findings, what legal measures would you propose to enhance access to and use of ICT by Persons with Disabilities?

- a. Amending the Ghana Persons with Disabilities Act to conform with the CRPD and other relevant international instruments. This amendment should include clear provisions on matters relating to the access, and use of, ICT by Persons with Disabilities. Alternatively, the Minister responsible for Gender, Children and Social Protection can exercise the regulation making power under section 58 of the Ghana Persons with Disabilities Act to make appropriate regulations addressing such access, and use of ICT by Persons with Disabilities.
- b. Enforcement of existing laws affecting Persons with Disabilities in order to prevent discrimination, and to make accessibility for Persons with Disabilities a reality in all sectors, including ICT. In this respect, authorities may interpret existing legislation as though the right to access and use ICT was specifically provided for in them.



**Enforcement of
existing laws
affecting
Persons with
Disabilities**



4.3 Nigeria

Legal Framework for access to ICT for Persons with Disabilities in Nigeria

What relevant national laws or policies mandate accessibility by/ facilitate access and use of ICT by Persons with Disabilities? Please provide the name of the law and a summary of its provisions regarding access to ICT by Persons with Disabilities. (Where such provisions exist, specific mention should be made of the Constitution and its provisions, followed by any other applicable laws)

Generally, we are not aware of any Nigerian law which specifically mandates accessibility by or facilitates access and use of ICT by Persons with Disabilities. Having said that, there are certain national laws which prohibit discrimination against Persons with Disabilities and can, by inference, be interpreted to grant a Persons with Disabilities the same access to the use of ICT as every other person or individual in Nigeria.

These laws include:

a) Constitution of the Federal Republic of Nigeria, 1999 (as amended) (the "Nigerian Constitution")

The Nigerian Constitution generally provides for the right of access to information for every Nigerian citizen. Specifically, section 39 of the Nigerian Constitution guarantees every person the right to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference. The Nigerian Constitution, therefore, safeguards the rights of all Nigerians, including Persons with Disabilities, to freedom of expression, including freedom to hold opinions and to exchange ideas and information without interference. This protection extends to instances where such information is provided or delivered via ICT means.



- **access to that work or subject matter or a copy of that work or subject matter**
- **an accessible format copy**
- **copy is supplied to be used exclusively by beneficiary persons**
- **the activity is undertaken on a non-profit basis**

b) Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 (“the DAPD Act”)

This DAPD Act protects the rights of Persons with Disabilities and criminalises any form of discrimination against Persons with Disabilities on the ground of their disability. In relation to Persons with Disabilities access to ICT, section 15 mandates the translation of general information into accessible formats that are suitable for Persons with Disabilities. Section 37(q) also provides that the Governing Council of the National Commission for Persons with Disabilities (the “Commission”) shall have the power to collaborate with the media to make information available in accessible formats for Persons with Disabilities, which would include ICT enabled technologies. In addition, Section 37(r) states that the Governing Council of the Commission shall have the power to procure assistive technology for all disability types.

c) Copyright Act 2022 (the “Copyright Act”)

The legislative arm of the Nigerian government, the National Assembly, recently passed the Copyright Act. Notably, section 26 of the Copyright Act provides special exceptions for blind, visually impaired or print disabled persons. This provision models the Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled. Section 26(1) of the Copyright Act provides that an authorised entity may, without the permission of the owner of copyright in a work, make or procure an accessible format copy of a work or subject matter and supply the copy to beneficiary persons by any means, including non-profit lending, or electronic communication by wire or wireless means, on the following conditions:

- the authorised must have lawful access to that work or subject matter or a copy of that work or subject matter.
- the work or subject matter is converted to an accessible format copy.
- the accessible format copy is supplied to be used exclusively by beneficiary persons; and
- the activity is undertaken on a non-profit basis.

d) Lagos State Special Peoples Law 2010 (the “LSSPL”)

The Lagos state government passed the LSSPL to protect the rights of Persons with Disabilities in Lagos state. Similar to the DAPD Act, certain provisions in the law set out the rights of Persons with Disabilities to access ICT. Section 35(1) of the LSSPL provides that persons living with disability shall have freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas through any means of communication of their choice. Subsection (2) further provides that government, corporate organisations, and persons shall provide information intended for the public to Persons with Disabilities in accessible formats and technologies appropriate to the different kinds of disabilities timeously and at no additional cost.

e) The National Information Technology Development Agency (“NITDA”) Standards and Guidelines for Government Websites (“SGGW”)

The NITDA which is the government agency that regulates the information technology sector in Nigeria, issued the SGGW, which provides standards and guidelines for the development and management of government websites in order to improve the quality, reliability, accuracy and accessibility of online information pertaining to government institutions at all levels of government and to ensure a consistent experience for all users. Clause 1.3 of the SGGW provides in relation to web accessibility that all government institutions should consider the needs of a broad spectrum of visitors, including general public, specialised audiences, Persons with Disabilities, those without access to advanced technologies, and those with limited English proficiency and ICT skills. Clause 8.1 of the SGGW also requires government institutions to adopt the Web Content Accessibility Guidelines developed by the World Wide Web Consortium. The recommendations made in the guidelines seek to improve the accessibility of web content to a wider range of users, including those with disabilities (visually impaired, deaf, hearing disabilities, cognitive limitations, limited movement, speech difficulties, photosensitivity, etc.).

f) Cybercrimes (Prohibition, Prevention, etc) Act 2015 (“CPPA”)

The CPPA ensures the prohibition, prevention, detection, prosecution, and punishment of cyber offenses while safeguarding critical national information infrastructure. It also prioritises cybersecurity, safeguarding computer systems and networks, electronic communications, data, computer programs, intellectual property, and privacy rights.

How do above-mentioned laws compare to international standards such as those contained in the following international frameworks:

For all the comparisons, please provide a summary of any gaps within the national legislative or policy framework.

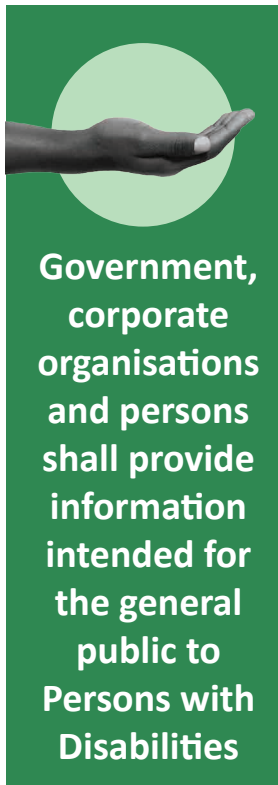
- a. The Convention on the Rights of Persons with Disabilities.
- b. Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled.
- c. The Sustainable Development Goals.
- d. The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa; and
- e. Any other international laws, conventions or standards relating to the rights of Persons with Disabilities that the respective countries are a party to.

a. The Convention on the Rights of Persons with Disabilities

Some provisions of the CRPD are similar to that of the DAPD Act in relation to the accessibility of ICT to Persons with Disabilities as discussed in our response below.

Section 38(r) of the DAPD Act, as discussed in our response to Question 1 above, provides that the Governing Council of the Commission has power to provide assistive technology to Persons with Disabilities. Similarly, Article 4 of the CRPD provides that States Parties must promote research and development and availability of new technologies, including assistive technologies suitable for Persons with Disabilities.

Similarly, Section 15 of the DAPD Act, like Article 21 of the CRPD, as discussed in our response to Question 1 above, also provides that any general information shall be translated into the accessible format appropriate to Persons with Disabilities. Moreover, the Nigerian Constitution protects the rights of every Nigerian citizen to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference.



In addition, Section 35 of the LSSPL has similar provisions regarding providing information to Persons with Disabilities in accessible formats. It provides that government, corporate organisations and persons shall provide information intended for the general public to Persons with Disabilities in accessible formats and technologies appropriate to the different kinds of disabilities timeously and at no additional cost.

Given that Nigeria has ratified the CRPD, it is no surprise that the DAPD Act contains provisions that are similar to those in the CRPD.

In summary, the DAPD Act has some provisions that are similar to the provisions of the CRPD, such as Section 38(r) of the DAPD Act and Article 4 of the CRPD, as well as Section 15 of the DAPD Act and Article 21 of the CRPD, it falls short of being as comprehensive. However, the DAPD Act is not as encompassing and does not set out specific responsibilities of private and public entities to aid Persons with Disabilities' access to ICT, as comprehensively outlined in the CRPD.

b. Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (Marrakesh Treaty)

The Marrakesh Treaty, which was passed with the aim of removing the barriers created by copyright laws that impede the copying of books and other published works without permission from the copyright holder, for the benefit of Persons with Disabilities, has similar provisions with the Copyright Act. Specifically, the provisions of Articles 4 to 6 of the Marrakesh Treaty which provide for the limitations and exceptions regarding accessible format copies, cross border exchange of such copies, and the importation of accessible format copies are similar to that of Section 26 of the Copyright Act.

c. The Sustainable Development Goals

The following Sustainable Development Goals are reflected in the provisions of some of the national laws discussed above:

- **Goal 4** – High Quality of Education – ensuring inclusive and equitable quality education and promoting lifelong learning opportunities for all. Section 17 of the DAPD Act provides that a Person with Disabilities shall have unfettered right to education without discrimination or segregation in any form and that the Commission will provide educational assistive devices. Similarly, Section 33 of the LSSPL provides that every Person with Disabilities shall have unfettered right to education without discrimination or segregation in any form.
- **Goal 8** – Decent work and Economic Growth Opportunities – promoting sustained, inclusive and sustainable economic growth, full and productive employment and decent work for everyone without discrimination. Section 28 of the DAPD Act affirms that Person with Disabilities have a right to work on an equal basis with others and this includes the right to the opportunity to make a living by work freely chosen or accepted in a labour market and work environment that is open. Likewise, section 34 of the LSSPL echoes this right. Section 17(3)(a) of the Constitution also provides that the State shall direct its policy towards ensuring that all citizens, without discrimination on any group whatsoever, have the opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment.
- **Goal 10** – Reduced Inequality within and among Countries – Both the DAPD Act and LSSPL aim to address inequality for Persons with Disabilities. Section 1 of the DAPD Act prohibits discrimination against Persons with Disabilities on the ground of their disability by any person or institution under any manner or circumstance, while section 26 of the LSSPL mandates parents and guardians of children living with disability to ensure that they are free from all forms of neglect, exploitation, violence or abuse. In addition, the Government is obligated to take appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring assistance and support for Persons with Disabilities, their families and caregivers, including the provision of information and education on how to avoid, recognise and report instances of neglect, exploitation, violence and abuse.

Goal 4
High Quality of
Education



Goal 8
Decent work and
Economic Growth



Goal 10
Reduced
Inequality



Goal 16Peace, Justice and
Strong Institutions

- **Goal 16 – Peace, Justice and Strong Institutions** – Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels. Section 31 of the DAPD Act establishes the National Commission for Persons with Disabilities with a Governing Council saddled with the responsibility of ensuring that the interests of Persons with Disabilities are considered in every government policy and programme. In addition, under Section 1 of the LSSPL, the Office for Disability Affairs is established with a Governing Board that has the responsibility of ensuring that the interests of Persons with Disabilities are considered in every government policy and programme.

The provisions of the respective laws above seek to promote inclusiveness and reduced inequality, as well as establish a just society that values the protection of Persons with Disabilities.

d. The Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Persons with Disabilities in Africa

The Protocol was developed to supplement the provisions of the African Charter on Human and Peoples’ Rights and provide specifically for the rights of Persons with Disabilities.

Article 15 of the Protocol states that every Person with Disabilities has the right to barrier free access to the physical environment, transportation, information, including communications technologies and systems and other facilities open and provided to the public. This is similar to sections 10 and 14 of the DAPD Act which cover access to transportation by Persons with Disabilities.

Article 18(d) mandates States Parties to take effective and appropriate measures to ensure that Persons with Disabilities attain maximum independence by promoting the availability, knowledge and use of appropriate, suitable and affordable assistive devices and technologies. This provision is similar to that of Section 38(r) of the DAPD Act which states that the Council shall have the power to provide assistive technology to Persons with Disabilities.

Article 23 states that every Person with Disabilities has the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas through all forms of communication of their choice and that State Parties shall take all measures to ensure that Persons with Disabilities can exercise such rights. This is similar to both Sections 39 of the Constitution which provides that every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference.



