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# Decolonising the algorithmic state: The right to development as a pan-African framework for artificial intelligence-driven governance in Zimbabwe

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**Abstract:** *This chapter contends that the emergence and proliferation of the algorithmic state in Zimbabwe has the potential to replicate systems of coloniality and recreate colonial patterns that manifest in the following dimensions: discrimination, extraction and exclusion. This underscores the need for a purposive and deliberate recalibration of the algorithmic state through the lens of the right to development (RtD). In response to criticism that the RtD is hazy, vague, ambiguous, unenforceable and state-centric, this chapter provides a concrete definition and explanation of decolonisation in algorithmic governance, which is the reallocation of algorithmic power from external suppliers or vendors and colonial data frameworks to inclusive accountable, participatory and redistributive systems rooted in indigenous legal pluralism. Utilising the United Nations Declaration on the Right to Development (1986) (DRtD) which commemorates its 40th anniversary in 2026 in tandem with the African Charter on Human and Peoples Rights (article 22) as well as emerging African scholarship on algorithmic governance, the chapter proposes a pan-African rights-based approach, model and framework for the decolonisation of the algorithmic state. The model operationalises and implements four foundational principles of the DRtD, which are (i) active, free and meaningful participation as articulated in article 2(3); (ii) equitable distribution of development benefits as enshrined in article 8; (iii) elimination of colonial and apartheid structures of governance as elaborated in article 5; and (iv) genuine international collaboration without neo-colonial conditionality as prescribed in article 4. The research additionally interrogates, examines and evaluates justiciability by suggesting actionable remedial actions which encompasses complaint channels before the Zimbabwe Human Rights*

*Commission (ZHRC), community algorithmic impact assessments as well as strategic litigation leveraging the draft UN Convention on the RtD. The article concludes by arguing that the 40th anniversary of the DRtD represents a pivotal opportunity for the decolonisation of the algorithmic state, not just by rejecting technology but by recalibrating it to the will and aspirations of the general populace through participatory, anti-colonial, distributive and actionable principles of the RtD.*

**Résumé :** *Ce chapitre soutient que l'émergence et la prolifération de l'État algorithmique au Zimbabwe risquent de reproduire des systèmes de colonialité et de recréer des schémas coloniaux qui se manifestent sous les formes suivantes : discrimination, extraction et exclusion. Un scénario qui souligne la nécessité d'un rééquilibrage ciblé et délibéré de l'État algorithmique à travers le prisme du droit au développement (DaD). En réponse aux critiques selon lesquelles le droit au développement serait flou, vague, ambigu, inapplicable et centré sur l'État, ce chapitre propose une définition et une explication concrètes de la décolonisation dans la gouvernance algorithmique, qui consiste en une réaffectation du pouvoir algorithmique, le faisant passer de fournisseurs externes ou de prestataires et de cadres de données coloniaux vers des systèmes inclusifs, responsables, participatifs et redistributifs, ancrés dans le pluralisme juridique autochtone. S'appuyant sur la Déclaration des Nations unies sur le droit au développement (1986) (DRTD), qui célébrera son 40e anniversaire en 2026, ainsi que sur la Charte africaine des droits de l'homme et des peuples (article 22) et sur les travaux universitaires africains émergents consacrés à la gouvernance algorithmique, ce chapitre propose une approche, un modèle et un cadre panafricains fondés sur les droits pour la décolonisation de l'État algorithmique. Ce modèle met en œuvre et applique quatre principes fondamentaux de la DRTD, à savoir : (i) la participation active, libre et significative, telle qu'énoncée à l'article 2, paragraphe 3 ; (ii) la répartition équitable des avantages du développement, telle qu'inscrite à l'article 8 ; (iii) l'élimination des structures coloniales et d'apartheid de gouvernance, telles qu'élaborées à l'article 5 ; et (iv) une véritable collaboration internationale sans conditionnalité néocoloniale, telle que prescrite à l'article 4. La recherche interroge, examine et évalue en outre la justiciabilité en proposant des mesures correctives concrètes, qui englobent des voies de*

*recours devant la Commission zimbabwéenne des droits de l'homme (ZHRC), des évaluations communautaires de l'impact algorithmique ainsi que des actions en justice stratégiques s'appuyant sur le projet de Convention des Nations unies sur la RTD. L'article conclut en affirmant que le 40e anniversaire de la DRTD représente une occasion décisive pour la décolonisation de l'État algorithmique, non seulement en rejetant la technologie, mais aussi en la réorientant vers la volonté et les aspirations de la population dans son ensemble, grâce aux principes participatifs, anticoloniaux, distributifs et applicables de la RTD.*

**Key words:** *right to development; algorithmic state; artificial intelligence; Zimbabwe; pan-Africanism; decolonisation; African Charter; justiciability*

## 1 Introduction

In 1986, the United Nations (UN) adopted the Declaration on the Right to Development (DRtD). At the core of the DRtD was the idea that human beings, despite their diversity and placement in social, economic and political hierarchies, are all entitled to take part, contribute to, participate in as well as enjoy the social, cultural, political and economic development.[1] The DRtD coins development as an inclusive, people-centric and participatory process, not just for economic growth but for every facet of development. As the global community prepares to celebrate the fortieth anniversary of the DRtD in Addis Ababa, Ethiopia, it is prudent to acknowledge the emergence of a paradigm across the Global South in the form of the algorithmic state. Thus, the intersection of the algorithmic state and the broader Global South illustrates how artificial intelligence (AI)-driven governance can foster or deter collective well-being. For Katzenbach and Ulbricht as well as Gritsenko and Wood, algorithmic state, governmentality and social ordering entail the governance systems, institutions and infrastructure that the government utilises in its deployment of AI services, such as

1 UN General Assembly Resolution 41/128 of 4 December 1986 Declaration on the Right to Development (DRtD) art 1(1); SP Subedi 'Declaration on the Right to Development' in T Degener & Y Koster-Dreese *Human rights and disabled persons* (1995).

predictive policy analysis, automated adjudication platforms, biometric registries as well as digital surveillance networks that are deployed to ensure access to health care, social welfare, water, education, mobility, credit and other forms of public services.[2]

Nevertheless, a review of scholarship from emerging economies in Asia, Africa and Latin America shows that there is a need for purposive and deliberate normative guardrails.[3] This is because the algorithmic state has the potential to entrench and worsen existing inequalities, isolate and exclude the marginalised clusters of the society as well as function as a new dominating paradigm of algorithmic conditionality.[4] Contextualising this to Africa, Birhane noted that a number of scholars brought to light how digital land registries in Kenya have excluded and undermined women through eviction, how South Africa's biometric systems alienate persons with disabilities (PWDs), as well as how predictive policing in Nigeria has created leeway for ethnic profiling.[5] Therefore, it is against this backdrop that Zimbabwe is not immune to these challenges, which underscores the need for this research.

To this end, Zimbabwe fits squarely within this prism of the algorithmic state, with its e-governance systems and initiatives, such as the electronic land information management systems (ELIMS) under the Ministry of Lands, Agriculture, Fisheries, Water and Rural Development; the biometric voter registration system (BVRS) under the Zimbabwe Electoral Commission (ZEC) digitalisation programme; automated tax compliance; and the ASYCUDA world system governed by the Zimbabwe Revenue Authority (ZIMRA).[6] Ironically, the operationalisation of these e-government initiatives is legitimised

2 C Katzenbach & L Ulbricht 'Algorithmic governance' (2019) 8 *Internet Policy Review* 4-6; D Gritsenko & M Wood 'Algorithmic governance: A mode of governance approach' (2020) 16 *Regulation & Governance* 45-62.

