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ASSESSING THE ADEQUACY OF ZAMBIA'S COPYRIGHT LAW AND INSTITUTIONAL FRAMEWORK IN COMBATTING ONLINE PIRACY AND DIGITAL IP INFRINGEMENT.

By

KAPENDA KANDEPU – COMPUTER NUMBER: 202400952

A DISSERTATION SUBMITTED TO ZCAS UNIVERSITY IN PARTIAL FULFILMENT OF THE REQUIREMENT FOR THE AWARD OF THE MASTER OF CORPORATE AND COMMERCIAL LAW

ZCASU **2026**

Copyright Declaration

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Assessing the Adequacy of Zambia's Copyright Law and Institutional Framework in Combatting Online Piracy and Digital IP Infringement.

Declaration

I, Kapenda Kandepu, Identity number **202400952,** do declare that I am the author of this dissertation entitled "**Assessing the Adequacy of Zambia's Copyright Law and Institutional Framework in Combatting Online Piracy and Digital IP Infringement."**

I further declare that this dissertation represents my own work and that due acknowledgment has been made were other people's work has been used. I truly believe that this dissertation has not been previously presented for a Master in Corporate and Commercial Law, LLM Programme at The Zambia Centre for Accountancy Studies.

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Dedication

Special mention and thanks to Emily Shoonga, the mother of my Child, and Nehemiah, my cherished son and Bernadette Mary Mackenzie my current wife, your unwavering patience and quite understanding have buoyed me through this journey. Even when my time was scarce, your love remained my greatest inspiration.

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This work is humbly dedicated to you, with all my love and gratitude.

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To my friends and colleagues who offered their time, encouragement, and practical support whether through brainstorming sessions, proofreading, or simply standing by me during the most demanding moments of this academic journey I am truly indebted. Your friendship and solidarity have made this achievement all the more meaningful.

Above all, I thank God for the strength, perseverance, and grace to complete this milestone.

Abstract

The advent of the Internet has profoundly disrupted traditional copyright paradigms, creating new vulnerabilities for intellectual property (IP) in emerging digital economies like Zambia. Titled, "The Digital Deficit: Assessing the Adequacy of Zambia's Copyright Law and Institutional Framework in Combatting Online Piracy and Digital IP Infringement," this study critically evaluates the efficacy of the Zambian *Copyright and Performance Rights Act, Chapter 406 of the Laws of Zambia*, and the attendant institutional mechanisms—including the Patents and Companies Registration Agency (PACRA) and the courts—in addressing modern forms of digital piracy.

The research is premised on the hypothesis that the existing framework, largely a product of the pre-digital era 1994, amended in 2010 by Zambia's Copyright and Performance Rights (Amendment) Act, 2010, contains significant legislative lacunas that fail to explicitly address contemporary challenges such as digital streaming, peer-to-peer file sharing, and the proliferation of mirror and proxy infringement sites. Through a qualitative, desktop research methodology, the study conducts a comparative analysis of Zambia's legal provisions against international best practices and the more modern IP regimes of comparable common-law jurisdictions, drawing specific attention to the need for explicit regulations concerning the liability of Internet Service Providers (ISPs) and the implementation of effective digital rights management (DRM) enforcement tools.

Preliminary findings indicate a structural inadequacy within the current Zambian Act, particularly regarding its ambiguous definition of "reproduction" in the digital sphere and its limited scope in granting quick, technology-neutral remedies like dynamic injunctions.

This dissertation will argue that the failure to swiftly modernize the legal and institutional landscape poses an existential threat to the local creative and technology sectors, disincentivizing innovation and foreign direct investment. The study culminates in offering concrete, policy-relevant recommendations for legislative reform, institutional capacity building, and enhanced inter-agency and international cooperation. Ultimately, this work seeks to inform the national conversation on how Zambia can transition from a digitally vulnerable market to one that fosters a robust, protected, and profitable digital creative economy

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The Copyright and Performance Rights Act, Cap 406 (Laws of Zambia, 1994).

Copyright and Performance Rights Act, Chapter 406, Laws of Zambia (1994) (as amended by Act No. 25 of 2010).

Customs and Excise Act, Chapter 322 of the Laws of Zambia

Cyber Security Act, No. 3 of 2025 s 28, 29, 30

Patents and Companies Registration Agency Act, No. 15 of 2010.

South Africa's Electronic Communications and Transactions Act 25 of 2002, ss 75, 77.

TRIPS, Articles 9-14 (copyright), and enforcement in Part III.

TRIPS, Articles 41-61.

WTO, Agreement on Trade-Related Aspects of Intellectual Property Rights.

WIPO Copyright Treaty (WCT) 1996 .

WIPO Copyright Treaty (1996); WIPO Performances and Phonograms Treaty (1996).

