



**Call for inputs from the Office of the High
Commissioner for Human Rights:
Promoting and protecting economic, social and
cultural rights within the context of
addressing inequalities in the recovery from
the COVID-19 pandemic**

January 2023

Introduction

The Association for Progressive Communications (APC) is an international network dedicated to empowering and supporting people working for peace, human rights, development and protection of the environment, through the strategic use of information and communications technologies (ICTs). APC has 62 organisational members and 29 associates active in 74 countries, mostly in the global South. We work to build a world in which all people have easy, equal and affordable access to the creative potential of ICTs to improve their lives and create more democratic and egalitarian societies.

APC welcomes the invitation of the Office of the High Commissioner for Human Rights to reflect on the impacts of COVID-19 on the exercise of economic, social and cultural rights within the context of addressing inequalities in the recovery from the COVID-19 pandemic. The pandemic has thrown challenges for human rights and, in some cases, responses by governments have revealed fault lines that challenge international human rights law. While we recognise that these were and are extraordinary times, states' responses to the crisis should be proportionate and planned and should avoid curtailing human rights.

It is widely recognised that access to the internet and technology is indispensable to achieving green economic growth. The internet is an enabler of economic, social and cultural rights, and at the height of the COVID-19 pandemic, with lockdowns enforced in many countries across the world, it showed its potential to enable the right to work (Art. 6 and 7) including the right to work in safe and healthy working conditions (Art. 7b);¹ the right of trade unions to function freely (Art. 8c);² the right to social security (Art. 9);³ the right to health (Art. 12);⁴ the right to education (Art. 13);⁵ and the right to take part in cultural life and to benefit from scientific progress (Art. 15).⁶ However, the pandemic also vividly exposed the negative rights implications of the use of technology by states to mitigate the effects of the pandemic, as well as the implications for those without meaningful affordable internet access.

¹ Many employees with internet connectivity were able to continue their work from home, and away from unsafe office spaces where there was a high potential of the virus circulation.

² In Benin, the internet was used to elect trade union representation. See Tomètissi, S. P. (2022). From e-services to e-democracy: Strengthening public participation and rights in Benin. In A. Finlay (Ed.), *Global Information Society Watch 2021-2022*. Association for Progressive Communications. <https://www.giswatch.org/en/country-report/benin>

³ Many governments digitised their social security payment processes, as well as disaster relief support grants to mitigate the impact of the pandemic.

⁴ The internet was central to many governments responses to the pandemic, including through sharing accurate health information, monitoring and controlling the spread of the virus, and for treatment and care.

⁵ In many countries across the world, school and university tuition was conducted online, with students successfully completing their education.

⁶ Many artists across the world managed to successfully share their creative work online, including streaming music concerts, attracting new audiences to their work. The internet was critical in sharing the scientific communities evolving understanding of the virus with the public.

This submission draws on these lessons, with a specific focus on countries in the global South, in order to create a limited set of considerations for governments who view the internet as central to their plans for inclusive, green economic growth. The submission focuses on access to the internet; rights-based decision making in government programmes; privacy and data protection; and the sustainable use of technology. It responds to Question 1 of the call, but with implications for the remaining questions, such as on resource allocation, social spending and taxation, embedded in the response.

Access to the internet for marginalised communities

Access to the internet in a meaningful and sustainable way, as well as the participation of all stakeholders in policy development and other internet governance processes, is considered central to the achievement of inclusive and rights-based green economic growth. However, the pandemic exposed the growing socioeconomic gap between those who have constant and affordable internet access, and those who do not. It also laid bare the negative rights implications of decisions made by states on the use of technology without proper consultation with stakeholders.

Many governments rushed through their digitalisation plans at the start of the pandemic, schools and universities went online, and new initiatives using technology were launched, such as contact tracing apps to monitor and control the spread of the virus, and management platforms for vaccination and for the dissemination of information on the evolving pandemic. As became evident, the rights consequences of many of these initiatives were not properly considered, and the likely consequences of the initiatives for people without adequate or no internet access were not duly considered either. Many of these initiatives were likely not to have been necessary in the first place. In the global South in particular, a lack of meaningful access for marginalised communities and groups such as grassroots NGOs, people who live in rural areas, traditional and Indigenous peoples and communities, people who live in poor neighbourhoods in urban areas, and people with disabilities, has been noted.⁷