3 P Ricaurte, E Gómez-Cruz & I Siles 'Algorithmic governmentality in Latin America: Socio technical imaginaires, neocolonial soft power, and authoritarianism' (2024) 11 *Big Data & Society* 3-7; N Pasipamire & A Muroyiwa 'Navigating algorithm bias in AI: Ensuring fairness and trust in Africa' (2024) 9 *Frontiers in Research Metrics and Analytics* 4-9.

4 S Mohamed, M Png & W Isaac 'Decolonial AI: Decolonial theory as sociotechnical foresight in artificial intelligence' (2020) 33 *Philosophy & Technology* 665-670.

5 A Birhane 'Algorithmic colonization of Africa' (2020) 17 *SCRIPT-ed* 389-392.

6 Ministry of Information Communication Technology, Zimbabwe National E-Government Strategy 2020-2025 (Government Printers, Harare, 2020) 12-15; Reserve Bank of Zimbabwe 'Financial Inclusion and Digitalisation Report' (Government Printers, Harare, 2022) 34-41.

by the Cyber Security and Data Protection Act of 2021, yet none of them clearly addresses issues and challenges related to algorithmic discrimination, participatory design, or the right to development (RtD).[7]

Additionally, this chapter argues that the current policy and legal discourse in Zimbabwe is insufficient to effectively set the tone for algorithmic governance as it negates its structural development dimension while narrowly focusing on cybersecurity, data protection and digital economic growth. Unambiguously, it disregards the central question advanced by the DRtD, which strives to understand who participates in development, who benefits and who decides. This is a gap that this chapter addresses through the deployment of a pan-African rights-based framework entrenched in the African Charter on Human and Peoples' Rights (African Charter) (article 22) and the DRtD. The proposed framework recalibrates algorithmic state not just as an administrative or technical question, but rather a development process which must be subjected to the same human rights obligations as any other state policy.

### 1.1 Role of artificial intelligence and the rationale for the Zimbabwean case

AI is the specific technological substrate of the algorithmic state examined in this chapter, which encompasses the machine-learning classification systems, biometric matching engines, automated eligibility and risk-scoring tools and predictive analytics that increasingly mediate land registration, voter verification, tax administration and social welfare targeting in Zimbabwe. The chapter's contribution is not to examine and interrogate any single AI system in technical terms, but to comprehensively provide the normative structure, rooted in the RtD, through which the design, deployment and outcomes of these AI-driven tools can be examined and, where necessary, contested. Thus, each of the four principles developed in part 5 addresses a specific stage of the AI life cycle. Participation focuses on the design and training stages; fair distribution targets the monitoring of outcomes; the eradication of colonial patterns addresses data and infrastructure; and international

7 Cyber Security and Data Protection Act (Chapter 12:07 of 2021 (Zimbabwe).

cooperation without conditionality applies to procurement and vendor relationships.

Zimbabwe is selected not as a self-contained case study, but as what comparative methodology terms a critical or paradigmatic case. A jurisdiction whose colonial administrative history, active e-governance rollout (ELIMS, BVRS, ASYCUDA) and recently enacted data protection legislation amalgamate three conditions: deep coloniality, active algorithmic expansion and an evolving rights framework, under which the tension between the algorithmic state and the RtD is most vividly visible. Because these three conditions recur, in varying combinations, across much of the African continent, Zimbabwe provides a lens through which the broader pattern of algorithmic coloniality can be examined in practice rather than merely asserted in the abstract. The resulting framework is therefore deliberately formulated at a level of generality that enables its application to other African jurisdictions with comparable colonial legacies and digitalisation trajectories, using the DRtD's four operative articles as its foundation. Part 6 accordingly returns to this Zimbabwean detail to test the continental proposal against a concrete institutional setting.

### 1.2 Methodological approach

Methodologically, this chapter benefited from doctrinal and normative legal analysis instead of empirical fieldwork. Three bodies of material are read concurrently: first, the primary instruments that establish the RtD's normative content, which is the DRtD, article 22 of the African Charter, and the relevant jurisprudence of the African Commission on Human and Peoples' Rights (African Commission); second, Zimbabwean primary sources, encompassing the Constitution of Zimbabwe (2013), the Cyber Security and Data Protection Act (Chapter 12:07) of 2021, and publicly available government documentation on ELIMS, BVRS and ASYCUDA; and, third, the interdisciplinary secondary literature on algorithmic coloniality, decolonial AI and digital colonialism referenced throughout.

These materials are interrogated, examined and analysed through a doctrinal-decolonial method. Colonial era statutes and their post-colonial administrative successors are read for structural continuity, current Zimbabwean digital governance instruments are audited against the four operative articles of the DRtD identified in part 3.1, and the

resulting gaps are used inductively to build the four-principal framework set out in part 5. Therefore, given the interpretive and normative nature of this inquiry, this chapter does not employ interviews, surveys or algorithmic auditing techniques. However, it draws instead on the documented harms from African and comparable Global South jurisdictions (South Africa, Kenya, Nigeria, Colombia) reviewed in part 2, and identifies the absence of primary empirical data specific to Zimbabwe's own AI systems as the chapter's principal limitation and an important direction for the field research that should follow from the normative framework proposed here. Part 2.2.1 supplements this with Zimbabwean institutional reports, litigation records and media documentation covering electoral, customs, tax and data protection administration; this is documentary evidence rather than first-hand field work, and the absence of interviews, surveys or independent system audits specific to Zimbabwe's AI deployments remains a limitation for future research to address.

## 2 Colonial genealogies of the algorithmic state in Zimbabwe

### 2.1 Proto algorithms of colonial administration

To effectively advance algorithmic state decolonisation, it is prudent for one to understand that proto-algorithmic state operated long before the digital era in colonial Southern Rhodesia between 1890 and 1980. For Mohamed and others, the concept of 'algorithmic coloniality' entails the perpetuation of colonial ideologies through technological frameworks and systems. In the colonial state, coloniality was facilitated through standardised rule-based classification system to distribute land and resources as well as govern the movement of people.[8] This was further reinforced by the Land Apportionment Act of 1930 which established binary clusters of European (settlers) land versus native land, functioning through census data, mapping systems and administrative grids.[9] Contextualising this for effective comprehension, the governance system at that moment mirrored a manual algorithm with racial identity as input, land classification rules as process and allocation of territory

8 Mohamed and others (n 4) 670-675.
9 Land Apportionment Act 30 of 1930 (Southern Rhodesia).

with vast disparities as outputs. This is further reinforced by the pass law system in the Native Registration Act of 1936, which demanded that African adults carry their metal identification token and, later, booklets every time, establishing a proto-biometric registry that legitimised and granted access to seek employment, enter urban facilities and even access to health care.[10] These practices suggest that such colonial registration was calibrated to legitimise African labour and make invisible African land tenure, a data structural configuration that persists in present-day cadastral systems.[11]

An orthogonal projection of the colonial information systems brings to light three distinct features or dimensions embedded in the present-day algorithmic state. The first is the extractive dimension, in which data was gathered from African communities without requesting their consent. The data was then used to ensure effective operationalisation of colonialism through purposive and deliberate resource allocations that neglect the general populace. The second is the opaque system dimension, closely related to the first classification system, designed to undermine the welfare and well-being of the governed, which was put in motion by colonial administrators and experts without consulting the governed. The third feature, interconnected with the first two, was intended to ensure an outcome that guaranteed the alienation of black Zimbabweans, minority linguistic groups such as Tonga, Kalanga as well as the Ndebele and women.[12]