WIPO, 'Berne Convention and Copyright Treaties',

Table of Cases

Benttry Siamalambwa v Magna Mining Limited [2024] ZMHC 136 (1 February 2024),

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Infopaq International A/S v Danske Dagblades Forening Case C-5/08

Kapasa v People Cause Number 1980

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Oreo v Moreo's [2022/HPC/0788]

Public Relations v Digital Services Providers Case [2024] EWCA Civ 10 (Supreme Court)

Stichting Brein v Ziggo BV and XS4ALL Internet BV (CJEU) (The Pirate Bay Case) Case C-610/15

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Chapter One

The Digital Deficit: Assessing the Adequacy of Zambia's Copyright Law and Institutional Framework in Combatting Online Piracy and Digital IP Infringement.

1.0 Introduction

The protection of intellectual property rights (IPRs) has become one of the defining challenges of the 21st century knowledge economy.[2] While copyright law was historically designed to safeguard authors, musicians, and creators from unauthorised reproduction of their works, the rapid expansion of digital technologies including streaming platforms, peer-to-peer networks, ecommerce platforms, and social media has fundamentally transformed both opportunities for creative expression and risks of infringement.[3] The borderless nature of the internet has allowed piracy to flourish, rendering national legal systems less effective in protecting works from unauthorised copying and global dissemination.[4]

In Zambia, copyright protection is principally governed by the Copyright and Performance Rights Act, Cap. 406 of the Laws of Zambia, enacted in 1994.[5] While the statute provides a framework for the protection of literary, artistic, musical, and audiovisual works, it was drafted at a time when digital piracy was not yet the dominant mode of infringement. Consequently, despite subsequent regulatory efforts, the legal and institutional regime has struggled to keep pace with the sophistication of online piracy.[6] Authors such as Ngulube have highlighted the "weak enforcement machinery" and resource limitations that plague Zambian enforcement agencies, reducing their effectiveness in dealing with copyright infringement in practice.[7]

Across Africa, similar problems persist. Beiter has observed that African copyright systems often "import Western legislative frameworks without sufficient adaptation to local technological and

[2] Lawrence Lessig, Free Culture (Penguin 2004) 23.
[3] B Danaher, 'Piracy and Copyright Enforcement Mechanisms' (2014) University of Chicago Law Review 82(1) 45.
[4] B Danaher, 'Piracy and Copyright Enforcement Mechanisms' (2014) University of Chicago Law Review 82(1) 45.
[5] Copyright and Performance Rights Act, Cap 406 (Laws of Zambia, 1994).
[6] Nicky Sikombe, The Enforceability of Intellectual Property Laws in the Digital Era: A Zambian Perspective (LLB Dissertation, University of Zambia 2013) p. 32.
[7] Michael Ngulube, The Enforcement of Intellectual Property Rights in Zambia (LLB Dissertation, University of Zambia 2013) p. 17.

economic realities," leaving enforcement gaps particularly visible in the digital space.[8] Asongu's econometric work further demonstrates that weak institutional capacity and governance deficits directly correlate with high levels of piracy on the continent.[9] In Zambia, this "digital deficit" has been noted by researchers such as Mbewe, who argues that while laws exist on paper, enforcement remains "sporadic and often symbolic" in practice.[10]

This dissertation therefore seeks to critically assess the adequacy of Zambia's copyright law and institutional framework in combatting online piracy and digital IP infringement. It explores the extent to which the existing legal framework is aligned with global instruments such as the Berne Convention (1886), the TRIPS Agreement (1994), and the WIPO Internet Treaties (1996), and whether domestic enforcement institutions including the Patents and Companies Registration Agency (PACRA), the Zambia Police, and collective management organisations are sufficiently equipped to respond to online piracy. The study also draws comparative lessons from African and international jurisdictions to propose reforms capable of bridging Zambia's digital enforcement gap.

1.1 Background to the Study

Intellectual Property Rights (IPRs) are widely acknowledged as a key driver of the modern knowledge economy, serving to incentivise creativity, foster innovation, and stimulate investment in cultural and technological sectors.[11] Copyright, in particular, provides authors and creators with exclusive rights to exploit their works, thereby securing both moral and economic interests. As Musonda notes, effective copyright protection is not merely about rewarding creators but also about ensuring a sustainable cultural economy that contributes to national development.[12]

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[8] Klaus Beiter, 'Not the African Copyright Pirate Is Perverse, But the Situation Is' (2021) The South African Law Journal 138(2) 312, 318.

[9] Simplice Asongu, 'Fighting Software Piracy in Africa: How Do Legal Origins and Institutions Matter?' (2012) Journal of Business Ethics 110(3) 351, 357.