**Every PWD has
the right to
access
information**

Article 24 states that every Person with Disabilities has the right to access information, requiring States Parties to take measures to provide information meant for the public and official communication in accessible formats and technologies appropriate for different kinds of disabilities in a timely manner and without additional costs to Persons with Disabilities. This provision is similar to section 38 (q) of the DAPD Act which covers the power to reproduce information to be provided to Persons with Disabilities in accessible formats.

e. Any other international laws, conventions or standards relating to the rights of Persons with Disabilities that the respective countries are a party to.

Other than the international conventions that we have mentioned above, we are not aware of any other international laws, conventions or standards relating to the rights of Persons with Disabilities that Nigeria is a party to.

Are there any provisions within the law that allow progressive/staggered implementation of the requirements on access and use of ICT by Persons with Disabilities?

In relation to ICT, we are not aware of any provisions that allow staggered implementation of the requirements of the various national laws on access and use of ICT by Persons with Disabilities. There is however a general provision in Section 6 of the DAPD Act that provides that, from the date of its commencement, there shall be a transitory period of 5 (five) years within which all public buildings and structures, whether immovable, movable, or automobile, which were inaccessible to Persons with Disabilities shall be modified to be accessible to and usable by Persons with Disabilities including those on wheelchairs.

Are there provisions within the law that directly or indirectly exclude Persons with Disabilities' access to ICT (such as taxation of assistive equipment or legal provisions on digital access to goods and services that are silent on development of technologies in disability-accessible formats?

We are not aware of any laws that directly or indirectly exclude Persons with Disabilities' access to ICT, such as laws that require the taxation of assistive equipment for Persons with Disabilities or provisions on digital access to goods and services that are silent on development of technologies in disability-accessible formats.



The establishment of the Office for Disability Affairs (“ODA”) and provides that the ODA has the power to receive complaints of rights violations from Persons with Disabilities

Are there any consequences to public and private bodies for non-compliance with legal and policy requirements on access and use of ICT by Persons with Disabilities. If so, please provide a summary of the avenues persons have to file petitions or complaints in relation to infringements of their rights? Are there specific timelines/ limitation periods to lodge a claim/ complaint, and if so when does the ‘clock start’?

Yes, public and private bodies that do not comply with the requirements of the DAPD Act may be liable in both criminal and civil suits. Section 1 (2) of the DAPD Act provides that any person who contravenes subsection (1) which prohibits the discrimination of Persons with Disabilities, commits an offence and is liable on conviction to a fine of NGN1,000,000 (for body corporates) and NGN100,000 or six months imprisonment or both (for individuals). Section 1 (3) goes further to state that notwithstanding the prosecution or conviction of any person for an offence under the DAPD Act, a person who has been discriminated against can institute a civil action against such an offender.

Also, section 37(n) of the DAPD Act provides that the Governing Council of the Commission has the power to receive complaints from Persons with Disabilities of the violations of their rights. The DAPD Act, however, does not specify any timelines within which such complaints may be made to the Governing Council of the Commission.

In addition, the LSSPL provides for the establishment of the Office for Disability Affairs (“ODA”) and provides that the ODA has the power to receive complaints of rights violations from Persons with Disabilities. Section 21 (3) of the LSSPL further states that Persons with Disabilities shall have the right to sue any individual, corporate body or government and its agencies for damages in the event of the violation of their fundamental rights.



The court has discretionary powers to award general or special damages to an aggrieved PWD

In the event of a successful petition or complaint, what remedies are available to those aggrieved?

In the event that a successful suit is filed against a public or private body for discrimination against the rights of Persons with Disabilities, the petitioner will be entitled to damages. Section 21 (3) of the LSSPL provides that Persons with Disabilities shall have the right to sue any individual, corporate body or government and its agencies for damages in the event of the violation of their fundamental rights.

In addition, Section 55 of the DAPD Act provides that nothing shall prevent a court from accessing and awarding general and special damages in addition to the damages provided for in the DAPD Act. This means that the court has discretionary powers to award general or special damages to an aggrieved Person with Disabilities in the event that their petition succeeds in a suit filed against an infringing public or private body.

Based on the specific country findings, what legal measures would you propose to enhance access to and use of ICT by Persons with Disabilities?

Legislative enactment ensuring ICT accessibility to Persons with Disabilities – While the current laws are a step in the right direction, we would recommend that the new laws be enacted to enable Persons with Disabilities have greater access to ICT and to enhance the digital rights of Persons with Disabilities. The new laws should also have clear provisions that can be enforced by Persons with Disabilities against persons that deny them access to the use of ICT and the right to file complaints in the event of non-compliance with the laws. Proper enforcement procedures should also be set out in the laws to guide the courts and law enforcement agencies.



4.4 Rwanda

Legal Framework for access to ICT for Persons with Disabilities in Rwanda

What relevant national laws or policies mandate accessibility by/ facilitate access and use of ICT by Persons with Disabilities? Please provide the name of the law and a summary of its provisions regarding access to ICT by Persons with Disabilities. (Where such provisions exist, specific mention should be made of the constitution and its provisions, followed by any other applicable laws)

a) The Constitution of Rwanda 2003 (as amended) (the “Rwanda Constitution”)

The Rwanda Constitution recognises the same fundamental rights for all citizens as the Universal Declaration of Human Rights. Specifically, further to Article 10 (5) of the Rwanda Constitution, the State of Rwanda has committed to “building a State committed to promoting social welfare and establishing appropriate mechanisms for equal opportunity to social justice”. Furthermore Article 51, which relates to the welfare of Persons with Disabilities and other needy persons, stipulates that “The State has also duty, within its means, to undertake special actions aimed at the welfare of Persons with Disabilities”.

Additionally, pursuant to Articles 14, 120, 121, 20, the Rwanda Constitution forbids discrimination on the basis of physical and mental disability while committing the nation to supporting genocide survivors with disabilities and to providing special measures to educate Persons with Disabilities.

b) Law n° 01/2007 of 20/01/2007 relating to protection of disabled persons in general (“Rwanda Persons with Disabilities Law”).

The Rwanda Persons with Disabilities Law provides for the protection and promotion of the rights of Persons with Disabilities. Specifically, Articles 3, 18 and 27 provide that Persons with Disabilities shall be entitled to equal rights with other persons and that any form of discrimination or any form of violence against Persons with Disabilities shall be punished. Article 26 also provides that systems of communication that aid Persons with Disabilities, such as sign language and braille, should be used in conferences and meetings, news reading and other public debates.

c) Law n°24/2016 of 18/06/2016 governing information and communication technologies (“ICT Law”).

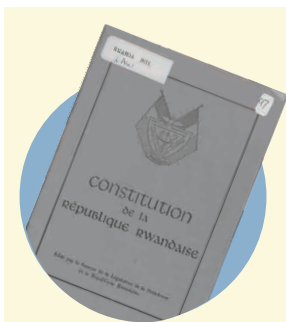
Further to Article 14 of the ICT Law, the Ministry in charge of ICT has established a permanent committee to provide advice on the ICT-related interests of elderly persons and Persons with Disabilities.

d) Draft of the law governing ICT accessibility for Persons with Disabilities, the elderly and persons with special needs in Rwanda (“Draft Persons with Disabilities ICT Law”)

The Draft Persons with Disabilities ICT Law, once passed, will govern the accessibility of ICT to Persons with Disabilities in Rwanda. The objective of the law is to facilitate Persons with Disabilities’ access to ICT as it regulates ways through which Persons with Disabilities can easily access ICT.

e) The National Policy of Persons with Disabilities and Four-Year Strategic Plans (2021-2024) (the “Rwanda Persons with Disabilities Policy”)

The Rwanda Persons with Disabilities Policy was published by the Ministry of Local Government, and its mission is to establish a multi-sectorial and coordinated system that overcomes all barriers faced by Persons with Disabilities to ensure and promote their full inclusion.



- The Constitution of Rwanda 2003
- Rwanda PWD Law
- ICT Law
- Draft PWD ICT Law
- the Rwanda PWD Policy

How do above-mentioned laws compare to international standards such as those contained in the following international frameworks:

For all the comparisons, please provide a summary of any gaps within the national legislative or policy framework.

- a. The Convention on the Rights of Persons with Disabilities;
- b. Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (the Marrakesh Treaty);
- c. The Sustainable Development Goals;
- d. The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa; and
- e. Any other international laws, conventions or standards relating to the rights of Persons with Disabilities that the respective countries are a party to.

a) The Convention on the Rights of Persons with Disabilities

The Rwanda Persons with Disabilities Law, in general, is in conformity with the requirements of the CRPD as this municipal law establishes that systems of communication that aid Persons with Disabilities, such as sign language and braille, should be used in conferences and meetings, news reading and other public debates, which is a requirement of the CRPD as enshrined in Article 15(B).

b) Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled

As the aim of Marrakesh Treaty is to introduce a standard set of limitations and exception to copyright rules in order to permit reproduction, distribution and making available public works in formats that are accessible to persons with visual impairments or with other print disabilities, which limit their freedom of expression, the Draft Persons with Disabilities ICT Law will domesticate the Marrakesh Treaty as it contains provisions that protects the visually impaired specifically in relation to ICT. However, until the Draft Law is passed into law, there is a gap in the law in this regard.



**Rwanda ratified
the United
Nations
Convention on
the Rights of
Persons with
Disabilities**

c) The Sustainable Development Goals

In relation to the SDGs, under the Rwanda Persons with Disabilities Policy, the country aims to “Disaggregate data by disability in eleven of the Sustainable Development Goals (SDGs) among other targets ensuring comparability of data at the global level”. This will inevitably enhance Rwanda’s ability to attain the key national development targets, including the SDGs.

d) The Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Persons with Disabilities in Africa

Rwandan laws conform with the Protocol as they provide for all possible measures to improve the rights of Persons with Disabilities.

e) Any other international laws, conventions or standards relating to the rights of Persons with Disabilities that the respective countries are a party to

Rwanda ratified the United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol on 15 December 2008

Are there any provisions within the law that allow progressive/ staggered implementation of the requirements on access and use of ICT by Persons with Disabilities?

There is no specific provision that allows progressive implementation of the requirements on access and use of ICT by Persons with Disabilities. However, considering some financial difficulties, which can sometimes hinder the automatic implementation of the requirements it can be implemented progressively depending on available resources and financial stability.

Are there provisions within the law that directly or indirectly exclude Persons with Disabilities' access to ICT (such as taxation of assistive equipment or legal provisions on digital access to goods and services that are silent on development of technologies in disability-accessible formats?

We are not aware of any provisions in the laws of Rwanda that directly or indirectly exclude Persons with Disabilities rights to access to ICT.

Are there any consequences to public and private bodies for non-compliance with legal and policy requirements on access and use of ICT by Persons with Disabilities. If so, please provide a summary of the avenues persons have to file petitions or complaints in relation to infringements of their rights? Are there specific timelines/ limitation periods to lodge a claim/ complaint, and if so when does the 'clock start'?

When there is an infringement of the rights of Persons with Disabilities, the avenues available to Persons with Disabilities to enforce their rights include the following:

- a. lodging a complaint at the National Council for Persons with Disabilities;
- b. contacting Rwanda National Human Rights Commission; or
- c. taking legal action to the court.

Rwandan legislation, however, does not provide specific timelines to lodge a complaint or institute legal action. Nevertheless, the claim should be lodged, or action instituted within a reasonable time. A disabled person in Rwanda has the right to legal representation like any other person in courts of law as determined by law.

In the event of a successful petition or complaint, what remedies are available to those aggrieved?

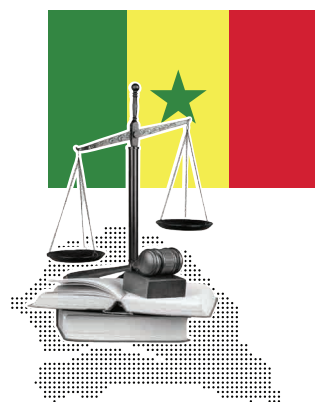
As provided in the Rwanda Persons with Disabilities draft Law, “the punishment for a person who exercises any form of discrimination or violence against a disabled person shall be the heaviest penalty provided by the criminal code.”

“the punishment for a person who exercises any form of discrimination or violence against a disabled person shall be the heaviest penalty provided by the criminal code.”

Additionally, Persons with Disabilities whose rights have been infringed can claim for compensatory damages in court once he/she is able to prove damages suffered.

