

# **Data Protection and the Fulfilment of Online Freedom**

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# Outline

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- **What is personal data?**
- **Personal data protection in Malawi**
- **Way forward**

# What is personal data?

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- Increased access to the internet, mobile subscriptions and smartphone usage have enabled people to shop, interact, share and search for information, learn, and work online.
- We access and share information, express ourselves, and associate using the internet and related platforms.
- This has increased collection, processing and sharing of personal data.
- Yet, most of us ICTs are not aware of the implications of digital technologies and how our rights are compromised.

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- Personal data is information that relates to an identified or identifiable natural person by which that person can be identified ...
  - “in particular by reference to an identification or one or more factors specific to his/her physical, physiological, mental, economic, cultural or social identity” (Article 4, EU GDPR, 2018).
  - Upholding data rights means data must be kept private – it should not be known, stored, or used by unauthorised parties – this is key to right to privacy.
  - Data protection is both an enabler and reliant on the enjoyment of other rights, such as freedom of expression, information and association.

# Personal data protection in Malawi

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- Data collection has been increasing in Malawi, especially with the implementation of biometric national ID in 2017.
- The national ID now used by a number of government agencies, replacing previously siloed ID programs.
- ... The Malawi Electoral Commission uses it to register voters; the Malawi Revenue Authority uses it to register potential taxpayers; the ID is used to pay civil servants, and the Immigration Department uses the ID to verify applicants.
- Ministries, departments, and agencies are integrating digital ID into programs for financial development and inclusion, farm subsidies, healthcare, and social protection Ibid.

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- From 2018, SIM card registration became mandatory, using the national ID.
  - Banks are also using the ID card to verify and register new customers as well.
  - Increased data collection brings increased potential of state surveillance and data privacy breaches.
  - Evidence suggests that the Malawi Government is willing to use surveillance to undermine digital rights.

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- For example, the case of investigative journalist, Gregory Gondwe.
  - The consequences are that citizens become scared to participate in public affairs and/or practise self-censorship in their engagements over digital platforms.
  - This undermines the philosophy of a free and open internet that drives innovation and enables the enjoyment of rights and improvement of livelihoods.

# Way forward

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- There is a need to have strong data protection laws.
- Educate citizens to protect their data and demand their digital rights.
- Have robust, well-resourced and independent data protection authorities.
- Establish clear and well-publicised complaint mechanisms in cases of data privacy breaches.



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- These measures would enable accountable data governance that respects citizens' data rights and advances wider internet freedoms in Malawi.
  - ... it would enable robust protection of digital rights while providing scope for data openness that enables data harnessing to serve the legitimate public interest.