[10] Moses Mbewe, Adequacy of Copyright Law in the Fight Against Piracy in Zambia (LLB Dissertation, University of Zambia 2013) 40.

[11] Keith Maskus, Intellectual Property Rights in the Global Economy (Institute for International Economics 2000) 12.

[12] Chileshe Musonda, 'Copyright Protection and Cultural Development in Zambia' (2015) Zambia Law Journal 47, 52.

Zambia has established a relatively robust statutory framework for the protection of traditional intellectual property. The Copyright and Performance Rights Act, Cap. 406, the Patents Act, Cap. 400, and the Trademarks Act, Cap. 401 collectively anchor the national IP regime, reflecting Zambia's commitments under international instruments such as the Berne Convention and the TRIPS Agreement.[13] However, the emergence of the digital economy has created unprecedented challenges for these traditional frameworks. The proliferation of streaming services, online content sharing platforms, and ecommerce has facilitated instantaneous copying and dissemination of works across borders, thereby undermining the territoriality of national copyright laws.[14]

Authors such as Sikombe have argued that this mismatch between traditional copyright laws and digital realities results in enforcement gaps. Sikombe observes that Zambia's statutory regime "lacks clarity on intermediary liability, notice and take down procedures, and digital enforcement mechanisms," leaving enforcement bodies ill equipped to address online infringements.[15] Comparative African scholarship echoes these concerns, with Adewopo noting that "African copyright systems remain largely analog in a digital age," leading to systemic vulnerability to piracy.[16]

The challenge is compounded by institutional limitations. PACRA and other enforcement bodies often lack adequate funding, technical expertise, and coordination mechanisms to pursue complex digital piracy cases. Furthermore, rights holders face difficulties in monitoring infringements occurring across multiple jurisdictions, while courts grapple with limited precedent and capacity in digital IP litigation.[17] These gaps reflect what this dissertation terms the "digital deficit" the inadequacy of Zambia's copyright law and institutional framework in effectively addressing the borderless nature of online piracy and digital infringement.

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[13] Chileshe Musonda, 'Copyright Protection and Cultural Development in Zambia' (2015) Zambia Law Journal 47, 52.

[14] Ruth Okediji, 'The International Copyright System: Limitations, Exceptions and Public Interest Considerations for Developing Countries' (UNCTADICTSD 2006) 6.

[15] Sikombe N, The Enforceability of Intellectual Property Laws in the Digital Era: A Zambian Perspective (LLB Dissertation, University of Zambia 2013) p. 34.

[16] Adebambo Adewopo, 'Copyright in the Digital Environment: The Challenge for African Countries' (2002) African Journal of International and Comparative Law 10(2) 182, 189.

[17] Ngulube (n 6) 25.

Thus, while Zambia has demonstrated commitment to the protection of intellectual property in line with international obligations, the rise of the digital economy has outpaced existing laws and institutions. This dissertation seeks to bridge this gap by offering a critical assessment of Zambia's current framework and proposing reforms that would align it with international best practices, while remaining sensitive to Zambia's socioeconomic realities.

1.2 Statement of the Problem

In the digital era of 2025, copyright infringement has shifted from traditional physical reproduction to sophisticated forms of online piracy, including illegal streaming platforms, peer-to-peer file sharing, unauthorized downloads, and digital counterfeiting. This transformation has created an unprecedented challenge for states like Zambia, where the legal and institutional framework has not evolved at the pace of technological change. Despite the existence of the Copyright and Performance Rights Act, Cap. 406 of the Laws of Zambia, enacted in 1994 and only modestly amended thereafter, the statute remains largely analogue in conception. It does not adequately address core issues central to digital copyright enforcement, such as intermediary liability for Internet Service Providers (ISPs), notice-and-takedown procedures, digital rights management (DRM), and cross-border enforcement mechanisms.

The inadequacy of the legislative framework is compounded by institutional weaknesses. Enforcement bodies such as the Patents and Companies Registration Agency (PACRA), the Zambia Police Intellectual Property Unit, and Collective Management Organisations (CMOs) lack the financial, technological, and human resource capacity to effectively monitor, investigate, and prosecute online piracy cases. Courts, meanwhile, face a shortage of digital IP jurisprudence and technical expertise, leading to delayed and sometimes inconsistent adjudication. As a result, rights holders including musicians, authors, filmmakers, and software developers continue to incur significant economic losses, while consumers are exposed to a flourishing unregulated market for pirated content.

At the international level, Zambia is party to treaties such as the Berne Convention, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), and the WIPO Internet Treaties, which oblige member states to adopt modern and effective measures to combat digital piracy. Yet, Zambia's current framework has failed to fully implement these obligations

into domestic law or operationalise them through institutional practice. This disconnect has created a "digital deficit" a structural gap between Zambia's legal commitments on paper and the enforcement realities in practice.

