Stopping Abuse and Female Exploitation (SAFE) Zimbawe Technical Assistance Facility

SAFE Zimbabwe Technical Assistance Facility research report: Use of technology to facilitate GBV survivors' access to justice

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About Zimbabwe Women Lawyers Association (ZWLA)

ZWLA is an association of women lawyers that was established in 1992 by a group of women who were all lawyers in either private practice, government service or the academia and non-governmental sector. This association was formally launched in October 1995 and the association was registered as a trust in December 1995, according to the laws of Zimbabwe.

ZWLA is a charitable organization that enables women and children to assert their rights by providing them with access to the relevant legal resources. The Association promotes women's and children's rights through:

- Provision of legal aid- at the two offices in Harare and Bulawayo and through mobile legal aid clinics
- Provision of legal education to women and communities at large. For instance, we have been largely responsible for the constitutional literacy
- Law, policy and Administrative reform. In this case we have contributed largely to the enactment of the Domestic Violence Act, The CEDAW Shadow report in 2012 and are leading on the establishment of family courts

ZWLA's mission is: To develop, defend and to dialogue on women and children's rights.

Vision: Justice and Equality for all.

Goal: A Zimbabwean society where women are empowered and assert their rights within a justice system that treats men and women equally and that is sensitive to the needs of children.

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1. Introduction

Digital technologies are increasingly being used to facilitate access to justice. Digital solutions range from virtual court hearings to online protection orders, the provision of virtual legal support to survivors (e.g. via texts, videos and online chat), the adoption of national electronic judicial systems, and the use of artificial intelligence, blockchain and smart contracts solutions[1] (OECD, 2019) (see Table 1). This rapid research query summarises the evidence of the benefits, opportunities and risks of digital technologies when helping GBV survivors to access justice (see Annex 1 for methodology).

Table 1: Examples of digital solutions used to facilitate GBV survivors' access to justice	
	Country examples
Online protection orders	• Digitisation of procedures to obtain protection orders in Malaysia • Protection orders can be requested via WhatsApp or email in Peru and Puerto Rico • Judiciaries automatically extended the validity of protection orders which were set to expire during the lockdown in Argentina, Sao Paulo, and Brazil.
Virtual court hearings	• Many countries have moved towards virtual court hearings for GBV survivors during the COVID pandemic, including Bangladesh, Dominican Republic and Colombia
Legal support to survivors	• Civil society organisations such as ZWLA have adapted to provide virtual legal support to GBV survivors, e.g. via email, phone / video calls, text messages • Establishment of a virtual legal aid mechanism for GBV survivors in Tunisia. The International Development Law Organisation (IDLO) supported a platform for online provision of legal aid which works with relevant state institutions, the national bar association and legal/women's organisations.

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[1] **Artificial intelligence** enables machines and their software to learn from experience
Blockchain technology is a digital record of transactions. It enables safe transactions between two parties without the need for third-party verification.
Smart contracts are programmes stored on a blockchain that run when certain conditions are met (e.g. issuing a fine, sending notifications to appropriate parties).

National e-judiciary systems	• Some countries, such as Turkey, have moved their judicial functions to a national electronic service, where files can be submitted electronically, court dates can be accessed, and video conferencing facilities are available • Electronic case management system to improve GBV case data entry and track cases through the judicial systems in Malawi
Artificial Intelligence (AI) tools	• AI algorithms which use data from previous cases to create 'risk scores' which judges use to inform punishments, as in Malaysia and some US states • Online dispute resolution platforms, specialised Internet courts and use of AI tools for case management and adjudication processes are being used in China • New technologies such as distributed ledgers, blockchain and smart contracts solution are being rolled out in several specialised and local courts in China • Specialised Internet courts using blockchain and videoconferencing have been set up in China to resolve online disputes, mostly around infringement of personal and property rights, and product liability disputes. To date, there is no evidence they have been used for online abuse or harassment.
Sources: UN Women (2020); UN Women et al. (2020) Santagostino Recavarren and Elefante, (2020); Zou (2020).	