Based on the specific country findings, what legal measures would you propose to enhance access to and use of ICT by Persons with Disabilities?

- a. The ICT services and infrastructure (hardware and software) available in schools that learners have access to are mostly not adapted to all the types of disabilities like physical impairment, visual and cognitive impairments. More emphasis should be put on learners with visual impairment.
- b. Policies should be put in place on how Persons with Disabilities can be assisted to access ICT facilities.
- c. The legislature should put more effort into enacting laws that include specific provisions for ensuring access to ICT for Persons with Disabilities.
- d. Public awareness campaigns which will raise awareness about the rights of Persons with Disabilities in the digital space.
- e. The relevant authorities should establish mechanisms for monitoring and enforcing compliance with accessibility standards and implementation of laws.



4.5 Senegal

Legal Framework for access to ICT for Persons with Disabilities in Senegal

What relevant national laws or policies mandate accessibility by/ facilitate access and use of ICT by Persons with Disabilities? Please provide the name of the law and a summary of its provisions regarding access to ICT by Persons with Disabilities. (Where such provisions exist, specific mention should be made of the constitution and its provisions, followed by any other applicable laws)

a) The Constitution of the Republic of Senegal (the “Senegal Constitution”)

The Senegal Constitution has no specific provisions relating to accessibility and use of ICT by Persons with Disabilities, however, it does guarantee all citizens, regardless of their physical or mental condition, fundamental individual rights, economic and social rights as well as collective rights.

b) Loi d’orientation sociale n° 2010-15 du 6 juillet 2010 relative à la promotion et à la protection des droits des personnes handicapées (“Social Orientation Act”)

On 26 May 2010, the Parliament passed the Social Orientation Act, which is a law on the promotion and protection of the rights of Persons with Disabilities. The Social Orientation Act includes provisions relating to access to several rights, including the right of Persons with Disabilities to access ICT.

c) Digital Senegal 2025 Strategy

On a political level, the State of Senegal has launched a programme called ICT & Disability, which is a component of the broader Digital Senegal 2025 Strategy. This programme offers open and affordable access to digital networks and services for all citizens, with a specific focus on accessibility for Persons with Disabilities. By prioritising accessibility for Persons with Disabilities, this initiative aims to enable them to benefit from the conveniences offered by digital tools and resources.

How do above-mentioned laws compare to international standards such as those contained in the following international frameworks:

For all the comparisons, please provide a summary of any gaps within the national legislative or policy framework.

- a. The Convention on the Rights of Persons with Disabilities;
- b. Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (the Marrakesh Treaty);
- c. The Sustainable Development Goals;
- d. The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa; and
- e. Any other international laws, conventions or standards relating to the rights of Persons with Disabilities that the respective countries are a party to.

a) the Convention on the Rights of Persons with Disabilities;

The Social Orientation Act, which is inspired by the CRPD faces many obstacles in its provisions relating to access to and promotion of ICT, primarily due to the absence of implementing decrees. Indeed, out of the fifty articles that constitute this law, only Article 31 vaguely addresses the accessibility of ICT to Persons with Disabilities and it does so without indicating any appropriate measures for implementation. The provisions of this article simply requests the State and public and private entities to adhere to international criteria when developing measures for accessibility to ICT for Persons with Disabilities.

b) Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (the Marrakesh Treaty);

Regarding the Marrakesh Treaty, although it is in line with Senegalese legislation and policy on promoting the rights of Persons with Disabilities, it has still not been ratified by Senegal. Its ratification will enable the provisions contained in the Social Orientation Act to be made more effective by guaranteeing Persons with Disabilities access to training and ICT and also to facilitate access to ICT for the visually impaired.

Out of the
10
application decrees
four
ministerial orders
that were planned
only **two** have
signed to date

Are there any provisions within the law that allow progressive/ staggered implementation of the requirements on access and use of ICT by Persons with Disabilities?

As of now, there are no specific legislative measures. The effectiveness of the Social Orientation Act, which is intended to address such issues, is hindered by the absence of the implementing decrees. Out of the ten application decrees and four ministerial orders that were planned, only two decrees have been signed to date.

The signed decrees include one establishing departmental technical commissions tasked with examining the equal opportunities card, signed in October 2012, and another concerning the national community-based rehabilitation program. However, the absence of these decrees impedes the establishment of crucial entities such as the High Authority for the Rights of Persons with Disabilities. This authority is essential for managing the complex, multi-sectoral, and multi-disciplinary issue of disability, and it is also intended to serve as the national mechanism for monitoring compliance with the CRPD.



**There are no
provisions
within the law
that directly or
indirectly
exclude
Persons with
Disabilities'
access to ICT**

Are there provisions within the law that directly or indirectly exclude Persons with Disabilities' access to ICT (such as taxation of assistive equipment or legal provisions on digital access to goods and services that are silent on development of technologies in disability-accessible formats?

No, there are no provisions within the law that directly or indirectly exclude Persons with Disabilities' access to ICT.

Are there any consequences to public and private bodies for non-compliance with legal and policy requirements on access and use of ICT by Persons with Disabilities. If so, please provide a summary of the avenues persons have to file petitions or complaints in relation to infringements of their rights? Are there specific timelines/ limitation periods to lodge a claim/ complaint, and if so when does the 'clock start'?

The consequences of non-compliance with legal and policy requirements regarding access to and use of ICT by Persons with Disabilities are, in principle, set out in the decrees implementing the Social Orientation Act. However, as indicated in our previous responses, these decrees are not yet available.

In the event of a successful petition or complaint, what remedies are available to those aggrieved?

To those aggrieved, the remedies available are those provided by general law, i.e. appealing against these court decisions to the appeal courts.

Based on the specific country findings, what legal measures would you propose to enhance access to and use of ICT by Persons with Disabilities?

One of the main measures that must be taken to enable Persons with Disabilities to access and use ICT is to make the Social Orientation Act effective. To do this, it will be mandatory to sign the implementing decrees for this law.



4.6 South Africa

Legal Framework for access to ICT for Persons with Disabilities in South Africa

What relevant national laws or policies mandate accessibility by/ facilitate access and use of ICT by Persons with Disabilities? Please provide the name of the law and a summary of its provisions regarding access to ICT by Persons with Disabilities. (Where such provisions exist, specific mention should be made of the constitution and its provisions, followed by any other applicable laws)

a) Constitution of the Republic of South Africa, 1996 (the “SA Constitution”)

Sections 9(3) and (4) provide that neither the State nor any other person may unfairly discriminate directly or indirectly against anyone on the grounds of disability. Additionally, section 10 provides that everyone has inherent dignity and the right to have his or her dignity respected and protected. Section 32 also provides that everyone has the right of access to information held by the State or another person (that is required for the exercise or protection of a right).

b) Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (“PEPUDA”)

PEPUDA seeks to give effect to section 9 of the SA Constitution by promoting equality and preventing and prohibiting unfair discrimination, harassment, and hate speech. Section 9 of PEPUDA includes three markers for what might constitute unfair discrimination. These are: (i) denying or removing from any Person with Disabilities, any supporting or enabling facility necessary for their functioning in society; (ii) contravening the code of practice or regulations of the South African Bureau of Standards that govern environmental accessibility; and (iii) failing to eliminate obstacles that unfairly limit or restrict Persons with Disabilities from enjoying equal opportunities or failing to take steps to reasonably accommodate the needs of such persons.

Section 28(3)(b) of PEPUDA provides that the State, institutions performing public functions and juristic and non-juristic entities are duty-bound to (i) audit laws, policies and practices to eliminate all discriminatory aspects thereof; (ii) enact appropriate laws, develop progressive policies and initiate codes of practice in order to eliminate discrimination on various grounds, including disability; (iii) adopt viable action plans for the promotion and achievement of equality in respect of, amongst others, disability; and (iv) give priority to the elimination of unfair discrimination and the promotion of equality in respect of, amongst others, disability. Section 30 also empowers the Minister of Justice and Constitutional Development to issue regulations and codes of practice to facilitate the implementation of the Act, including in relation to access to ICT. The Minister has however not published any regulations in this regard.



The SALBA establishes the South African Library for the Blind to provide for library and information services to blind and print-handicapped readers.

c) South African Library for the Blind Act, 1998 (“SALBA”)

The SALBA establishes the South African Library for the Blind to provide for library and information services to blind and print-handicapped readers.

d) Electronic Communications Act, 2005 (“SA EC Act”)

The SA EC Act regulates the electronic communications sector and aims to promote universal access and service, competition, and consumer protection, among other objectives. It further recognises the special needs of Persons with Disabilities and requires the electronic communications network service providers and electronic communications service providers to provide services that are accessible, affordable, and of good quality to Persons with Disabilities. Section 2(s)(iii) provides that one of the objectives of the SA EC Act is to ensure that broadcasting services cater for the programming needs of Persons with Disabilities. Section 5(9)(b) requires the Independent Communications Authority of South Africa (“**ICASA**”) to promote the empowerment of Persons with Disabilities in accordance with the requirements of the ICT charter in granting a licence. Section 8(2)(o) provides that the standard terms for awarding of a licence may be the facilitation of access to broadcasting, postal and electronic communications services for Persons with Disabilities; this includes

services designed to improve accessibility, such as videotext, subtitling, audio description and sign language. Lastly, chapter 10 establishes the Universal Service Agency of South Africa (“USAASA”), as well as the Universal Service Fund (“USAF”), with the primary goal of achieving universal service and access to ICT.

e) National Integrated ICT Policy White Paper, 2016 (“White Paper”)

The White Paper aims to promote the development of an inclusive, accessible, and affordable ICT sector that supports social and economic transformation, innovation, and participation. The White Paper recognises that Persons with Disabilities face multiple barriers to accessing and using ICT, such as a lack of affordability, availability, accessibility, awareness, skills, and content and it proposes various policy interventions and measures to address these challenges and enable Persons with Disabilities to benefit from ICT as a tool for empowerment, inclusion, and development. The White Paper proposes mechanisms and devices to extend access to those with hearing difficulties different from those needed by persons with visual challenges. It also proposes the development of a strategy to provide support for users with disabilities which includes eligibility criteria, the manner of application and the detailed definition of the subsidisation scheme.



item

6.1.1.4

recognises access to **ICT** as one of the cross-cutting enablers for the inclusion and empowerment of Persons with Disabilities

f) White Paper on the Rights of Persons with Disabilities, 2016 (“WPRPD”)

The WPRPD provides a detailed and comprehensive vision and strategy for the realisation of the rights of Persons with Disabilities in South Africa. It also aligns with the CRPD and other international and regional instruments and incorporates the principles of human rights, social justice, and inclusive development. Specifically, item 6.1.1.4 recognises access to ICT as one of the cross-cutting enablers for the inclusion and empowerment of Persons with Disabilities and sets out the policy directives, outcomes, and indicators for achieving this goal. Some of the policy directives include: (i) ensuring that all ICT policies, laws, regulations, and standards are disability-inclusive and compliant with the CRPD; (ii) promoting the development and procurement of accessible and affordable ICT devices and services; and (iii) facilitating the participation and representation of Persons with Disabilities in the ICT sector.

The following policy objectives are set out under item 6.1.1.4:

- a. promoting access for Persons with Disabilities to new information and communications technologies and systems.
- b. providing captioning on all television programmes.
- c. ensuring equal access to information and communication platforms.
- d. promoting South African Sign Language (“SASL”) and training SASL interpreters.
- e. developing and regulating braille standards.
- f. providing access to print mediums for persons with print disabilities; and
- g. providing accessible emergency and disaster management information.
- h. Item 6.1.1.5 also recognises indirect access as integral to attaining universal access for Persons with Disabilities. Indirect access relates to the use of assistive devices and technology such as wheelchairs, screen readers etc., and refers to product, environment (rural and urban), service or system interfaces that enable an add-on assistive technology to provide the user with full access. The following policy objectives are set out under Item 6.1.1.5:
 - developing universal design standards for the country.
 - developing and implementing universal design minimum standards and guidelines.
 - providing education and training.
 - ensuring service licences require full access; and
 - ensuring service licences require universal design access, in particular for Persons with Disabilities.

How do above-mentioned laws compare to international standards such as those contained in the following international frameworks:

For all the comparisons, please provide a summary of any gaps within the national legislative or policy framework.