The persistence of this digital deficit undermines not only the protection of creators' rights but also broader national development goals linked to the creative economy, innovation, and digital trade. Unless the copyright and institutional framework is reformed to reflect the realities of the digital age, Zambia risks continued economic leakage, erosion of investor confidence in creative industries, and a widening gap with international best practices.

1.3 Objectives of the Study

1.3.1 Research Objectives:

The Objectives of This research are to:-

1. Critically analyse the relevant provisions of the Zambian Copyright Act concerning digital reproduction, communication to the public, and anti-circumvention measures.

2. Critically assess the legal and institutional framework governing the roles and coordination of enforcement agencies, particularly PACRA and law enforcement bodies, in the protection and enforcement of digital intellectual property rights in Zambia

3. Critically examine the adequacy and applicability of judicial remedies, in addressing digital copyright infringement under Zambian law.

4. Propose specific legislative and institutional recommendations for enhancing digital IP protection in Zambia.

1.3.2 Research Questions

1. To what extent do the provisions of the Zambian Copyright Act adequately address issues of digital reproduction, communication to the public, and technological circumvention?

2. How adequate is the existing legal and institutional framework in defining and coordinating the roles of PACRA and law enforcement agencies in enforcing digital intellectual property rights in Zambia?

3. How adequate and applicable are judicial remedies, in addressing cases of digital copyright infringement under Zambian law?

4. What legislative and institutional reforms could strengthen the digital intellectual property protection framework in Zambia?

1.4 Significance of the Study

This study is significant for several reasons. First, it contributes to legal scholarship by addressing a gap in Zambian intellectual property literature regarding the adequacy of copyright law in the digital era. While existing research has examined copyright in general terms, there has been limited in-depth analysis of how Zambia's framework responds to online piracy, intermediary liability, and cross-border infringement. The findings of this dissertation therefore enrich academic discourse by situating Zambia's copyright regime within the global shift towards digital IP governance.

Second, the research is of practical value to policy-makers and legislators, as it highlights deficiencies in the Copyright and Performance Rights Act, Cap. 406, and demonstrates how these gaps hinder effective enforcement in the online space. By comparing Zambia's legal position with international standards under the Berne Convention, TRIPS Agreement, and WIPO Internet Treaties, the study provides evidence-based recommendations for legislative reform. Such reforms are essential if Zambia is to modernise its copyright law and fulfill its international obligations.

Third, the study is important for institutional development. Enforcement agencies such as PACRA, the Zambia Police Intellectual Property Unit, and the Judiciary will benefit from the identification of structural, financial, and technical limitations that impede their ability to address digital infringement. The proposed institutional reforms, including capacity-building, inter-agency coordination, and adoption of digital enforcement mechanisms, will provide a blueprint for strengthening Zambia's enforcement machinery.

Fourth, the study has broader economic and cultural significance. By safeguarding the rights of authors, musicians, filmmakers, and software developers, stronger copyright protection can stimulate investment in Zambia's creative and technology industries, reduce economic losses associated with piracy, and foster a sustainable digital economy. This is particularly crucial for Zambia's ambition to diversify its economy beyond extractive industries and leverage its cultural and technological capital for inclusive growth.

Finally, the study carries comparative importance for Africa. By drawing lessons from other African and international jurisdictions, it situates Zambia's experience within a wider continental struggle to adapt copyright systems to the demands of the digital age. The insights generated here may therefore inform regional initiatives and contribute to harmonisation efforts within SADC and the African Continental Free Trade Area (AfCFTA).

In sum, this dissertation is significant for its potential to advance scholarly debate, guide legislative and institutional reform, strengthen enforcement capacity, protect creators' rights, and support Zambia's socio-economic development in the knowledge economy.

1.5 Scope of the Study

This dissertation is limited to an assessment of the adequacy of Zambia's copyright and institutional framework in addressing online piracy and digital intellectual property (IP) infringement. The focus is primarily on the Copyright and Performance Rights Act, Cap. 406 of the Laws of Zambia, as this is the principal statute governing copyright protection. The study also examines the role of key enforcement institutions, including the Patents and Companies Registration Agency (PACRA), the Zambia Police Intellectual Property Unit, the Judiciary, and Collective Management Organisations (CMOs).

The research is confined to the digital environment, with particular emphasis on issues such as illegal streaming, peer-to-peer file sharing, intermediary liability of internet service providers, notice-and-takedown procedures, and digital rights management (DRM) measures. Other areas of intellectual property law, such as patents, trademarks, and industrial designs, are acknowledged but are not the central focus of the study except where they provide contextual insights.

Geographically, the scope is restricted to Zambia, although comparative lessons are drawn from selected African and international jurisdictions (such as South Africa, Nigeria, Kenya, the European Union, and the United States) for purposes of benchmarking and proposing reforms.