Evidence on the benefits, opportunities and risks in the use of these technologies to facilitate GBV survivors' access to justice remains at an early stage and mostly comes from news articles and reports from UN agencies. Due to social distancing measures around COVID-19, the transition to digital technologies has happened at pace with little documentation of the evidence. To date, a lot of the evidence comes from high-income countries, particularly the United States, Australia and Europe. Key evidence gaps include: (1) few documented examples of good practice with no third-party evaluations or rigorous studies of the effectiveness or risks of digital technologies; (2) lack of data on people that are digitally excluded or most at risk of digital exclusion, such as women and girls with disabilities; (3) no documented examples of using digital technologies in customary and informal justice systems; and (4) lack of evidence from fragile or conflict-affected contexts where there is weak rule of law.

Benefits and opportunities of digital technologies for facilitating GBV survivors' access to justice include faster case processing which can increase survivors' safety; convenience and user-friendly; reductions in travel time and costs; increased information sharing and coordination between agencies; and potential for videoconferencing technology to be less traumatising for survivors (see Section 2 for details and case studies on benefits and opportunities).

Risks of digital technologies include digital exclusion of GBV survivors; safety and privacy risks, including around phone-sharing; lack of secure, harmonised infrastructure and protocols; and ethical concerns about the use of Artificial Intelligence (AI), particularly around in-built biases for computer algorithms used to inform sentencing and make decisions on who to prioritise when testing rape kit backlogs (see Section 3 for details and case studies on risks).

Key considerations for improving GBV survivors' access to justice through digital technologies, based on good practice, include:

- Develop and follow guidance to ensure digital justice systems handle GBV cases in line with protocols and laws and in a survivor-centred way.

- Put in place support services to help digitally excluded survivors with assisted applications.

- Engage with women's organisations and legal organisations about ethical concerns and share information about best practices.

- Collect monitoring data to understand the benefits and risks of digital technologies, including understanding who is able to access digital justice mechanisms, legal outcomes for survivors, as well as any risks or unintended outcomes.

2. Benefits and opportunities

New digital solutions and services have the potential to improve access to justice for GBV survivors in several ways.

Quicker justice

There is some evidence that online protection orders result in faster case processing, which has the benefit of increasing applicants' safety. Analysis of court data[2] in Victoria, Australia, found that online applicants for protection orders reached the court hearing stage two weeks earlier than paper-based applicants. While paper-based applicants took approximately 18 days to proceed from application to hearing, online applicants took only 5.5 days. Interviews with court staff found that online protection orders reduced the administrative workload of court staff involved in manual data entry. The online application process also helped registry staff to better organise interviews, prioritise cases based on urgency, and organise interpreters if required (Ross and Aitken, 2020).

User-friendly and convenience

Online tools can be more convenient. The study of online protection orders in Victoria, Australia, found that survivors found the online option "more convenient, easier and more private" (Ross and Aitken, 2020: 10). It reduced time and cost barriers and was seen as less daunting than being physically in a court room. One online applicant observed that "if it hadn't been online, I don't think I would have applied" (*Ibid:* 10). The online form was quicker to complete (average of 21 minutes) compared to the paper form (47 minutes).

Survivors report online protection orders are simpler, easier to understand and less stressful, which increase their sense of agency. In the Australian study above, online applicants rated the process as significantly less stressful, with an average of 3.83 out of 10 for stress, compared to paper-based applicants who rated the protection order forms an average of 7.75 out of 10 for stress (Ross and Aitken, 2020). Digital solutions ranging from websites to legal chat-bots can improve access to legal information about survivors' rights and the court process. It could help provide easy-to-understand information that is available 24-hours a day.