- a. The Convention on the Rights of Persons with Disabilities.
- b. Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (the Marrakesh Treaty).
- c. The Sustainable Development Goals.
- d. The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa; and
- e. Any other international laws, conventions or standards relating to the rights of Persons with Disabilities that the respective countries are a party to.

a) The Convention on the Rights of Persons with Disabilities:

South Africa has ratified the CRPD and has enacted several laws and policies that aim to promote the accessibility and use of ICT by Persons with Disabilities, such as the SA EC Act, the WPRPD, the White Paper, and the ICT Sector Code of 2016. These laws and policies recognize the importance of ICT for the empowerment and inclusion of Persons with Disabilities, and provide for various measures, such as universal service and access obligations, licensing conditions, subsidies, standards, guidelines, awareness-raising, capacity-building, and monitoring and evaluation, to facilitate the provision and uptake of accessible ICT by Persons with Disabilities.

Some of the gaps and shortcomings within the national legislative or policy framework include:

- the lack of specific and comprehensive legislation on access to ICT for Persons with Disabilities, which could provide more clarity, consistency and enforceability of the rights and obligations of various stakeholders, and address the gaps and overlaps between existing laws and policies.
- the lack of effective implementation, monitoring and enforcement of the existing laws and policies on access to ICT for Persons with Disabilities, which could be attributed to various factors, such as inadequate resources, capacity, coordination, awareness, participation, accountability and redress mechanisms.
- the lack of harmonisation and alignment of the existing laws and policies on access to ICT for Persons with Disabilities with the CRPD, which could result in inconsistencies, contradictions and gaps in the interpretation and application of the rights and obligations of various stakeholders, and in the compliance with the international standards and obligations.
- the lack of availability, affordability, accessibility and quality of ICT services, infrastructure, devices, content, applications and skills for Persons with Disabilities, which could be influenced by various factors, such as market failures, regulatory barriers, socio-economic inequalities, geographic disparities, digital literacy, and disability awareness and sensitivity; and
- the lack of participation and representation of Persons with Disabilities and their representative organisations in the design, development, implementation, monitoring and evaluation of laws, policies, programmes and projects on access to ICT, which could affect the responsiveness, relevance and effectiveness of the interventions and outcomes for Persons with Disabilities.

b) Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled

South Africa has not yet acceded to the Marrakesh Treaty. For some time, the government's position was that the Marrakesh Treaty could only be ratified once the Copyright Act 98 of 1978 (the "Copyright Act") was amended to bring it in line with the Marrakesh Treaty. But in the case of Blind SA v Minister of Trade, Industry and Competition and Others [2022] ZACC 33, the Constitutional Court ordered that new provisions be read into the relevant section of the Copyright Act immediately, creating an exception from copyright for persons who are blind and visually impaired. Although the court did not specifically pronounce on the Marrakesh Treaty (as this fell outside the scope of the case), the remedy it read into the Copyright Act makes this legislation compatible with the Marrakesh Treaty's requirements.



The **NDP** and the **MTSF** recognise the importance of ICT for the development and inclusion of Persons with Disabilities

c) Sustainable Development Goals

South Africa has adopted the National Development Plan 2030 (the "NDP") as its overarching framework for achieving the SDGs, and has aligned its Medium Term Strategic Framework 2019-2024 ("MTSF") with the NDP and the SDGs. The NDP and the MTSF recognise the importance of ICT for the development and inclusion of Persons with Disabilities, and provide for various strategies, actions, and indicators to improve the access and use of ICT by Persons with Disabilities, such as:

- developing and implementing a national e-strategy and e-government services that are accessible and responsive to the needs and preferences of Persons with Disabilities.
- enhancing the ICT infrastructure, connectivity, affordability, and quality, especially in rural and underserved areas, and ensuring that Persons with Disabilities benefit from the universal service and access fund and the digital migration process.
- promoting the innovation, research, and development of accessible and assistive ICT, and supporting the local production and procurement of such ICT.
- strengthening the ICT skills and literacy of Persons with Disabilities, and providing them with opportunities for education, training, and employment in the ICT sector.
- raising the awareness and advocacy of Persons with Disabilities and their representative organisations on their rights and entitlements to ICT, and facilitating their participation and consultation in the ICT policy and decision-making processes.
- establishing and enforcing the standards, guidelines, and codes of conduct for the accessibility and usability of ICT, and monitoring and evaluating the compliance and performance of the ICT service providers and regulators.
- collecting and analysing the data and evidence on the availability, accessibility, and impact of ICT for Persons with Disabilities, and reporting and reviewing the progress and challenges in achieving the ICT-related SDG targets and indicators.

Some of the gaps and shortcomings within the national legislative or policy framework include:

- the lack of coherence and coordination among the different government departments, agencies, sectors, and levels that are responsible for the implementation and reporting of the NDP and the MTSF, and the lack of a clear and consistent framework and mechanism for the integration and mainstreaming of the SDGs and the rights of Persons with Disabilities in the ICT sector.
- the lack of adequate resources, capacity, and political will to implement and monitor the ICT-related strategies, actions, and indicators in the NDP and the MTSF, and to address the structural and systemic barriers and inequalities that affect the access and use of ICT by Persons with Disabilities, especially those who face multiple and intersecting forms of discrimination and exclusion.
- the lack of effective participation and representation of Persons with Disabilities and their representative organisations in the planning, implementation, monitoring, and evaluation of the NDP and the MTSF, and the lack of transparency and accountability of the government and other stakeholders in the ICT sector; and
- the lack of reliable and disaggregated data and evidence on the situation and needs of Persons with Disabilities in relation to ICT, and the lack of robust and inclusive indicators and methodologies to measure and report on the ICT-related SDG targets and indicators.

African Charter
on Human and
Peoples' Rights
on the Rights of
Persons with
Disabilities in
Africa



Ratified

February 2023

the Protocol has
not yet attained
the **15**
ratifications
required for it to
come into force

d) Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa

South Africa signed the Protocol in April 2019, only ratifying it in February 2023.

However, the Protocol has not yet attained the 15 ratifications required for it to come into force.

e) Any other international laws, conventions or standards relating to the rights of Persons with Disabilities that the respective countries are a party to

South Africa is not a party to any other applicable international laws, conventions or standards relating to the rights of Persons with Disabilities.

Are there any provisions within the law that allow progressive/staggered implementation of the requirements on access and use of ICT by Persons with Disabilities?

In summary, no. The legislation discussed in 4.2.1 above applies generally and does not envisage progressive or staggered implementation. That said, it is not an uncommon feature of South African legislation, generally speaking, to accommodate a staggered/progressive implementation of laws.

Nonetheless, it is important to note that the implementation matrix to the WPRPD, which is not yet law, envisages progressive/staggered implementation of the WPRPD. The matrix is a tool to guide and monitor the actions and responsibilities of various stakeholders in advancing the rights of Persons with Disabilities in South Africa and it is separated into two distinct targets, with date ranges between 2015 to 2019 and 2020 to 2023. It also serves as a basis for reporting and accountability to the national and international human rights mechanisms, such as the CRPD and the African Charter on Human and Peoples' Rights. The matrix is aligned with the NDP, the MTSF and the SDGs.

The matrix outlines the key objectives, indicators, targets, timeframes, lead and supporting departments, and budget implications for each of the 11 priority areas of the WPRPD, which are (i) removing barriers to access and participation; (ii) protecting Persons with Disabilities at risk of compounded marginalisation; (iii) supporting sustainable integrated community life; (iii) promoting and supporting the empowerment of Persons with Disabilities; (iv) reducing economic vulnerability and releasing human capital; (v) strengthening the representative voice of Persons with Disabilities; and (vi) building a disability equitable state machinery. The matrix also identifies the cross-cutting issues and enablers that are essential for the effective implementation of the WPRPD, including (i) data and information management; (ii) capacity building and awareness raising; (iii) monitoring and evaluation; (iv) resource mobilisation and allocation; (v) coordination and collaboration; and (vi) participation and empowerment of Persons with Disabilities and their representative organisations.

Are there provisions within the law that directly or indirectly exclude Persons with Disabilities' access to ICT (such as taxation of assistive equipment or legal provisions on digital access to goods and services that are silent on development of technologies in disability-accessible formats?

Prior to the Constitutional Court's declaration in the case of *Blind SA v Minister of Trade, Industry and Competition and Others [2022] ZACC 33*, the provisions of the Copyright Act required Persons with Disabilities to obtain permission from copyright holders to make works under copyright accessible to them whereas this requirement did not apply to people without disabilities. As previously discussed, in this case, the Constitutional Court declared that these provisions of the Copyright Act were unconstitutional because it was unfairly discriminatory and ordered that new provisions be read into the relevant section of the Copyright Act immediately, creating an exception from copyright for persons who are blind and visually impaired.

Apart this, there are no notable provisions within the law that directly or indirectly exclude Persons with Disabilities' access to ICT.

Are there any consequences to public and private bodies for non-compliance with legal and policy requirements on access and use of ICT by Persons with Disabilities. If so, please provide a summary of the avenues persons have to file petitions or complaints in relation to infringements of their rights? Are there specific timelines/ limitation periods to lodge a claim/ complaint, and if so when does the 'clock start'?

There are consequences to public and private bodies for non-compliance with legislated requirements on access and use of ICT by Persons with Disabilities in South Africa, but those consequences vary depending on the nature and severity of the violation, the type of body involved, the remedy sought by the affected persons, and the specific legislation in question.



The SA Constitution enshrines the right to equality, human dignity, freedom of expression, access to information, and administrative justice

The SA Constitution

The SA Constitution enshrines the right to equality, human dignity, freedom of expression, access to information, and administrative justice, among others, and prohibits unfair discrimination on various grounds, including disability. The SA Constitution also establishes the Constitutional Court as the highest court in the land, and empowers it to hear and decide constitutional matters, including challenges to the validity of laws, policies, and actions that infringe on the rights of Persons with Disabilities. The SA Constitution also provides for the establishment of the High Court and the Supreme Court of Appeal, which may hear and decide constitutional matters, subject to confirmation by the Constitutional Court. The SA Constitution further provides for the establishment of independent institutions to support and protect constitutional democracy, such as the Human Rights Commission, the Public Protector, and the Commission for Gender Equality, which may receive and investigate complaints of human rights violations, maladministration, and gender discrimination, respectively, and may take appropriate action, such as reporting, recommending, or litigating. The SA Constitution does not specify a time limit for bringing a claim for violations of the rights of Persons with Disabilities.



PEPUDA
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discrimination
on various
grounds,
including
disability, and
provides for
the
establishment
of equality
courts

PEPUDA

PEPUDA prohibits unfair discrimination on various grounds, including disability, and provides for the establishment of equality courts to hear and adjudicate complaints of unfair discrimination, hate speech, and harassment. The equality court has wide ranging powers and may make any appropriate order including:

- a. a declaratory order.
- b. an order for the payment of damages.
- c. an order restraining unfair discriminatory practices or directing that specific step be taken to stop the unfair discrimination, hate speech or harassment.
- d. an order to make specific opportunities and privileges unfairly denied in the circumstances, available to the complainant or group of complainants in question.
- e. an order for the implementation of special measures to address the unfair discrimination, hate speech or harassment.
- f. an order that an unconditional apology is made.
- g. an order of a deterrent nature, including the recommendation to the appropriate authority, to suspend or revoke the licence of a person.
- h. a directive requiring the respondent to make regular progress reports to the court or to the relevant constitutional institution regarding the implementation of the court's order.
- i. an order directing the clerk of the equality court to submit the matter to the Director of Public Prosecutions having jurisdiction for the possible institution of criminal proceedings in terms of common law or relevant legislation.

PEPUDA does not specify a time limit for lodging a complaint, but the equality court may dismiss a complaint if it is frivolous, vexatious, or if fairness so requires. PEPUDA also imposes a duty on public and private bodies to promote equality and eliminate discrimination, and empowers the Minister of Justice and Constitutional Development to issue regulations and codes of practice to guide the implementation of the PEPUDA.



