

Artificial Intelligence in the Information and Communications Space



COUNTRY ASSESSMENT REPORT:

SOUTH AFRICA

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Executive Summary

In September 2023, the FID launched a ‘dedicated working group on artificial intelligence [AI] and its implications for the information and communication space, with the ambition to propose principles and recommendations to ensure that [AI] is contributing to information integrity rather than being a risk for the information and communication space’. This new working group seeks to formulate public policy recommendations to prevent and mitigate the harmful impact of AI systems on the information space.

To develop the recommendations, the FID has established partnerships with civil society organisations in eight countries: South Africa, Benin, Côte d’Ivoire, Ghana, Senegal, Lebanon, India, and Uruguay. The goal of these partnerships is to ensure that the proposed solutions consider different contexts and incorporate perspectives and expertise from various regions.

The working group has the following three objectives:

OBJECTIVE 1: Define guardrails for the development and deployment of AI applications impacting the information and communication space.

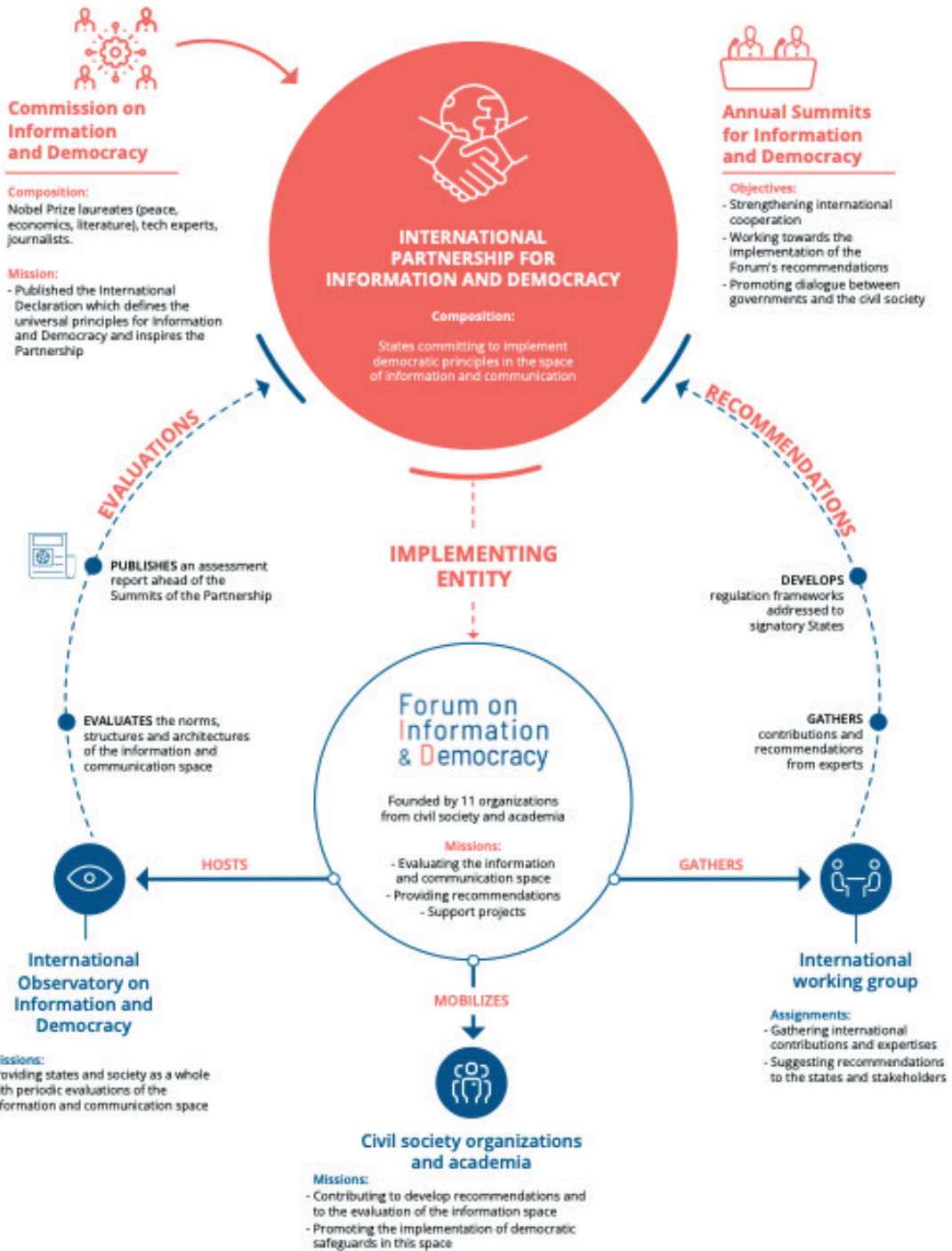
OBJECTIVE 2: Accountability and liability regimes

OBJECTIVE 3: Governance frameworks for enforcement and monitoring

The various Country Assessment Reports will provide country and context specific perspectives that will enrich the work of the working group which aims to produce evidence-based policy recommendations. Graphically the FID operates as follows:

ABOUT THE FORUM ON INFORMATION AND DEMOCRACY

Providing democratic safeguards for the global communication and information space



This document contains the South African Expert Group (**‘the expert group’**) Country Assessment Report for the Forum on Information and Democracy (**‘FID’**). This assessment report forms part of the work of the Working Group on Artificial Intelligence (**‘the working group’**), which was established by the FID in July 2023. The document contains a detailed country report and several recommendations from the expert group. These were developed in response to a request from the FID that will form part of the overall set of recommendations that the FID plans to publish for consultation in early 2024.

The Country Assessment Report (**‘assessment report’**) was produced by the members of the expert group representing a wide range of skills and expertise including academia, journalism, law, media, and broadcasting. The country review includes the policy, legislative and regulatory environment in South Africa and initiatives to address the regulation of AI systems in the country or as part of regional and international initiatives. Every effort has been made to maintain a close focus on the regulation of AI systems in the information and communication space (**‘the information space’**), rather than across all domains and industries.

This sharpening of the focus on the information space is necessary since there has been a considerable focus on implications of, and regulation of, AI applications in areas such as climate change, health, finance, labour markets, and education¹ among others, but no deliberate interventions such as the current FID initiative.

This document is structured in two parts:

1. The Context

This section sets out the policy background to the assessment report, a review of **the information space** in South Africa, including the various policies, laws, organisations and initiatives relevant to governance and regulation of the information space.

The expert group has developed a working definition of the ‘information and communication space’ to be used in the assessment report. We also set out our approach to regulation of artificial intelligence that will serve as a framework for the recommendations.

¹ UNESCO, 2022, Landscape Study of AI Policies and use in Southern Africa.

2. The Recommendations

The report includes recommendations developed by the expert group that were presented to a consultative workshop in November 2023 to obtain additional inputs and views on the recommendations. The recommendations address the following three areas:

- i Guardrails regarding the development and deployment of AI systems**
Guardrails and regulations to be respected in the design, development and deployment of AI applications to ensure that these respect safety standards, existing rules and regulations and to minimise the risks of AI applications to the global information space.
- ii Accountability and liability regimes**
Define accountability and liability regimes for the developers, deployers and users of AI applications with regards to the information produced, curated, moderated and verified through these AI applications; and
- iii Governance frameworks for enforcement and monitoring**
Recommend governance options for the deployment and monitoring of AI applications impacting the information and communication space.

I. The Context

THE MACRO-POLICY ENVIRONMENT: Linking the International Partnership for Information and Democracy ('IPID') to the UN Sustainable Development Goals ('SDGs')

The IPID agreement was signed in a policy environment determined by the UN SDGs and other development initiatives for the rollout of ICT services. Access to ICT is a pre-condition to access AI systems and applications. Just as access to ICT is considered vital to democratic participation, so too, the distribution of the benefits of AI, including participation in decision making processes about AI regulation, must be fair and equitable in a democratic society.

The IPID cites the adoption of the ‘2030 Agenda for Sustainable Development’ and the commitments therein to, inter alia, promote peaceful and inclusive societies for sustainable development, including by ensuring public access to information and protecting fundamental freedoms, in accordance with national legislation and international agreements, and therefore recognising the important contribution of the promotion and protection of the safety of journalists in this regard.

The 2030 Agenda for Sustainable Development focuses on decision-making with particular reference to participation of vulnerable groups, such as women (SDG target 5.5), developing countries, including African countries, least developed countries, ... (SDG target 10.6) to the decision-making process. Furthermore, SDG target 16.7 aims to ‘*Ensure responsive, inclusive, participatory and representative decision-making at all levels*’. The 2030 Agenda also highlights, in its paragraph 48, the importance indicators have for decision-making.

The Johannesburg Plan of Implementation (JPOI) focuses, in paragraph 7d, on women’s access and full participation in decision-making. Paragraph 19 takes into consideration the importance of integrating sustainable development into decision-making processes at all levels. Furthermore, the need to ‘improve policy and decision-making at all levels’ and in particular through an ‘improved collaboration’ between science and policymakers is stressed in paragraph 109 e.²

Furthermore, chapter 40 of Agenda 21 (the initial UN sustainable development plan) focuses on information for decision-making and emphasises that, in sustainable development, everyone is a user and provider of information considered in the broad sense. That includes data, information, experience and knowledge. The need for information arises at all levels, from that of senior decision-maker at the national and international levels to the grassroots and individual levels.³

2 <https://sdgs.un.org/topics/information-integrated-decision-making-and-participation>

3 https://www.un.org/esa/dsd/agenda21/res_agenda21_40.shtml

African Union and Regional Perspective

The case for continental and regional initiatives to meet Africa's needs has been made by several parties who point to the uneven power relations not only between the global North and the global South, but between the global technology companies and the plethora of their users.

The 2022 UNESCO Landscape Study of AI Policies and use in Southern Africa report⁴ unpacks areas of potential ethical risks and threats to the long-term realisation and enjoyment of fundamental human rights, protection of social cohesion, and promotion of justice and equality, which is essential for an inclusive digital future for the region. The findings echo some existing analysis which emphasises that, despite many positive contributions, emerging technologies such as AI may perpetuate historical practices which contribute to injustice and discrimination and disproportionately harm vulnerable and marginalised communities.⁵

Berger and Wasserman state that research shows that, especially in Africa, these global technology companies have 'failed to invest in the human and algorithmic systems needed for monitoring and moderating rights-harming content. In 2023, these companies also butchered their "trust and safety" teams. And while companies like OpenAI are belatedly attempting to build in guardrails to protect applications from being misused, it remains unclear if the same standards will be applied in Africa. Africans need to recognise and be vigilant about the mounting risks in the consumption and sharing of messages that threaten democracy'.⁶

A recent presentation by Research ICT Africa on what a just AI global governance framework would look like⁷ states:

- Digital exclusion and data extraction from African countries perpetuate historical social and economic injustices of colonial and neo-colonial domination and resource extraction compounding structural inequalities.
- Not only are impacts of the harms associated with data and data-driven processes disproportionate, but opportunities to harness machine learning (ML) and artificial intelligence (AI) for commercial and public value-creation are highly unevenly distributed, both within and amongst countries, particularly for Africa.

There are two further initiatives in Africa: drafting of an African Union Artificial Intelligence Continental Strategy for Africa⁸ and the Digital Transformation Strategy for Africa (DTS) 2020-2030.⁹

4 <https://unesdoc.unesco.org/ark:/48223/pf0000385563>

5 Abeba, Algorithmic Injustice: A Relational Ethics Approach, 2021

6 Berger Guy and Wasserman Herman, 2023, Africa has a Disinformation Crisis, The Continent, 11 November 2023.

7 <https://researchictafrica.net/publication/what-might-a-just-ai-global-governance-framework-look-like-for-africa/>

8 <https://au.int/en/5thstccict>

9 <https://au.int/sites/default/files/documents/38507-doc-dts-english.pdf>

South African Country Assessment Report

This Report of the expert group is structured along the lines of the terms of reference. The review of the information space in South Africa includes the various policies, laws, organisations and initiatives relevant to governance and regulation of the information space.

DEFINITION OF ‘INFORMATION AND COMMUNICATION SPACE’

A deliberate decision has been taken by the expert group to adopt a specific focus on ‘journalism’ and ‘public interest media’ as we define the **‘information and communication space’ or ‘information space’ for short.**

The starting point for finding a working definition was the International Partnership for Information and Democracy (IPID) and the guiding principles. The rationale for adopting this approach for the country assessment is as follows:

- The Information and Democracy Commission, which gave rise to the International Partnership for Information and Democracy (IPID) was initiated by Reporters San Frontières to address potential threats to journalists and journalism. The call from them was that ‘the information and communication space be acknowledged as a common good of humankind, where freedom, pluralism and integrity of information must be guaranteed’;
- The wording of the IPID clearly refers to concepts traditionally associated with media freedom: ‘signatory States to the IPID commit to promoting national and international legal frameworks encouraging freedom of opinion and expression and access to reliable information’;
- They invite businesses that play key roles in international news and communication to respect principles of transparency, responsibility, and neutrality and to ensure that their activities are compatible with human rights in order to promote reliable information.

The Concept Note from the FID itself provides more than a few statements to support the view that the focus of this project is on what has traditionally been referred to as the press, journalism, media etc. This persuaded the expert group that the focus of the country assessment report should be clearly on ‘journalism’ and the ‘public interest media’ rather than any other types of content (such as entertainment).

There has also been evolution of the FID documents where previously there had been a focus on freedom of expression, but this is not the same as freedom of opinion. With the explosion of communications, the FID stated at the launch of the Consultation in South Africa in July 2023 that ‘we now need to put the focus back on freedom of opinion i.e. freedom of not being manipulated and on reducing propaganda on news feeds. The views of digital rights advocates and the media are not always aligned in this regard’.¹⁰

¹⁰ Camille Grenier, Operations Director, Forum on Information & Democracy

PUBLIC INTEREST JOURNALISM AND THE NEWS MEDIA

The Windhoek+30 declaration¹¹ recognises information as a public good and reaffirms the importance of public interest journalism in promoting democracy.

Over the past century, and less so in current times, public broadcasters served the function of a public sphere¹², with commercial and community media adding regional and local dimensions. With the rise of the internet and ‘mass self-communication’¹³ as the dominant logic, the role of public interest media or public service media in sustaining democracy remains central.

The digital divide is a stark reality in South Africa, and despite the high penetration rate of mobile phones, access to wireless broadband, let alone affordable fixed line access, is very low and most South Africans rely for information on the free-to-air radio and television services of the public broadcaster. A similar situation pertains in several other countries in Africa. The South African expert group has therefore decided to include public interest media in our definition of the “information space.”

Included in the scope of our definition is that of ‘public interest journalism’, the active conceiving, developing, creating and disseminating of news and information across various platforms of public, commercial and community media.

In the SA context, it is important to include issues of diversity and inclusivity as important elements of public interest journalism - emphasising giving a platform to minority groups and marginalised communities.