### 2.2 Continuities in the post-colonial algorithmic state

Positive and significant strides towards correcting the inherited colonial imbalances were witnessed in Zimbabwe. Starting in 1980, some of the initiatives are still underway. However, notable and outstanding efforts such as the Fast-Track Land Reform Programme (FTLRP) of 2000 dominate the discourse. Nonetheless, a review of the literature surrounding the subject reveals that the Zimbabwean government simply maintained the majority of the classificatory categories, exclusionary

10 Native Registration Act 15 of 1936 (Southern Rhodesia).
11 T Ranger 'The invention of tradition in colonial Africa' in E Hobsbawm & T Ranger (eds) *The invention of tradition* (1983) 211.
12 D Jeater *Law, language and science: The invention of the 'native mind' in Southern Rhodesia, 1890-1930* (2007) 67-94.

systems as well as data structures. This is more pronounced and evident in the country's administration configurations, which encompass the civil registration, digital identification, cadastral systems as well as social welfare targeting, a scenario that mimics the colonial era in every facet of governance.[13] While the Zimbabwean government played a significant role in uprooting colonial systems and their residue, they strategically preserved some of the structures that made colonial governance possible, a scenario regarded as administrative path dependency.

In addition, it is imperative to take into consideration that the continuity is not just technical but institutional and juridical. Although the Cyber and Data Protection Act [Chapter 12:07] of 2021 is a positive stride towards digital rights governance, it projects three essential deficits that replicate and sustain colonial logics. First, it advances a data protection framework that is informed by the European General Data Protection Regulation (GDPR) principles without aligning them to the country's historical context of administrative racial discrimination, state surveillance and land dispossession. It is therefore imperative to note that legal transplantation without effective decolonial safeguards risks importing foreign normative frameworks that do not capture or address the reality on the ground, thereby overlooking algorithmic harms.[14]

Second, the legal instrument is silent on periodic or general algorithmic impact assessments, participatory design or any form of compliance with the principles of the RtD. This silence on algorithmic accountability is far from accidental, but rather telling of the wider governance orientation which considers digitalisation as an executive efficiency project instead of an inclusive participatory design process subjected to human rights scrutiny. While the Act mentions issues related to participation, it is important to note that it is largely confined to data subject access rights, an individualised approach that cannot replace or substitute the collective, inclusive, comprehensive and prospective participation demanded by article 2(3) of the DRtD.

Third, civil society organisations (CSOs), such as the Zimbabwe Human Rights NGO Forum and the Law Society of Zimbabwe,

13 H Chitonge 'Trails of incomplete decolonisation in Africa: The land question and economic structural transformation' (2018) 57 *African Study Monographs* Supplementary Issue 21.

14 Cyber and Data Protection Act [Chapter 12:07] of 2021 (Zimbabwe).

argued that the Act creates fertile ground for algorithmic surveillance without meaningful transparency and accountability due to the broader exemptions with regard to national security issues, criminal investigations and public order. These exemptions have been strategically used to justify surveillance of members of opposition political parties, deployment of automated number plate recognition systems in urban areas without the consent of the public, legislative oversight or even impact assessment under the prism of the RtD.

Therefore, the post-colonial algorithmic state in Zimbabwe is not a departure from colonial administration but its continuation, revamped through digitisation continuation under new legal forms. The imposition and transplantation of foreign data protection frameworks without sanitising them through decolonial adaptation, the continuation of administrative classification, and the absence of the principles of the RtD together fit squarely under what Pasipamire and Muroyiwa define as 'algorithmic coloniality by legal design'.[15] Addressing these concerns, therefore, requires more than technical solutions; it demands a fundamental reorientation of Zimbabwe's digital governance towards the core principles of the RtD, with their inherently anti-colonial and redistributive character.

### *2.2.1 Empirical continuities: Registration, extraction and administration in contemporary Zimbabwe*

The continuities traced above are not only conceptual. Zimbabwe's post-2013 digitalisation programme supplies concrete, documented instances of each of the three dimensions identified in part 2.1, together with one instructive counterexample. Four domains illustrate the argument: electoral registration, tax and customs administration, data protection and judicial case management.

#### *2.2.1.1 Registration as exclusion: The biometric voter register*

Zimbabwe's biometric voter registration (BVR) system, introduced for the 2018 elections, was expected to remove ghost voters and rebuild

15 Pasipamire & Muroyiwa (n 3) 8.

public trust in the electoral roll.[16] The literature is consistent, however, that digitalisation did not resolve entrenched political problems as irregularities persisted after the transition from manual to digital election management and BVR became embedded within a wider governance trajectory that constrained, rather than automatically widened, democratic inclusion.[17] This is precisely the graded logic Mamdani identifies in late colonial rule, where political incorporation was mediated through differentiated administrative status rather than equal citizenship.[18] The exclusion of voters who lack the required documentation, those holding 'alien' identity cards, and those whose addresses cannot be verified reproduces this hierarchical logic through biometric systems. To this end, the verification tool has changed from the paper dossier to the scanner, but the administrative function of deciding who belongs has not.

The system's own security claims collapsed under scrutiny. The Zimbabwe Electoral Commission's Chairperson, Priscilla Chigumba, declared the system '100 percent secure' and 'tamper-proof', housed on a consolidation server with 'very strict un-hackable access level passwords'.[19] Within months, an unprotected voters' roll containing personal data for over 5 million voters was found exposed on the internet. Consequentially, the responsible minister conceded that publishing voters' addresses and phone numbers without authorisation was 'an abuse of the internet … unconstitutional'.[20] In subsequent litigation, the Commission's own affidavit admitted that the breach had 'compromised the credibility of the voters roll'.[21] The result is a state apparatus that

16 L Mathe 'The challenges and opportunities of Web 2.0 elections: The case of Zimbabwe' (2020) 19 *Journal of African Elections* 125-145; Zimbabwe Election Support Network (ZESN) Biometric Voter Registration Observation Report (2018) 1-70.

17 T Mude 'Digital technologies and election management in Zimbabwe: Pseudo-democratic transition and contorted delirium?' (2022) 47 *Africa Development* 179; Mathe (n 16).

18 M Mamdani *Citizen and subject: Contemporary Africa and the legacy of late colonialism* (1997) 5.

19 '"Elections can't be rigged" Zec says foolproof system in place' *The Herald* (Harare) 26 April 2018.

20 S Mandiwanzira 'Full text: Supa Mandiwanzira warns against publishing unprotected voters roll' *Pindula News* 10 July 2018, https://news.pindula.co.zw/2018/07/10/full-text-supa-mandiwanzira-warns-against-publishing-unprotected-voters-roll/ (accessed 4 August 2026).

21 *Nelson Chamisa & 24 Others v Emmerson Mnangagwa* CCZ 21/19 (2018).

compiles comprehensive biometric data on the population while failing to guarantee that population any meaningful control over it, a pattern with clear colonial antecedents.