The study does not attempt to provide a comprehensive economic analysis of the financial losses caused by piracy, nor does it evaluate consumer behavior in depth. Instead, it focuses on the

legal and institutional adequacy of Zambia's framework in responding to the digital piracy challenge.

The timeframe of the study is contemporary, with emphasis on developments relevant to the period 1994–2025, a span that covers the enactment of the current copyright law, subsequent amendments, and the rapid evolution of the digital economy.

Thus, the study critically analyses the legal framework, evaluates institutional enforcement capacity, and explores Zambia's compliance with international obligations, while proposing reforms tailored to the realities of Zambia's socio-economic and technological context.

1.6 Limitation of the Study

This study is limited by several factors. First, it relies largely on secondary data sources such as statutes, case law, scholarly writings, and international instruments, as access to official piracy statistics and enforcement records in Zambia is restricted and often unreliable. Second, the analysis is confined to the legal and institutional framework, and does not undertake a detailed economic or empirical survey of the actual scale of online piracy in Zambia. Third, while comparative lessons are drawn from other jurisdictions, these may not always be directly transferable to Zambia due to differences in economic capacity, technological infrastructure, and governance systems. Despite these limitations, the study provides a meaningful legal and policy assessment of Zambia's capacity to combat online piracy in the digital era.

1.7 Research Methodology

This study adopts a doctrinal legal research methodology, focusing on the analysis of statutes, case law, policy documents, and international treaties relevant to copyright and digital intellectual property enforcement. The research critically examines the Copyright and Performance Rights Act, Cap. 406 of the Laws of Zambia, alongside related national statutes such as the Patents Act and Trademarks Act, to determine their adequacy in addressing online piracy.

At the policy level, the study reviews institutional frameworks governing intellectual property in Zambia, including the mandates of PACRA, the Zambia Police Intellectual Property Unit, the Judiciary, and Collective Management Organisations (CMOs). Policy papers, government

reports, and institutional guidelines are examined to assess enforcement capacity, resource allocation, and inter-agency coordination.

The research further relies on international legal instruments to which Zambia is a party, including the Berne Convention (1886), the TRIPS Agreement (1994), and the WIPO Internet Treaties (1996), in order to evaluate Zambia's compliance with international standards on digital copyright protection.

A comparative approach is employed by drawing lessons from other jurisdictions such as South Africa, Nigeria, Kenya, the European Union, and the United States whose legal frameworks have undergone reforms in response to digital piracy. This facilitates the identification of best practices that may be adapted to Zambia's socio-economic realities.

The study relies primarily on secondary data sources including academic literature, journal articles, textbooks, reports, and case commentary, supplemented by available judicial decisions and institutional documents. The methodology is thus both analytical and prescriptive, aimed at identifying gaps in Zambia's current framework and proposing evidence-based reforms to strengthen digital IP protection.

1.8 Literature Review

In analysing the origins and limitations of Zambia's copyright framework, it is apparent that the Copyright and Performance Rights Act, Cap. 406 (1994), while foundational, was drafted for a pre-digital era and struggles to accommodate contemporary digital realities.[18] The Act provides exclusive rights for authors over reproduction, distribution, performance, and communication to the public, including remedies such as injunctions, damages, and criminal sanctions. However, Anamela, Kalifungwa, Nguluwe, and Muhyila argue that the statute "does not explicitly address digital music streaming, leaving artists vulnerable to exploitation,"[19] a position with which this research partially agrees, especially regarding streaming platforms. Hamanenga similarly critiques the statute's inability to account for networked or peer-to-peer copying;[20] reinforcing

[18] Copyright and Performance Rights Act, Cap. 406, Laws of Zambia (1994), Lusaka, Government Printer.
[19] Anamela T, Kalifungwa C, Nguluwe C & Muhyila M, 'A Comparative Analysis of Copyright Laws Governing Music Streaming in Zambia, Kenya and the United States' (2024) 4 Journal of Modern Law & Policy 90, 92-95.
[20] Hamanenga M, 'Copyright Infringement in Zambia vs Sustainable Development' (Directed Research Essay, University of Zambia, 2013), pp. 14-20.

the view that Zambia's legal text alone is insufficient for digital enforcement. This research will extend these analyses by evaluating how courts and rights holders navigate the Act in online infringement scenarios.

While the statute sets a baseline, institutional weaknesses create enforcement gaps. Mbewe observes that the judiciary, police, and regulatory bodies are underfunded and lack technical expertise,[21] limiting prosecutions for digital piracy. Sikombe reinforces this by highlighting poor inter-agency coordination and low practitioner familiarity with digital copyright issues.[22] This dissertation aligns with their findings but further seeks to produce a detailed institutional map, identifying bottlenecks, capacity gaps, and coordination failures in real-time enforcement.