The sections that follow map out the key players as well as provide an overview of the policy and regulatory landscape with details of laws and regulations pertinent to the governance of AI. As we considered the various aspects of the information space, it became clear that consideration needs to be given to regulation of both physical infrastructure and companies, services and content.

11 https://en.unesco.org/sites/default/files/windhoek30declaration_wpdf_2021.pdf

12 Habermas, Jürgen (1962 trans 1989) *The Structural Transformation of the Public Sphere: An Inquiry into a category of Bourgeois Society, Polity, Cambridge*

13 <https://medium.com/dictionary-of-digital-humanities/mass-self-communication-4b4f8c6ed849>

Mapping Of Key Actors

Which state actors and institutions (including ministries, independent authorities, parliamentary commissions, etc.) are involved in the mechanisms for regulating and developing public policy regarding the information space (media regulation, support for press development, regulation of social networks, combating misinformation, etc.)? What is their respective mandate/role?

Apart from the regulator, various government departments and agencies a range of non-state actors – particularly from civil society and universities – are active in South Africa’s information space. These include educational and non-governmental organisations such as Media Monitoring Africa, Africa Check, Code for Africa, the Right2Know campaign, OpenUp, Research ICT Africa, the Institute for the Advancement of Journalism, the Campaign for Free Expression, the Journalism and Media Lab at Witwatersrand University, the Centre for Analytics and Behaviour Change at the University of Cape Town, the Digital Rights Unit at the University of Pretoria and the Helen Suzman Foundation.

While these organisations each have their own focus areas, they address issues of fairness, justice, and accuracy in South Africa’s information space, combining a mix of policy, advocacy and public communication strategies to effect change. These actors are often supported by funding organisations such as the Open Society Foundations, which support organisations that further the right to freedom of expression. Many of them – particularly Media Monitoring Africa and Africa Check – also specialise in detecting, analysing, and monitoring hateful content.

Another important category of actors is the various voluntary associations in the media space. These include the South African National Editors’ Forum, the Publisher Support Services, the Press Council of South Africa, the Association of Independent Publishers, the National Association of Broadcasters; and the Association for Progressive Communications. These various groups provide support to media actors and serve to constrain their conduct within the bounds of what is ethical.

South Africa does not have any national regulatory framework for artificial intelligence, although it has worked on broader policy documents, such as the Smart Africa Blueprint (Artificial Intelligence for Africa), intended to serve as a blueprint for future law-making on the African continent. While lip service has been paid to the notion of the Fourth Industrial Revolution by South Africa’s President in various speeches, there are no clear regulatory frameworks for AI under development at present.

However, various institutions have been set up between the government and other actors to focus on AI, including the South African Artificial Intelligence Association,¹⁴ founded in partnership between the Department of Communications and Digital Technologies and various private sector actors, and the Artificial Intelligence Institute of South Africa,¹⁵ founded by the same Department, as well as the University of Johannesburg and the Tshwane University of Technology. These actors seem to be engaged primarily in networking and in technical research and have at the time of writing yet to make contributions to the AI policy space in South Africa.

While many actors – particularly multinational corporations – have been considering how AI will impact South African society in general terms,¹⁶ and others are working on developing AI systems themselves,¹⁷ very few are focusing exclusively on the impact of AI on the information space. Many of the civil society and university actors discussed above are beginning to think about artificial intelligence and its impact on this space, but this has yet to result in concrete action or policy recommendations.

14 <https://saaiassociation.co.za/>

15 <https://aii-sa.co.za/>

16 See for example <https://www.bcg.com/publications/2023/south-africa-and-artificial-intelligence>

17 <https://lelapa.ai/>

A. STATE INSTITUTIONS

A number of state institutions are beginning to have the AI conversation and identifying opportunities where AI can assist in driving the country towards the 4IR. Leveraging the power of AI and digital technologies within various government institutions becomes imperative. AI can unlock exponential value in areas such as revenue collection, forecasting, planning, risk sensing and procurement by reducing risk, identifying fraud and increasing revenue generation.

1. The Presidential Commission on the Fourth Industrial Revolution¹⁸

The Presidential Commission on the Fourth Industrial Revolution, which consists of leaders from academia, business and civil society, was created to enable South Africa to craft a shared Fourth Industrial Revolution future, including addressing the OECD AI Principle¹⁹ 1.1 of inclusive growth, sustainable development and well-being. This Principle highlights the potential for trustworthy AI to contribute to overall growth and prosperity for all – individuals, society, and planet – and advance global development objectives.

The South African Presidential Commission Report on the Fourth Industrial Revolution (PC4IR) also identified the development and advance of artificial intelligence as a key focus area in the country's digital economic development strategy.

2. Department of Communications and Digital Technologies (DCDT)²⁰

This department is primarily responsible for developing policies and regulations for the information and communications technology (ICT) sector, including the internet and broadcasting sectors. It has a mandate to develop the digital economy and ensure that the benefits of the digital age are accessible to all South Africans.

3. Parliamentary Portfolio Committee on Communications²¹

This committee provides oversight of the DCDT, the Independent Communications Authority of South Africa (ICASA), the South African Broadcasting Corporation (SABC) and other bodies involved in the communication sector. It can influence policy and regulation through its recommendations.

4. The Independent Communications Authority of South Africa (ICASA)²²

ICASA is the regulator for the South African communications, broadcasting, and postal services sector. It is responsible for licensing broadcasters, managing the radio frequency spectrum, and ensuring competition within the sector.

¹⁸ Presidential Commission on Fourth Industrial Revolution: Members and terms of reference (www.gov.za)

¹⁹ The OECD AI Principles promote use of AI that is innovative and trustworthy and that respects human rights and democratic values.

²⁰ <https://www.dcdt.gov.za/>

²¹ <https://www.parliament.gov.za/committee-details/142>

²² <https://www.icasa.org.za>

5. **The Department of Science and Innovation**²³

The South African hub of the World Economic Forum's Centre for the Fourth Industrial Revolution network advances smart regulation for emerging technologies such as AI and blockchain, through collaboration with government regulators and the technology industry in South Africa.

Its objectives are:

- To develop policies and governance frameworks that will allow South Africa to use AI in a responsible way;
- To address the OECD AI principles;
- To foster a digital ecosystem for AI;
- To provide an enabling policy environment for AI; and
- To ensure that relevant policy areas are covered (like public governance, science and technology).

6. **Competition Commission**

The Competition Commission formally initiated the Online Intermediation Platforms Market Inquiry (OIPMI)²⁴ because the Commission has reason to believe that there are market features of online intermediation platforms that may impede, distort or restrict competition. These intermediation platforms include eCommerce, online travel agencies, food delivery, app stores and property/automotive classifieds, along with the role of Google Search in shaping B2C platform competition. The choice of this area for the online inquiry was that these platforms affect real business activity across a wide range of the economy.

The Commission has subsequently also launched the Media and Digital Platforms Market Inquiry (MDPMI)²⁵ into the distribution of media content on digital platforms, including search, social media and news aggregation platforms. The inquiry will focus on “whether there are any market features in digital platforms that distribute news media content which impede, distort or restrict competition, or undermine the purposes of the Act, and which have material implications for the news media sector of South Africa. The news media sector includes news publishers and broadcasters, including the public broadcaster, the South African Broadcasting Corporation and small, local, and community media organisations, given the integration of video into search and social media, and the news publisher moves into video content.”

Notably, the inquiry will also evaluate the impact on competition of the current and future integration of generative AI systems in relevant digital platforms, including the AI review and assimilation of news media content and the use of generative AI in the online distribution of news media.

²³ <https://c4ir.co.za/>

²⁴ <https://www.compcom.co.za/online-intermediation-platforms-market-inquiry/>

²⁵ <https://www.compcom.co.za/media-and-digital-platforms-market-inquiry/>

7. Government Communication and Information System (GCIS)²⁶

Officially launched in May 1998 and established in terms of Section 7 (subsection 2 and 3) of the Public Service Act, 1994, as amended, the GCIS recognises that it has become increasingly important for governments around the world to leverage AI platforms to reach and engage with their citizens.

The GCIS:

- provides professional services;
- sets and influences adherence to standards for an effective government communication system;
- drives coherent government messaging; and
- proactively communicates with the public about government policies, plans programmes and achievements.

Its vision is to empower South Africans through communication excellence. It achieves this by aiming to deliver effective strategic government communication; setting and influencing adherence to standards and coherence of messaging and proactively communicating with the public about government policies, plans, programmes and achievements.

8. Department of Cooperative Governance and Traditional Affairs (CoGTA)²⁷

In 2018 CoGTA partnered with a private company to launch GovChat, an online citizen engagement application designed to promote responsive and accountable local government through the development of an accessible platform for direct messaging between citizens and their local government councillors.

The COGTA Ministry comprises of the Department of Cooperative Governance and the Department of Traditional Affairs. It aims to establish a functional and developmental local government system that delivers on its Constitutional and legislative mandates within a system of cooperative governance²⁸. Its mission²⁹ is to ensure that all municipalities perform their basic responsibilities and functions consistently by:

- Putting people and their concerns first;
- Supporting the delivery of municipal services to the right quality and standard;
- Promoting good governance, transparency and accountability;
- Ensuring sound financial management and accounting; and
- Building institutional resilience and administrative capability.

²⁶ <https://www.gcis.gov.za/>

²⁷ <https://www.cogta.gov.za/>

²⁸ This Vision is in line with the objectives of Chapter 13 of the National Development Plan: 'Building a capable and developmental State'

²⁹ This mission is directly adopted from the 5 Pillars of the Back to Basics Campaign.
<https://www.cogta.gov.za/index.php/about-cooperative-governance-traditional-affairs/>

9. The Film and Publications Board (FPB)³⁰

The FPB is responsible for classifying content and works to protect the South African public, and especially children, from exposure to disturbing and harmful materials in films, games, and certain publications.

10. The Information Regulator of South Africa³¹

The Information Regulator of South Africa is tasked with monitoring and enforcing compliance with the legal provisions concerning the protection of personal data, which is integral to the regulation of social networks and other online platforms; as well as the Promotion of Access to Information Act (PAIA).

11. Human Sciences Research Council (HSRC) AI Project³²

The HSRC is committed to developing an AI research and development programme that fosters partnerships between researchers, businesses, the government and civil society. The aim is to ensure that AI technologies are developed and implemented to address the unique challenges South Africa and the Global South are facing. The participants expressed their interest in collaborating on this initiative and emphasised the importance of data sharing, accessibility and bridging the digital divide to ensure that the benefits of AI are distributed equitably.

12. The South African Human Rights Commission (SAHRC)³³

The SAHRC earlier this year published a Social Media Charter³⁴ to create awareness and suggest ways in which social media platforms can be used responsibly. It deals with issues such as harmful expression, defamation, privacy, crimen injuria, harassment and bullying, image based violence, disinformation, misinformation, safety of children and cyber bullying.

B. TERTIARY INSTITUTIONS

13. The Artificial Intelligence Institute of South Africa³⁵

The AI Institute of South Africa is situated at the Johannesburg Business School of the University of Johannesburg, in collaboration with the DCFT and Tshwane University of Technology. The institute is designed to ensure that government, academia and industry work together in applying their collective knowledge, expertise and experience

³⁰ <https://www.fpb.org.za/>

³¹ <https://info regulator.org.za/>

³² <https://hsrc.ac.za/news/review/navigating-the-impacts-of-generative-ai-in-south-africa-challenges-opportunities-and-ethics/#:~:text=Panellists%20noted%20that%20AI%20tools,education%2C%20healthcare%20and%20social%20welfare.>

³³ <https://www.sahrc.org.za/>

³⁴ <https://www.sahrc.org.za/home/21/files/SAHRC%20Social%20Media%20Charter%20FINAL.pdf>

³⁵ <https://aai-sa.co.za/>

to implement coordinated solutions to some of South Africa (and Africa's) most critical and long-standing challenges, and to take the continent forward. This first-of-its-kind institute ushers in a new era in South Africa's digital transformation efforts.

14. The Centre for Artificial Intelligence Research (CAIR)³⁶

Founded in 2011 with the aim of building world class Artificial Intelligence research capacity in South Africa, CAIR is a distributed South African research network with nine established and two emerging research groups across eight universities. It has established nodes and research networks with universities funded primarily by the Department of Science and Innovation (DSI).

CAIR's mandate is to:

- develop world class research capability in South Africa in the identified areas of AI;
- establish a network of AI research chairs;
- train masters and doctoral students in AI;
- through consolidated, applied AI research initiatives, support sustainable and effective socio-economic development;
- enable meaningful, ethical and informed societal interaction with AI technologies;
- advise industry, government and NGOs in the utilisation of AI for social and economic advancement;
- reduce the cost of adopting and use of AI;
- build an accredited national and international AI research network that promotes AI research and technology in South Africa; and
- contribute to the broader access to AI technologies and tools in South Africa.

CAIR conducts foundational, directed and applied research into various aspects of AI through its nine established research groups:

- Adaptive and Cognitive Systems;
- AI and Cybersecurity;
- AI for Development;
- Applications of Machine Learning;
- Computational Logic;
- Ethics of AI;
- Foundations of Machine Learning;
- Knowledge Representation and Reasoning, and
- Probabilistic Modelling.

³⁶ <https://www.cair.org.za>

CAIR also has two emerging research groups: Swarm Intelligence and Speech Technologies.

The academics leading the individual research groups in CAIR are established researchers in their research focus areas, contributing to the advancement and thought leadership in the various disciplines constituting AI.

CAIR is structured as a hub-and-spoke model with established groups at seven universities - the University of Cape Town, the University of KwaZulu-Natal, North-West University, the University of Pretoria, Stellenbosch University, the University of the Western Cape and the University of Johannesburg. CAIR also has emerging groups at Sol Plaatje University and the University of Limpopo.

It is virtually hosted and coordinated by the Council for Scientific and Industrial Research (CSIR). The CAIR Directorate is located in the Department of Computer Science at the University of Cape Town.

Which public/non-public actors specialise in detecting, analysing and monitoring harmful content?

In South Africa, as in many other countries, the responsibility of detecting, analysing, and monitoring harmful content is shared across various public and non-public actors. In addition to the SAHRC mentioned above, here are some entities that are typically involved in these tasks:

A. STATE INSTITUTIONS

1. *The Independent Communications Authority of South Africa (ICASA)*

ICASA is the regulator for the South African communications, broadcasting, and postal services sector. It is responsible for licensing broadcasters, managing the radio frequency spectrum, and ensuring competition within the sector.

This regulatory body oversees the broadcasting sector and ensures that broadcasters adhere to the code of conduct which includes provisions for not airing harmful content.

2. *Film and Publications Board (FPB)*

The FPB classifies films, games, and certain publications to protect the public from content that is harmful, especially to children.

3. South African Police Service (SAPS)³⁷

In instances where harmful content may constitute a criminal offense (e.g., child pornography, incitement to violence), the police are involved in the investigation and enforcement.