The **SAHRC** may also face challenges or limitations in holding the state or other actors accountable

South African Human Rights Commission (SAHRC)

The SAHRC has a complaint handling procedure that allows any person or group of persons to lodge a complaint with the SAHRC if they believe that their human rights have been violated or are threatened by the state or any other person or entity. The complaint must be in writing and must contain sufficient information and evidence to enable the SAHRC to assess its validity and jurisdiction. The SAHRC can also initiate its own investigations into systemic or widespread human rights violations or issues of public interest. The SAHRC can then decide whether to accept, reject, refer or dismiss the complaint, or to take any other appropriate action, such as mediation, conciliation, negotiation, litigation, referral to another institution, or issuing a report or recommendation. The SAHRC can also issue subpoenas, search warrants, and interim relief orders to facilitate its investigations and interventions. The SAHRC's decisions and recommendations are not legally binding, but they carry moral and persuasive authority, and can be enforced by a court of law in certain circumstances.

Therefore, in principle, Persons with Disabilities can lodge a complaint with the SAHRC for non-compliance with domestic and international obligations or standards by the state or other actors, as long as the complaint falls within the scope of the Bill of Rights and the international human rights treaties and standards that the SAHRC can consider, and as long as the complaint meets the requirements and criteria of the SAHRC's complaint handling procedure.

However, the SAHRC may not be able to deal with every complaint that it receives, due to its limited resources, capacity and mandate, and may have to prioritise certain cases or refer them to other institutions or mechanisms. The SAHRC may also face challenges or limitations in holding the state or other actors accountable for their non-compliance with international human rights obligations or standards, especially if they are not incorporated into domestic law or policy, or if they are contested or resisted by the state or other actors. Therefore, the outcome and impact of lodging a complaint with the SAHRC may vary depending on the specific circumstances and context of each case.

⁴ Section 3 of the Public Protector Act No. 15 of 2016.

In the event of a successful petition or complaint, what remedies are available to those aggrieved?

See also above.

Section 172 of the SA Constitution deals with the powers and duties of the courts when they decide constitutional matters. In terms thereof, the courts must declare any law or conduct that is inconsistent with the SA Constitution invalid to the extent of its inconsistency and may order that the invalidity be suspended for a period and on conditions to allow the relevant authority to correct the defect. The courts may also make any order that is just and equitable, including an order limiting the retrospective effect of the invalidity, granting interim relief, or awarding compensation.

Generally, matters instituted with the High Court of South Africa may result in any of the following remedies:

- a. **An order of review:** This is a remedy that sets aside an administrative action or decision that is unlawful, unreasonable, or procedurally unfair, and may also order the decision-maker to reconsider the matter, or substitute the court's own decision, or order damages or interdictory relief. This remedy is available for petitions or complaints that challenge the legality or rationality of administrative decisions or actions under the Promotion of Administrative Justice Act or the common law.
- b. **An order of mandamus:** This is a remedy that compels a public official or body to perform a legal duty or obligation and may also order damages or interdictory relief. This remedy is available for petitions or complaints that seek to enforce a statutory or constitutional right or duty that has been violated or neglected by a public authority.
- c. **An order of interdict:** This is a remedy that restrains a person or entity from doing or continuing to do something that is unlawful, harmful, or infringing on a right, and may also order damages or ancillary relief. This remedy is available for petitions or complaints that seek to prevent or stop a breach of contract, a tort, a delict, or a constitutional right.
- d. **A declaratory order:** This is a remedy that declares the rights, duties, status, or legal position of a person or entity, and may also order consequential or ancillary relief. This remedy is available for petitions or complaints that seek to clarify or resolve a legal dispute or uncertainty.



- An order of review
- An order of mandamus
- An order of interdict
- A declaratory order
- An order of damages

- a. **An order of damages:** This is a remedy that awards a sum of money to a person or entity that has suffered a loss or injury as a result of a breach of contract, a tort, a delict, or a constitutional right, and may also order interest or costs. This remedy is available for petitions or complaints that seek to recover compensation for a civil wrong or a constitutional violation.

Based on the specific country findings, what legal measures would you propose to enhance access to and use of ICT by Persons with Disabilities?

We propose legal measures such as

- a. Adopting and implementing a comprehensive national policy and strategy on ICT accessibility and inclusion for Persons with Disabilities, in line with CRPD and the Protocol.
- b. Reviewing and harmonising existing laws and regulations on ICT, telecommunications, broadcasting, electronic communications, e-government, e-commerce, e-education, e-health, and other relevant sectors, to ensure that they incorporate and enforce universal design principles, accessibility standards, reasonable accommodation, and non-discrimination for Persons with Disabilities, as well as provide incentives and specific sanctions for compliance and non-compliance.
- c. Establishing and strengthening institutional mechanisms and coordination among relevant stakeholders, such as government ministries and agencies, regulatory authorities, service providers, operators, manufacturers, developers, civil society, academia, and Persons with Disabilities' organisations, to monitor, evaluate, and report on the implementation and impact of ICT accessibility and inclusion policies and laws, and to facilitate dialogue, consultation, and collaboration on best practices, challenges, and opportunities.
- d. Developing and implementing capacity-building and awareness-raising programs and initiatives for Persons with Disabilities, their families, caregivers, and communities, as well as for ICT professionals, policymakers, regulators, service providers, operators, manufacturers, developers, educators, health workers, and other relevant actors, on the benefits, rights, and responsibilities of ICT accessibility and inclusion, as well as on the available tools, technologies, and services that can enhance the access to and use of ICT by Persons with Disabilities.

- a. Promoting and supporting the research, development, innovation, and dissemination of affordable, appropriate, and accessible ICT solutions and services that meet the diverse needs, preferences, and abilities of Persons with Disabilities, and that leverage the potential of emerging technologies, such as artificial intelligence, big data, cloud computing, internet of things, mobile applications, and assistive devices, to improve the quality of life, participation, and empowerment of Persons with Disabilities.
- b. Encouraging and facilitating the participation and representation of Persons with Disabilities and their organisations in the design, development, testing, evaluation, and governance of ICT policies, laws, standards, systems, and services, and ensuring that their views, experiences, and feedback are taken into account and respected in the decision-making and implementation processes.



4.7 Zambia

Legal Framework for access to ICT for Persons with Disabilities in Zambia

What relevant national laws or policies mandate accessibility by/ facilitate access and use of ICT by Persons with Disabilities? Please provide the name of the law and a summary of its provisions regarding access to ICT by Persons with Disabilities. (Where such provisions exist, specific mention should be made of the constitution and its provisions, followed by any other applicable laws)

The following laws make provision for the facilitation of accessibility to ICT by Persons with Disabilities:

a) The Constitution of Zambia Chapter 1 of the Laws of Zambia as Amended by Act No.2 of 2016 (the “Constitution”)

Article 23 establishes the freedom from discrimination. The provision states that no law shall make any provision that is discriminatory either of itself or in its effect. For purposes of this Article, the expression “discriminatory” means affording different treatment to different persons attributable, wholly or mainly to their respective descriptions by race, tribe, sex, place of origin, marital status, political opinions, colour or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

The freedom from discrimination extends to, among other things, a situation whereby persons of any such description of discrimination may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society. The Article further provides that a person shall not be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

“ ”

the application of modern communications and computing technologies to the creation, management and use of information through the utilisation of hardware, software, networks, and media for the collection, storage, processing, transmission and presentation of information and related services

While the right of access to ICT is not particularly provided for under the Constitution, it is our view that the same can be inferred from Article 23 above as this provision seems to encompass the different treatment of a particular group or class of persons from other members of society on the basis of particular circumstances which distinguishes such persons from the rest of society. The High Court in the case of *Sela Brotherton (Suing as Secretary of the Zambia Federation of Disability Organisations) v Electoral Commission of Zambia (2011/HP/0818)* found that by not providing Persons with Disabilities with facilities for easy access to polling stations, it meant that Persons with Disabilities were discriminated against. Notwithstanding that disability was not specifically listed as a ground of discrimination in the Constitution, it can be understood from the court’s interpretation in the above case that it is the duty of the government to enforce the non-discrimination provisions including those relating to Persons with Disabilities. As such, failure by the government to enforce any right for Persons with Disabilities would constitute a violation of this provision of the Constitution until the same is remedied.

b) The Information and Communication Technologies Act No. 15 of 2009 (the “ICT Act”)

The ICT Act is the principal piece of legislation that regulates ICT in Zambia. The ICT Act establishes the Zambia Information and communication Technologies Authority (“ZICTA”) whose mandate it is to regulate the provision of electronic communication services and products and monitor the performance of the sector. As part of this mandate, ZICTA is obliged to promote the interests of consumers, purchasers and other users of information and electronic communications services, including, in particular, Persons with Disabilities and the aged in respect of the accessibility, quality and variety of the services and equipment.¹

Section 2 of the ICT Act provides the following definition of ICT:

- “the application of modern communications and computing technologies to the creation, management and use of information through the utilisation of hardware, software, networks, and media for the collection, storage, processing, transmission and presentation of information and related services”

¹ The Information and Communication Technologies Act No. 15 of 2009, section 6(2)

The ICT Act also goes on to define “Accessibility” in relation to ICT as to include access to—

- a. network elements and associated facilities;
- b. physical infrastructure, including buildings, ducts and masts;
- c. relevant software systems, including operational support systems;
- d. number systems or systems offering equivalent functionality;
- e. fixed and mobile networks, in particular roaming;
- f. conditional access systems for digital television services; and
- g. virtual network services.

The ICT Act further provides the following in relation to the rights of Persons with Disabilities:

- Section 6(2)(f) – ZICTA as part of its functions is mandated to promote the interests of consumers, purchasers and other users of information and electronic communications services, including, in particular, Persons with Disabilities and the aged in respect of the accessibility, quality and variety of the services and equipment;
- Section 69 –ZICTA is tasked with preparing a code of conduct for the provision of, and access to, network services by Persons with Disabilities. In this respect, ZICTA has issued the ZICTA Code of Conduct for ICT Service Providers (the “Code of Conduct”), which provides guidance to ICT service providers regarding the provision of their services. The Code of Conduct specifically refers to the provision of services to disabled and aged consumers, requiring a licensee to take appropriate measures to ensure that Persons with Disabilities have access, on an equal basis with others, to information and communication technologies and systems, and to other facilities and services open or provided to the public, both in urban and rural areas. The Code of Conduct also makes provides for the provision of services, assistive devices and technologies to Persons with Disabilities, requiring licensees to provide services, assistive devices and technologies to Persons with Disabilities in their customer service outlets which will include terminals for use by Persons with Disabilities.

“ ”

a person with a permanent physical, mental, intellectual or sensory impairment which, in interaction with various barriers, may hinder that person to fully and effectively participate in society on an equal basis with others

c) The Persons with Disabilities Act No. 6 of 2012 (the “Persons with Disabilities Act”)

The principal piece of legislation that governs the treatment of Persons with Disabilities in Zambia is the Persons with Disabilities Act, which was established to promote the participation of Persons with Disabilities with equal opportunities in the civil, political, economic, social and cultural spheres. The Persons with Disabilities Act was also established to ensure the accessibility by Persons with Disabilities to the physical, social, economic and cultural environment, and to health, education, information, communication and technology.

Section 2 of the Persons with Disabilities Act defines Persons with Disabilities as:

- “a person with a permanent physical, mental, intellectual or sensory impairment which, in interaction with various barriers, may hinder that person to fully and effectively participate in society on an equal basis with others”

The Persons with Disabilities Act recognizes that every person has a duty to uphold and safeguard the rights of Persons with Disabilities in Zambia. Section 14(1)(n) provides that it is a function of the Agency for Persons with Disabilities (the “Agency”) to monitor and evaluate the provision of services to Persons with Disabilities and the implementation of the Persons with Disabilities Act and any policy or national strategy on disability. It is our view that the foregoing section as it relates to the provision of services can be extended to the provision of ICT services.