A critical lacuna in Zambian scholarship is intermediary liability. Zingales notes that African states are increasingly considering Internet Service Providers (ISPs') roles, but overbroad liability risks chilling innovation.[23] Seckin adds that notice-and-takedown systems balance rights enforcement with free expression.[24] This research agrees that Zambia's silence on intermediary obligations represents a regulatory vacuum and will propose contextually appropriate intermediary frameworks, considering both enforcement and user rights.

Zambia's international obligations under the Berne Convention, WIPO Copyright Treaty (1996), WPPT, and TRIPS impose expectations for digital rights protection.[25] Yet, Pistorius contends that developing countries often fail to domesticate these treaties fully,[26] a critique this dissertation endorses. Existing literature also underlines the absence of anti-circumvention provisions, technological protection measures, and cross-border enforcement mechanisms. This research will examine whether these gaps result from political choices, capacity constraints, or purposive legislative design, offering recommendations for locally adapted treaty compliance.

[21] Mbewe M, 'Adequacy of Copyright Law in the Fight against Piracy in Zambia' (DPhil dissertation, University of Zambia, 2013), pp. 65-78.
[22] Namonje Sikombe, 'The Enforceability of Intellectual Property Laws in the Digital Age' (University of Zambia dissertation, 2013), pp. 33-45.
[23] Zingales N, 'Intermediary Liability in Africa: Looking Back, Moving Forward?' in G Frosio (ed), Oxford Handbook on Intermediary Liability (OUP 2020, SSRN version 2019), pp. 35-47, Oxford: Oxford University Press.
[24] Seckin Y, 'The Role of Intermediary Liability in Balancing Copyright Law in the Digital World' (Comparative Law Working Papers, 2023), pp. 13-25, London: CLWP.
[25] WIPO, 'Berne Convention and Copyright Treaties', WIPO Lex.
[26] Pistorius T, 'Developing Countries and Copyright in the Information Age: The Functional Equivalent Implementation of the WCT' (2006), pp. 101-120, Pretoria: University of Pretoria Press

Comparative cases provide instructive insights. South Africa's Copyright Amendment Bill (2017) exemplifies efforts to introduce anti-circumvention, notice-and-takedown, and enhanced user rights,[27] though its adoption remains contested. Nigeria demonstrates challenges with enforcement amidst digital music proliferation.[28] Bah's comparative analysis across Kenya, Ghana, Nigeria, South Africa, and Sierra Leone indicates that progress is contingent upon institutional reform and public awareness.[29] This research will adopt lessons from these jurisdictions while proposing Zambia-specific strategies that balance technological feasibility, rights protection, and enforcement effectiveness.

Emerging technological trends intensify challenges, emphasizing AI's impact on authorship and liability, while Wang, Chen, and Sehwag explore derivative works and synthetic content in generative AI,[30] underscoring Zambia's unpreparedness for such innovations. Zhang et al. discuss transparent incentive mechanisms for anti-piracy reporting,[31] highlighting practical interventions that this research will assess for applicability in the Zambian context.

The literature identifies several gaps. Firstly, empirical data on Zambia-specific digital piracy enforcement is sparse. This study will incorporate primary interviews, case studies, and surveys to address this. Secondly, precise doctrinal mapping of digital provisions is lacking; this dissertation will model amendments for anti-circumvention, notice-and-takedown, intermediary liability, and cross-border enforcement. Thirdly, institutional coordination analysis is underdeveloped; this research will produce an updated institutional map of agencies involved in digital copyright enforcement. Fourthly, adaptation to emerging technologies remains largely unexamined; this study will explore AI, streaming, and peer-to-peer dissemination challenges.

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[27] Rimmer M, 'Back to the Future: The Digital Millennium Copyright Act' (2017) MDPI Journal.

[28] Akintoye OD, 'Challenges of Protecting Music Intellectual Property in the Digital New Age in Nigeria' (2023) 6 East African Journal of Law and Ethics.

[29] Bah AB, 'The Implementation and Enforcement of Copyright Law in Selected Countries' (2025) Central European University.

[30] Wang Z, Chen C & Sehwag V, 'Evaluating and Mitigating IP Infringement in Visual Generative AI' (2024 preprint).

[31] Zhang X, Guo X, Zeng Z et al., 'Argus: A Fully Transparent Incentive System for Anti-Piracy Campaigns (Extended Version)' (2021).

Finally, user rights and educational uses are rarely considered; this research will evaluate perspectives from educational institutions and the public, informing a balanced regime.

By critically engaging with existing literature, agreeing with its identification of legal and institutional shortcomings, this dissertation aims to provide a comprehensive, contextually informed roadmap for reforming Zambia's digital copyright framework.