In these contexts, e-government initiatives were seen to have created layered exclusions for people without adequate internet access, including in accessing health and education. With respect to education, the pandemic exposed the cost and rights implications of failed or stalled national e-education initiatives in many countries, creating what has been called a “learning divide” (or lost years in education for those who could not easily make the transition to online learning).⁸

⁷ See Various. (2022). *Global Information Society Watch 2021-2022*. Association for Progressive Communications. <https://www.giswatch.org/index.php/2021-2022-digital-futures-post-pandemic-world>. See specifically country reports for [Argentina](#); [Bangladesh](#); [Benin](#); [Brazil \(1\)](#); [Brazil \(2\)](#); [Cameroon](#); [Colombia](#); [Cuba](#); [Kenya](#); [Tunisia](#); [Venezuela](#); and [Zimbabwe](#).

⁸ See Various. (2022). *Global Information Society Watch 2021-2022*. Association for Progressive Communications. <https://www.giswatch.org/index.php/2021-2022-digital-futures-post-pandemic-world>. See specifically country reports for [Bangladesh](#); [Uruguay](#); and [Cameroon](#).

While the pandemic showed the implications of stalled or inadequate infrastructure roll-out programmes in countries in the global South,⁹ it showed that even if the infrastructure existed, specific issues require fresh attention, such as the high cost of data and the cost of devices, especially in Africa (e.g. Cameroon, Benin and Zimbabwe). There was also a need to rethink outdated internet access policies and strategies (a reimagining was necessary), and to encourage inclusive and multistakeholder processes (involving regulators, local wireless internet service providers, civil society organisations, universities, and target communities themselves) that centred the needs of marginalised communities and community-based organisations in the policy development process. Internet policies should speak directly to these needs and emerge from a nuanced understanding of these needs. A reinvigoration of bottom-up, inclusive policy-making processes was necessary, with digital capacities being built in grassroots communities.

One way to stimulate meaningful access for marginalised and displaced communities is through community networks – or local access networks.¹⁰ This model of internet connectivity, where the community is invested in developing, sustaining and sharing its own internet connectivity, and which offers an opportunity for governments to strengthen their commitment to inclusive multistakeholder processes and solutions seeking, is being pursued by several states in the global South.

Governments, such as those in Zimbabwe, Mexico, Brazil,¹¹ Argentina, Indonesia and Kenya¹² have made revisions or new provisions within their policies, finding ways in which to legitimise the existence of small operators to provide telecommunication services to unconnected or underserved communities. For example, while Kenya has enacted a community network licence framework,¹³ our advocacy partner in Zimbabwe, Murambinda Works, demonstrated its efforts

⁹ For example, in Venezuela the precarious internet infrastructure, as well as a lack of digital capacities, made it difficult to realise the proper value of remote work. In Cuba the development of internet infrastructure offers an advocacy opportunity to secure rights (throttling, blocking and other methods of limiting internet access are common), including through stipulations in trade arrangements with other states. In Cameroon the uneven distribution of internet access throughout the country is exacerbated by infrastructure problems such as power outages or lack of access to electricity. Sudan meanwhile shows that sanctions have impacted on areas such as internet access, infrastructure, e-government, academic research and education, and have exposed activists to surveillance and stifled innovation and start-ups.

¹⁰ APC. (2022). Advocacy for community-led connectivity access in the global South. In A. Finlay (Ed.), *Global Information Society Watch 2021-2022*. Association for Progressive Communications. <https://www.giswatch.org/index.php/2021-2022-digital-futures-post-pandemic-world>.

¹¹ Kopp, M. (2020, 29 June). Brazil acknowledges community networks as viable option for connectivity. APC. <https://www.apc.org/en/news/brazil-acknowledges-community-networks-viable-option-connectivity>

¹² Kivuva, M. (2021, 9 November). Kenya adopts the community networks licensing framework. KICTANet. <https://www.kictanet.or.ke/kenya-ratifies-the-community-networks-licensing-framework>

¹³ Ibid.

to the government¹⁴ and the country's telecom regulator, POTRAZ, has now made plans for a community network roll-out in each province. Uganda rolled out their new communal access service provider or network operator licences in 2020.¹⁵ Argentina also benefited from strong local advocacy by AlterMundi and others, seeing legislation adopted for the use of Universal Service Funds to resource community networks in underserved communities, both rural and urban. In Indonesia, partners have now identified an entry point for local internet provision through the decentralised village fund mechanisms enacted by the Ministry of Villages.