4. The South African Judiciary³⁸

Courts in South Africa are often called upon to adjudicate cases involving media rights, free speech, and regulations around the information space.

B. PRIVATE/NON-PUBLIC/CIVIL SOCIETY

5. Political Parties and Civil Society Organizations

Various political parties and NGOs might also influence public policy regarding the information space through advocacy, policy proposals, and public discourse.

6. Media Monitoring Africa (MMA)³⁹

MMA is a non-profit organization that monitors media within South Africa to promote ethical journalism that supports human rights.

7. South African National Editors' Forum (SANEF)⁴⁰

While not directly involved in monitoring, SANEF promotes excellence in journalism, media freedom and access for information via advocacy work, research, education and training programmes.

8. South African Press Council

The SA Press Council issued a guidance note on AI and journalism on 28 November 2023 (see Appendix B), on how the ethical principles in **The Press Code of Ethics and Conduct for South African Print and Online Media⁴¹** apply to the use of AI in the newsroom.

9. Internet Service Providers (ISPs)

While not typically monitoring content themselves, ISPs may respond to takedown requests and cooperate with law enforcement when unlawful content is identified.

³⁷ <https://www.saps.gov.za/>

³⁸ <https://www.judiciary.org.za/>

³⁹ <https://www.mediamonitoringafrica.org/>

⁴⁰ <https://sanef.org.za/>

⁴¹ The Press Code of Ethics and Conduct for South African Print and Online Media, accessible here.

10. Cybersecurity Entities

With the increase in digital communications, cybersecurity is also becoming an integral part of regulating the information space. The government has established structures and policies to address these issues, such as the National Cybersecurity Policy Framework (NCPF)⁴².

The data policies in SA become relevant here. AI applications in the media sector often involve the processing of vast amounts of personal data. A wide range of data-related issues, including governance, ethics, privacy, and data quality, are affected by AI.

11. Fact-Checking Organisations

Groups that specialise in fact-checking (such as Africa Check⁴³ for example) can be involved in identifying and responding to harmful misinformation and disinformation.

C. MEDIA ORGANISATIONS

Also active in the information space are various media organisations - notably public, community and commercial media. A recent report from an expert panel on media ethics and credibility stated that ‘the current financial predicament and possible fate of the media industry cannot be viewed independently from the general South African environment.’⁴⁴

South Africa is the most unequal country in the world.⁴⁵ Around one in three people lives in extreme poverty,⁴⁶ and the unemployment rate (32.9 percent at the time of this writing) is one of the highest globally.⁴⁷ These social conditions form the context in which the media do their work.

The South African Broadcasting Corporation (SABC), the **public service broadcaster**, provides television, radio and online services in eleven languages across several platforms, free-to-air on terrestrial (DTT) and on satellite Direct-to-Home (DTH); SABC+ which is the SABC’s streaming platform and SABC Digital News. The SABC has the widest reach of all media organisations in the country. This is often the only source of information for large parts of the population.

42 https://www.gov.za/sites/default/files/gcis_document/201512/39475gon609.pdf

43 <https://africacheck.org/>

44 Kathleen Satchwell, Nikiwe Bikitsha, and Rich Mkhondo, Independent Panel Report Inquiry into Media Ethics and Credibility (South African National Editors’ Forum, February 2021), <https://sanef.org.za/wp-content/uploads/2021/02/Satchwell-Report.pdf>.

45 Inequality in Southern Africa: An Assessment of the Southern African Customs Union (World Bank, 2022), <https://elibrary.worldbank.org/doi/abs/10.1596/37283>

46 See: Natalie Cowling, “Number of people living in extreme poverty in South Africa from 2016 to 2025,” Statista, April 26, 2023, <https://www.statista.com/statistics/1263290/number-of-people-living-in-extremepoverty-in-south-africa/>.

47 Beyond Unemployment—Time-related Underemployment in the SA labour market,” Stats SA, May 16, 2023, <https://www.statssa.gov.za/?p=16312>.

Commercial media are ‘highly concentrated in the hands of a handful of big conglomerates’, such as Naspers (which owns Media24 and News24 - the most popular online publication in the country), Multichoice, Independent Media, Arena and Caxton Publishers.⁴⁸ Today, commercial media are frequently accused of primarily serving socio economic ‘elites’, as this group has the most purchasing power, and is most attractive to advertisers.

Community media — media developed by and for local communities — play a vital role in serving sections of the public not served by commercial or public media. At present, there are more than 280 community radio stations,⁴⁹ and over 200 community-driven print and online publications.⁵⁰

The final category of relevance here is **independent media** — that is, organisations that strive to maintain a high level of editorial independence. These are often (although not always) structured as non-profits, relying on donor funding to sustain themselves. Many of these organisations — such as amaBhungane and GroundUp — punch well above their weight, using investigative journalism and strategic litigation to reshape national discourse.⁵¹ However, it’s worth noting that the line between independent and commercial media is often blurred, with some commercial entities (like the Mail & Guardian) priding themselves on their high level of editorial independence despite their commercial structure, and as with other organisations (such as the Daily Maverick), relying on a mix of donor funding, membership fees, and advertising revenue to sustain themselves.

Regulation is not widely opposed in this space in principle, although the specifics of different policies have frequently been challenged and negotiated, as for example in the case of the recent draft white paper on ‘Audio and audiovisual media services and online content safety: a new vision for South Africa’ (July 2023).⁵²

The issue of media viability and sustainability is intricately impacted by the reality of the global technology companies (see more on the Competition Commission’s MDPMI above). This is even more pronounced for the public broadcasting sector. It is expected that AI will compound existing issues of media viability.

48 Herman Wasserman, “The state of South African media: a space to contest democracy,” *Publizistik* 65 (2020): 454.

49 Reginald Rumney, *The State of the News Media: An update to SANEF’s 2020 Covid-19 interim report and some cross-cutting issues* (South African National Editors Forum, 2022), <https://sanef.org.za/wp-content/uploads/2022/08/State-of-the-Media-June-2022-SANEF.pdf>, 7.

50 Alan Finlay, ed., *State of the Newsroom 2021* (Wits Centre for Journalism, November 2022), https://journalism.co.za/wp-content/uploads/2022/11/SON_Final_for-circulation_November_2022.pdf, 21.

51 *Ibid.*

52 See https://www.gov.za/sites/default/files/gcis_document/202307/49052gen1934.pdf.

II Recommendations

SETTING THE SCENE

The regulation of technology systems, including information and communications technologies, has been a common feature of the South African policy environment, certainly since 1994, spanning technical regulation, market regulation, and social regulation. The scope of regulation has extended from assignment of frequency spectrum, licensing the provision of networks, communications services, and broadcasting services.

The rapid explosion of AI and the rate at which it has become ubiquitous in our everyday lives has prompted calls from South African organisations for regulation of some kind. The appearance of Generative AI, and its rapid adoption by millions of users beyond the confines of research laboratories somehow has given rise to an added sense of urgency to these calls for regulation. There are a divergent range of views on what it is and how it needs to be regulated.

This trend is more or less similar to what has occurred in countries across the globe which has seen the appearance of a wide range of responses to AI regulation based on sectoral interests. Divergent views and competing interests have also been expressed at multi-stakeholder forums convened to achieve consensus.

Despite the ability to achieve substantive consensus on what type of regulation may be needed, a common refrain is emerging from these various initiatives: that regulation, assuming it is possible and desirable, must strike a balance between protections from foreseeable risks and stifling innovation. For example, there may be agreement that government regulation is necessary to ensure the most basic of safeguards⁵³ to prevent unintended consequences from design to deployment of systems.

It is clearly neither possible nor desirable to regulate every aspect of AI systems. The range of different domains can extend from basic research⁵⁴ right through to consumer applications.

The question was raised about whether it is possible to regulate aspects of AI under existing legislation in South Africa. Legislation such as the Electronic Communications Act provides for the licensing of the deployment of communications infrastructure, the establishment of telecommunications networks, and the establishment of data centres and internet service providers. In addition, the legislation provides for the regulation of broadcasting services which are required to provide original news and information services as part of their licence conditions.

The current regulatory regime was designed for an industrial economy. A new mix of regulatory instruments designed for a digital economy is required. In the short to medium term, and, where necessary and appropriate, existing laws can be used to bring AI within the regulatory net. Since AI applications share the same physical infrastructure as existing telecommunications and other communications services

⁵³ Including physical safety of user equipment, privacy, data protection

⁵⁴ For example, in the field of research regulation may be appropriate so far as it relates to public funding of research, and, how for example copyright would be assigned or how ownership of intellectual property would be determined.

as defined in current laws, there may be instances where government regulation is considered desirable and that existing regulatory instruments can be used, with or without amendments to laws and regulations.

The outcome of discussions around this issue concluded that although AI is not specifically mentioned in the legislation, the technology platforms and physical infrastructure that support AI are subject to regulation, and, as described by Martin Ford, “AI “intersects” with a regulatory framework that is already in place, making it a candidate for legislative amendments and regulatory reform attempting to bring it within a regulatory net.”⁵⁵

The approach adopted by the expert group to the question of AI and its impact on the information space is that we should not be looking directly to legislation to regulate it. What is important is to determine what type of regulation is applied in which cases, who regulates, and where it is appropriate to apply different models such as co-regulation, industry self-regulation, collaborative regulation, and no regulation at all. What is described later as G5 regulation, provides a framework for multi-stakeholder collaboration based on successful outcomes in the ICT sector.

⁵⁵ Martin Ford, 2021, *The Rule of the Robots*, Basic Books, London.

III SA Expert Group Policy Recommendations

Below is a list of potential policy recommendations to tackle the implications of artificial intelligence on the information and communication space. These recommendations address three main areas: guardrails regarding the development and deployment of AI systems, accountability and liability regimes and governance frameworks for enforcement and monitoring.

- i. Guardrails regarding the development and deployment of AI systems**
Guardrails and regulations to be respected in the design, development and deployment of AI applications to ensure that these respect safety standards, existing rules and regulations and to minimise the risks of AI applications to the global information space;

- ii Accountability and liability regimes**
Define accountability and liability regimes for the developers, deployers and users of AI applications with regards to the information produced, curated, moderated and verified through these AI applications; and

- iii Governance frameworks for enforcement and monitoring**
Recommend governance options for the deployment and monitoring of AI applications impacting the information and communication space.

A. Policy Framework

The implications of AI for the information and communication space extend from the physical infrastructure of the technology through to political, economic and societal spheres. As a result it is useful to consider both generally applicable principles that apply to AI and then specific principles that apply to the impact of AI on the information space.

The following recommendations are proposed to guide both global institutions and individual countries and organisations to develop policies and regulations suitable to their specific conditions.

Together, these recommendations aim to create a comprehensive AI ecosystem that supports the safe, ethical, fair development of AI that is beneficial for society. As AI becomes more ubiquitous, states should develop an integrated generative AI policy that strikes a balance between innovation and societal risks.

Implementing these would require a multistakeholder approach: collaboration across governments, industries, and civil society to establish and maintain standards and practices that align with these goals:

- Government should engage diverse stakeholders to establish a comprehensive framework that prioritises ethical guidelines tailored to the local information and communication context.
- Government should support policies that recognise the value of journalism as a public good.
- Newsrooms should establish guidelines and principles on the deployment of generative AI to be monitored by industry self-regulatory bodies .
- Newsrooms should pledge to retain human oversight over the deployment of generative AI through additional editing and fact-checking of outputs before publication.

REGULATION WITHOUT FRONTIERS

Given the global scope of the proposed regulatory initiatives addressing AI, the approach to regulation, although rooted in individual countries, must have global application with effective enforcement mechanisms. Regulation without frontiers implies that the global instruments being considered to address AI are developed with the full participation of nation states, civil society and global organisations who accept the jurisdiction of national and trans-national institutions to govern the diffusion of AI.

The following section highlights how the current G5 approach to regulation of ICT globally can provide a stakeholder collaboration framework for the proposed recommendations on the regulation of AI in the information and communications space.

These recommendations are designed to serve as policy proposals that will in the first instance contribute to the work of the FID working group on AI. The ultimate aim of effective policy is for regulatory authorities and self-regulatory bodies to develop robust regulatory regimes that are appropriate for conditions in their countries. However, there is a growing realisation that regulation of global technology companies is beyond the power and capacity of any individual country's regulatory authorities, and so binding international instruments and practical regulatory tools are required.

The expert group found the horizontal regulatory approach proposed by the EU to be persuasive as a point of departure. It is defined as: 'horizontal regulatory approach to AI that is limited to the minimum necessary requirements to address the risks and problems linked to AI, without unduly constraining or hindering technological development or otherwise disproportionately increasing the cost of placing AI solutions on the market⁵⁶.'

The approach to regulation of ICT networks, services and content, now referred to as G5 regulation, provides a framework for developing policy principles, regulatory guardrails, and legal instruments that informs the framework for the recommendations made by the SA expert group.

G5 REGULATION

The changes brought about by the evolution of G5 regulation are captured in the following extracts from the 2021 and 2023 ITU Global Regulatory Outlook:

"Today's effective regulators will rely on sound policy principles, tried-and-tested institutional wisdom and a vanguard spirit – from infrastructure investment to consumer protection to data privacy, and any area where there are no good or bad responses."⁵⁷

56 EU Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act) <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52021PC0206>

57 Global ICT Regulatory Outlook 2020, p.7, https://www.itu.int/dms_pub/itu-d/opb/pref/D-PREF-BB.REG_OUT01-2020-PDF-E.pdf

The roles and mandates of regulatory authorities have evolved over the past three decades. Their importance as market problem-solvers has grown as telecom networks lay the foundation for digital ecosystems across economic sectors. From watchdogs to referees to stakeholder conveners and partners, their journey through the generations of regulation has mirrored that of market players and consumers firstly of telecom, then of digital services. Regulators have been constantly challenged by the speed of market innovation – and the learning curve has always been steep.

The 2023 report highlights the fact that “institutional capacities of ICT regulators have barely evolved over the past decade and a half, between the 2008 global economic crisis and the 2022 so called ‘polycrisis’. Apart from the merging of a handful of previously independent telecom/ICT regulatory authorities into the sector ministries ... national institutional landscapes have remained stable. One positive trend that has gained momentum is the strengthening of enforcement powers and the authority of ICT regulators to impose sanctions on market players.”

Regulatory mandates have evolved steadily since 2007 and a large majority of ICT regulators have strong traditional mandates in core areas such as licensing, interconnection, price regulation, spectrum management, and universal access and service. New mandates have evolved at a similar pace to traditional mandates yet remain underdeveloped.

Apart from the surge in the number of converged regulators overseeing both the telecom and the broadcasting transmission sector, the other areas are covered by regulatory mandates in fewer than half of countries worldwide. Increasingly intertwined, the areas of broadcasting and internet content are in the purview of around one-third of ICT regulators. Critical but under-recognized areas include cloud computing and IT services – these are covered by regulatory mandates in one-third of countries, mostly members of OECD.