Reduce time and cost

Online options can reduce barriers for survivors around the travel costs/times associated with travelling to court, work commitments, childcare and illness. In Zimbabwe, research by ZWLA (2016) found that the costs of accessing justice can be prohibitive for many GBV survivors who depend on their male partners for income, including the costs of travelling long distances to court (at times over 100km) and the high costs of engaging lawyers. The introduction of digital solutions has the potential to reduce these barriers for GBV survivors. For example, the move to video conferencing to conduct cases and trials in Kenya means that "justice has become speedier and less costly for a lot of people who do not have to travel long distances and wait for their cases to be

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[2] Analysis of court data on 791 applicants who sought an intervention order at the three courts in 2016-2017, and interviews with 28 applicants including 12 who had applied online (Ross and Aitken, 2018)

heard".[3] Similarly the introduction of an electronic judicial system in Pakistan aims to reduce the costs for those who live far from the legal centres of Islamabad and Lahore, as well as reducing corruption and the large number of cases pending with the judiciary - two million, as of 2018 (Tickle, 2017; Mahmood, 2020).

National electronic judiciary systems also reduce time and cost for court users and governments. For example, in Turkey, the National Judiciary Informatics System (UYAP) is a national electronic service across all judicial functions. Citizens and lawyers can submit files electronically, pay application fees, and find out the latest updates on a trial (including court dates) without having to contact court staff. The system is faster and more effective than the old paper-based system. Video conferencing facilities mean there are less travel costs, including transferring prisoners to court. It is estimated that the new system has nearly two million users and has led to savings of US$100million. The electronic service won the UN's public service award and the top five e-government projects in the world (Tickle, 2017).

Potential to avoid re-traumatisation

The use of videoconferencing technology could potentially be less traumatising for survivors. It enables them to testify remotely in a safe, secure environment away from the physical presence of the defendant. Video-recorded evidence and pre-trial cross-examination can also reduce the duration of the trials, help pre-trial decisions by the prosecution and defence, edit out irrelevant or inadmissible materials and in the event of a retrial, it could help reduce potential re-traumatisation of giving evidence again (EVAW, 2020). There is an argument that "barristers often prefer survivors to give 'live' evidence rather than via video link in trials on the basis that jurors could be more likely to feel disconnected or removed from the evidence, and less likely to convict" (EVAW, 2020: 15). However, this concern is likely overstated and academic studies have found no evidence that different methods (screens, live-links and pre-recorded video interviews) influence jurors' perceptions of credibility or their levels of sympathy (Munro, 2018; Ellison and Munro, 2014).

Increased information sharing and coordination

National electronic systems can help improve inter-agency information sharing, reporting and coordination. In Albania, an online system for tracking domestic violence data was introduced in 2014 to share information and improve coordination between agencies. UNDP has observed that the system has increased citizen trust, with a 30% increase in GBV cases reported to the police since 2014 and a 35% increase in requests to the police for protection orders. There has also been a 24% increase in arrests of domestic violence perpetrators (cited in UN Women, 2018).

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[3] Justice Joel Ngugi (a judge in Kenya's High Court) in a webinar by the Commonwealth Secretariat (18 August 2020): 'How has COVID-19 affected access to justice in the Commonwealth?'

3. Risks

Digital exclusion

There are concerns about whether online protection orders and other digital solutions are accessible to all survivors. Many GBV survivors are digitally excluded, with limited or no access to technology, internet connectivity or without the ability, confidence or willingness to engage with digital solutions. Globally, there is a digital gender gap of 8% in phone ownership and 20% for smartphones in low- and middle-income countries (GSMA, 2020). Although latest data shows high levels of phone ownership in Zimbabwe, with 87% of households in the 2015 Zimbabwean Demographic and Health Survey (ZIMSTAT, 2016), not all phone owners can access cell phone services or the internet. Fewer than half (41%) of female cell-phone owners in Zimbabwe have access to the Internet (Moyo-Nyede and Ndoma, 2020).

Even users who have access to smartphones may lack digital skills and confidence, such as being able to complete online legal forms on their own or use online courts. To be effective, digital technologies should be supported by 'face-to-face' help from people with legal expertise (Otive-Igzuber, 2020) or it will risk excluding survivors, particularly those with specific vulnerabilities.