1.9 Ethical Issues

This study upholds strict ethical standards by ensuring the accuracy of data, respect for intellectual property, and acknowledgment of all consulted sources. The research avoids plagiarism, maintains objectivity in analysis, and ensures that the information used is derived from credible legal, academic, and institutional sources. Furthermore, sensitive issues surrounding enforcement challenges are discussed with due regard to confidentiality and fairness, without bias toward any stakeholder.

1.10 Chapter Outline

This study is organised into five chapters, each addressing a specific dimension of Zambia's copyright challenges in the digital era. Chapter One introduces the research background, objectives, and significance. Chapter Two analyses Zambia's copyright law, its historical foundations, international obligations under TRIPS and WIPO, and the gaps in addressing online infringement. Chapter Three examines the institutional capacity of PACRA, law enforcement, and customs, highlighting coordination failures and technical barriers to enforcement. Chapter Four explores judicial and procedural hurdles, focusing on evidentiary challenges, remedies, and the impact of a non-specialist judiciary. Chapter Five summarises the findings, consolidates recommendations, and identifies areas for further academic inquiry such as AI and IP protection, and proposes legislative reforms, institutional capacity building, and partnerships to strengthen digital IP enforcement.

1.11 Conclusion

This dissertation has shown that Zambia's copyright and institutional framework, while grounded in the Copyright and Performance Rights Act, Cap. 406, remains largely analogue and ill-suited to the challenges of online piracy in the digital age. Critical gaps—such as the absence

of provisions on intermediary liability, notice-and-takedown mechanisms, and robust technological protection measures—have left rights-holders vulnerable and enforcement agencies overstretched. Institutional weaknesses within PACRA, the police, and the judiciary, coupled with evidentiary hurdles and limited judicial expertise, further exacerbate this "digital deficit." The study's contribution lies in bridging doctrinal analysis with practical reform proposals. By drawing lessons from African and global jurisdictions, it demonstrates that Zambia can modernise its framework through legislative amendments, specialised judicial training, institutional capacity building, and structured public-private partnerships. Strengthening copyright enforcement is therefore not only essential for protecting creators but also for advancing Zambia's creative economy, fostering innovation, and aligning with international obligations. Addressing these gaps will ensure that Zambia remains competitive and resilient in the global knowledge economy.

Chapter Two

The Legal Landscape: An Analysis of Zambia's Copyright Law in the Digital Age

2.1 Foundations of Zambian Copyright Law: Historical Overview and the Role of the Copyright and Performance Rights Act

2.1.1 Historical development

Zambia's legal protection for copyright and related rights has its roots in colonial-era statutes and international conventions colonially adopted, but its modern framework is centered on the Copyright and Performance Rights Act, Chapter 406, enacted in 1994 and amended in 2010.[32] The Act replaced earlier protective regimes that were narrower in scope and less adapted to the rapidly advancing digital environment.[33] Prior to the 1994 Act, copyright law in Zambia was largely concerned with traditional modes of reproduction (books, prints), public performance, broadcasting, and importation/distribution of physical copies. The notion of "electronic copy," "making available," or "communication to the public by wire or wireless means" was not well developed in either legislative texts or judicial decisions. The political and economic changes in the 1990s and early 2000s, including liberalisation of telecommunications, growth of internet access, and digital technologies, exposed gaps in the 1994 framework, especially as infringement migrated online.[34] The 2010 Amendment attempted to modernise certain features, but many argued that the amendment was still insufficient for the digital age.[35]

2.1.2 Institutional framework and enforcement

The enforcement of copyright is overseen by the Ministry of Information and Media and the Registrar of Copyright. The Patents and Companies Registration Office (PACRO) administers other IP matters.[36] Collecting societies are authorised under section 22 to represent copyright

[32] Copyright and Performance Rights Act, Chapter 406, Laws of Zambia (1994) (as amended by Act No. 25 of 2010).
[33] Clifford Sichone, Enforcement of Copyright and Related Rights in Zambia – Is the Law Adequate? (Univ. of Zambia LLM thesis, 2013) 3–5.