It is against such a backdrop regarding the institutional capacity of policy makers, regulators and indeed industry and civil society organisations to develop meaningful and impactful regulatory instruments that the following recommendations are made.

B. Framework For Policy Recommendations

The following have served as a macro-policy framework for the recommendations developed by the SA Expert Group.

A. UNESCO GUIDELINES FOR THE GOVERNANCE OF DIGITAL PLATFORMS

In November 2023 UNESCO issued a set of **Guidelines for the Governance of Digital Platforms** (the Guidelines) to ‘safeguard freedom of expression and access to information through a multi-stakeholder approach’. The guidelines outline a set of duties, responsibilities and roles for states, digital platforms, intergovernmental organisations, civil society, media, academia, the technical community and other stakeholders to enable the environment where freedom of expression and information are in the core of digital platforms governance processes⁵⁸.

The Guidelines use as a departure point the 2021 **Windhoek +30 Declaration**, which asserted that information is a public good and set, among the goals, three steps to guarantee information as a shared resource for the whole of humanity: the transparency of digital platforms, citizens empowered through media and information literacy, and media viability. ‘Information empowers citizens to exercise their fundamental rights ... and allows for participation and trust in democratic governance and sustainable development, leaving no one behind.’⁵⁹

In addition, the Guidelines draw on UNESCO’s **Recommendation on the Ethics of Artificial Intelligence**, which calls for international and national policies and regulatory frameworks to ensure that emerging technologies benefit humanity as a whole.⁶⁰

The Guidelines describe the areas where digital platforms should have systems and processes in place to assess risk; to curate and moderate content based on international human rights standards; to empower users through media and information literacy, and to be accountable through reporting mechanisms and redress in order to safeguard freedom of expression, access to information, and other human rights.⁶¹

58 UNESCO, *Guidelines for the Governance of Digital Platforms*, accessible here; p3

59 *Idem*, p13

60 *Idem*, p13

61 *Idem*, p15

The Guidelines state that digital platforms should comply with five key principles:⁶²

- a. *Platforms conduct human rights due diligence, assessing their human rights impact, including the gender and cultural dimensions, evaluating the risks, and defining the mitigation measures.*
- b. *Platforms adhere to international human rights standards, including in platform design, content moderation, and content curation. Platforms should follow relevant international human rights standards, including the UN Guiding Principles on Business and Human Rights. Design should ensure non-discrimination and equal treatment and that harm is prevented; content moderation and curation policies and practices should be consistent with human rights standards, whether these practices are implemented through automated or human means, with knowledge of local languages and linguistic context as well as respect for cultural diversity, and adequate protection and support for human moderators.*
- c. *Platforms are transparent and open about how they operate, with understandable and auditable policies as well as multistakeholder-designed metrics for evaluating performance. This includes transparency about the tools, systems, and processes used to moderate and curate content on their platforms, including in regard to algorithmic decisions and the results they produce.*
- d. *Platforms make information accessible for users to understand the different products, services, and tools provided, and to make informed decisions about the content they share and consume. Platforms provide information and enable users' actions in their own languages and consider users' age and disabilities.*
- e. *Platforms are accountable to relevant stakeholders-including users, the public, and actors within the governance system-in implementing their terms of service and content policies. They give users the ability to seek appropriate and timely redress against content-related decisions, including both users whose content was taken down or moderated and users who have made complaints about content.*

On the role of civil society and other stakeholders, the Guidelines state:⁶³

Media outlets, fact-checking organizations, and the professionals within these institutions are important stakeholders and have a role in promoting the enjoyment of freedom of expression, access to information, and other human rights, while performing their watchdog function. Therefore, it is

⁶² *Idem*, p20-21 Note that these principles also apply to the use of AI, and particularly generative AI, as stated on page 7 of the same document.

⁶³ *Idem*, p22-23

necessary to involve the media and its professionals in the regulatory process, recognizing their role as active participants in positively contributing to the digital information ecosystem. A constructive relationship between digital platforms and credible news sources will enhance the role of digital platforms in providing information in the public interest.

The Guidelines effectively provide African states with a framework to implement Principle 39 (6) in the **Declaration of Principles on Freedom of Expression and Access to Information in Africa**⁶⁴ issued in 2019 by the African Commission on Human and Peoples' Rights, which says that 'States shall ensure that the development, use and application of artificial intelligence, algorithms and other similar technologies by internet intermediaries are compatible with international human rights law and standards, and do not infringe on the rights to freedom of expression, access to information and other human rights.'⁶⁵

When defining the digital platforms that should be in the scope of statutory regulation, the regulatory authorities should identify those platforms that have relevant presence, size, and market share in a specific jurisdiction. These should be determined through an independent assessment of the risk they pose to human rights, including of groups in situations of vulnerability and marginalisation, as well as to democratic institutions. The definition of the scope should protect the right to privacy and not result in the weakening of protections for encryption or other privacy-protecting technologies.

B. PARIS CHARTER ON AI AND JOURNALISM JOURNALISTS

In a separate development, in November 2023 a Reporters Sans Frontières committee comprising 32 media specialists from 20 different countries and chaired by Nobel Peace Prize winning journalist Maria Ressa released a charter defining a set of ethics principles to protect the integrity of news and information in the age of AI, in anticipation of new technologies poised to dramatically transform the media industry. The Paris Charter on AI and Journalism Journalists⁶⁶ is intended as a guide for newsrooms and media outlets globally to use and adopt the following principles for use in their work with artificial intelligence:⁶⁷

- Journalism ethics guide the way media outlets and journalists use technology.
- Media outlets prioritise human agency.
- AI systems used in journalism undergo prior, independent evaluation.
- Media outlets are always accountable for the content they publish.

64 [ACHPR 2019 Declaration on Principles on Freedom of Expression and Access to Information in Africa, accessible here](#)

65 [Idem, p25](#)

66 [Paris Charter on AI and Journalism, accessible here.](#)

67 [Idem, to read the full text of each of the principles](#)

- Media outlets maintain transparency in their use of AI systems.
- Media outlets ensure content origin and traceability.
- Journalism draws a clear line between authentic and synthetic content.
- AI-driven content personalisation and recommendation upholds diversity and the integrity of information.
- Journalists, media outlets and journalism support groups engage in the governance of AI.
- Journalism upholds its ethical and economic foundation in engagements with AI organisations.

C. THE JOURNALISM TRUST INITIATIVE (JTI)

The Journalism Trust Initiative assists us in understanding how to distinguish between media that invests in and complies with ethical standards and transparency and companies spreading disinformation. One way is to look at industry standards and certification which has never been done in the field of journalism. This is what the JTI seeks to do, not to regulate content but to manage media transparency and adherence to charters. The standard was published in 2019 and it is now undergoing the certification process which is done by an independent 3rd party. The FID is now working on the benefits of being a signatory which include the promotion of signatories on tech platforms.

Policy Recommendations

The speed at which AI is advancing makes it impossible for legislative processes to keep up. Instead of knee-jerk reactions that are both ineffective and risk stifling creativity, innovation and impede human rights, proposals are to establish national agencies with regulatory powers focused on applications of AI. This is one of the proposals put forward in the FID Concept Note and which the SA Expert Group supports and around which we have made some specific recommendations.

A Note on Technical Challenges:

Technical complexity: several of the policy and technical solutions proposed – such as requiring that content be watermarked, or that AI systems are accompanied by “detection mechanisms” to discern the origin of content – while being good ideas, do not appear to be technically possible at present. There is currently no way to reliably detect if content is AI-generated. This does not mean that these aren’t good goals to advocate for, but it cannot be used as setting the bar for the release of AI systems.

In our context, the biggest challenge AI poses to the information space is that its use stretches beyond structuring the flow of information in digital space (in the form of content recommendation algorithms), as AI systems can now act as participants in these spaces, building personal relationships with users. In the context of the media sustainability crisis, where big tech platforms have decimated media revenue by profiting off of advertising, and where these platforms have made decisions in how platforms are designed that reduce the incentive to produce information that is true by instead maximising for engagement, AI is primed to come into this environment and exacerbate existing trends. The lack of any viable business model for a media organisation that prioritises truth (outside of subscription models, which in the South African context appear insufficient to keep organisations afloat, judging by the number of subscribers to platforms like News24 and the Daily Maverick) suggests that impartial, objective news is likely to become harder to come by.

Guiding Principles

The adoption of a common and universal set of values and principles is essential, to underpin all legal instruments including human-centric design principles and objectives for AI. These can be modelled on existing generally applicable UN conventions, or more specific instruments such as UNESCO’s Recommendation on the Ethics of Artificial Intelligence, and the OECD’S Recommendation on Artificial Intelligence.⁶⁸

While values and principles are crucial to establishing a basis for any ethical AI framework, recent movements in AI ethics have emphasised the need to move beyond high-level principles and toward practical strategies. The Recommendation does just this by setting out **eleven key areas for policy actions**.



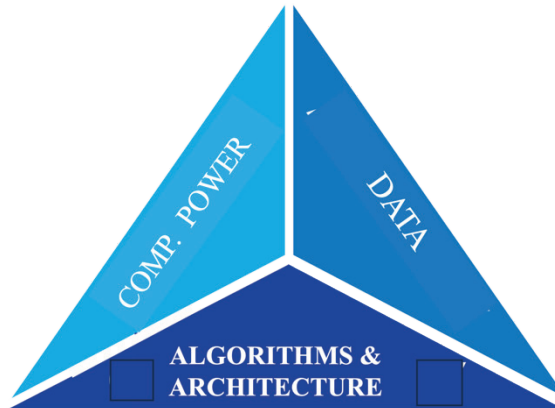
68 <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0449>

A. GUARDRAILS REGARDING THE DEVELOPMENT AND DEPLOYMENT OF AI SYSTEMS

1. At a national level a set of industry wide principles or standards need to be adopted. This ought to mirror the spirit, intention and objectives of the Constitution, which is the supreme law in South Africa. The Constitution is human centred and espouses values of openness and accountability. Hence, development and/or deployment standards will need to align to the existing supreme law. The overall guiding principle should be ‘do no harm’ to ensure that AI is not used for fraudulent or ulterior purposes.
2. The protection of personal information and incorporation of privacy safeguards needs to be baked into the development and deployment of AI systems. Despite the existence of the consent requirement in the Protection of Personal Information act (POPIA), the quality of consent is questionable. Studies have shown that people do not read terms and conditions before accepting same and given the low levels of adult literacy, comprehension of esoteric legal terms is most likely dismal. When privacy and data protection is embedded into the design of AI systems, this unburdens consumers and the relevant law enforcement agencies.
3. AI systems ought to be treated like open-source software. This promotes transparency by creating a widely available repository of the functional and technical specifications of AI systems. Data quality assurance mechanisms would also fall under this recommendation. These would be mechanisms to ensure that data is properly sourced and does not lead to prejudicial outcomes like racial profiling, etc. The end-to-end process needs to be well documented.
4. Avoid enacting national legislation to regulate the development and deployment of AI systems at this stage. Law is by nature reactive and legislation is an incredibly blunt instrument. AI in the information space is novel. Accordingly, it is not ideal to use legislation to lead and/or direct a novel sector. Legislation in this particular instance, at this particular time could stifle innovation, which progressive and open societies thrive on. However, this does not mean that issues like copyright infringement in the context of AI should not be regulated. This recommendation specifically relates to the development and deployment of AI in the information space.
5. The technology to detect AI-generated content must keep pace with the advancements in AI that make detection more challenging. This is an arms race that requires sustained investment and international collaboration to ensure the integrity of information ecosystems.

B. GOVERNANCE OF AI SYSTEMS

1. We must distinguish between types of AI that we should care about and differentiate between machine learning algorithms that sort content on X, Facebook etc and the more general tech that can be applied anywhere. AI can be seen as a triad.
 - The data
 - The computing power
 - Algorithms and architecture



2. The trend in the past five years has been on scaling up the amount of data and power used to train the systems. Machine learning is very complex and even the developers don't understand the technology - there is a technical gap, making requests for transparency and enforcement an unsolved technical challenge.
3. In the socio-political context, most tech is being developed by private sector companies in the US and quasi private companies in China where pre-existing regulatory cultures constrain what kind of regulation is possible, therefore we need to bear in mind what is possible in SA.
4. These systems are far more powerful than anyone ever imagined and the scope for future harm and info space pollution is real. In the international context, countries and regions are trying to formulate policies and guidelines relating to AI. When regulating we must ask what is technically possible.
5. How does this all impact the information space? The information ecosystem comprises:
 - Digital and legal structures
 - Participants who are creating, consuming and sharing info; and
 - Info itself

Historically, AI modulated the structures but it is now a participant in the ecosystem and is creating its own content. AI is changing the entire process of news creating and gathering.

6. In the context of traditional media and the media sustainability crisis we can see already that social media platforms have swallowed up a lot of traditional ad spend and these platforms prefer to measure their success by engagement to working with the truth. AI is exacerbating these trends.
7. Big tech companies may be paying subsidies to some news organisations but are still unwilling to be transparent around the application of algorithms in their content creation and distribution. Subsidies do not protect journalistic integrity.
8. What else needs to happen? More transparency regarding revenue splits. How will advertising models that sustain tech platforms currently modulate AI's impact?
9. The judiciary remains the strongest branch of government in South Africa at the moment and the foreseeable future. Parliament and the Executive are hemmed in by party politics and often factional battles within the same party. The rule of law remains intact in South Africa and courts are the final arbiters of legal issues. Accordingly, this avenue remains viable, workable and effective.
10. Public awareness initiatives are required. Members of the public need to be properly informed about AI systems and how they can participate in policy and regulatory processes around AI. South Africa has extensive experience and capabilities to run mass public awareness campaigns as demonstrated in the country's efforts to tackle the prevalence of HIV/AIDS and TB.

The following should be part of a minimum set of principles

Transparency Standards

11. Implementing transparency standards is a balancing act that requires nuanced policies to protect trade secrets while still upholding the public's right to understand AI systems that impact their lives. This might involve tiered access to information or contextual transparency that is adapted to different stakeholder needs.

Disclosure About Synthetic Content

12. The disclosure about synthetic content should ensure that *consumers* can distinguish between AI-generated and human-generated content. The debate hinges on whether the specific identity of the creator is necessary or whether it is sufficient to label the content as synthetic.

Complaint and Redress Procedures

13. Effective complaint and redress mechanisms must be user-friendly and responsive. They should provide clear avenues for recourse and be backed by the authority to enforce changes when AI systems cause harm.

Policy Recommendations

- Establishment of an industry led dedicated AI authority;
- Establishment of an advisory board to enable public participation;
- Provide a clear role for national courts; and
- Involve experts in AI governance

The expert group also identified the issue of antitrust and competition concerns – the use of AI in media may raise antitrust or competition concerns. Regulation might look into whether some AI uses result in monopolistic practices or unfair advantages.

The gulf between policy makers and technical capacity was acknowledged but how much detailed knowledge of the workings of AI is required to develop policy?

The intention around the establishment of these dedicated AI institutions is specifically to bridge this gap but whilst there are licensing structures in the sector, do we leave content creation unregulated so as not to stifle innovation?