#### *2.2.1.2 Extraction renewed: Customs and tax administration*

The RtD scholarship and literature on illicit financial flows gives the extraction dimension a precise developmental register. In 2016 alone, Africa received US $41 billion in public development funding, while an estimated US $50 billion left the continent through illicit financial flows, a structural inversion in which the continent is a net exporter of development resources.[22] Kamga cast this directly as a continuity with colonial extraction, describing illicit financial flows as part of a 'new scramble for Africa' in which resources are again removed from the continent through mechanisms analogous to colonial era looting.[23]

Zimbabwe's customs administration supplies a contemporary instance of the mechanism rather than an abstraction. In 2025, the Zimbabwe Revenue Authority (ZIMRA) uncovered a 'miracle money' scheme in which former ZIMRA information technology staff had created customs accounts with unsupervised editing privileges under the ASYCUDA system, crediting clearing companies' accounts with fictitious funds, and causing confirmed losses exceeding ZiG55 million and US $260 000, with a related scheme costing a further US $6,3 million.[24] This followed ZIMRA's own earlier admission of 'costly errors' when the ASYCUDA system was first commissioned, an error that 'crushed' the system and delayed cargo clearance nationally.[25] ZIMRA's own taxpayer satisfaction surveys recorded complaints of 'officers demanding bribes', of import values being 'deliberately inflated … based on shift changes or arbitrary personal standards', and of a working assumption at the border that 'if you don't know someone inside, clearing takes long'.

22 GEK Kamga, SD Kamga & A Kwesiga (eds) *Right to development and illicit financial flows from Africa: Dynamics, perspectives, and prospects* (2024) ch 1.

23 SD Kamga 'Illicit financial flows in South Africa: An examination in the light of "the 1884 scramble for Africa"' in SD Kamga (ed) *Illicit financial flows from South Africa: Decolonial perspectives on political economy and corruption* (2022) 179.

24 '"Miracle cash": Huge Zimra scam exposed in Beitbridge' *NewsDay* (Harare) 16 September 2025.

25 'Zimra to commission upgraded Asycuda system' *Business Daily* (Harare) 19 February 2018.

The Zimbabwe Revenue Authority's Tax and Revenue Management System (TaRMS), rolled out nationally from 2023, illustrates the same pattern in domestic tax administration. Successive quarterly customer satisfaction reports recorded an overall satisfaction rate of 68 per cent alongside a persistent volume of complaints that the system was 'not user friendly', that 'logging in is a challenge', and that 'system disruptions remain a significant source of frustration when not accompanied by clear communication'.[26] Taxpayers' own recommendations called for 'a cultural shift from enforcement-first to service-first'; one respondent's recorded comment, 'we feel treated like criminals', captures precisely the administrative posture this chapter identifies as colonial in structure. The citizen was constituted as an object of extraction rather than a participant in governance.[27] The developmental harm recorded here is not simply lost revenue. Thus, if read against article 8 of the DRtD, it is the systematic diversion of resources that the right to development requires to be equitably distributed toward the very populations these systems are meant to serve.

#### *2.2.1.3 Law without developmental obligation: Data protection and the Mhlanga prosecution*

Zimbabwe's Cyber and Data Protection Act of 2021 supplies the formal rights framework against which these algorithmic deployments should be assessed, yet its own operation illustrates the gap between formal enactment and developmental substance identified more generally in part 2.2.[28] The Cyber and Data Protection Act of 2021 in conjunction with section 164 of the Criminal Law (Codification and Reform) Act, a provision criminalising the transmission of data messages inciting violence,[29] was used to prosecute the journalist Blessed Mhlanga, arrested in February 2025 after interviewing a war veteran critical of the sitting President. Mhlanga was charged with transmitting data messages alleged

26 Zimbabwe Revenue Authority '2024 Q2 Customer Satisfaction Survey Report' (Harare, ZIMRA, 2024) 4, https://zimra.co.zw/client-satisfaction-surveys?download=4013:2024-q2-customer-satisfaction-survey-2024 (accessed 4 August 2026).
27 Zimbabwe Revenue Authority (n 26) 7.
28 Cyber and Data Protection Act [Chapter 12:07] of 2021 (Zimbabwe).
29 Criminal Law (Codification and Reform) Act [Chapter 9:23] of 2004 (Zimbabwe) sec 164.

to incite violence, was denied bail on multiple occasions, and was held for 72 days before release, facing a potential ten-year sentence.[30] Amnesty International described the prosecution as 'unjust and in violation of Zimbabwe's Constitution and international obligations'.[31] The statute performs the formal function of data protection while leaving the developmental rights it should secure, participation, non-discrimination and accountability, without effective enforcement.

#### *2.2.1.4 A counter-case: Judicial case management and the limits of technological determinism*

Not every instance of Zimbabwe's algorithmic state reproduces this pattern, and the exception is instructive. The Judicial Service Commission's Integrated Electronic Case Management System (IECMS), implemented nationally from May 2022 to address chronic 'delays in case disposal' and 'poor communication between justice sector agencies', has been independently evaluated as promoting transparency and accountability by recording the digital footprint of every user on the system and enforcing compliance with statutory timeframes for case disposal.[32] IECMS demonstrates that Zimbabwe's algorithmic state is capable of producing measurable developmental gains when it is designed to do so. Considered alongside the evidence on registration, customs and data protection discussed above, this highlights a central conclusion of the chapter: Failures in the other domains are not merely incidental or attributable to technical limitations, but reflect underlying governance priorities and intent; precisely the distinction between algorithmic modernisation and algorithmic decolonisation that this chapter's four-principal framework, developed in part 5, is designed to operationalise.

30 Amnesty International 'Zimbabwe: Release arbitrarily detained journalist: Blessed Mhlanga' AFR 46/9185/2025 (Amnesty International, London, 2025), https://www.amnesty.org/en/documents/afr46/9185/2025/en/ (accessed 13 September 2026).

31 Amnesty International 'Zimbabwe: Further information: Journalist released but charges still pending: Blessed Mhlanga' AFR 46/9385/2025 (Amnesty International, London, 2025), https://www.amnesty.org/en/documents/afr46/9385/2025/en/ (accessed 13 September 2026).

32 Judicial Service Commission of Zimbabwe '2022 Annual Report' (Harare, JSC, 2022) 14; L Poshai & S Vyas-Doorgapersad 'Digital justice delivery in Zimbabwe: Integrated electronic case management system adoption' (2023) 25 *South African Journal of Information Management* a1695.

#### *2.2.1.5 Implications for the corrective pathways proposed in this chapter*

Read together, these four domains support a specific claim rather than a general indictment of digitalisation: Technology alone did not resolve Zimbabwe's entrenched governance problems in registration or revenue administration; it can widen inclusion where institutional intent and oversight require it to, as IECMS shows; and the determining variable throughout is not the sophistication of the system but the strength of the democratic and developmental oversight within which it is embedded.[33] This is the evidentiary foundation on which parts 5 and 6 build: The participation, distribution and remedial mechanisms proposed there are not abstract correctives to a hypothetical harm but direct responses to the documented pattern set out above.

### 2.3 The DRtD's anti-colonial mandate for the algorithmic state

The DRtD strives to address the challenges of replicating and mushrooming of colonial patterns in algorithmic governance. According to article 5 of the DRtD:[34]

> States shall take decisive action to eliminate massive and flagrant violations of the human rights of peoples and individuals affected by situations such as those resulting from apartheid, all forms of racism and racial discrimination, colonialism, foreign domination and occupation, aggression, foreign interference and threats against national sovereignty, national unity and territorial integrity, threats of war and refusal to recognise the fundamental right of peoples to selfdetermination.'