GBV survivors who are at highest risk of facing digital barriers in accessing justice include:

- **Women with disabilities** are 2-4 times more likely to experience intimate partner violence than women without disabilities (Dunkle et al, 2018). However, women with disabilities face a range of barriers in accessing justice. For example, a research report commissioned by Deaf Women Included found that 82% did not think that GBV service providers in Zimbabwe have the capacity to support women and girls with disabilities (Hlatywayo, 2021). Women and girls with visual impairments and intellectual disabilities face the biggest barriers to using digital technologies to access justice; however, those with physical disabilities often find digital solutions help improve access (Dobransky and Hargittai, 2016).[4]

- **People living in remote, rural areas** who are more likely to have poor (or no) broadband or mobile access. Latest data from Zimbabwe finds that 15% of rural areas had no cell-phone coverage, and only 28% of people in rural areas said their phones had access to the Internet (Moyo-Nyede and Ndoma, 2020).

- **Adolescent girls and young women** often use shared devices rather than personally owned devices, which has risks around safety and privacy (see next section). Although younger people may be more 'digitally-confident' on a day-to-day basis, this confidence is unlikely to extend to the use of digital technologies to access justice during a GBV case.

- **People with lower levels of education or language barriers** (i.e. do not read or speak the official language) are often less likely to access online services.

Safety and privacy risks

Digital solutions have inherent safety and privacy risks which require careful attention to ensure they are confidential, private and secure. For example, perpetrators of violence could access private messages or impersonate the survivor, posing risks to the safety of the survivor and their children. Several guidelines have been published during COVID-19 to improve the safety of digital interventions for GBV survivors, including:

- Digital Services Toolkit – produced by the National Network to End Domestic Violence (NNEDV)

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[4] There is some research which shows that people with hearing or walking impairments are more likely to use the internet than other types of disabilities (Dobransky and Hargittai, 2006).

- [Guidelines for Consultation and Answering for Victims of Domestic Violence During COVID](#) – an online legal aid of special manuals (translatable to English) for survivors and service providers produced by the Yuanzhong Family and Community Development Service Center in China.

Best Practice Principles

- **Prioritise safety and security**, by helping survivors to organise a safety plan for their use of digital platforms and minimise the storage of sensitive information on their devices or accounts.
- **Clear communication** including reducing the possibility for miscommunication, using automated services sparingly with survivors, avoiding the use of emojis or internet slang, and using translators or live interpreters rather than machine-based language translation.
- **Protect survivor privacy by minimising data collection** and only collecting information that is necessary.
- **Provide quality digital services** by offering survivors the opportunity for meaningful informed consent about client rights, confidentiality, mandatory reporting and other important information.
- **Survivors have the right to make informed choices** and it is important to help survivors understand what to expect (e.g. when services are available, technology safety planning)
- **Plan for the unexpected,** including disaster planning and abusive partners leaving messages.

Source: Technology Safety in the [Digital Services Toolkit](#) (NNEDV)

Phone sharing behaviours are widespread in Zimbabwe, which increases privacy and safety risks. In Zimbabwe, a study[5] with young people aged 13-24 years found high levels of phone-sharing behaviour. Girls and young women reported sharing phones with their mother (36% of respondents), partner/boyfriend (28%) or siblings (24%) at least once a week (Doyle et al, 2021). Phone sharing behaviours combined with concerns about the security of information on phones have the potential to increase the risks for GBV survivors as well as lead to poor uptake of digital solutions. For example, perpetrators of violence may be able to access call records, emails, internet history or the location of the device.