The following provisions also directly or indirectly recognise the rights of Persons with Disabilities access to ICT in Zambia:

- Section 8(1) – provides that a Person with Disabilities shall enjoy legal capacity on an equal basis with others in all aspects of life.
- Section 14(4)(c) – provides that the Agency shall undertake and promote research and development of, and promote the availability and use of, new technologies, including information and communications technologies, mobility aids, devices and assistive technologies, suitable for Persons with Disabilities, giving priority to technologies at an affordable cost;
- Section 22 - requires that the educative system is inclusive at all levels to enhance the development of full potential and sense of dignity and self-worth and the strengthening of respect for human rights, fundamental freedoms and human diversity. There is a requirement that Persons with Disabilities are not excluded from the general education system on the basis of disability.
- Section 40(1)(a) – provides that it shall be the duty of the Minister in charge of Community Development and Child-Welfare (the “**Minister**”) in consultation with the Minister responsible for transport, works and communication (the “**Transport Minister**”) to ensure that Persons with Disabilities are allowed to live independently and participate fully in all aspects of life by ensuring that appropriate measures are taken to provide Persons with Disabilities equal access the physical environment, transportation, information and communications and other facilities and services open or provided to the public, both in urban and rural areas;
- Section 40(1)(b)(ii) – provides that the Minister shall ensure personal mobility with the greatest possible independence for Persons with Disabilities, including facilitating access by Persons with Disabilities to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries;



- Section 40(2)(b)- provides the Minister shall ensure measures are taken to the identification and elimination of obstacles and barriers to accessibility which shall apply to information, communications and other services, including electronic services and emergency services;
- Section 40(3)(e) – the section provides that the Minister and the Transport Minister, shall prescribe appropriate forms of assistance and support to Persons with Disabilities to ensure they have access to ICT and systems, including the internet;
- Section 40(3)(f) – the section provides that the Minister and the Transport Minister shall prescribe the design, development, production and distribution of accessible ICT and systems at an early stage, so that these technologies and systems become accessible at minimum cost;
- Section 40(4) - Assistive devices and services for Persons with Disabilities shall be exempt from tax;
- Section 49 – provides that television stations shall provide a sign language inset or sub-titles in all newscasts and educational programs and in all programs covering events of national significance and
- Section 50 - provided that persons providing telephone shall install and maintain telephone devices or units for persons with hearing disabilities and tactile marks on telephone sets to enable persons with visual disabilities to communicate through the telephone system.

The above provisions are established to ensure that Persons with Disabilities are equally treated in Zambia with regards to access to ICT.

d) ZICTA Consumer Protection Guidelines 2019 (the “Guidelines”)

The Guidelines are established under section 68 of the ICT Act in order to ensure the proper handling of complaints made in relation to the operation of businesses that offer ICT and related services as licensed by ZICTA. The following are provided for under the Guidelines:

- The interpretations section of the Guidelines defines the following: **“accessibility”** as a measure of the extent to which a product or service can be used by a person without a disability as effectively as it can be used by a person with a disability without imposing a disproportionate or undue burden on the licence;

“discrimination” as any distinction, exclusion or restriction on the basis of among other things disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field, and includes all forms of discrimination, and the term “discrimination on the basis of disability” shall be construed accordingly.

- Clause 14 – provides that a licensee shall not discriminate in the provision of services based solely on a person’s status, race, gender, ability or disability;
- Clause 15 - provides for special services for Persons with Disabilities and the aged. It provides that a licensee shall take appropriate measures to ensure Persons with Disabilities have access on an equal basis with others to ICT and systems that are open to the public. These services must include:

- a. Assistive and user-friendly products and services for Persons with Disabilities and the aged;
- b. Undertaking reasonable effort to test access solutions with Persons with Disabilities and the aged;
- c. Undertaking reasonable effort to provide Persons with Disabilities and the aged with the Service Level Agreements that is accessible in both content and medium within a reasonable time after the demand is made;
- d. Providing a tollfree number or numbers that are user friendly for Persons with Disabilities;
- e. Complaint handling processes that are easily accessible to a person without a disability as effectively as they are to a person with a disability without imposing a disproportionate or undue burden to the licensee.
- f. Providing reasonable assistance to Persons with Disabilities and the aged who specifically request for assistance when lodging complaints;
- g. Taking such measures as may be prescribed by the Authority to ensure that the requirements and interests of disabled consumers are fully addressed;
- h. Ensuring that ICT facilities and services which are open or provided to the consumers take into account all aspects of accessibility for Persons with Disabilities and the aged;
- i. Providing consumer service centres with consumer forms and signage in Braille or other media accessible to Persons with Disabilities;
- j. Providing forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to consumer care centres and other ICT facilities to Persons with Disabilities;
- k. Promotion of other appropriate forms of assistance and support to Persons with Disabilities to ensure their access to information;
- l. Making public internet access points accessible to Persons with Disabilities in terms of both physical and “e” accessibility;
- m. Providing literature in accessible format to all Persons with Disabilities and the aged;
- n. Compliance with any specific obligations that the Authority may impose on licensees in respect of special services or service arrangements for Persons with Disabilities and the Aged

- Clause 16 - A Licensee shall ensure that Persons with Disabilities's have equal access to self-service and assistive devices in their customer service outlets to enhance their customer experience. These services and assistive devices shall consist, but shall not be limited to:
 - 16.1 Screen reader software;
 - 16.2 Headset with volume control;
 - 16.3 Screen magnification software; and
 - 16.4 Special mouse and keyboard to cater for those with disabilities.

e) ZICTA Code of Conduct for ICT Service Providers (the "Code of Conduct")

The ZICTA Code of Conduct is a code as prescribed under section 69 of the ICT Act. The same is intended to give effect to the requirement of provision of, and access to, network services by Persons with Disabilities. The following are provided for under the Code of Conduct:

- The interpretations section of the Code of Conduct defines the following:

"Accessibility" as a measure of the extent to which a product or service can be use by a person without a disability as effectively as it can be used by a person with a disability without imposing a disproportionate or undue burden on the licensee;

"Discrimination on the basis of disability" as any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other fi eld. It includes all forms of discrimination, including denial of reasonable accommodation;



"Code of Conduct"
intended to give effect to the requirement of provision of, and access to, network services by Persons with Disabilities

- Clause 2 - Licensees shall provide consumers with information in print on their services that is complete, accurate, and up to date, in simple, clear language translated in to seven official local languages and braille for the English language. Sign language interpretation shall be used for appropriate electronic media;
- Clause 2.1 - Current service arrangements, including rates and terms and conditions for all services offered to the public, must be readily available in print, braille and electronic format (including on each licensee's web site);
- Clause 2.2(i) - A licensee is required to avail to a subscriber and make available on request, a copy of the Service Level Agreement for the provision of services. The agreements must be written in plain and clear language. Agreements in Braille shall be provided on request from a subscriber. The Authority shall also provide a prototype of contracts or service level agreements as a minimum to all licensees prior to entering into a contract for any service, Consumers shall be provided with a complete description of the service in clear and plain language (in a language the consumer understands and Braille where applicable) avoiding unnecessary technical terms. Where other services are required in order to effectively utilise the service, the Consumer shall be sufficiently informed of such requirements or service dependencies.
- Clause 4.0(i) and (iii) - Provide that a licensee must ensure that consumers, including Persons with Disabilities, are able to access 24-hour contact centre facilities free of charge. In addition, the licensee must ensure that it has established fully functional service centres accessible to all consumers, with designated service desks for Persons with Disabilities and the aged;

- Clause 5 - Provides for the provision of services to disabled and aged consumers. A licensee is required to take appropriate measures to ensure that Persons with Disabilities have access, on an equal basis with others, to information and communication technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. Some of these include:
 - a. assistive and user friendly products and services for Persons with Disabilities and the aged;
 - b. undertaking reasonable effort to provide Persons with Disabilities and the aged with the service level agreements that is accessible in both content and medium within a reasonable time after the demand is made;
 - c. ensuring that ICT facilities and services which are open or provided to the consumers take into account all aspects of accessibilities for Persons with Disabilities and the aged; (iv) providing forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to consumer care centres and other ICT facilities to Persons with Disabilities; and
 - d. providing consumer service centres with consumers forms and signage in braille or other media accessible to Persons with Disabilities;
- Clause 6 – Addresses the provision of services, assistive devices and technologies to Persons with Disabilities. A licensee is required to provide services, assistive devices and technologies to Persons with Disabilities in their customer service outlets which will include terminals for use by Persons with Disabilities. The terminals must consist of the following:
 - a. screen reader software;
 - b. headset with volume control;
 - c. screen magnification software; and
 - d. special mouse and keyboard to cater for those with disabilities;

- Clause 7.0(v) - In addition to complying with any other applicable laws or standards on advertising in Zambia, a licensee must also ensure that all marketing or promotional activities take into account the interests of Persons with Disabilities; and
- Clause 10(iii) – A licensee is required to comply with any network or other requirements that may be approved by ZICTA in respect of the provision of emergency services, including such measures as location identification information, special numbers and routing to emergency services locations. A licensee must ensure to provide emergency services accessible to all persons including Persons with Disabilities.

f) Value Added Tax Act, Chapter 331 of the Laws of Zambia (the “VAT Act”)

Additionally, the VAT Act provides exemptions from the payment of VAT on the supply or importation of articles designed for use by Persons with Disabilities.²



The policy provides that it is an aim of the government to ensure that Persons with Disabilities live independently and have a full and active life

g) National Policy on Disability 2030

The National Policy on Disability 2030 is a policy prepared by the Ministry of Community Development and Social Services (the “Ministry”) in Zambia that outlines the vision that Zambia has regarding the combating of discrimination against Persons with Disabilities in order to achieve equality between all persons.

The policy provides that it is an aim of the government to ensure that Persons with Disabilities live independently and have a full and active life. As part of this, the government aims to ensure must tell Persons with Disabilities about, and show them how to use, new information and communications technologies and systems, including the Internet.³ This objective is meant to be achieved through effective recommendations by the minister to different ministries and stringent changes in the national laws on disability by the year 2030.

² Value Added Tax Act Chapter 331 of the Laws of Zambia, Schedule (paragraph 3(2)(b))

³ National Policy on Disability, page 22

How do above-mentioned laws compare to international standards such as those contained in the following international frameworks: For all the comparisons, please provide a summary of any gaps within the national legislative or policy framework.

a) The Convention on the Rights of Persons with Disabilities;

The CRPD states that States should undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all Persons with Disabilities without discrimination of any kind on the basis of disability. To this end, States undertake to take into account the protection and promotion of the human rights of Persons with Disabilities in all policies and programmes as well as promote research and development of, and to promote the availability and use of new technologies, including information and communications technologies, mobility aids, devices and assistive technologies, suitable for Persons with Disabilities, giving priority to technologies at an affordable cost; to provide accessible information to Persons with Disabilities about mobility aids, devices and assistive technologies, including new technologies, as well as other forms of assistance, support services and facilities; to raise awareness throughout society, including at the family level, regarding Persons with Disabilities, and to foster respect for the rights and dignity of Persons with Disabilities; to promote access for Persons with Disabilities to new information and communications technologies and systems, including the Internet; to promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost.

It is of worth noting that the CRPDs provisions have been adopted into our Zambian laws. The law has recognised the rights discussed under Article 9 of the CRPD, which provides that:

“It shall be the responsibility of state parties to enable Persons with Disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to Persons with Disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:

- a. buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;*
- b. information, communications and other services, including electronic services and emergency services.”*

In legislation such as the Persons with Disabilities Act, the provisions under section 40 reflect the provisions of Article 9 as the same bestows a duty on the Minister of Community Development and Social Services (the “**Minister of CDSS**”) to take appropriate measures to ensure that Persons with Disabilities access, on an equal basis with others, the physical environment, transportation, information and communications and other facilities and services open or provided to the public, both in urban and rural areas to enable Persons with Disabilities to live independently and participate fully in all aspects of life. The measures to be taken must also include the identification and elimination of obstacles and barriers to accessibility, which shall apply to, inter alia, information, communications and other services, including electronic services and emergency services.



The Marrakesh Treaty is specific to the coverage of persons with a specific disability, being those related to blindness and visual impairment and inability to hold or manipulate a book or to focus or move the eyes

b) Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (the Marrakesh Treaty);

The Marrakesh Treaty is specific to the coverage of persons with a specific disability, being those related to blindness and visual impairment and inability to hold or manipulate a book or to focus or move the eyes to the extent that would be normally acceptable for reading.

When it comes to local legislation speaking to persons who are visually impaired, it will be noted that provisions in our Zambian legislation are not as extensive as those in the Marrakesh Treaty in as far as providing remedies seeking to facilitate or aid visually impaired persons with an opportunity to access published works/reading materials. Save for the provisions contained in the ZICTA Code of Conduct, which require licensees to provide consumers with information in print on their services in simple, clear language translated into seven local languages as well as in braille, and ensuring that current service arrangements (including service level agreements for the provision of services), including rates and terms and conditions of service offered to the public, are readily available in print, braille and electronic format, Zambian legislation does not go further to address matters relating to accessibility of services for the visually impaired but rather provides laws which are of general application to all Persons with Disabilities. In this respect, it is our view that more can be done in our local laws to specifically address issues being faced by persons who are visually impaired, including adopting examples from the Marrakesh Treaty or domesticating the same into our local laws.