For Subedi, the obligation specified in article 5 goes beyond just addressing the inherited colonial imbalances, but rather to guarantee and ensure that mechanisms and systems of proactive prevention are put in place to ensure that such patterns of colonialism never surface in emergent technologies.[35] Therefore, applying article 5 to algorithmic state, it demands that algorithmic governance be audited to determine if it is safe from colonial continuities such as racialised data, exploitative and extractive data practices as well as non-participatory design. Birhane ascertains that the deployment of algorithmic innovations and systems

33 Mathe (n 16); Mude (n 17); ZESN (n 16).
34 DRtD (n 1) art 5.
35 Subedi (n 1) 5.

in Africa has exposed that datasets are tailored and calibrated to suit colonial-era racial classification.[36] Mohamed and others reinforce this by noting that there are three dimensions of algorithmic coloniality, namely, labour exploitation, epistemic extraction as well as infrastructural dependency, which all project a form of 'foreign domination' under article 5.[37]

This perspective is embraced and strengthened by Ricaurte and others through the 'neocolonial soft power' concept whereby algorithmic systems imported from Global North are programmed with socio-technical imaginaries that relegate the development priorities of the Global South, thereby violating article 5 of the DRtD, which prohibits foreign interference in local development.[38] The African Commission supports this perspective and has demanded that state parties guarantee that algorithmic systems will not function as a springboard for the rebirth of coloniality through 'discrimination, exclusion and extraction'.[39]

## 3 The right to development: Normative content, critiques and rebuttals

### 3.1 The DRtD's core provisions

For Subedi, the core and primary determinants of development within the parameters and confines of the DRtD include equality, justice and equity, thereby introducing a novel rights-based paradigm for development.[40] The DRtD comprises ten articles. Interestingly, a total of four articles are relevant to the discourse of algorithmic state decolonisation. Article 1(1) establishes the right to development as 'an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development'.[41] According to Chalabi, the RtD must be

36 Birhane (n 5) 395.
37 Mohamed and others (n 4) 670.
38 Ricaurte and others (n 3) 10.
39 African Commission on Human and Peoples' Rights Resolution on the Need to Undertake a Study on Human and Peoples' Rights and Artificial Intelligence (AI), Robotics and Other New and Emerging Technologies in Africa ACHPR/Res. 473 (EXT.OS/XXXI) 2021.
40 Subedi (n 1) 2.
41 DRtD (n 1) art 1(1).

viewed and perceived as a human right to a conducive environment for communitarian and collective well-being, a characterisation that is especially relevant to algorithmic governance, which drives the circumstances that foster or hinder collective well-being.[42] For Kamga, the 'right to development-informed pan-Africanism' demands the reconfiguration of governance systems and structures to prioritise inclusive, collective participation and equitable distribution of resources, and in this scenario, it is directly applicable to the algorithmic state.[43] Article 2 of the DRtD designates the human individual as the primary and core focus of development and assigns to governments the right and obligation to devise suitable and purposive national development plans.[44] This is reinforced by article 2(3), which further notes that development plans and policies must be calibrated to guarantee 'active, free and meaningful participation', a scenario that commands affected communities to genuinely have influence over the design, development, deployment and evaluation of algorithms constituting the algorithmic state.

Article 3 notes that states have a core mandate of creating circumstances and conditions favourable to the realisation of the RtD.[45] Fobosi asserts that this responsibility and mandate extend to technology-intensive sectors such as IT and biotechnology.[46] This view and perspective are further elaborated and reinforced by article 4, which ascertains that states are mandated to undertake initiatives both collectively and individually to establish international development priorities, frameworks and policies that foster the optimum actualisation of the RtD.[47] Therefore, given this scenario, African states must exercise agency in international development cooperation and partnerships to avert foreign engineered technologies and investments from transforming into tools of neocolonial subjugation.

42 A Chalabi 'The right to development as a human right to an enabling environment for collective well-being' (2026) 25 *Journal of Human Rights* 253-255.
43 SD Kamga 'A call for a "right to development"-informed pan-Africanism in the twenty-first century' (2019) 19 *African Human Rights Law Journal* 422.
44 DRtD art 2.
45 DRtD art 3.
46 SC Fobosi 'The protection of human rights in South Africa: Unpacking the duty of the state to realise the right to development' (2024) 27 *Potchefstroom Electronic Law Journal* 1.
47 DRtD art 4(1).

Furthermore, article 8 urges states to guarantee, among others, equal opportunities in accessing work, health care, education and housing, as well as equitable income distribution.[48] Kamga and others argued that illicit financial flows (IFFs) from Africa compromise and weaken the state's ability to realise article 8 obligations, and suggested that digital governance systems and structures, such as AI-driven tax administration as well as customs algorithms, must be calibrated to detect and prevent IFFs as part of the RtD framework.[49]

### 3.2 Major critiques of the right to development

Since the adoption of the DRtD, sustained scholarly critique has been at the core of the RtD and, therefore, any effective defence must counter these objections. For Donnelly, the RtD is nothing but a 'unicorn', a misnomer and rhetoric with no justiciable content, no identifiable duty bearer, and no obligations beyond those already established under human rights commitments.[50] Alston contends that at the core of the RtD is conceptual vagueness, which makes it operationally inapplicable. This is attested to by the absence of explicit detail as to what entails 'development', 'participation' or 'fair distribution'.[51] At the same time, neoliberal institutions have hijacked and domesticated the RtD to create a smokescreen of development and accountability that forestalls global redistribution and structural change, while entrenching global power asymmetries as well as extractive and exploitative economic relations intact. For Africa, the RtD's focus on state obligations negates the reality on the ground of economies of affection, state capture and state party conflation in the post-colonial state where the elite have entrenched extractive and exploitative development models while perambulating on the path of RtD rhetoric to deflect accountability for domestic inequality. The statist approach, which is at the core of the RtD by putting states as primary duty bearers, negates the fact that the majority of extractive and exploitative systems that violate development

48 DRtD art 8.
49 GEK Kamga, S Kamga & A Kwesiga *Right to development and illicit financial flows from Africa* (2024) 112.
50 J Donnelly 'In search of the unicorn: The jurisprudence and politics of the right to development' (1985) 15 *California Western International Law Journal* 478.
51 P Alston 'Making space for new human rights: The case of the right to development' (1988) 1 *Harvard Human Rights Yearbook* 15.

are carried out by non-state actors such as international financial institutions, transnational corporations and, increasingly, Global North AI companies whose algorithms determine resource access without direct state intermediation.[52]

Moreover, even though the RtD has normative force, its execution and implementation have been obstructed by the lack of binding treaties, inadequate monitoring structures as well as the reluctance of powerful states to acknowledge extraterritorial obligations. Therefore, taking the above into account, it is fair to argue that these critiques are serious and watertight, and cannot easily be refuted by rhetoric alone.

### 3.3 Why the right to development remains essential for decolonising the algorithmic state

Despite the above criticisms, the RtD is not only pertinent but essential for decolonising the algorithmic state, for three interrelated and intertwined reasons that directly address the shortfalls above. First, to address the vagueness critique, there is a need to ensure optimum operationalisation, as this article puts in place effective, measurable indicators for every RtD principle, as outlined in part 5, thereby converting abstract values into verifiable and auditable standards, encompassing data provenance requirements, mandatory and obligatory redistributive impact evaluation and assessments as well as communitarian veto powers over development processes.