To address the challenges that a lack of meaningful internet access poses for participation and enabling economic, social and cultural rights, and to progressively ensure participation and green economic growth with the internet as an enabler of these rights, we recommend that states:

- Reinvigorate multistakeholder internet governance decision-making processes at the national and local levels, with specific emphasis on the inclusion of marginalised groups, communities and women.
- Revise national broadband plans, and other policies, laws and regulations that impact on internet access, with particular attention to providing meaningful access to the internet for marginalised communities. This includes reinvigorating infrastructure roll-out, and relooking at the use of Universal Service Funds to help marginalised communities get online.
- Develop the regulatory frameworks, capacity and funding mechanisms needed to support the roll-out of community networks.
- Revisit and revive national educational connectivity and e-education plans. This includes considering data subsidies for school learners and tertiary education students, and zero-rating school and academic websites.
- Review any recent digitalisation of government services, including social and health services, to understand if this has been effective in providing the necessary services to the least connected, and the public in general.

Ensuring transparency and the responsible application of technology in public programmes

Public-private partnerships are essential to green economic growth in the global South and were essential to states combating the COVID-19 pandemic. However, the pandemic showed that technology solutions to mitigate or adapt to the virus frequently occurred without proper consultation with civil society and other groups, and resulted in numerous challenges with respect to transparency and data rights and privacy.¹⁶ These partnerships typically included setting up

¹⁴ APCNews. (2022, 20 April). Murambinda Community Network and the Integral Kumusha: "We feel we're creating a movement that will be unstoppable". APC.

<https://www.apc.org/en/news/murambinda-community-network-and-integral-kumusha-we-feel-were-creating-movement-will-be>

¹⁵ <https://www.ucc.co.ug/wp-content/uploads/2020/05/COMMUNAL-ACCESS-PROVIDER-LICENSE-25-05-2020.pdf>

¹⁶ Khandhadai, G. (2022). The rights approach: Pushing back against opaque public-private partnerships. In A. Finlay (Ed.), *Global Information Society Watch 2021-2022*. Association for Progressive Communications. <https://www.giswatch.org/en/digital-rights-internet-advocacy->

the platforms and technological processes for health surveillance, including contact tracing apps, the dissemination of health information, and platforms for the management and the roll-out of vaccines. While fast-tracking their digitalisation processes for accessing government services, governments across the world invested substantial amounts in procuring and using private sector technology to respond to the pandemic.¹⁷ Governments' digital transformation budgets are also said to be increasing generally.¹⁸

In a recent analysis of the deployment of these technologies in Latin America,¹⁹ researchers argue that their development reflected poor adherence to principles such as participation, transparency and the right for the public to access information; lacked indicators on the performance of the technology and mechanisms for liability and reparation ("design justice"); and did not take into account the cost and maintenance of the systems. Others argued that technologies adopted by governments threatened privacy, intimacy and "informational self-determination", besides various economic and social rights.²⁰

While public-private partnerships are necessary for promoting green economic growth, with specific reference to the partnerships with technological service providers and platforms, the potential negative rights consequences of these agreements and the solutions proposed need to be properly understood.

One possible framework for doing this is to consider all government technological deployment (and possibly many private sector deployments of technology that have profound public consequences), as public interest technologies. Public interest technologies can be defined as "involving a set of heterogeneous practises that raise questions about the benefits and harms of digital technology."²¹ The usefulness of the term is that it involves a holistic analysis of the impact of technologies that goes beyond looking at a single-issue human rights concern, such as privacy, and includes principles such as participation, transparency, the development of indicators, cost and maintenance, and design justice.

In roll-out of public programmes using technology, states should:

[meaningful-access/rights-approach-pushing-back-against-opaque](https://www.apc.org/en/pubs/joint-civil-society-open-letter-un-public-private-partnerships); Various. (2020, 21 April). Joint civil society open letter to the UN on public-private partnerships. APC.