Seventeen
interconnected
objectives
aimed at
promoting
sustainable
development
across
economic,
social, and
environmental
dimensions

c) The Sustainable Development Goals;

The SDGs are a set of seventeen interconnected objectives aimed at promoting sustainable development across economic, social, and environmental dimensions. In relation to Persons with Disabilities there are some specific rules that encapsulate the equality that is to be afforded to Persons with Disabilities as a way of facilitating the overall inclusions of Persons with Disabilities in sustainable development.

The SDGs promote equal access to all levels of education and vocational training for the vulnerable, including Persons with Disabilities, indigenous peoples and children in vulnerable situations. Specifically, SDG's 4 and 8 emphasise building and upgrading education facilities that are disability sensitive and provide safe, non-violent, inclusive and effective learning environments for enrolment in higher education, including vocational training and information and communications technology, technical, engineering and scientific programmes, in developing countries. From the laws cited earlier, the provisions of the Persons with Disabilities Act provides for the mandate to ensure that for purposes of education, Persons with Disabilities should have equal access to all levels of education such as outlines in goal 4.4. of the SDG's. Furthermore, SDG 9.c requires member nations to aim to increase access to information and communications technology. This is equally provided for under the *Zambian ICT Act*, specifically section 6(2)(f) which makes provision to increase access to ICT for Persons with Disabilities.

As part of Zambia's goals to achieve the SDGs by 2030, it is notable that the provisions of the policy on Persons with Disabilities by 2030 as highlighted above has taken a significant portion of the SDGs and adapted the same to ensure they are specifically tailored to the needs of Persons with Disabilities in order to achieve the goals outlined in that respect.

However, the applicable *Zambian laws* do not clearly and distinctively provide a pathway to show how these measures are to be specifically undertaken and achieved. This can be partly attributed to the manner in which the SDGs are drafted, as they equally do not provide specific direction on what states should do to achieve the goals. It is therefore not clear as to whether Zambia will be able to achieve the prescribed goals by 2030, as envisioned.

d) The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa

The Protocol is a protocol founded on Article 18(4) of the African Charter on Human and Peoples Rights which provides for the implementation of special rights for Persons with Disabilities to be preserved. The Protocol, in promoting this, establishes a comprehensive guide into the ways that Persons with Disabilities may be protected and the special measures that may be implemented in the protection of their rights.

Notable provisions of the Protocol that have been implemented in Zambia include Article 15 which provides for the right of every person with disability to have access to communications technologies and systems and other facilities and services. Article 16 also has been catered for as it provides for the right of inclusive quality education for all Persons with Disabilities. At the centre of these Articles is the safeguarding of the dignity and capacity of Persons with Disabilities in society, and this is expressed in the Zambian legislation highlighted above. While not detailed, provisions relating to ICT Access and education Access of Persons with Disabilities is generally discussed under the Persons with Disabilities Act as outlined in section 22 of the Persons with Disabilities Act and also the ZICTA Guidelines and Code of Conduct.

However, similarly to the provisions of the Marrakesh Treaty, Zambia has not ratified the Protocol and as such, there has been no sustained effort to implement the specific provisions thereof into the Zambian laws. The inclusion of the related laws is not based solely on the provisions of the Protocol but is traceable to other treaties such as the CRPD.

e) Any other international laws, conventions or standards relating to the rights of Persons with Disabilities that the respective countries are a party to.

We are not aware of any other international laws, conventions or standards relating to the rights of Persons with Disabilities that Zambia is a party to.

Are there any provisions within the law that allow progressive/staggered implementation of the requirements on access and use of ICT by Persons with Disabilities?

While there exist provisions in our Zambian laws that provide for the implementation of the requirements on access and use of ICT by Persons with Disabilities, many of these provisions still require measures to be put in place by the relevant policy makers/regulators before the same can be implemented and enforced. Also, with respect to certain provisions, there is no specific guidance on the implementation of certain access requirements.

a) The Constitution of Zambia (Amendment) No.2 of 2016

The right to protection from discrimination contained in Article 23 of the Constitution is a fundamental right which can be extended to access to ICT services to Persons with Disabilities, as discussed further above. With respect to the implementation of the same, the Constitution makes it mandatory that no person shall be treated in a discriminatory manner by another or under any written law. As the Constitution is currently in force, this provision is in full force and effect and must be implemented and adhered to immediately.

b) Persons with Disability Act No. 6 of 2012 (the “Persons with Disabilities Act”)

The Persons with Disabilities Act provides that every person has a duty to uphold the rights of Persons with Disabilities and to respect and safeguard the dignity of Persons with Disabilities. With respect to accessibility to ICT services and facilities, the Minister of CDSS is required to, in consultation with the Minister responsible for transport, works and communication, take appropriate measures to ensure that Persons with Disabilities access, on an equal basis with others, information and communications and other facilities and services open or provided to the public, both in urban and rural areas to enable Persons with Disabilities to live independently and participate fully in all aspects of life. To the best of our knowledge, we are not aware of any measures which have been put in place by the Ministry. We are therefore of the view that this provision will be implemented progressively as measures are put into place and become enforceable. We equally anticipate that the measures will equally provide for the timeframe within which the same are to be implemented. This was the case in *Brotherton v Electoral Commission of Zambia*, where the Court ordered that the Electoral Commission – an autonomous body – should put in place measures, by the next election, to ensure that Persons with Disabilities are not disadvantaged in exercising their right to vote. The courts stepped in to provide a timeframe within which the measures to provide accessibility to Persons with Disabilities with respect to the electoral process were to be implemented.

c) ZICTA Code of Conduct for ICT Service Providers and ZICTA Consumer Protection Guidelines

While the Code of Conduct and the Guidelines require ICT service providers to take appropriate measures to ensure that ICT facilities and services take into account all aspects of accessibility for Persons with Disabilities and the aged, they do not provide for a timeframe within which the same is to be adhered to. However, as the Code of Conduct and Guidelines, are currently in place and enforceable as well as applicable to all service providers, it is our view that the provisions therein must be implemented within a reasonable time to ensure that Persons with Disabilities are not marginalised in any way when it comes to the provision of ICT services.



The **VAT Act** exempts the payment of VAT on the supply or importation of articles designed for use by Persons with Disabilities

Are there provisions within the law that directly or indirectly exclude Persons with Disabilities' access to ICT (such as taxation of assistive equipment or legal provisions on digital access to goods and services that are silent on development of technologies in disability-accessible formats)?

With respect to digital access to goods and services, we have considered the provisions of the *Electronic Communication and Transactions Act No.4 of 2021 (the "ECT Act")*, which is the main piece of legislation established to provide a safe and effective environment for electronic transactions. We note that the same is silent on development of technologies in disability-accessible formats. The ECT Act appears to be more of general application with respect to the provision of goods and services in electronic format and does not make specific mention of accessibility of such services for Persons with Disabilities.

It is also worth reiterating, as stated further above, that the VAT Act exempts the payment of VAT on the supply or importation of articles designed for use by Persons with Disabilities. This is a positive measure towards ensuring access to ICT for Persons with Disabilities.

Are there any consequences to public and private bodies for non-compliance with legal and policy requirements on access and use of ICT by Persons with Disabilities. If so, please provide a summary of the avenues persons have to file petitions or complaints in relation to infringements of their rights? Are there specific timelines/ limitation periods to lodge a claim/ complaint, and if so when does the 'clock start'?

We provide below the various consequences for non-compliance with the legal and policy requirements on access and use of ICT by Persons with Disabilities:

a) The Constitution

Article 28 of the Constitution provides that if any person alleges that any of the provisions of, inter alia, Article 23 has been, is being or is likely to be contravened in relation to him, then, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply for redress to the High Court which shall:

- a. hear and determine any such application; and
- b. determine any question arising from any proceedings in any subordinate court relating to a contravention of Article 23.

The High Court may make such order, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing, or securing the enforcement of Article 23. Any person aggrieved by any determination of the High Court may appeal to the Supreme Court, provided that an appeal shall not lie from a determination of the High Court dismissing an application on the ground that it is frivolous and vexatious. To also note that Parliament may confer upon the Supreme Court or High Court such jurisdiction or powers in addition to those conferred under Article 28 as may appear to be necessary or desirable for the purpose of enabling that Court more effectively to exercise the jurisdiction conferred upon it by this Article or of enabling any application for redress to be more speedily determined.

b) The Information Communications and Technologies Act

A person who contravenes or fails to comply with a provision of any guidelines provided by ZICTA (i.e. the ZICTA Code of Conduct and the Consumer Protection Guidelines) will be liable upon conviction for each such breach, to a fine not exceeding ZMW 21,000 (approximately USD 1,166.67) or to imprisonment for a period not exceeding six months, or to both and ZMW 12,000 (approximately USD 666.67) for each day of continued default. Where the offence is committed by a body corporate or an unincorporate body, a person who at the time of the commission of the offence was a director manager, secretary or other similar officer of the body corporate or unincorporate body or was purporting to act in such capacity shall, as well as such body corporate or unincorporate body, be deemed to have committed that offence unless the person proves that the offence was committed without that person's consent or connivance and that the person exercised all due diligence to prevent the commission of the offence as the person ought to have exercised, having regard to the nature of that person's functions in that capacity and to all the circumstances.

To note that a person who is aggrieved with the any decision made by ZICTA may appeal to the Appeals Tribunal within thirty days of such decision. Further, an appeal from the Tribunal lies to the High Court and must be made within thirty days of the Tribunal's decision.

c) The Persons with Disabilities Act

Under the Persons with Disabilities Act, a person who contravenes any provision of the Persons with Disabilities Act for which no specific penalty is provided is liable, upon conviction, to a fine not exceeding ZMW 45,000 (approximately USD 2,250) or to imprisonment for a period not exceeding three years, or to both.

Also, ZICTA may request the Attorney General to take appropriate legal action where:


- a. a person or group of persons is engaged in a practice which is discriminatory under the Persons with Disabilities Act; or
- b. the discrimination is a significant and substantial infringement of the rights of Persons with Disabilities and raises issues of public interest.

A person who contravenes any provision of the PWD Act for which no specific penalty is provided is liable, upon conviction, to a fine not exceeding

 **ZMW 45,000**

or to

imprisonment for a period not exceeding

 **Three years**
or to **both**

Further, any person or group of persons aggrieved by an order made in a legal action commenced pursuant to a request made by ZICTA to the Attorney-General may, within sixty days after the making of such order, apply in the prescribed form to the High Court for the review of such order.

d) The ZICTA Code of Conduct and the Guidelines

In terms of section 79(1) of the ICT Act, a person who contravenes or fails to comply with a provision of the Guidelines or the Code of Conduct or any decision issued by ZICTA commits an offence and is liable, upon conviction, for each such breach, to a fine not exceeding ZMW 21,000(approximately USD 1,166.67) or to imprisonment for a period not exceeding six months or to both, and ZMW 12,000 (approximately USD USD 666.67) for each day of continued breach.

e) Violations by Public Bodies

For violations by public bodies, three avenues for making complaints are available to Persons with Disabilities:

- The High Court;
- The Public Protector; and
- The Human Rights Commissioner.

f) The Public Protector

The Public Protector is an independent constitutional office established under Article 243(1) of the Constitution and further provided for under the Public Protector Act No. 15 of 2016 (the “PPA”) that receives, considers, investigates and resolves any complaint that may arise out of an action or decision that is taken or omitted by a public institution or public official in the performance or execution of an administrative function. This also includes the service delivery process of a statutory function that is directly or indirectly vested in a public authority or official.

Acts of maladministration or administrative injustice in the public sector which result in the abuse of office or authority, unfairness, error, negligence, discrimination, delay and/or procedural unfairness all fall under the purview of the Public Protector. This includes any such acts against Persons with Disabilities.

“Maladministration” is defined as an action taken or omitted to be taken, or a decision made or omitted to be made, by a State institution in the performance of an administrative function, which is unfair, unreasonable, illegal or not compliant with the rules of natural justice.⁴

“Administrative action” is defined as an action relating to matters of administration, and includes:

- a. a decision and an act;*
 - b. a failure to make a decision or do an act, including a failure to provide a written statement of reasons for a decision;*
 - c. the formulation of a proposal or intention; and*
 - d. the making of a recommendation.*
-



The complaint to the Public Protector must be made within **1 (one) year** of the occurrence of the event.