Second, to address the issues raised by the critiques of co-optation and elite capture, the article advocates the adoption of participatory, inclusive governance and civil society oversight as a remedial action. A meta-governance system would allow citizens and communities in affected areas to exercise veto powers, demand public disclosure of the processes that culminate in algorithmic outcomes, and establish independent complaint systems aligned with the Zimbabwe Human Rights Commission (ZHRC) and the African Commission. The RtD is the nerve-centre of distributive justice; without the application of the RtD to AI governance, the entire AI discourse is relegated to a mere techno-solutionism discussion tailored to address issues related to

52 Alston (n 51) 15.

individual data protection while negating the structural inequality that it might perpetuate within the community.

Moreover, to address the non-state actor and statist critiques, the article advocates the interpretation of the RtD's mandate, principles and duties as extending to any institution, entity or system that holds power over development processes. This encompasses Global North AI firms as well as international financial institutions that finance digitalisation projects, a definition that is within the parameters of the African Commission's 2023 Resolution on AI and Human Rights that directed non-state actors to abide by the dictates of the RtD.[53] This view is reinforced by Kamga, who articulated that a 'right to development-informed pan-Africanism' demands that the state and corporate stakeholders be accountable to how their projects shape development outcomes.

Chalabi contends that the core contribution of the RtD is its ability to outline or regard development as a function of an enabling environment for the collective well-being of the country or community rather than self-aggrandisement,[54] a perfect scenario that depicts the dimension to which algorithmic governance functions, striving to shape the circumstances which the entire country and community participate in, benefit from and contribute to development. Therefore, given this scenario, the optimum enforcement and operationalisation of the RtD stands as the only internationally accepted legal framework that intersects development, decolonisation, technology and redistribution in a single normative architecture.

## 4 Decolonising the algorithmic state: An operational definition

The concept of decolonisation is increasingly invoked in algorithmic governance, a positive development. However, Donnelly cautions that this must be done carefully, as it risks becoming a 'unicorn', that is a compelling ideology without metrics.[55] This article aligns with decolonial literature in defining the decolonisation of the algorithmic state as the methodological transfer of algorithmic power, which entails the capacity to develop, challenge, dismantle and implement automated

53 African Commission on Human and Peoples' Rights (n 39) para 12.
54 Chalabi (n 42) 268.
55 Donnelly (n 50) 473-509.

systems from the three domains of colonial continuity (coloniality of knowledge, coloniality of power and coloniality of being) to responsible systems and institutions that are rooted in inclusive, participatory and redistributive justice.

The first dimension is epistemic extraction whereby colonial administrators governed African populations through external classification systems calibrated through cadastral frameworks, which obliterated communal tenure and racialised censuses, all tailored to annihilate African knowledge.[56] Birhane argued that post-colonial algorithmic systems are programmed on datasets that encode these colonial classifications, projecting and automating the same epistemic violence. To this end, decolonising demands data provenance audits that detect the replacement of colonial training data with community-validated data.

The second dimension is infrastructural dependency, a system whereby colonial governance was perpetuated, preserved and maintained by metropolitan capital, expertise and systems that facilitated dependency syndrome of colonies.[57] This perception resonates with the discovery by Mohamed and others, who coined the term 'algorithmic coloniality', a scenario in which African states deploy foreign-developed and foreign-owned AI innovations without the ability to modify them to suit local priorities.[58] Therefore, optimum decolonisation demands algorithmic sovereignty, which entails complete technological transfer, local data hosting as well as open licensing for public interest algorithmics.

The third dimension is non-participatory administration whereby the colonial administration treated Africans as second fiddle and objects rather than participants,[59] thus making them spectators of development. Pasipamire and Muroyiwa argued that the current wave of AI innovations and systems replicate this non-participatory governance model of the colonial administration.[60] To this end, decolonising this demands inclusive governance anchored in legal design that makes community participation in algorithmic feasibility studies and impact

56 Birhane (n 5) 393.
57 Mohamed and others (n 4) 670.
58 As above.
59 Pasipamire & Muroyiwa (n 3) 8.
60 As above.

assessments mandatory, conducted in local languages, and which ensures that communities retain veto powers to determine whether development trends are in sync with their aspirations.

Therefore, optimum operationalisation of decolonised algorithmic states is characterised by the following features: (i) every AI system that influences resource deployment must be subjected to community-led impact assessment as well as coloniality audit; (ii) all public interest algorithms source code must be hosted locally, open and editable, modifiable without vendor authorisation; (iii) impacted and affected communities have rights to terminate, contest or suspend algorithmic systems until such time as they are fully aligned with their development aspirations; (iv) citizen-generated data must be governed domestically under data sovereignty frameworks as aligned to DRtD article 1(2) (permanent sovereignty over natural resources) to digital resources; and, lastly (v) systems must be put in place to guarantee that no international technology transfer takes place, which includes surveillance conditionality, data mining and extraction as well as external veto powers over local algorithmic modifications. This kind of operationalisation recalibrates the relationship between the state, technology and citizens, and fits squarely within what Kamga calls 'right to development-informed pan-Africanism', thereby in a way facilitating the transformation of decolonisation from rhetoric into enforceable legal architecture.[61]

## 5 A pan-African rights-based framework for decolonising the algorithmic state

### 5.1 Principle 1: Participation as a non-delegable right

According to article 2(3) of the DRtD, to ensure optimum development anchored on the RtD, there must be 'active, free and meaningful' participation of the general public in development matters related to their communities. This ensures that the process is not just mere consultation but rather engaging and inclusive.[62] An examination of AI and RtD scholarships show that decolonisation of algorithmic

61 Kamga (n 43) 432.
62 DRtD art 2(3).

governance demands inclusive governance that fosters empowerment of marginalised communities in AI governance, making African languages operational requirements instead of the current practice of treating them as an optional design feature as well as establishing community-driven data stewardship.[63] Therefore, applying this to the concept of algorithmic state, it calls for the implementation of multilingual community algorithmic state impact assessments (CASIA) at the same time, granting the affected communities veto rights to any development initiative. For Adi,[64] early and inclusive engagement must be prioritised to obtain effective oversight and transparency, while Grote contends that shared decisions must be the nerve centre of consultations to avoid rubber-stamping finished processes and procedures.[65] While this is sound and ideal, there is an underlying tension that must not be ignored, which is the friction between state sovereignty and participatory ideals. This is more pronounced in the Cyber and Data Protection Act [Chapter 12:07] of 2021 which gave exemptions to national security by taking away communities' surveillance oversight, a scenario that Haley argues entrenches procedural injustice.[66]

### 5.2 Principle 2: Fair distribution of algorithmic state benefits

Article 8 of the DRtD demands fair distribution of income and equality of opportunity as well as access to basic resources.[67] Thus, optimum attainability of article 8 requires annual and quarterly publication of disaggregated data of algorithmic outcomes according to location (urban/rural), gender, income, language and disability,

63 G Ayana and others 'Decolonizing global AI governance: Assessment of the state of decolonized AI governance in sub-Saharan Africa' (2024) 11 *Royal Society Open Science* 7-10; G Ooko 'Toward a decolonial framework for communicating AI in African public service' (2025) 3 *Emerging Media* 465.

64 BTS Adi 'Empowering communities through effective participation in environmental and social impact assessments' (2026) 4 *Applied Sciences Research Periodicals* 202.

65 KM Grote 'Indigenous peoples and the power(lessness) of public participation: Assessing effects of indigenous community input in the Alaskan Coastal Plain oil and gas leasing program environmental impact statement' (2024) 158 *Environmental Science & Policy* 7.

66 P Haley 'Artificial intelligence and ethical dimensions of automated traffic enforcement: Implications for public health, healthcare equity, and social justice' (2025) 6 *Health Economics and Management Review* 12.