An industry led local authority, to whose code members subscribe, would be an effective governance enforcement mechanism. The main role of the body shall be ensuring compliance with the universal principles and standards and holding members accountable through instruments like administrative fines and penalties for non-compliance.

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C. ACCOUNTABILITY & LIABILITY REGIMES FOR THE DEVELOPERS, DEPLOYERS, USERS & SUBJECTS OF AI SYSTEMS

The independent industry led authority referred to under the governance section above is applicable here as well. To reiterate, accountability and liability regimes shall entail the issuing of compliance notices and administrative fines and penalties. The body shall by and large be a creation of the industry itself to hold itself accountable for deviations from the established principles and values.

The following requirements would be the minimum requirements for either membership, or licensing or other forms of regulation:

1. Disclosure Requirements

Mandatory disclosures could be modelled after nutritional labelling on food, providing users with clear, standardised information on how AI is being used, its data sources, and potential biases.

While platforms may require proof of personhood to curb bots and misinformation, this should be balanced with the right to privacy. Alternatives could include behavioural verification methods that do not require revealing personal identity, thereby preserving user privacy.

2. Risk Assessments

Risk assessments need to be part of an ongoing process, not just a one-off checklist before deployment. This means continuous monitoring and updating of AI systems to respond to new threats and to ensure they adapt to changing contexts and user needs.

The same rules application should be used as that used in the approach to open-source systems. The same ethical and risk management rules should ideally apply. Open-source development can be encouraged through grants and incentives while establishing community-led governance for oversight. The enforcement mechanisms may differ due to the decentralised nature of open-source projects.

Research systems developed for research might be exempt from some regulations but should still adhere to ethical standards, especially when human subjects are involved.

3. Risk Management Inspirations from Other Sectors

For example:

- (a) **Banking Regulation**
The multi-layered risk assessment and mitigation strategies used in banking, including stress testing and mandatory reserves, could inspire AI risk management.
- (b) **Environmental Protection**
The precautionary principles used in environmental regulation can inform AI development, ensuring systems do not cause harm before they are deployed.

4. Liability Approach in AI

(a) Fault-Based or Strict Liability?

A fault-based liability approach holds creators responsible if negligence can be proven, whereas strict liability would hold them accountable regardless of fault. The choice between these depends on the type of AI and its potential for harm. High-risk applications might warrant a strict liability approach to ensure greater caution in development and deployment.

(b) Burden of Proof

Traditionally, the burden of proof lies with the person who has suffered harm. However, given the complexity of AI systems, there could be an argument for shifting the burden of proof to the developers or deployers of AI, especially in strict liability scenarios where proving negligence is not required.

D. GENERAL RECOMMENDATIONS

1. Protection of Sources

In journalism, protecting sources is critical for freedom of the media, of opinion and of expression. Disclosure requirements should not undermine this principle. A potential solution could involve independent verification entities that confirm the synthetic nature of content without revealing sensitive information about sources.

2. Norms and Design Principles

Creating a robust ethical AI framework is not just about setting standards; it involves a *cultural shift* within organisations. Ethical AI design should also consider the long-term societal implications of AI, pushing developers to consider the broader impact of their work on social structures and individual well-being.

To establish principles for AI design and objectives we need to continue applying existing norms such as privacy, transparency, and accountability mechanisms from sectors such as healthcare and finance.

With respect to enforcement, adherence can be enforced through industry-led regulatory bodies, similar to financial audits, and through legal requirements with penalties for non-compliance.

3. Industry Codes of Conduct

While codes of conduct can establish a baseline for behaviour, their real-world effectiveness hinges on consistent application and the presence of consequences for violations. They should be accompanied by educational programmes that reinforce their importance and help embed ethical considerations into the daily workflow of AI professionals.

SANEF notes several tenets to be followed in designing an effective code in the South African context. These include the need for ‘transparent, widely accepted, and industry-developed standards to measure the credibility and public interest value of news publishers’ in order to decide who can participate in negotiations and to ensure that community and independent media organisations are meaningfully included in bargaining processes; for decisions around participation and compensation to be made fairly and transparently (which necessitates the disclosure of with whom deals are reached, and on what terms); and for digital platforms to disclose the ‘volume and value of digital advertising transactions in South Africa so that media organisations can better understand how revenue is divided.’⁶⁹

4. AI as Basic Infrastructure/Public Utility:

Essential AI systems, like those used in public services (e.g., emergency response, education, health, etc.), could be considered public utilities to ensure broad access and reliability. As with other public utilities, AI systems would be subject to stringent regulation to ensure they serve the public interest without discrimination.

5. Public Data Training Sets

Regarding the creation and use of AI, standardised, high-quality public datasets can be created, ensuring that companies have a baseline for training AI systems. This helps address biases and promotes fairness.

Defining harmful content or disinformation should be a democratic process (i.e. a participatory process), involving experts from various fields, civil society, and the public.

6. Incentives for Positive AI Development and Use:

Incentives for the positive development and use of AI should be developed. Some are:

(a) Financial Incentives

Tax breaks, grants, and subsidies could be provided for projects that demonstrate ethical AI use and contribute positively to society.

⁶⁹ SANEF Position Paper: The Sustainability of Journalism And Competition In The Digital Economy

- (b) Recognition Programmes
Awards and certifications for ethical AI could incentivize companies to adhere to high standards.
- (c) Market Access
Preferential market access or government contracts could be given to companies that meet certain ethical AI criteria.

7. AI Literacy Programmes

AI literacy is not just about understanding how to use AI but also about understanding its implications for society and individual rights. These programmes should be integrated into media, information and digital literacy programmes on all levels of education and include critical thinking about technology's role in society.

8. International AI Safety Standards

The idea here is to have a universally accepted framework that outlines safety protocols for AI, much like the Waigani Convention/ Bamako convention/ Basel Convention does for the management of hazardous wastes. This could include standards for AI system design, development, testing, and deployment processes, ensuring that they are safe, ethical, and respectful of human rights. The challenge lies in getting global consensus and compliance, given the diverse interests and capabilities of different nations.

9. International Certification

An international certification body for AI could help set global standards for ethical AI, much like the ISO standards in other industries. This would require broad international consensus and mechanisms for enforcement.

10. Access for Researchers and Civil Society Organisations

Granting access to external researchers and civil society organisations can help uncover unintended biases or misuse. However, frameworks to facilitate this access must be carefully designed to prevent exposing sensitive data or proprietary algorithms.

11. Enforcement on Malicious Actors

The strategies to be applied here would necessitate international cooperation, cyber-surveillance, and legal action. There must be a global consensus and legal framework to address malicious use across jurisdictions.

OTHER POTENTIAL SOLUTIONS

Beyond the formal, legal and normative standards proposed above a number of additional practical and technological solutions can be deployed as part of the overall regulatory architecture. Some of these include tools and techniques adopted in different economic sectors, including the regulation of ICT. As mentioned above, the institutional capacities of many ICT regulators have been constrained as they have battled to keep up with the pace of technological change especially in the past two decades.

As new policy proposals are developed as part of this FID initiative, it will be valuable to consider these constraints, and for the policy proposals and recommendations to be accompanied for example by additional documentation such as stakeholder collaboration templates, model laws and regulations, guidelines for developing policies, research agendas and the like. This makes it possible for the “heavy lifting” to be done by well-funded global organisations. This does not detract from the autonomy of any parties but makes available to those who for example need “off-the-shelf” draft memoranda of cooperation on AI regulation between various state agencies and between them and other private sector and civil society organisations. This example would facilitate the multi-stakeholder approach and cooperative regulation envisaged for the future.

The following are some preliminary proposals:

i. Regulatory Sandboxes

These are controlled environment platforms where AI technologies can be tested with real-world data and interactions without full-scale deployment. They allow regulators to observe AI systems in action and identify issues while containing risks. This is particularly useful for testing in sensitive areas like healthcare, finance, and autonomous vehicles.

ii. AI Impact Statements

Before deploying AI systems, organisations could be required to evaluate and document the potential impacts of their systems, similar to environmental impact statements. This process would involve examining how an AI system affects societal dynamics, individual rights, and specific groups, with the goal of identifying and mitigating potential harms before they occur.

iii. AI Auditing Frameworks

Third-party audits provide an objective method for evaluating AI systems. These frameworks could assess the system’s design and decision-making processes, its adherence to ethical guidelines, data privacy standards, and the potential for bias or discrimination. It’s akin to financial audits but focused on the ethical and societal dimensions of technology.

iv. Global Incident Database

A centralised database of AI-related incidents would serve as a valuable resource for understanding the types of risks associated with different AI systems and applications. It would allow developers, policymakers, and researchers to learn from past mistakes and adapt best practices, similar to how aviation incidents are tracked and analysed to improve safety.

v. Whistleblower Protections

Protecting individuals who report unethical practices in AI is critical for maintaining ethical standards. These protections would encourage more people to come forward without fear of retaliation, which is vital for transparency and accountability. It could help unearth issues that internal checks might miss or choose to overlook.

TECHNOLOGICAL SOLUTIONS

i. Explainable AI (XAI)

XAI is about making AI's decision-making process transparent, providing insights into how and why decisions are made. This is crucial for trust and accountability, especially in applications with significant consequences, such as in criminal justice or credit scoring.

ii. Robust AI

Robustness in AI refers to the system's ability to function under a variety of conditions and to withstand attempts to manipulate its operations. This includes building AI that is resistant to adversarial attacks and can maintain performance when faced with unexpected data or situations.

iii. Bias Mitigation Tools

These tools are designed to detect and address biases in AI algorithms, which can stem from skewed datasets or flawed design. The goal is to ensure AI systems operate fairly and do not perpetuate or exacerbate existing inequalities.

iv. Secure Data Sharing Platforms

Facilitating the sharing of data and models between organisations can accelerate AI development, but it must be done in a way that respects privacy and security. Such platforms would use encryption, access controls, and possibly blockchain technology to ensure data is shared without compromising sensitive information.

Main Implications Of AI On The Information and Communication Space



The main implications of AI in the information and communication space in South Africa would likely encompass several key areas:

- **MEDIA AND JOURNALISM**⁷⁰

AI can transform how news is gathered, produced, and distributed. Automated reporting and AI-curated news feeds could lead to faster dissemination of information but also raise concerns about the quality and bias of AI-generated content.

IMPORTANCE: Ensuring the reliability and credibility of AI in journalism is particularly important to maintain an informed public and protect against misinformation.

- **CONTENT CREATION AND CURATION**⁷¹

AI can generate synthetic content that is indistinguishable from human-created content. This raises ethical considerations around authenticity and the potential for spreading disinformation.

IMPORTANCE: The ethical use of AI in content creation is critical, especially in safeguarding against the proliferation of deepfakes and other forms of disinformation.

- **SOCIAL MEDIA AND ONLINE PLATFORMS**⁷²

AI algorithms dictate what information is shown to users, influencing public opinion and discourse. There's a risk of creating echo chambers and reinforcing societal biases.

IMPORTANCE: Transparency in AI algorithms used by social media platforms is critical to prevent manipulation and ensure a diverse range of viewpoints. The management and regulation of AI during elections must toe the line between preventing disinformation and protecting freedom of speech.⁷³

- **LANGUAGE AND TRANSLATION SERVICES**⁷⁴

With South Africa's linguistic diversity, AI could play a significant role in breaking down language barriers, offering real-time translation and facilitating better communication.

70 <https://aiworldschool.com/research/the-impact-of-ai-in-journalism/#:~:text=AI%20in%20journalism%20helps%20control,is%20quite%20difficult%20and%20tiring.>

71 <https://aicontentfy.com/en/blog/role-of-ai-in-content-curation#:~:text=The%20benefits%20of%20using%20AI%20for%20content%20curation,-Using%20AI%20for&text=One%20of%20the%20most%20significant,content%20for%20a%20particular%20audience.>

72 Ibid.

73 <https://www.verdict.co.uk/how-will-ai-shape-elections-and-what-are-governments-doing-about-it/?cf-view>

74 Athur Gwagwa et al, Artificial Intelligence (AI) Deployments in Africa: Benefits, Challenges and Policy Dimensions (2020) The African Journal of Information and Communication (AJIC) <https://www.scielo.org.za/pdf/ajic/v26/02.pdf> Page 4.

IMPORTANCE: This is particularly important for inclusivity and ensuring that language is not a barrier to accessing information.

- **ACCESS TO GOVERNMENT SERVICES⁷⁵**

AI can streamline interactions with government services, making them more efficient and accessible. However, it can also lead to surveillance concerns.

IMPORTANCE: Balancing efficiency with privacy rights is important in the use of AI for government services.

- **EDUCATION AND AWARENESS**

AI's role in spreading information requires an educated public that can critically assess AI-generated content.

IMPORTANCE: Education about AI is crucial to foster a society that can use AI responsibly and recognize its limitations and biases.⁷⁶

- **TELECOMMUNICATIONS⁷⁷**

AI can optimise network operations and improve customer service through chatbots and personalised experiences. This could enhance connectivity and digital services, crucial for a country with stark urban-rural divides like South Africa.

IMPORTANCE: Enhancing connectivity is vital for equitable access to information and bridging the digital divide.

- **ADDITIONAL IMPLICATIONS COULD INCLUDE:⁷⁸**

JOB DISPLACEMENT: AI in content creation could displace jobs in the journalism and media industry, changing the nature of work and requiring new skills.

INFORMATION OVERLOAD: The ability of AI to produce vast amounts of content could lead to information overload, making it difficult for users to discern important information.

EROSION OF PRIVACY: AI's capability to analyse communication patterns could lead to erosion of privacy if not regulated properly.

75 Ibid.

76 https://policyaction.org.za/sites/default/files/PAN_TopicalGuide_AIData3_Education_Elec.pdf Page 11 -12

77 AI AND DATA IN SOUTH AFRICA'S CITIES AND TOWNS: CENTERING THE CITIZEN https://policyaction.org.za/sites/default/files/PAN_TopicalGuide_AIData4_CitiesTowns_Elec.pdf

78 <https://www.pewresearch.org/internet/2018/12/10/concerns-about-human-agency-evolution-and-survival/>

DIGITAL DIVIDE: The gap between those who have access to AI tools and can understand them and those who do not could widen, leading to a digital divide.

Regarding the listed implications, it's crucial to agree that these are significant and require careful consideration. Each carries weight, but the potential for AI to be used for misinformation and manipulation stands out as particularly critical due to its direct impact on democracy, trust in media, and social cohesion.

Appendices

APPENDIX A

Literature Review

SUMMARY OF READINGS ORGANISED BY TERMS OF REFERENCE

- 1** Background information
- 2** Mapping of key actors
- 3** Regulatory framework and public policy analysis
- 4** Artificial intelligence and its implications regarding the information and communication space

**DATE, AUTHOR,
TITLE**

**2013, Manuel Castells, Communication Power,
Oxford**

In light of the fact that this FID study addresses matters fundamental to understanding AI, this book has been included in the literature review. The Author defines certain key concepts that will inform the analysis framework to be developed by the expert group. Castells is one of the leading theorists on power in the network age, the emergence of the network society and network economy. His book, *Communication Power*, describes the emergence and formation of “global multimedia businesses networks” ... “made possible by public policies characterised by liberalisation, privatisation, regulated deregulation nationally and internationally.”