<https://www.apc.org/en/pubs/joint-civil-society-open-letter-un-public-private-partnerships>

¹⁷ Fiscal responses of most states included digital-related expenditure, as seen in:

<https://www.imf.org/en/Topics/imf-and-covid19/Policy-Responses-to-COVID-19>

¹⁸ Khandhadai, G. (2022). The rights approach: Pushing back against opaque public-private partnerships. In A. Finlay (Ed.), *Global Information Society Watch 2021-2022*. Association for Progressive Communications. <https://www.giswatch.org/en/digital-rights-internet-advocacy-meaningful-access/rights-approach-pushing-back-against-opaque>

¹⁹ Ricaurte Quijano, P. & Nájera, J. (2022). Getting ready for the next pandemic: Public interest technologies in Latin America. In A. Finlay (Ed.), *Global Information Society Watch 2021-2022*. Association for Progressive Communications. <https://www.giswatch.org/regional-report/latin-america-0>

²⁰ Ibid.

²¹ Ibid.

- Ensure transparency on public-private partnerships, including contractual transparency and in the use and re-use of data collected through these partnerships.
- Ensure a commitment to the UN Guiding Principles on Business and Human Rights (UNGPs) that mandate businesses to respect human rights, and that remedial mechanisms are established when these rights are violated. The UNGPs are seen as a “principled and pragmatic approach for ensuring that technological advances are grounded in respect and dignity for all and that their governance is rooted in rights.”²²
- Adopt a public interest technologies framework to ensure the holistic consideration of the implications and sustainability of public technological programmes.
- Ensure that technological solutions for developing green economic growth should not be uncritically “imported” from other regions and countries. This is likely to produce unintended harms to local communities and the public in general, with potentially negative impacts on rights severally.
- Offer mechanisms for citizen oversight of public technological programmes.

Ensuring data and privacy rights

The development of the data economy is essential to sustainable green economic growth, as well as in countries benefiting from the so-called Fourth Industrial Revolution. However, the use of technologies and associated infrastructures, such as digital IDs,²³ by governments during the pandemic raised multiple challenges with respect to privacy rights.²⁴ These included outdated or inadequate laws, regulations or rules to govern the use of private data and information, including no rules on how public institutions passed data between each other; a lack of transparency on how private sector partners were using the data they collected; weak or non-existent public authorities such as a data commissioner overseeing the implementation of laws, rules and regulations; instances when the state collaborated with telecoms companies to retrieve private data such as telephone numbers; personal data being collected and used without the proper mechanisms in place, such as informed consent, or rules governing the right to change and access that data; and a lack of civil society participation in policy, regulatory and legal development processes.

The link between the use of these technologies and increased public monitoring and surveillance outside of the stated intention of their use was also raised by

²² Khandhadai, G. (2022). The rights approach: Pushing back against opaque public-private partnerships. In A. Finlay (Ed.), *Global Information Society Watch 2021-2022*. Association for Progressive Communications. <https://www.giswatch.org/en/digital-rights-internet-advocacy-meaningful-access/rights-approach-pushing-back-against-opaque>

²³ Monyango, F. (2022). Layered exclusions: The rapid digitisation of government services. In A. Finlay (Ed.), *Global Information Society Watch 2021-2022*. Association for Progressive Communications. <https://www.giswatch.org/en/country-report/kenya-0>

²⁴ See Various. (2022). *Global Information Society Watch 2021-2022*. Association for Progressive Communications. <https://www.giswatch.org/index.php/2021-2022-digital-futures-post-pandemic-world>. See specifically reports for [Latin America](#); [Argentina](#); [Brazil](#); [Kenya](#); and [Togo](#).

civil society during the pandemic,²⁵ as was the dearth of laws and regulations in countries that considered the rights implications of the use of artificial intelligence and robots.²⁶

With respect to data protection, it is worth noting that during the pandemic in Brazil, Supreme Court action to prevent telecoms companies from implementing a presidential order for them to share the personal data of users resulted in data protection being considered an autonomous fundamental right by the court. The outcome was a constitutional amendment, which “effectively included the fundamental right to data protection in the Constitution”.²⁷ This moves the right beyond the issue of an individual right, to situate it alongside rights such as collective and social well-being, and human dignity. This could serve as a model for other countries.