Lack of secure, harmonised infrastructure and protocols

Potential risks could result from a lack of secure, dedicated digital infrastructure and harmonised guidelines, exacerbated by the rapid speed of digitisation in the justice sector. In Kenya, for example, Justice Joel Ngugi (a judge in Kenya's High Court) observed a 'stupendous' uptake in video-conferencing and other technology during the COVID-19 pandemic. The Kenyan judiciary was forced to use 'off the rack solutions' with different courts using different technologies (Zoom, video calls) and no dedicated infrastructure or harmonised directives, which caused "a little bit of concern from court users about the uniformity of what we are doing".[6]

It is important to put in place rigorous security protocols and guidelines to safeguard survivors. In some Latin American countries, including Bolivia, Ecuador and Argentina, virtual court hearings were introduced at the start of the COVID-19 pandemic for pre-trial detainees. This aimed to reduce the amount of time defendants were kept in prison before their case was heard, and therefore the time they were at heightened risk of exposure to COVID-19 in crowded prisons. A key lesson was the importance of working with civil society organisations to put in place guidelines to ensure women and girls were well supported throughout the virtual trial process and not placed at risk (Jiménez-Santiago, 2020)

The lack of protocols has raised concerns about the potential for police corruption. In Kenya, Justice Joel Ngugi warned that fewer criminal cases are being referred during the initial period of courts going online, which

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[5] A cross-sectional population-based survey in 2018 among 719 young people in 5 communities in urban and peri-urban Harare and Mashonaland East, Zimbabwe.
[6] Webinar by the Commonwealth Secretariat (18 August 2020): 'How has COVID-19 affected access to justice in the Commonwealth?'

means that "a lot of discretion has been left to the police about whether they are recommending to bring forward charges, and there is fear and apprehension that this is leading to some abuse of power in police stations, and the police are given a lot of power about what is happening to specific cases".[7]

Ethical issues around the use of Artificial Intelligence

AI is increasingly being used to help manage large amounts of data, schedule court dates and pay legal fines. It offers potential benefits in speeding up the time taken for routine tasks and workflows. For example, in China, the Beijing Internet Court uses 'bots' to provide basic, legal information such as whether the court is the appropriate jurisdiction (Zou, 2020).

However, there is growing concern about the ethical risks of gender biases coded into AI tools. AI algorithms often have in-built gender biases which reflect, reinforce and risk further spreading gender bias (UNESCO, 2020). In a flagship report by UNESCO (2019) *'I'd Blush if I Could',[8]* the rise of female digital voice assistants, such as Amazon's Alexa, Microsoft's Cortana and Apple's Siri, is argued to model acceptance of sexual harassment and verbal abuse for over 2-billion internet-connected users. It also forces a synthetic 'female' voice into the role of the assistant, which could exacerbate stereotypes in male-dominated sectors. The justice sector is beginning to experiment with digital legal assistants – for example, Uganda's JusticeBot enables users to be connected with a legal expert ('Linda') through a chatbot on Facebook Messenger, but there is little gendered analysis of the impact. There is also limited evidence to date of how AI has been used to help GBV survivors access justice. It is important to carefully consider the ethical risks of built-in gender biases in AI algorithm and how these could exacerbate any existing gender biases in the judicial system.

Using 'predictive algorithms' to make decisions regarding cases also raises ethical issues. The use of AI for sentencing GBV cases remains at an early stage but is starting to be rolled out in several countries. For example, courts in Malaysia[9] are adopting AI for drug and sexual violence cases. The AI system uses data from previous cases to inform suggested punishments, which the judge will ultimately decide. Judgement time is expected to be reduced by up to 90% (Lee, 2020).

Sentencing algorithms have been criticised for in-built biases around race. Algorithms use historical crime data to pick out statistical correlations and allocate a risk score for how likely a defendant is to reoffend. A study of the risk scores given to 7,000 people arrested in the United States found that the algorithms were highly unreliable in forecasting violent crime – only 20% of those defendants predicted to commit violent crimes went on to do so over the next two years. The algorithm made significant mistakes between black and white defendants, for example, black defendants were twice as likely to be wrongly labelled as at risk of committing a future crime than white defendants and similarly white defendants were mislabelled as low risk more often than black defendants. The potential consequences when these risk scores are used by judges includes unfairly giving defendants harsher sentences or making them wait longer for parole. It could also mean that dangerous criminals go free (Angwin et al, 2016).