Castells’ phrase, the Network is the Message, recalls the well-known phrase in communications theory, the Medium is the Message, coined by Marshall McLuhan. This phrase captures McLuhan’s notion that the technology and the media of mass communication, including the printed press, radio, television and more recently the Internet have a fundamental impact on human beings: our psychology, our culture, and our society. In Castells’ formulation the impact is felt through changes in the power relations brought about by social movements based on networks enabled by communications technologies. This network of social actors both rely on the Internet to form the network, but then as the essential communication medium to grow the network.

A third important concept is “mass self-communication”. Here the author introduces the idea that we are no longer in an era of “mass communication” in which a few monolithic media companies generate and diffuse all forms of news, information, and entertainment for consumers.

We are now in the age of “mass self-communication” where consumers themselves are creators of varied content, including what is traditionally news, information, and entertainment, and they have access to distribution platforms, chiefly the Internet, to make this content available to a global audience.

**DATE, AUTHOR,
TITLE**

**2023, Competition Commission South Africa
("COMPCOMM"), Online Intermediation Platforms
Market Inquiry ("OIPMI")**

The Competition Commission formally initiated the Online Intermediation Platforms Market Inquiry ("OIPMI") because the Commission has reason to believe that there are market features of online intermediation platforms that may impede, distort or restrict competition. These intermediation platforms include eCommerce, ... , along with the role of Google Search in shaping B2C platform competition. The choice of this area for the online inquiry was that these platforms affect real business activity across a wide range of the economy.

This Inquiry was followed by the COMPCOMM inquiry into the Media And Digital Platforms Market (MDPM) (see below). This inquiry is ongoing as at October 2023, but reference will be made to the links between the two inquiries.

The relevant market definitions and descriptions of communications platforms and news media will also be reviewed to help shape the focus areas for the FID country assessment. In particular, the focus on platform competition, confirms the importance of regulating online intermediation platforms. As stated in the findings document:

Online intermediation platforms may not be the only distribution channel for business users to reach consumers to sell their products or services. However, they have a unique proposition that has driven growing adoption by both consumers and businesses.

According to the terms of reference for the MDPM inquiry, “there has been development of open source artificial intelligence (AI) applications developed as a language model to interact conversationally to user questions. This type of AI machine

learning falls under generative AI, which describes algorithms that can be used to create new content, including audio, code, images, text, simulations and videos.

Consistent with section 43B of the Act, the MDPMI will focus on whether there are any market features in digital platforms that distribute news media content which impede, distort or restrict competition, or undermine the purposes of the Act, and which have material implications for the news media sector of South Africa. The news media sector includes news publishers and broadcasters, including the public broadcaster, the South African Broadcasting Corporation (“SABC”) and small, local, and community media organisations, given the integration of video into search and social media, and the news publisher moves into video content

A subsequent and consequential inquiry to the OIPMI was launched by COMPCOMM to inquire into the Media And Digital Platforms Market (MDPM). The Commission is aware that globally, there have been several inquiries and investigations led by competition authorities on the impact of digital platforms (e.g., Google and Meta) concerning, amongst others, news media businesses that use these platforms to distribute their content digitally as well as the impact on their generation of revenue. Due to the prominence of some of these digital platforms, players such as Google and Meta, act as gateways to reaching consumers, especially for businesses in the news media sector.

Domestically, news organisations have raised a similar range of allegations which may impact negatively on competition, public interest, and the ability for news publishers and news media organisations to fully enjoy the revenue benefits of their content in the news media sector which warrant further inquiry .

**DATE, AUTHOR,
TITLE**

1964, Marshall McLuhan, Understanding Media

Best known for his prescient phrases “global village¹” and “the medium is the message” McLuhan was a leading theorist on the mass media of communication. In particular, his characterisation of the mass media as an extension of the human senses has influenced several other writers who have turned their focus on to the technology of innovation rather than the content of the messages carried over ever networks.

“All media work us over completely. They are so pervasive in their personal, political, economic, aesthetic, psychological, moral, ethical, and social consequences, they leave no part of us untouched, unaffected, unaltered.” (p. 26).

This all-pervasive characteristic of the information and communication media, and its impact on human affairs in part justifies the need for different types of regulation: technical, economic, cultural, social, political etc. The policies and regulatory mechanisms designed for the “converged” sectors: new markets, broadcasting, IT and telecommunications distribution networks, has already been surpassed by IP technology. There is a need for the full benefits and efficiencies of G5 regulation to be to be adopted by regulatory agencies and government.

The debates surrounding the emergence of and attempts to regulate AI have largely characterised AI as a threat to human society in general and to democracy in particular. This backgrounder introduces readers to the research literature on AI's impact on democracy. It surveys literature in three distinct areas: AI and the democratic public sphere, the impact of AI on election campaigns, and the importance and accountability of automated decision-making systems in public services.

The massive interest in AI from a technological and economical perspective has been quickly followed by an intense discussion on its societal impact, especially on problems of fairness and accountability. Only recently has this sociological critique been complemented by a discourse on the effects that AI might have on politics, especially democratic politics and procedures.

Maybe due to the choice of outlets, the tone set in the debate so far has been rather alarmist. The discourse is dominated by rallying cries, which portray AI as a new and very serious threat to democracy although there is also a much smaller, segment of the literature that regards AI as a cure for the shortcomings of representative will formation. This "risk-versus-opportunity" framing resembles the frames applied in the older discourse on digitalization and democracy. Nevertheless, a closer look reveals new and different ways in which AI is reshaping democratic politics.

The article provides insights into the range of debates on the ways in which AI can be analysed without resorting to the "risk-versus-opportunity" framing and opening up the debate to consider the impact of AI on the information and communication space from several perspectives: the technological, the political, the economic and the social without limiting this analysis to a "risk-versus-opportunity" frame of reference. This leads to a more nuanced discussion about "recent attempts to regulate AI and analyze how seriously the political dimension of AI is treated in regulatory discourses".

<https://il.boell.org/en/2022/01/06/artificial-intelligence-and-democracy>

**DATE, AUTHOR,
TITLE**

**2022, Blueprint for an AI Bill of Rights, US White
House Office of Science and Technology Policy**

The US The Office of Science and Technology Policy (OSTP) published Blueprint for an AI Bill of Rights (“the Blueprint”) which is intended to support the development of policies and practices that protect civil rights and promote democratic values in the building, deployment, and governance of automated systems. This blueprint includes a number of useful concepts and definitions that help frame the scope of the Country Assessment report, especially in so far as this relates to a focus on the information and communications sector.

The Blueprint sets out five principles and associated practices to help guide the design, use, and deployment of automated systems to protect the rights of the American public in the age of artificial intelligence. These principles are:

- i Safe and Effective Systems
- ii Algorithmic Discrimination Protection
- iii Data Privacy
- iv Notice and Explanation
- v Human Alternatives, Consideration and Fallback

The Blueprint also includes a series of definitions helpful to understanding the domain of AI in so far as it relates to the information and communication space. A number of articles have highlighted the fact that initiatives such as this tend to miss or take little consideration of views from the global south, often exacerbating the global inequalities that exist in both access to and use of electronic communications. With this in mind the Country Assessment report will include a review of these topics and to identify attempts to counter this bias in global initiatives to regulate AI.

**DATE, AUTHOR,
TITLE**

**2023, Tom Wheeler, The Three Challenges of AI
Regulation**

This article identifies three challenges for AI oversight: dealing with the velocity of AI developments, parsing the components of what to regulate, and determining who regulates and how. With regard to the first, the article states that:

“The regulatory statutes and structures available to the government today were built on industrial era assumptions that have already been outpaced by the first decades of the digital platform era. Existing rules are insufficiently agile to deal with the velocity of AI development.”

Regarding the second challenge, which speaks to “what to regulate, three areas are identified as candidates for regulation:

- Dealing With Old-Fashioned Abuses
- Dealing With Ongoing Digital Abuses
- Dealing With the AI Itself

Finally, the article address the question of who regulates and how and in so doing raises the questions of the jurisdiction of national regulatory authorities, and also the capacity of government and regulators to keep up with the pace of innovation and technology development. This has forced both to look to international organisations and regional political and economic blocs to develop policies and regulatory systems that can

<https://www.brookings.edu/articles/the-three-challenges-of-ai-regulation/>

The expert groups will review the legal and regulatory systems in a selection of countries in so far as these have been developed in response to a need for regulation of AI. The European Commission has put forward a proposed regulatory framework on Artificial Intelligence with the following specific objectives:

- ensure that AI systems placed on the Union market and used are safe and respect existing law on fundamental rights and Union values;
- ensure legal certainty to facilitate investment and innovation in AI;
- enhance governance and effective enforcement of existing law on fundamental rights and safety requirements applicable to AI systems;
- facilitate the development of a single market for lawful, safe and trustworthy AI applications and prevent market fragmentation.

To achieve those objectives, this proposal presents a balanced and proportionate horizontal regulatory approach to AI that is limited to the minimum necessary requirements to address the risks and problems linked to AI, without unduly constraining or hindering technological development or otherwise disproportionately increasing the cost of placing AI solutions on the market.

Lessons to be learned from a review of this legislation include.

- The proposal sets harmonised rules for the development, placement on the market and use of AI systems in the Union following a proportionate risk-based approach.
- Artificial intelligence is a rapidly developing family of technologies that requires novel forms of regulatory oversight and a safe space for experimentation, while ensuring responsible innovation and integration of appropriate safeguards and risk mitigation measures. To ensure a legal framework that is innovation-friendly, future-proof and resilient to disruption, national competent authorities from one or more Member States should be encouraged to establish artificial intelligence regulatory sandboxes to facilitate the development and testing of innovative AI systems under strict regulatory oversight before these systems are placed on the market or otherwise put into service.

In so far as this legislation relates to media and the information and communication sector, a full list of definitions has been culled from the text of the act.

**DATE, AUTHOR,
TITLE**

**2020, Wasserman, The state of South African media:
a space to contest democracy**

This paper provides an overview of the South African media space, identifying the major players in public, commercial, and community media. It also notes the role of the media during and in the wake of Apartheid, and discusses how the digital transition has affected the sector.

<https://link.springer.com/article/10.1007/s11616-020-00594-4>

The list of partner organisations to the South African National Editors' Forum provides insight into the wide range of actors currently active in South Africa's information space - particularly in relation to NGOs, civil society organisations, and related professional association bodies. Below is a list of relevant organisations, with a brief description of the role each one plays.

1. amaBhungane: A non-profit for investigative journalism promoting free media and transparency, and accountability.
2. Association for Independent Publishers: Advocates for local grassroots independent print media.
3. Broadcast Complaints Commission of South Africa (BCCSA): Promotes freedom of speech and maintains broadcasting standards.
4. Cape Town Press Club: Promotes free speech, represents journalists, editors, and media members.
5. Children's Radio Foundation (CRF): Empowers young people through radio reporting across six African countries.
6. Code for Africa: Focused on building civic technology and empowering journalists with data tools.
7. Communications Workers' Union: Promotes workers' interests in communication industries.
8. First Draft: Supports tackling challenges related to truth and trust in the digital age.
9. Freedom of Expression Institute: Defends freedom of expression, opposes censorship, and promotes media diversity.
10. Gender Links: Promotes gender equality and justice in the Southern African Development Community (SADC).
11. Hackers: Aims to bring together hackers and journalists for digital storytelling.
12. Institute for the Advancement of Journalism: Provides training for journalists and media practitioners.
13. Interactive Advertising Bureau South Africa (IAB SA): Promotes digital growth in marketing, advertising, and communications.
14. Jamlab: Aims to improve media innovation in South Africa and Africa.
15. Media Development and Diversity Agency (MDDA): Promotes media development and diversity.
16. Media Monitoring Africa: Acts as a watchdog to promote ethical and fair journalism.
17. Media Workers Association of South Africa: A union representing journalists and media practitioners.
18. National Association of Broadcasters: Engages policy makers to promote democracy and freedom of expression.

19. National Press Club of South Africa: Promotes the professional and social interests of its media members.
20. PEN South Africa: Represents writers, defends free-expression, and encourages literature.
21. Press Council of South Africa: Provides an independent adjudication system for disputes over editorial content.
22. Right2Know: Focuses on freedom of expression and access to information.
23. SAMIP: Accelerates digital media innovation.
24. South African Communications Association: Represents academics in communications and related fields.
25. Southern Africa Freelancers' Association: Advocates for freelance workers in communications.
26. Support Public Broadcasting (SOS): Campaigns for a public broadcaster serving the public interest.
27. Quote This Woman+: Aims to gender-transform the media landscape in South Africa.

DATE, AUTHOR, TITLE

2023, Casillo and Powell, South Africa faces many challenges in regulating the use of artificial intelligence, Daily Maverick

This article discusses the current lack of regulation of AI in South Africa, and notes specific challenges that the country faces in adopting AI regulation - particularly in relation to data privacy, cyberattacks, inequality and unemployment, and accountability regimes.

<https://www.dailymaverick.co.za/article/2023-04-23-south-africa-faces-many-challenges-in-regulating-the-use-of-artificial-intelligence/>

DATE, AUTHOR, TITLE

2023, Overview - Artificial Intelligence Institute of South Africa

This webpage describes the Artificial Intelligence Institute of South Africa, which is a collaborative initiative involving the Department of Communications and Digital Technologies, the University of Johannesburg, and the Tshwane University of Technology. It aims to position South Africa as a key player in the global AI arena. Founded with guidance from the Presidential Commission on the Fourth Industrial Revolution, the institute serves as an innovation engine for both the public and private sectors.

**DATE, AUTHOR,
TITLE**

2019, Beckett, C. New powers, new responsibilities. A global survey of journalism and artificial intelligence . London: LSE

<https://blogs.lse.ac.uk/polis/2019/11/18/new-powers-new-responsibilities>

The Journalism AI report is based on a survey that was conducted about artificial intelligence and related technologies across 71 news organizations across 32 different countries. Questions about AI, its application in newsrooms, and the promise and risks it presents for the news industry were addressed by a diverse group of journalists who work with technology. The study's findings show that, although it is applied unevenly, artificial intelligence (AI) is already an essential part of journalism. Journalists now have more power thanks to AI, but this also comes with ethical and editorial responsibilities. This study shows that it's important for journalists and news organizations to strike a balance between leveraging AI's capabilities and maintaining the quality, credibility, and ethics of journalism.

**DATE, AUTHOR,
TITLE**

2021, *The next wave of disruption: Emerging market media use of artificial intelligence and machine learning*, 1st ed. Edited by Robert Shaw. Copenhagen: International Media Support (IMS).