A complaint to the Public Protector can be made by anyone, including Persons with Disabilities, who feels that they have been unfairly treated by a public body or official or the acts of the public authority have resulted in the Person with Disabilities not having access to ICT services. The complaint to the Public Protector must be made within 1 (one) year of the occurrence of the event.

The complaint is made in the following way:

- a. a complaint is submitted to the Registrar at the Office of the Public Protector in the prescribed manner and form.⁵
- b. A file is opened after screening the complaint. If it is felt that there is substance in the allegation or complaint, an investigation is instituted and the complainant is informed of the commencement of the investigations.
- c. If the allegation or complaint lacks merit, the complainant is informed that the complaint is declined.
- d. After conducting an investigation on a State institution, and the Public Protector is of the opinion:
 - that the action which was the subject matter of the investigation is contrary to any written law, based wholly or partly on a mistake of law or fact, unreasonably delayed or otherwise unjust or manifestly unreasonable;

⁴ Section 3 of the Public Protector Act No. 15 of 2016.

⁵ The Commission for Investigation Rules, S.I. 151 of 1974

- that:
 - a. the matter should be given further consideration;
 - b. an omission should be rectified;
 - c. a decision should be cancelled, reversed or varied;
 - d. the practice on which the act, omission, decision or recommendation was based should be altered;
 - e. the law on which the act, omission, decision or recommendation was based should be re-considered;
 - f. reasons should have been given for the decision; or
 - g. any other steps should be taken; or
- that a person who is the subject matter of the investigation has committed an offence;
 - a. the Public Protector shall provide to the State institution its report of the investigation and may make such recommendations as the Public Protector considers appropriate and shall send a copy of the report and recommendations to the National Assembly.

g) Human Rights Commissioner

The Human Rights Commission established by Article 230 of the Constitution and having its mandate articulated in the *Human Rights Commission Act*, Chapter 48 of the Laws of Zambia, is tasked with the investigation of human rights violations and maladministration of justice and proposing remedies to prevent human rights abuses. The Commission also mediates for victims of human rights abuse and acts as a spokesperson for detainees.

The Commission is also empowered to investigate on its own initiative or on receipt of complaints or allegations by individuals or groups, to others acting on their behalf. However, its findings lead only to recommendations which have no legal force, although the government and its agencies are expected to act on them. A complaint or allegation shall not be received by the Commission unless it is made within a period of two (2) years from the date on which the facts giving rise to any such complaint or allegation become known to the person making the complaint or the allegation.

The procedure for making a complaint to the Human Rights Commission is as follows:

- A complaint or allegation may be made orally or in writing and shall be addressed to the Secretary who shall, in the case of an oral complaint or allegation, reduce the same to writing.
- every complaint or allegation shall:
 - a. be signed or thumb-printed by the person making it; and
 - b. bear the complainant's name and address.
- The Commission shall, in any case in which it decides not to conduct an investigation or decides to discontinue an investigation inform the complainant in writing accordingly and give reasons therefor. the Commission shall:
 - a. send written reports of its findings to the parties concerned; and
 - b. dependant on the findings made, make such recommendation as it considers necessary to the appropriate authority.
- The appropriate authority shall, within thirty days from the date of such recommendation make a report to the Commission, on any action taken by such authority to redress any human rights violation.

In the event of a successful petition or complaint, what remedies are available to those aggrieved?

The following are the provisional remedies available for the avenues of recourse listed above:

a) The High Court for Zambia

Section 13 of the High Court Act, Chapter 27 of the Laws of Zambia provides that:

“In every civil cause or matter which shall come in dependence in the Court, law and equity shall be administered concurrently, and the Court, in the exercise of the jurisdiction vested in it, shall have the power to grant, and shall grant, either absolutely or on such reasonable terms and conditions as shall seem just, all such remedies or reliefs whatsoever, interlocutory or final, to which any of the parties thereto may appear to be entitled in respect of any and every legal or equitable claim or defence properly brought forward by them respectively or controversy between the said parties may be completely and finally determined, and all multiplicity of legal proceedings concerning any of such matters avoided; and in all matters in which there is any conflict or variance between the rules of equity and the rules of the common law with reference to the same matter, the rules of equity shall prevail.”

From the above, depending on the facts of the case before the High Court, a complainant can seek reliefs provided under statute, in Equity or under Common law such as injunctions, specific performance, rescission, declarations, orders, damages, and many others.

b) The Public Protector

Upon the determination of a matter before the Office of the Public Protector, he has authority to make any order deemed fit to prevent and take necessary and effective measures for the prevention of maladministration in State institutions from which complaint arose.

As outlined above, the Public Protector's report of the investigation and may make such recommendations as the Public Protector considers appropriate.

The PPA provides that the Public Protector shall request a State institution which has been complained of to notify the Public Protector, within thirty days of the steps that it proposes to take to give effect to the recommendations. If, on the expiry of the period of 30 days a State institution fails to notify the Public Protector of the steps that it proposes to take under that subsection, the Public Protector may make a decision to give effect to the recommendations.

c) Human Rights Commission

The Human Rights Commission does not necessarily offer remedies but instead can make recommendations for certain courses of action to be undertaken. In addition, where a dispute arises regarding the operation of certain rights, the Human Rights Commission may intervene and mediate on such matters.

Based on the specific country findings, what legal measures would you propose to enhance access to and use of ICT by Persons with Disabilities?

Based on the above stated, the following are some of legal measures that may be taken to enhance access to and use of ICT by Persons with Disabilities:

a) Implementation provisions

With respect to the implementation of measures to ensure the protection of rights of Persons with Disabilities under the Persons with Disabilities Act and the ICT Act, it is necessary for the law to include definitive timeframes of when such measures are to be implemented as well as make it mandatory for progressive checks by regulators and agencies to ensure that the mandate for the implementation of the provisions is being undertaken in a way that would provide for the effective use of the provisions in the law.

b) Amendment to the ECT Act

The ECT Act, as the principal legislation in Zambia providing for the use, security, facilitation and regulation of electronic communications, could be amended to ensure that provisions relating to communication facilities for Persons with Disabilities are introduced to promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost.

c) Court Cases

It is important for more matters to be brought to the courts to ensure that the laws are really aligning with the rights of Persons with Disabilities. This includes having more matters such as the case of Sela Brotherton v Electoral Commission of Zambia being brought forward by individuals and civil society organisations to ensure the laws are not being unfairly discriminatory against Persons with Disabilities.



4.6 Zimbabwe

Legal Framework for access to ICT for Persons with Disabilities in Zimbabwe

What relevant national laws or policies mandate accessibility by/ facilitate access and use of ICT by Persons with Disabilities? Please provide the name of the law and a summary of its provisions regarding access to ICT by Persons with Disabilities. (Where such provisions exist, specific mention should be made of the constitution and its provisions, followed by any other applicable laws)

a) The Constitution of Zimbabwe Amendment No 20 of 2013 (the “Constitution of 2013”)

Section 22 of the Constitution of 2013 provides for the protection of the rights of Persons with Disabilities generally. It mandates the State and all institutions and agencies of government at every level to assist Persons with Disabilities to achieve their full potential and minimise the disadvantages suffered by them by: (a) developing welfare programmes for Persons with Disabilities; (b) prioritising the specific requirements of Persons with Disabilities in development plans; (c) encouraging the use and development of forms of communication suitable for Persons with Disabilities; and (d) fostering social organisations for improving the quality of life of Persons with Disabilities. Additionally, the State is required to take appropriate measures to ensure that buildings and amenities to which the public has access are accessible to Persons with Disabilities.

b) The National Disability Policy of 2021 (the “National Disability Policy”)

The National Disability Policy facilitates access and use of ICT by Persons with Disabilities. Specifically, Section 3.13 of the National Disability Policy provides for access by Persons with Disabilities to new ICT and systems, including the internet. The policy aims to promote the design, development, production and distribution of accessible ICT and systems so that these technologies and systems become accessible at minimum cost. The policy further states that Zimbabwe will adopt a national plan on accessibility which includes all issues that are outlined in the provisions above, albeit in more detail with benchmarks, budget and timeframes with a view to full accessibility by 2030. However, it is just a policy, and it does not have any legally binding effect.

How do above-mentioned laws compare to international standards such as those contained in the following international frameworks:

For all the comparisons, please provide a summary of any gaps within the national legislative or policy framework.

- a. The Convention on the Rights of Persons with Disabilities;
- b. Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled;
- c. The Sustainable Development Goals;
- d. The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa; and
- e. Any other international laws, conventions or standards relating to the rights of Persons with Disabilities that the respective countries are a party to.



Zimbabwe has
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envisaged

a) The Convention on the Rights of Persons with Disabilities

Zimbabwe has ratified the CRPD but there is no specific legislation to domesticate the rights envisaged in the CRPD with regards to ICT. However, the National Disability Policy incorporates Article 9 of the CRPD and emphasises the need for Persons with Disabilities to have access to ICT. The National Disability Policy gives the government two years to implement and effect the rights.

b) Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled

Zimbabwe signed the Marrakesh Treaty but has not yet domesticated it. Therefore, there is no specific domestic legislation enacting the rights envisaged in the Marrakesh Treaty. However, the National Disability Policy does reference the preamble of the Marrakesh treaty by incorporating the need to ensure equal opportunity and accessibility for Persons with Disabilities in its provisions. Furthermore, the National Disability Policy also incorporates Article 4 of the Marrakesh Treaty which aims to facilitate the availability of literary and artistic works in forms that are accessible to persons who are blind, visually impaired or otherwise print disabled.

c) The Sustainable Development Goals

The Constitution of 2013 guarantees economic, social, environmental, civil, cultural and political rights of citizens. However, the National Disability Policy is not yet law.

d) The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa

Zimbabwe has not yet ratified The Protocol. However, it is on the verge of becoming the first Southern African country to ratify The Protocol.

e) Any other international laws, conventions or standards relating to the rights of Persons with Disabilities that the respective countries are a party to

Zimbabwe is a party to the Charter of fundamental social rights in Southern African Development Community. This charter, however, does not specifically relate to access to ICT for Persons with Disabilities but provides for social rights generally.

Are there any provisions within the law that allow progressive/ staggered implementation of the requirements on access and use of ICT by Persons with Disabilities?

No, because there is no law specifically pertaining to the legal right to the access and use of ICT by Persons with Disabilities.

Are there provisions within the law that directly or indirectly exclude Persons with Disabilities' access to ICT (such as taxation of assistive equipment or legal provisions on digital access to goods and services that are silent on development of technologies in disability-accessible formats?

No, there are no provisions of this nature.

Are there any consequences to public and private bodies for non-compliance with legal and policy requirements on access and use of ICT by Persons with Disabilities. If so, please provide a summary of the avenues persons have to file petitions or complaints in relation to infringements of their rights? Are there specific timelines/ limitation periods to lodge a claim/ complaint, and if so when does the 'clock start'?

No, because there is no law specifically pertaining to the legal right to the access and use of ICT by Persons with Disabilities.

In the event of a successful petition or complaint, what remedies are available to those aggrieved?

This is not applicable as there is no binding law.

Based on the specific country findings, what legal measures would you propose to enhance access to and use of ICT by Persons with Disabilities?

We would propose the following legal measures:

- a. pressure groups addressing Parliament and taking government to court;
- b. enacting laws which make it mandatory for service providers to provide information in accessible formats and technologies appropriate to different kinds;
- c. domestication of international laws that have been ratified by the government;
- d. Zimbabwe should sign The Protocol;
- e. Zimbabwe should adopt the National Disability Policy as law; and
- f. Private Bill procedure.

This report is offered for information purposes only. It is not legal advice. Readers are urged to seek advice from qualified legal counsel in relation to their specific circumstances. We intend the report's contents to be correct and up to date as of June 2025 , but we do not guarantee their accuracy or completeness, particularly as circumstances may change after publication. CIPESA, Udo Udoma & Belo-Osagie, Allen & Overy LLP, Zangue & Partners-Avocats, Renaissance Law Chambers, Geni & Kebe, Kanokanga & Partners, Corpus Legal Practitioners, RR Associates & Co. Advocates, and the Thomson Reuters Foundation accept no liability or responsibility for actions taken or not taken or any losses arising from reliance on this report or any inaccuracies herein.

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