67 DRtD art 8.

coupled with mandatory redesign in the event that disparities exceed the stipulated threshold. Pasipamire and Muroyiwa contend that AI bias in Africa intensifies existing social divisions and inequalities across race, gender, income and geography.[68] At the same time, Nizamani and others postulated that much of the governance literature falls short of optimum reporting stands by failing to provide disaggregate outcomes and masking unequal benefit distribution.[69] The current algorithm audits are poorly institutionalised, inadequately interactive and highly deficient in corrective follow-through,[70] a tension that will be exacerbated by Zimbabwe's constrained enforcement capabilities, weakened and captured governance structures.[71] For this reason, Lau established that bias audits create fertile ground for the reproduction and proliferation of racialised as well as neoliberal exclusions as they lack inclusive participatory designs, oversight, redistributive justice and data sovereignty.[72]

### 5.3 Principle 3: Eradication of colonial governance patterns

Racial discrimination, foreign domination and colonialism are eloquently condemned under article 5 of the DRtD.[73] Therefore, in the context of algorithmic states and governance, this demands coloniality audits as well as an embargo on the importation of AI models that are not calibrated to Zimbabwe's historical context. Algorithmic colonialism is embedded not just in outputs, but in AI infrastructures, governance systems and data pipelines, as reflected by the way in which African data is often harvested,[74] stored and monetised in the Global North.[75] To

68 Pasipamire & Muroyiwa (n 3) 5.
69 AG Nizamani and others 'Urban resilience through nature-based solutions in an era of environmental extremes: A global systematic analysis' (2026) 106 *Sustainable Cities and Society* 12.
70 V Funda 'A systematic review of algorithm auditing processes to assess bias and risks in AI systems' (2025) 9 *Journal of Infrastructure, Policy and Development* 8.
71 Ayana and others (n 63) 12.
72 PL Lau 'Rewriting the narrative of AI bias: A data feminist critique of algorithmic inequalities in healthcare' (2025) 7 *Law, Technology and Humans* 10.
73 DRtD art 5.
74 S Kakraba, E Agyemang & S Srivastav 'Cognitive sovereignty and decolonial public health: Reclaiming epistemic authority in the global AI era' (2026) 14 *Frontiers in Public Health* 8.
75 A Ndaka and others 'Data flows and colonial regimes in Africa: A critical analysis of the colonial futurities embedded in AI ecosystems' (2025) arXiv:2511.19283,

this end, there is a need to ensure that data centres are localised and self-determination is prioritised through a robust participatory and inclusive governance system that regards communities as part of the broader meta-governance ecosystem. This view is reinforced by Barrett and others, who argued that local institutions are critically needed to ensure the welfare and well-being of communities are guaranteed in this digital age.[76]

### 5.4 Principle 4: International cooperation without neo-colonial conditionality

Article 4 of the DRtD encourages states to formulate international development policies that are in sync with the principles and dictates of the RtD.[77] Digital colonialism is sustained by unchecked foreign dominance and control of strategic digital infrastructure, which culminates in the production of unequal data flows as well as power asymmetries through the veil of technological assistance.[78] This is because most of AI innovations from the Global North are adopted by the Global South without adequate understanding of the coloniality risk they carry, without putting in place robust parameter control infused with localised data governance rights, thereby creating sovereignty and national security risks.[79] The current scholarship and literature on data governance, algorithmic colonialism and foreign domination attest to the fact that the imposition of external AI standards is choking out and crowding out African communities. This is supported by the fact that AI readiness indices, as well as externally imposed governance frameworks and benchmarks, superimpose foreign ideologies and systems that are alien to African communities.[80] A surgical examination of literature demonstrates that the prevailing solution is enhanced regional

https://arxiv.org/abs/2511.19283 (accessed 18 September 2026).

76 T Barrett and others 'African data ethics: A discursive framework for black decolonial AI' (2025) Proceedings of the 2025 ACM Conference on Fairness, Accountability, and Transparency 12.

77 DRtD art 4.

78 AO Salami 'Artificial intelligence, digital colonialism, and the implications for Africa's future development' (2024) 6 *Data & Policy* e67.

79 SF Abiade 'Algorithmic sovereignty and the new security dependencies: How foreign AI surveillance technologies reshape domestic autonomy in the Global South' (2025) 27 *World Journal of Advanced Research and Reviews* 8.

80 K Holden & M Harsh 'On pipelines, readiness and annotative labour: Political geographies of AI and data infrastructures in Africa' (2024) 109 *Political Geography* 10.

collaboration, robust collective bargaining, strategic procurement through regional and continental bodies instead of isolationist stance of state-by-state.[81]

### 5.5 Limits of community veto powers

The veto powers proposed under Principles 1 and 3 are a deliberate remedy for the total absence of community control identified in part 2, but a veto held by one affected group is not costless to others, and the framework should say so plainly rather than treat veto power as an unqualified good. Three tensions in particular require active management rather than assumption away. First, a local veto over an AI system serving a public function (such as tax administration or land registration) can collide with the countervailing rights of other citizens who depend on that system continuing to function; an indefinite community veto over ZIMRA's ASYCUDA system, for instance, could paralyse customs revenue collection that funds public services used by the very communities the veto is meant to protect. Second, 'community' is not an undifferentiated unit: Within any affected population there are competing interests along lines of gender, generation, disability and political affiliation, so a veto exercised by whichever local structure controls the CASIA process risks entrenching existing internal hierarchies rather than displacing colonial ones, unless the impact assessment procedure itself specifies how internal disagreement is resolved. Third, an unqualified veto invites strategic capture: Incumbent elites, or the state itself acting through client structures, have an obvious incentive to position themselves as the 'community' whose consent is required.

This chapter's response is not to abandon the veto mechanism but to bound it. The veto should attach to the design, data-sourcing and deployment stages of an algorithmic system, where it functions as a precondition for legitimate operation, rather than to the continued operation of systems already delivering public services, where it should instead trigger a mandatory, time-bound remediation process supervised by the ZHRC rather than an immediate shutdown. This distinction limits the risk identified above of veto powers being used to disrupt essential public functions. Internal representativeness should

81 As above.

be a documented precondition for any CASIA exercise, following disaggregation requirements analogous to those proposed for article 8 monitoring in part 5.2, so that a veto cannot be exercised by a subset of a community purporting to speak for the whole. Finally, the ZHRC's oversight role, and eventual reference to the African Commission where domestic remedies are exhausted, is intended precisely to guard against elite or state capture of the consent mechanism itself. These are design constraints on the veto power, not answers that resolve the underlying tension between local control and functioning public administration; that tension is structural, and the framework's contribution is to make it visible and governable rather than to claim it away. The 2018 exposure of the biometric voters' roll, discussed in part 2.2.1, is precisely the kind of design stage failure this bounded veto is meant to catch: A CASIA process with real teeth at the data sourcing stage could have flagged the consolidation server's inadequate access controls before, rather than after, over 5 million voters' personal data was exposed.

Therefore, amalgamating the above principles creates an indivisible framework. The efficacy of the framework is not in providing simplistic remedial actions, but in pinpointing the specific institutional context and setting where decolonisation of algorithmic governance can either falter or thrive.