This study investigates the use of artificial intelligence (AI) and machine learning (ML) in newsrooms by the media in Latin America (LatAm) and Central and Eastern Europe (CEE). The purpose was to investigate some of the obstacles to AI usage and to gain a better understanding of how the news industry in developing news media markets uses AI/ML to gather, analyze, and exchange data in order to increase their audiences and/or revenues. The report points to new actors that have entered the journalistic space as a result of AI such as technology companies, start-ups and engineers. It is crucial for journalists to learn new skills and for newsrooms to adopt effective strategies. But these technological developments are creating disparities for news organizations. In growing economies, there's a risk that local media and news will lapse. The large, international brands possess the R&D resources necessary to either build their own systems or purchase existing ones. To reap the benefits of AI for themselves, though, newsrooms in less developed environments will have to collaborate with one another.

**DATE, AUTHOR,
TITLE**

2022, AI, Journalism, and Public Interest Media in Africa. *Scoping study to map the current state of Artificial Intelligence use in public interest media in Africa. Kenya: International Media Support (IMS).*

Public interest media in Africa plays a crucial role in informing the public, promoting transparency, and holding governments and other powerful entities accountable. It serves as a vital platform for addressing social, political, economic, and cultural issues on the continent. African public interest media faces several challenges, including limited resources, political interference, censorship, and economic pressures. Many governments have been known to suppress independent journalism, leading to a lack of press freedom in some countries. This study highlights the current state of artificial intelligence (AI) use in Africa's media. It explores AI's potential in strengthening public interest media through purposively selected country case studies from Eastern, Southern, and West Africa. AI can help journalists in Africa access and analyze large volumes of data, enabling them to uncover trends, patterns, and stories that might have otherwise gone unnoticed. This can be particularly valuable in investigative journalism, which is an essential element in developing democracies.

**DATE, AUTHOR,
TITLE**

2020, Marconi, F, *Newsmakers: Artificial Intelligence and the Future of Journalism. Columbia University Press, New York*

With the use of thorough case studies, this book examines the opportunities and challenges presented by artificial intelligence. Examples include newsrooms employing algorithms to generate stories automatically, investigative reporters examining huge amounts of public data, and outlets actively deciding how to distribute content across platforms. This book provides information on how newsrooms of all sizes—not just large ones—and journalists of various seniorities may incorporate AI into their regular duties.

**DATE, AUTHOR,
TITLE**

2021, Munoriyarwa, A., Chiumbu, S. & Motsathebe, G. Artificial intelligence practices in everyday news production: The case of South Africa's mainstream newsrooms. *Journalism Practice*.

This article investigates the use of artificial intelligence (AI) in a few mainstream newsrooms in South Africa. It aims to ascertain the level of AI adoption as well as the perceptions of journalists and editors regarding its appropriation in news production processes. The study found that journalists are skeptical about the use of AI on many levels. Regarding the role and efficacy of AI technology in mainstream newsrooms in South Africa, respondents were pessimistic. Three things were brought up in the interview that account for this. First, respondents argue that South Africa's newsrooms lack the skills needed to effectively use AI technologies for news production. Secondly, they point out that although South African newsrooms are larger and more equipped than those in other African countries, they still lack the financial capacity to purchase the equipment needed to integrate artificial intelligence into daily newsroom operations. Thirdly, when it comes to the use of AI in the news generating process, respondents are skeptical. All respondents agreed that artificial intelligence is about machines, and machines don't think. They expressed concerns that integrating AI into the newsroom, an ideological process, would fail to uphold democracy's standards and the media's Fourth Estate function.

**DATE, AUTHOR,
TITLE**

2022, Kothari, A., & Cruikshank, S. A. Artificial Intelligence and Journalism: An Agenda for Journalism Research in Africa. *African Journalism Studies*, 43(1), 17 - 33.

The article examines the application of AI in African newsrooms and its consequences for the continent's journalism. The paper analyzes the benefits and challenges AI brings for journalists, as well as how it is currently used in African newsrooms. Though a few African nations have started integrating AI into government, healthcare, education, and finance sectors, not much is known about how AI is being used in newsrooms across the continent. The purpose of this paper is to suggest a research agenda aimed at advancing the knowledge of the usage of artificial intelligence (AI) in African newsrooms and its implications for the continent's journalism.

**DATE, AUTHOR,
TITLE**

2017, Diakopoulos, N., & Koliska, M. Algorithmic Transparency in the News Media. Digital Journalism, 5(7), 809–828. <https://doi.org/10.1080/21670811.2016.1208053>

Algorithmic transparency in the news media refers to the practice of making the algorithms used in news selection, curation, and distribution more understandable and accountable to the public. Concerns regarding bias, filter bubbles, and the impact of algorithms on public discourse have increased as.

**DATE, AUTHOR,
TITLE**

2021, Razzano, G. The Politics of Data and AI: The Politics of Media and Elections in South Africa. Report for the Policy Action Network (PAN). https://policyaction.org.za/sites/default/files/PAN_TopicalGuide_AIData8_ElecMedia_Elec.pdf

The Brief provides an overview of the connection between advancements in artificial intelligence and election integrity in the African and South African contexts. The brief serves as a framework for important discussions in data governance generally and AI particularly by examining the activities and actors involved in the electoral process, with electoral integrity serving as the primary normative goal. The subject of data politics and artificial intelligence (AI) is complex and dynamic, encompassing a broad spectrum of social, ethical, economic, and regulatory issues. When it comes to elections, striking a balance between the potential benefits of AI and data-driven politics and the protection of democratic values and individual rights is a central challenge for policymakers and

**DATE, AUTHOR,
TITLE**

2018, Kulesz, M. Culture, platforms and machines: The impact of artificial intelligence on the diversity of cultural expressions. UNESCO Information Document. https://en.unesco.org/creativity/sites/creativity/files/12igc_inf4_en.pdf

The report looks at how artificial intelligence impacts culture, specifically as it pertains to artists, the creative industries, and the public in both the Global North and South during a period when major Internet platforms are gaining more and more sway. It's critical to understand that artificial intelligence has a wide-ranging, complex impact on culture that poses several social, legal, and ethical issues. As AI evolves, it will be crucial to carefully weigh its consequences and make sure that it is created and applied in ways that enhance rather than detract from people's cultural experiences.

**DATE, AUTHOR,
TITLE****2023, DCDT. . Draft White Paper on Audio and Audiovisual Media Services and Online Content Safety: A New Vision for South Africa. Government Gazette No. 49052, 31 July.**

The Draft White Paper calls for the introduction of a light-touch, phased approach to licensing of currently unlicensed AAVCS operators in order to establish some regulatory parity. It also mandates the establishment of a new framework that takes into account, among other things, the impact of unregulated digital online content services on the regulated content sector (broadcasting platforms) (DCDT, 2020; 2023). The Draft White Paper (DCDT 2020; 2023) proposes enforcing rules and public interest responsibilities on licensees in order to differentiate between traditional (linear) and (non-linear) video-on-demand (VOD) and video-sharing platforms and level the playing field between rival services.

**DATE, AUTHOR,
TITLE****2023, ICASA. The State of ICT Sector Report in South Africa.**

The report focuses on three ICASA-regulated industries: postal, broadcast, and telecommunications. It also examines the performance and developments in the ICT industry. The report shows that South Africa's ICT sector continues to demonstrate signs of growth despite economic downturn. The South African government, through the Department of Communication and Digital Technologies, has implemented various initiatives to support the ICT sector. The National Integrated ICT Policy White Paper and the National Development Plan outline the government's vision for the sector's growth. The ICT sector has implications on the deployment and regulation of AI in the country.

**DATE, AUTHOR,
TITLE****2023, Ade-Ijibola, A and Okonkwo, C (Eds). *Responsible AI in Africa*. London: Palgrave Macmillan.**

**DATE, AUTHOR,
TITLE**

2019, Monti, M. Automated journalism and freedom of information: Ethical and Juridical problems related to AI in the press field. Retrieved 14 June 2023 from <https://papers.ssrn.com/sol3/papers.cfm?abst>

Texts produced by artificial intelligence are becoming increasingly prevalent in digital journalism. Automated journalism or “robot journalism” refers to news that is produced entirely by machines without any human intervention. The article examines the ethical and legal issues surrounding automated journalism, with a specific focus on information freedom in Italy. Issues of liability, data use and responsibility are crucial in discussions of AI and journalism. While automated journalism may offer several advantages, such as increased efficiency and the ability to process vast amounts of data quickly, it also raises important questions of liability and data use and implications for accuracy, accountability, bias and transparency. Issues of privacy also come into play as automated journalism often relies on data collected from various sources, potentially including personal information. Protecting user privacy and adhering to data protection regulations is crucial in this kind of journalism.

**DATE, AUTHOR,
TITLE**

2017, Access Partnership. *Artificial intelligence for Africa: An opportunity for growth, development, and democratisation*. University of Pretoria. https://www.up.ac.za/media/shared/7/ZP_Files/ai-for-africa.zp165664.pdf

The report examines the opportunities, challenges and threats AI poses for democracy and development in Africa. It maps out the key Africa’s AI actors and stakeholders and provides guidelines on how African can develop effective infrastructural and regulatory systems for AI. African businesses, governments, and civil society organizations must create comprehensive AI policies and strategies in order to minimize the risks associated with AI and optimize its benefits. Investing in education and workforce development, promoting ethical AI use, protecting data privacy, and addressing the digital gap should all be part of this.

**DATE, AUTHOR,
TITLE**

Introducing the series: Can AI and data support a more inclusive and equitable South Africa? AI and Data Series 1. Report for the Policy Action Network (PAN). https://policyaction.org.za/sites/default/files/PAN_TopicalGuide_AIData1_IntroSeries_Elec.pdf

This is the introduction to a 9 part series of briefing papers that examines how AI can contribute to a more inclusive and equitable South Africa. The briefing papers are produced by the Policy Action Network , a project by the Human Sciences Research Council (HSRC) (in conjunction with the University of Pretoria). The briefing maps out the comprehensive legal and policy frameworks that control data use and artificial intelligence in South Africa. It then gives a summary of global developments in the ethical regulation of AI and offers a number of broad policy recommendations to minimize the risks associated with these technologies and enhancing their application in achieving South Africa’s transformation objectives

**DATE, AUTHOR,
TITLE**

2014, African Union (AU). Convention on Cyber Security and Personal Data Protection. <https://au.int/en/treaties/african-union-convention-cyber-security-and-personal-data-protection>

Also known as (the Malabo Convention), the Convention was adopted in 2014. It aims to provide a uniform legal framework for data protection and cybersecurity for all AU Member States. Adoption of this convention by member states has important ramification for AI regulation. Policies pertaining to AI and privacy are important components of the current technology environment. The development of AI and its growing integration into many facets of our lives give rise to significant ethical, privacy, and data protection concerns

**DATE, AUTHOR,
TITLE**

2019, Association for Progressive Communications (APC), Article 19, & Swedish International Development Cooperation Agency (Sida). Global information society watch 2019: Artificial intelligence: Human rights, social justice and development. <https://giswatch.org/2019-artificial-intelligence-human-rights-social-justice-and-development>

AI intersects with issues of human rights, democracy and development in many ways. They are many positive impacts, but also challenges and concerns. Policymakers and regulators are vital in addressing these issues to make sure AI advances social justice and human rights. The paper provides a perspective on how AI is being applied to daily life from the global South. Along with three regional reports, it contains 40 national reports from a variety of nations. The report highlights the serious concerns that we need to be aware of if we are going to create an AI-enabled future that upholds human dignity, while also emphasising the beneficial uses of AI.

**DATE, AUTHOR,
TITLE**

2023, Fournier-Tombs Eleonore , Siddiqui Muznah , Céline Castets-Renard and Valère Ndior. A Global Architecture for Artificial Intelligence : UNU-CPR. <https://unu.edu/publication/global-architecture-artificial-intelligence>

The project outlines the main issues in global AI governance with the intention of assisting the UN in its ongoing work. It draws from the third Shift 6 recommendation in the UN High Level Advisory Board on Effective Multilateralism (HLAB) report, which advocates for a multilateral agreement on creating a global AI architecture based on shared standards and approaches. Organizations like the UN and other state governments have taken action to address challenges related to AI, and efforts to establish global AI governance are still ongoing. Assuring that AI technologies serve humanity while minimizing risks and negative consequences requires striking a balance between promoting innovation and the responsible use of AI.

**DATE, AUTHOR,
TITLE**

2022, Kohnert, Dirk. Machine ethics and African identities: Perspectives of artificial intelligence in Africa. <https://mpira.ub.uni-muenchen.de/113799/>

Artificial intelligence in Africa presents a unique set of challenges and opportunities that are influenced by the continent's diverse cultural, economic, and social contexts. The report examines AI in the context of African identities. It argues that for AI adoption and use to be effective and enhance socioeconomic inclusion in Africa, issues of gender equality, linguistic and cultural variety should be considered. In addition, ethic related to a particular African identity should also be taken into account. The relationship between AI and African identities is multifaceted; it encompasses concerns about bias and representation as well as opportunities for cultural preservation and socio- economic growth.

**DATE, AUTHOR,
TITLE**

Birhane, A. (2019, July 18). The algorithmic colonization of Africa. Real Life. <https://reallifemag.com/the-algorithmic-colonization-of-africa/>

Concerns related to data sovereignty, digital imperialism, and the potential for technology to perpetuate or exacerbate existing power imbalances are becoming part and parcel of AI discussions in Africa. African nations often have limited regulatory control over the digital platforms and algorithms that operate within their borders and have little say in global AI governance. Therefore research/studies on AI and data colonization are crucial to debates on AI in Africa. The paper argues that technology produced from the Global North is imported into the Global South with no oversight or regulatory controls. The research examines how classical colonialism and Western tech monopolies are similar in that both aim to dominate, control, and shape social, political, and cultural discourse. The paper utilizes case studies from different regions of Africa to demonstrate how the AI invasion of the continent is reminiscent of colonial exploitation. Finally, the research concludes by outlining an AI vision based on the needs and interests of the local community.

**DATE, AUTHOR,
TITLE**

2020, Mohamed S Png M and William I. Decolonial AI: Decolonial Theory as Sociotechnical Foresight in Artificial Intelligence. *Philosophy & Technology*. 33: 9– 659-684

Decolonial AI is a growing field that aims to address the ethical and social dimensions of AI, and it advocates for a more inclusive, equitable, and globally aware approach to AI development and deployment. Decolonial AI emphasizes that the development and deployment of AI technologies must consider historical legacies of colonialism, imperialism and neocolonialism. This is important in a country like South Africa with its heavy history and inheritance of social injustices and inequalities. Decolonial AI highlights the necessity it is to address concerns of fairness and bias in AI systems, especially those that disproportionately impact marginalized populations. It advocates the creation of AI algorithms that are more equitable and inclusive. This article examines how critical science, and specifically post-colonial and decolonial ideas, are playing a significant role in understanding and influencing the current developments in artificial intelligence. The coming years will bring with them a wave of new scientific breakthroughs and technologies driven by AI research. The paper argues that in order to better align research and technology development with established ethical principles and center vulnerable peoples who continue to bear the brunt of innovation's negative effects, AI communities and regulators can develop strategies and foresight by integrating a decolonial critical approach into their technical practices.