Ethical concerns have also been raised about the use of AI tools to process backlogs in untested rape kits. In the United States, machine-based algorithms have been used to predict which biological samples from rape kits are more likely to generate DNA evidence that can be used in courts. The algorithms are based on information collected from each sexual assault case. The chosen samples are then uploaded into a national database with DNA profiles from known offenders. The equipment has allowed US states such as Ohio to process over 14,000 backlogged rape kits and help criminalise over 300 serial rapists. However, the algorithm has been

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[7] Webinar by the Commonwealth Secretariat (18 August 2020): 'How has COVID-19 affected access to justice in the Commonwealth?'
[8] The title of the report comes from the response that Apple's female voice assistant (Siri) makes when told by a human user, "Hey Siri, you're a bi***".
[9] Courts in Sabah and Sarawak

criticised for biased assumptions that certain groups of women were less credible, with samples from women of lower socio-economic status, sex workers and those from marginalised backgrounds all less likely to be tested (Oluwasanmi, 2020).

4. Conclusions and key considerations

Recent lockdowns due to the COVID-19 pandemic present both a challenge to helping GBV survivors to access justice, but also an opportunity. The pandemic has accelerated the adoption of digital solutions, such as online protection orders, virtual courts, virtual legal support to survivors, national e-judiciary systems, and the use of AI tools. This rapid research report has summarised the evidence on the benefits, opportunities and risks in the use of these technologies.

Key considerations for improving GBV survivors' access to justice through digital technologies, based on good practice, include:

- **Develop and follow guidance to ensure digital justice systems handle GBV cases in line with protocols and laws and in a survivor-centred way:** For example, in Malawi, the judicial system is moving to an electronic case management system to track GBV cases through the judicial systems and improve the speed of hearing cases.[10] To ensure a survivor-centred approach, the UK-funded Tithetse Nkhanza project has developed a GBV Case Handling Handbook to build the capacity of judicial officials and court staff, including clerks and marshals at the frontline of supporting and working with GBV survivors in the new digital system.[11]

- **Put in place support services to help digitally excluded survivors:** Good practice for online protection orders and other digital services is to provide 'assisted' applications, where survivors can work with a support agency or legal service to guide them through the process. These support services help bridge the gap for digitally excluded survivors (Ross and Aitken, 2020).

- **Engage with women's organisations and legal organisations** about ethical concerns and share information about best practices in supporting GBV survivors to access justice through digital technologies.

- **Collect monitoring data to understand the benefits and risks of digital technologies,** including understanding who is able to access digital justice mechanisms, legal outcomes for survivors, as well as any risks or unintended outcomes.

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[10] There are currently pilots in three target districts: Karonga, Mangochi and Lilongwe
[11] See article by Samati, G (2020) 'Judiciary records 300 GBV cases in 5 months' https://times.mw/103708-2/

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Annex 1: Methodology

The methodology for this query is described below.

Search strategy: Studies were identified through searches using Google and relevant electronic databases (Science Direct, and Google Scholar). Due to the rapid and recent nature of the evidence, evidence was also identified on Twitter and other social media. Key search terms included: digital, online, protection orders, e-judiciary, virtual, courts, artificial intelligence, AI, bots, video technology, legal, justice AND survivors, victims, defendants, GBV, VAWG, violence, violence against women, domestic violence, abuse, harassment, rape, and sexual violence.

Criteria for inclusion: To be eligible for inclusion in this rapid mapping, evidence had to fulfil the following criteria:

• **Focus:** Evidence on the benefits, opportunities and risks in the use of technology to facilitate GBV survivors' access to justice, including any best practice examples of digital solutions used to overcome barriers in accessing justice, including online protection orders

• **Time period:** January 2000 – April 2021.

• **Language:** English

• **Publication status:** Publicly available – in all cases published online.

• **Geographical focus:** Global, with focus on low to middle income countries