## 6 Justiciability and remedies: Making the RtD enforceable for algorithmic harm

The core tension in the discourse of RtD lies in the disparity between normative aspirations and actionable remedies, as pointed out by Donnelly's 'unicorn critique'. A tension magnified in algorithmic innovation and governance, where there are many duty holders (foreign vendors, state and international financiers), causation is opaque, and harms are diffuse. To this end, three possible remedial levels exist, though all carry structural constraints.

Domestically, section 85 of the Zimbabwean Constitution of 2013 allows constitutional challenges, and the Zimbabwe Human Rights Commission (ZHRC) has the mandate to investigate violations, but two insurmountable shortcomings persist. The first is that the ZHRC can only investigate violations and offer non-binding recommendations; the second is that it cannot compel proprietary source-code disclosure.

This leaves affected communities unable to secure justice, as they cannot prove algorithmic causation.

The 2025 prosecution of the journalist Blessed Mhlanga under section 164 of the Cyber and Data Protection Act, discussed in part 2.2.1, illustrates this enforcement gap directly. A statute nominally protecting data rights was used instead to detain a journalist for 72 days, with no ZHRC remedy engaged and no vendor or state liability attaching to the underlying surveillance and prosecutorial infrastructure that made the charge possible.

At the regional level, article 22 of the African Charter is justiciable before the African Commission. The 2010 *Endorois* precedent noted that exclusionary and isolating development initiatives and policies fall short of the elementary principles of the RtD.[82] Nonetheless, just like the decisions of the ZHRC, the African Commission's decisions are not judgments but recommendations. At the same time, Zimbabwe is yet to accept article 34(6) of the African Court Protocol on individual complaints jurisdiction. This undermines regional remedies, reducing them to political contingencies rather than legally enforceable rights.

In the international arena, the 2020 draft UN Convention on the Right to Development suggests individual communications as articulated in article 15, although its state-centric framework fails to address foreign AI providers who are immunised by their contracts through jurisdictional exclusions and foreign arbitration clauses.

Thus, to redress these tensions, this study advances three actionable remedies rooted in existing legal doctrine. The first remedial action focuses on community standing, being cognisant of the fact that algorithmic harm and detrimental effects are more collective rather than individual. Thus, in this regard, communities impacted rather than solely individuals have standing before ombudsman and watchdog institutions such as the ZHRC, the African Commission and any prospective UN treaty body. The second curative measure speaks to reversing the burden of proof. This means that, when algorithmic decisions culminate in a significant statistically differential impact on protected, vulnerable or marginalised groups, the responsibility shifts to the deploying firm to demonstrate compliance with the RtD, as well as the principle of reasonable treatment

82 *Centre for Minority Rights Development & Others v Kenya* (2009) AHRLR 75 (ACHPR 2009) (*Endorois*) paras 209-220.

and discrimination emanating from the comparative human rights law under the indirect discrimination jurisprudence. Lastly, the third remedy will advance vendor liability as a procurement condition. This entails that any international AI vendor undertaking business in Zimbabwe must relinquish, surrender or waive extraterritorial arbitration provisions, accept domestic jurisdiction, and comply with the ZHRC's remedial authority. Therefore, implementing and adopting these remedial measures transforms the RtD principles from Donnelly's unicorn to a justiciable framework that fosters accountability and responsibility of all involved stakeholders.[83]

## 7 Conclusion

The fortieth anniversary of the UN DRtD in 2026 offers a crucial opportunity to undertake positive progressive strides from normative affirmation to implementable and binding legal obligations that redress Africa's AI transformation of governance. This chapter projects the algorithmic state in Zimbabwe and across the continent not as a simple technological upgrade, but rather as a purposive development initiative marked by colonialities that risk germinating systems and patterns of colonialism such as discrimination, extraction and exclusion unless it is reconfigured under the prism of the RtD. Therefore, drawing on the DRtD's provisions on article 2(3) on participation, article 4 on international cooperation, article 5 on anti-colonialism and article 8 on fair distribution, the study proposes a pan-African rights-based framework that operationalises decolonisation with four robust and comprehensive principles, such as coloniality audits of algorithmic sovereignty, data infrastructure, inclusive participatory rights of communities as well as disaggregated distributive audits.[84] This is because without such guarding rails, digital governance becomes fertile ground for the proliferation and manifestation of colonial continuities obliterating customary, gendered and informal claims,[85] a scenario that overlooks realities on the ground

83 Donnelly (n 50) 478.

84 D Rodima-Taylor 'Digitalizing land administration: The geographies and temporalities of infrastructural promise' (2021) 122 *Geoforum* 7.

85 J Morales and others 'Designing all-inclusive land administration systems: A case study from Colombia' (2021) 109 *Land Use Policy* 8; R Home 'History and prospects for African land governance: Institutions, technology and "land rights for all"' (2021) 10 *Land* 8.

and entrenches inequality. The framework's contribution, therefore, lies not in offering simplistic remedial actions, but in identifying the precise institutional junctures at which decolonisation of algorithmic governance can be advanced or blocked, and in supplying the four operative principles set out above through which that advance can be measured.

To this end, it is the ambition of this chapter that there may be an AU Protocol on AI, data governance and the RtD to complement the African Charter. This will ensure that the algorithmic state is treated as a development initiative subjected to article 22 of the African Charter, culminating in the operationalisation of the four principles proposed above, coupled with specific measurable indicators such as compulsory community algorithmic state impact assessments, underpinned by veto powers, quarterly and annual publication of disaggregated algorithmic outcomes with mandatory modification in the event of outcomes that undermine the welfare of the communities, statutory audits of coloniality concerns as well as the supremacy of domestic laws over international terms of service. To attain optimum efficiency, the protocol must create an African Commission Working Group on Algorithmic Governance (WGAG) with investigative authority. This should be complemented by an individual and community complaints mechanism (ICCM) tailored to redress the justiciability gap in the RtD, which Donnelly has long highlighted.[86]

This proposal is deliberately sequenced rather than presented as a single legislative event, since an AU protocol of this kind will take years to negotiate and ratify even under favourable conditions. In the near term, and without waiting for continental agreement, Zimbabwe could pilot the CASIA mechanism administratively within a single existing system, most plausibly ELIMS, given its direct bearing on land tenure and the depth of documented colonial era continuity discussed in part 2, before extending it to BVRS or ASYCUDA. This allows the participatory and disaggregated-reporting principles in parts 5.1 and 5.2 to be tested and refined against a live system rather than legislated in the abstract. In the medium term, the ZHRC's existing investigatory mandate could be extended by statute, short of a new constitutional provision, to include

86 Donnelly (n 50) 478.

algorithmic impact assessments and disaggregated outcome reporting duties, giving Principles 2 and 3 domestic legal traction ahead of any regional instrument. Only once such domestic practice exists would the AU protocol and its proposed Working Group on Algorithmic Governance become a realistic continental step, generalising a model that has already been tested rather than imposing an untested one. Resourcing and capacity remain open questions this chapter does not resolve. The ZHRC's current budget and technical staffing were not designed for algorithmic auditing and any credible implementation path must confront that constraint rather than assume it away.

Therefore, if Zimbabwe adopts this framework, it will conform to its regional and international human rights obligations while simultaneously providing a model for the continent. As argued in part 5.4, regional and continental collaboration remains the more durable alternative to an isolationist, state-by-state approach, and this chapter's Zimbabwean analysis is offered as one contribution to that collective effort.[87] According to Kamga, a 'right to development-informed pan-Africanism' demands that African states exercise agency in international technological partnership, dismissing agreements that perpetuate reliance on external governments (dependency syndrome).[88]

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87 As above.
88 Kamga (n 43) 432.

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