In green economic growth based on the data economy, it is critical to:

- Ensure governments review and develop their data and privacy laws from the perspective of human rights as a priority. Key areas that need attention include: laws, regulations and rules on the acquisition of data; the use and re-use of data with the consent of data subjects; and limiting the power of commercial and other entities to harvest data or states to abuse the use of personal data.
- Build the capacity of an independent data authority to ensure the proper oversight of data handlers, which in many cases will require a budget re-allocation.
- Build the capacity of government authorities generally to collect quality data, and to properly manage and work with this data.
- Properly understand the rights implications of the use of robotics and automation and draft regulations in this regard to manage their roll-out.
- Support the data sovereignty of local communities to govern the collection, ownership and application of data.

Sustainable use of technology

The environmental impact of the increased use of technology and digitisation programmes to enable economic, social and cultural rights is a critical factor for

²⁵ See, for example: (2022). *Global Information Society Watch 2021-2022*. Association for Progressive Communications. <https://www.giswatch.org/index.php/2021-2022-digital-futures-post-pandemic-world>. State surveillance should also been considered for its impact on economies. For example, in [Venezuela](#) state surveillance was seen to limit the potential of developing remote work as a viable sector of the economy.

²⁶ Robotics and AI was used for, amongst other things, nursing, for medical prescriptions, and policing during the pandemic. See (2022). *Global Information Society Watch 2021-2022*. Association for Progressive Communications. <https://www.giswatch.org/index.php/2021-2022-digital-futures-post-pandemic-world>. See specifically reports for See: [Togo](#); [Costa Rica](#); and [Tunisia](#).

²⁷ Ramiro, A. & Canto, M. (2022). New pathways for advocacy on personal data following a Supreme Court ruling during COVID-19. In A. Finlay (Ed.), *Global Information Society Watch 2021-2022*. Association for Progressive Communications. <https://www.giswatch.org/en/country-report/brazil-0>

consideration.²⁸ There are predictions that by 2030 the use of ICTs will account for over 23% of greenhouse gas emissions,²⁹ which excludes the impact of technological production and consumption on communities and the environment, on worker rights, and on the waste stream. The premise of any use of technology for growing a rights-based, green economy therefore implies the environmentally sustainable use of technology.

Moreover, environmental sustainability is only possible if people are centred in this conception of sustainability, and decision making pays proper attention to the rights of all peoples, specifically marginalised communities and those most affected by environmental degradation, the impacts and by-products of consumerism and industry, and climate change. A holistic view of the environmentally sustainable use of technology is necessary and governments should be encouraged to consider embedding conceptions of the circular economy rather than a linear economy in the development of their policies and plans. This includes embedding the idea of the circular economy in digital roll-out strategies aimed at enabling economic, social and cultural rights.³⁰

A circular economy, in its most transformative conception, considers the environmental and human rights impacts on the entire technological value chain – from production (including the impact of the extractive industries), to use and disposal of technology – and premises technological decision making and choices on products and service providers that cause the least environmental harm and who respect human rights at all levels of technological consumption and production.

This requires levels of auditing by governments, the proactive stipulation of environmental and human rights requirements in public tenders, and developing appropriate waste policies and plans for dealing with electronic waste, including through up-skilling waste pickers, supporting social entrepreneurs and similar organisations at the local level, promoting re-use and recycling, and supporting the right-to-repair movement nationally and at the local level. The positive economic impact of promoting a circular rather than linear economy should also inform policy decision making and planning.

²⁸ Peña, P. (2021). Bigger, more, better, faster: The ecological paradox of digital economies. In A. Finlay (Ed.), *Global Information Society Watch 2020*. Association for Progressive Communications. <https://www.giswatch.org/node/6245>

²⁹ APC. (2020). Module 1: The environmental impact of a digital device. *A guide to the circular economy of digital devices*. Association for Progressive Communications. <https://circulartech.apc.org/books/a-guide-to-the-circular-economy-of-digital-devices/page/module-1-the-environmental-impact-of-a-digital-device>

³⁰ See Navarro, L. (2021). What is the circular economy of ICTs? In A. Finlay (Ed.), *Global Information Society Watch 2020*. Association for Progressive Communications. <https://www.giswatch.org/node/6272> and APC. (2020). *A guide to the circular economy of digital devices*. Association for Progressive Communications. <https://circulartech.apc.org/books/a-guide-to-the-circular-economy-of-digital-devices>