**DATE, AUTHOR,
TITLE**

2017, Brandusescu, A., Freuler, J. O., & Thakur, D. *Artificial intelligence: Starting the policy dialogue in Africa*. World Wide Web Foundation. <https://webfoundation.org/docs/2017/12/Artificial-Intelligence-starting-the-policy-dialogue-in-Africa.pdf>

Starting a policy discussion on AI is a crucial step for any country looking to harness the benefits of artificial intelligence while managing its potential risks. Recommendations from these discussions provide a foundation for developing a comprehensive AI strategy. The report identifies current AI activities in three major African economies—South Africa, Nigeria, and Kenya through speaking with local experts about the possible effects of AI efforts. Using these observations, the report provides policy recommendations for countries aiming to start the policy discussion on AI.

**DATE, AUTHOR,
TITLE**

2017, MSI-NET Committee of experts on internet intermediaries. *Study on the human rights dimensions of automated data processing techniques (in particular*

This research highlights several human rights concerns brought on by algorithms' growing influence in decision-making. This report examines potential regulatory options that European Council member states may take into consideration to minimize negative effects or to promote good practices. In an increasingly digitized society, the human rights implications of automated data processing systems are a significant and developing area of concern. Regulators should pay close attention to these human rights dimensions in regulating AI.

**DATE, AUTHOR,
TITLE**

2023, Boston Consulting Group: Nihmal Marrie, Igor Lakic, Caio Anteghini, Asif Valley, Benjamin Rosman, Martain Bekker, Lexi Shongwe, South Africa and Artificial Intelligence: The potential impact of AI and Generative AI across healthcare, education, financial inclusion and agriculture

For AI to achieve scalable and affordable adoption in South Africa, and to realize its full potential, several indispensable elements will need to be in place. AI development should take place within an appropriate legal and regulatory framework, to define standards, priorities, and ethical boundaries, and also to support the growth of AI adoption and to mitigate AI risks. A technical working group of experts from relevant industries, including academia, should work with government agencies to develop and continually review all existing and proposed regulations, in an effort to enable an optimal and accountable environment for all. If the use of AI tools is not explicitly regulated, and the personal information of data subjects is processed without their knowledge or consent, that could place an organization or business in breach of its obligations under the Protection of Personal Information Act (POPIA). South Africa already has an unemployment rate of 33% at the second quarter of 2023,¹⁷ and AI will very likely lead to further job displacement. In South Africa, as in other countries, that downside can be offset by the new work opportunities that AI could open up.

**DATE, AUTHOR,
TITLE**

2022, Thierry Rousset et al, The Dynamics of Racism, Anti-Semitism and xenophobia on Social Media in South Africa

South Africa is currently the most unequal society in the world. It is against this current socio-economic context that we should read social media engagements on race and racism in South Africa. South Africa's past manifests on social media through racist terms and stereotypes, but also in who has access to these platforms. 60.73% of South Africa's population was estimated to have access to the internet in 2021. The digital divide in South Africa has led to increasing calls to see internet access as fundamental for the exercise and enjoyment of the right to freedom of expression and opinion. While internet access remain uneven, it is clear that South African society is becoming increasingly digital. In the 2022 State of the Nation Address, the Communications Minister Khumbudzo Ntshaveni promised that government will provide 10GB of free data per month to every South African households and went on to state that data has become a new utility like water and electricity that 'our home needs'. Social media use in South Africa has grown substantially over the last two years, encouraged by strict Covid-19 lockdowns and a surge in the use of mobile telephones and apps. English dominates social media in South Africa. While not surprising, the dominance of English still requires further explanation, given how few South Africans speak English inside and outside the home.

**DATE, AUTHOR,
TITLE**

**2021, Justine Limpitlaw, Media Law Handbook for
Southern Africa Vol 2 2nd ed**

Following a protracted period of institutionalised racial segregation, in 1996, South Africa's first democratically elected parliament, acting as the Constitutional Assembly, enacted what is commonly referred to as the final constitution. The constitution protects fundamental civil rights like freedom of expression and provide for independent regulation of the broadcasting sector. Pre democratic South Africa was characterized by extensive state regulation and censorship of the media. Severe restrictions on the reporting of news and current affairs by the print media were commonplace. The advent of democracy brought about significant improvements in the media environment in South Africa. Recently, the public broadcaster has been in crisis for some years. Several important court and regulator rulings re-affirmed the importance of a public broadcaster independent of the government of the day. There remains a level of risk as to whether or not the SABC will stay on course to being a genuine public broadcaster. Government has battles to give effect to new policy; many bills have been withdrawn in the past couple of years due to constitutionality and other concerns and the country has floundered in switching to Digital Terrestrial Television (DTT) which is now years behind the June 2015 deadline set by the International Telecommunications Union (ITU).

**DATE, AUTHOR,
TITLE**

**2014, Pierre De Vos et al, South African Constitutional
Law in Context**

During the various states of emergency which were in place for long periods in the 1980s, the ability of newspapers to report on the actions of the police and the military were severely limited by law. In this pre-Internet era, the dark pall of censorship hung over South Africa. These restrictions did not only constitute a denial of democracy. They also exacerbated the impact of the systemic violations of other fundamental human rights in South Africa. Censorship is incompatible with South Africa's present commitment to a society based on a 'constitutionally protected culture of openness and democracy and universal human rights for South Africans of all ages, classes and colours'. To prevent a recurrence of censorship, section 16 of the Constitution explicitly guarantees the right to freedom of expression for everyone. Democracy only functions well in a society in which it is possible for an individual to change his or her mind. This is only possible when individuals are free to report on events without fear, to express their opinions and beliefs and to receive such communication from others. Where there is free competition of ideas, the truth (whatever that may be) will eventually triumph. In a deeply unequal society in which not everyone has equal access to information and in which the voices of some may be privileged and may carry more weight than others, it is unclear whether such a free marketplace of ideas can ever exist.

**DATE, AUTHOR,
TITLE****2013, Ian Currie & Johan De Waal, The Bill of Rights
Handbook 6 ed**

South African law lacks any specific protection for journalists. Instead, there are a number of mechanisms for compelling the disclosure of sources that have to be interpreted and applied with the right to freedom of expression in mind. The principal mechanism for compelling journalists to disclose their sources is s 205 of the Criminal Procedure Act 51 of 1977. The section permits the examination by a magistrate of persons who have information relating to a criminal offence. In terms of s 189 of the Act, all questions put to a witness at a s 205 examination must be answered unless the witness has a 'just excuse' for failing to answer. Protests, assemblies and mass demonstrations played a central role in South African liberation politics. Mass protests continue to be an important form of political engagement. Organised labour, landless people, anti-privatisation movements, students, squatters and even the police have used demonstrations to press their demands. The continued vitality of assembly in South Africa reflects, in part, its essential role in any liberal democracy.

**DATE, AUTHOR,
TITLE****2013, Dario Milo & Pamela Stein, A Practical Guide to
Media Law**

South Africa's prohibition of hate speech finds its roots in the International Covenant on Civil and Political Rights (1996). Hate speech was included as an exception to the right to freedom of expression largely in response to the conduct of Julius Streicher, the publisher of a weekly tabloid newspaper called *Der Sturmer*, which carried mostly pro-Nazi and anti-Semitic material. Streicher was found guilty of inciting genocide during the Nuremberg Tribunal and sentenced to death. In his book *The Harm in Hate Speech*, Jeremy Waldron explains the rationale for hate speech laws as follows: 'Offence, however deeply felt, is not a proper object of legislative concern. Dignity, on the other hand, is precisely what hate speech laws are designed to protect – not dignity in the sense of any particular level of honour or esteem (or self-esteem), but dignity in the sense of a person's basic entitlement to be regarded as a member of society in good standing, as someone whose membership of a minority group does not disqualify him or her from ordinary social interaction.'

**DATE, AUTHOR,
TITLE**

**2012, Alexander Ferrein & Thomas Meyer, A brief
Overview of Artificial Intelligence in South Africa**

South Africa is still struggling to achieve the goal of providing decent basic education to the majority of its citizens. The lack of quality education on the primary and secondary levels also serves as a barrier to obtaining tertiary-level education. According to a 2008 OECD review of national policies for education in South Africa, typically only 15 percent to 18 percent of secondary school students who sit for their final year exams every year qualify automatically for university-level education. South Africa is currently experiencing growth in various AI-related research activities. A recent initiative to maintain the current level of interest in AI is the establishment of a South African AI Society.

**DATE, AUTHOR,
TITLE**

2020, Cybercrimes Act 19 of 2020

The overarching purpose of the Act is to create offences which have a bearing on cybercrime; to criminalise the disclosure of data messages which are harmful and to provide for interim protection orders; to further regulate jurisdiction in respect of cybercrimes; and to further regulate the powers to investigate cybercrimes.

**DATE, AUTHOR,
TITLE**

2013, Protection of Personal Information Act 4 of 2013

The Act represents South Africa's legislative response to the threats associated with processing personal information. POPIA is a principles-based piece of legislation which adopts a 'do the right thing approach'. Anchored by the eight conditions of lawful processing of personal information, POPIA attempts to balance the need for free flowing information in a data driven society and the need to protect the privacy of data subjects in society.

**DATE, AUTHOR,
TITLE**

**2002, The Electronic Communications and
Transactions Act 25 of 2002**

The Act ultimately regulates electronic communications and transactions. Moreover, it seeks to prevent the abuse of information systems.

**DATE, AUTHOR,
TITLE**

**2000, The Promotion of Access to Information Act 2
of 2000**

PAIA gives effect to the constitutional right of access to any information held by the state and any information that is held by another person and that is required for the exercise or protection of any rights. It is the mechanism through which access requests can be made and ultimately promotes openness and accountability in a democratic society.

**DATE, AUTHOR,
TITLE**

**2000, Promotion of Equality and Prevention of Unfair
Discrimination Act 4 of 2000**

PEPUDA seeks to prevent discrimination and to promote equality which includes full and equal enjoyment of the rights and freedoms in the Constitution and equal rights and access to resources, opportunities, benefits and advantages as well as substantive equality. This Act is colloquially known as the hate speech legislation.

**DATE, AUTHOR,
TITLE**

1996, Constitution of the Republic of South Africa

The Constitution is the supreme law of the Republic; law or conduct that is inconsistent with it is invalid and the obligations imposed by it must be fulfilled. This is the founding document of the nation as the authority of the state is derived from it. It sets up the structures of government and regulates the exercise of power by the elected branches of government and the judiciary (and in some instances, private institutions and individuals).

APPENDIX B

Press Council Of SA (PCSA) – Guidance Notes

APPROVED ON 28 NOVEMBER 2023

A brief for journalists on Artificial Intelligence

Introduction

Artificial Intelligence (AI) offers journalism and the media new tools in many areas of work, including in data analysis, in production, understanding audiences, targeting and much else. Generative AI can create text, visuals and audio that are often difficult to distinguish from material created by humans. Reactions to AI in journalism have ranged from enthusiastic acceptance to strong fears that it will add to the destruction of journalism jobs and boost misinformation. Though it is too early to foresee the impact with any certainty, it is important for news organisations, newsroom leaders and journalists to be thoughtful when they deploy new AI tools, and to consider them in the light of the ethical principles that support audience trust in journalism. At all times, any use of AI should be for the benefit of journalism and audiences.

In this spirit, the Press Council offers the following guidance notes. The Press Code remains the authoritative document, and the existing rules in the code apply fully. These notes are simply an attempt to draw out some of the specific implications that may arise.

1. ACCOUNTABILITY

Member publications retain editorial responsibility for everything that is published, no matter which tools are used in production. To ensure compliance, any AI-generated material must be checked by human eyes and hands.

2. ACCURACY

Generative AI is known to be prone to the invention of facts (known as ‘hallucination’). Journalists should carefully check facts in an AI-generated text.

AI tools have made it easier to generate misinformation. Claims circulating on social media and elsewhere need to be even more carefully checked than before.

3. BIAS

Algorithms reflect and amplify race, gender and other biases that emerge in published material. Media organisations should keep a keen lookout for bias when using AI tools and correct them where they do.

4. TRANSPARENCY

News organisations should offer their audiences maximum transparency about their use of AI tools. A comprehensive statement of the organisation’s policy and use of specific tools should be easily available to audiences, and kept current. If tools have been used in the generation of particular items, this should be indicated clearly.

5. TARGETING

AI tools used to tailor content to audience preferences should be used in a way that guards against the creation of filter-bubbles.

6. ORGANISATIONAL CONSIDERATIONS

AI tools may relieve journalists of some routine tasks. Media organisations should not use AI innovations simply to cut costs. Any savings should be reinvested in quality journalism.

Staff should be given training in the use of AI, to enable them to adapt to new technological requirements.

7. PRIVACY

Personal data may be used in the development of AI systems, and member publications should take care that relevant rights and legislation (like the Protection of Personal Information Act) are not infringed.

8. INTELLECTUAL PROPERTY

The training sets used by generative AI use large amounts of data without acknowledging the intellectual property rights of the originators. This includes text published by news media. Though solutions to the problem are not yet clear, journalists and media organisations need to be aware of the issue, both with respect to their own intellectual property and their use of AI tools that may not have fully recognised the rights of others.

Care should be taken with exposing journalists’ own, unpublished texts available to generative AI tools, to ensure confidentiality and security is maintained.

Other resources

Many resources are available to guide journalists, and the list is expanding very quickly. The following is just a small selection:

- Journalism AI is a centre at the London School of Economics (LSE). See <https://www.lse.ac.uk/media-and-communications/polis/JournalismAI/About-JournalismAI>.
- Beckett, Charlie (2019) *New powers, new responsibilities: A global survey of journalism and artificial intelligence*. Polis. Available at <https://www.lse.ac.uk/media-and-communications/polis/JournalismAI/The-Report>
- Cools, Hannes & Diakopoulos, Nicholas (2023) *Writing guidelines for the use of AI in your newsroom? Here are some, er, guidelines for that*. Nieman Lab. Available at <https://www.niemanlab.org/2023/07/writing-guidelines-for-the-role-of-ai-in-your-newsroom-here-are-some-er-guidelines-for-that/>
- *Paris Charter on AI and Journalism* (2023). Available at <https://rsf.org/sites/default/files/medias/file/2023/11/Paris%20charter%20on%20AI%20in%20Journalism.pdf>
- Pocino, Patricia Ventura (2021) *Algorithms in the newsrooms: Challenges and recommendations for artificial intelligence with the ethical values of journalism*. Catalan Press Council
- *The Guardian's approach to generative AI*. Available at <https://www.theguardian.com/help/insideguardian/2023/jun/16/the-guardians-approach-to-generative-ai>