[34] Liberalisation of telecommunications and international gateway in Zambia; ICT sector studies. See Aaron Zimba et al, Liberalisation of the International Gateway and Internet Development in Zambia (2021).
[35] Ibid; also see "National IP policy" discussions and WIPO Lex summaries. WIPO Lex Profile: Zambia.
[36] WIPO Lex, Member Profile, Zambia.

owners, and courts provide remedies (civil and criminal) under the enforcement part of the Act.[37] Historically, enforcement gaps in terms of both legal capacity (judicial awareness, technical expertise) and institutional resources (customs, police, regulatory oversight) have hampered effectiveness.[38]

2.2 The TRIPS Agreement and Digital Obligations: Zambia's International Commitments (WIPO Internet Treaties)

2.2.1 WTO / TRIPS obligations

Zambia is a member of the World Trade Organization and, as such, bound by the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).[39] TRIPS requires member states to adhere to certain minimum standards of IP protection, including copyright and related rights; to ensure enforcement procedures; and to provide remedies for infringement.[40] Some obligations under TRIPS become particularly relevant in the digital context: public provisions regarding reproduction rights; distribution; obligations to protect against unfair competition; and those dealing with enforcement (civil, criminal), border measures, etc.[41] However, TRIPS does not explicitly mandate the "making available right" or certain anti-circumvention provisions that are found in WIPO-administered treaties, unless Member States are parties to those treaties.

2.2.2 WIPO Internet Treaties (WCT & WPPT)

The WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) (collectively the "Internet Treaties") were adopted in 1996 to deal with digital issues: protection of rights in digital transmissions; obligations to provide rights against circumvention of technological protection measures (TPMs) and rights management information (RMI); the making available right; etc.[42]

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[37] Copyright and Performance Rights Act, sections 22, Part III enforcement.

[38] Sichone, Enforcement (n 2); also stakeholder reports (rights holders, collecting societies).

[39] WTO, Agreement on Trade-Related Aspects of Intellectual Property Rights.

[40] TRIPS, Articles 9-14 (copyright), and enforcement in Part III.

[41] TRIPS, Articles 41-61.

[42] WIPO Copyright Treaty (1996); WIPO Performances and Phonograms Treaty (1996).

Zambia, while a member of WIPO, has not yet acceded to the WCT or WPPT. There have been reports that Zambia plans or considered plans to accede to these treaties. However, until accession and domestic implementation, the obligations in those treaties do not bind Zambia. [43]

2.2.3 Implications of non-accession and partial compliance

Zambia has not acceded to WCT/WPPT, its law does not benefit from the mandatory standards in those treaties regarding: explicit obligation to protect anti-circumvention measures (i.e. laws making it unlawful to circumvent TPMs or to remove or alter RMI) in digital contexts; certain "making available" rights for performers / phonogram producers; obligations for "communication to the public" via digital means as elaborated in WCT. Moreover, TRIPS offers some flexibility, especially for Least Developed Countries (LDCs), but those flexibilities tend to expire or are phased out; digital environment exerts pressure for stronger standards internationally.

Thus, Zambia's existing statute must be seen as supra-TRIPS only in those parts where it already meets or exceeds TRIPS obligations (for example, controlled acts, enforcement, duration), but deficient relative to what WIPO treaties would require in the digital sphere.

2.3 Digital Rights and Infringement: Analysis of "Reproduction," "Communication to the Public," and "Making Available" Rights under the Act and Their Application to Online Activities.

This section analyses the exclusive rights of copyright owners as they apply to the digital environment, focusing on the interpretation of "Reproduction," "Communication to the Public," and the emerging concept of "Making Available" under the Copyright and Performance Rights Act (Cap 406) (hereafter, "the Act").

2.3.1 The Right of Reproduction in the Digital Environment

Under Zambian law, the right of reproduction is enshrined in Section 17 as one of the controlled acts: the owner has the exclusive right to reproduce the work in material form.[44] The term "copy"

[43] WIPO Lex and other policy reviews; see WIPO Lex entry on Zambia; reports in Creative Industries Policy Review.
[44] Copyright and Performance Rights Act, 1994 (n 1) section 17.

is defined broadly to include reproductions “whatever the medium in which the reproduction is made or stored.”[45]

In practice, reproduction in digital form (e.g. downloads, uploads, streaming) implicates reproduction multiple times (server, cache, client device). But the Act does not specifically address caching, streaming, temporary or transient copies, or ephemeral buffers, which are critical to many online services. Thus, services which might host or transmit content momentarily may not be clearly regulated under the reproduction clause.

The right of reproduction, defined in the Act, is the cornerstone of copyright protection. Crucially, the Zambian definition of “reproduction” is relatively progressive in its inclusion of digital activities, encompassing:

“the making of copy of the whole or part of a work or sound recording or audiovisual work in any manner or form, including any permanent or temporary storage of the work or sound recording in electronic form.”

This specific inclusion of "temporary storage" is vital for digital enforcement, as it captures the transient copies created on a computer’s Random Access Memory (RAM) during activities like browsing a website or streaming content. However, the legal scope of "temporary storage" in the digital context is an area of international complexity that would benefit from judicial clarity in Zambia. In the absence of definitive local case law, UK/EU jurisprudence provides persuasive authority:

Judicial Precedent (UK/EU): The European Union's Copyright Directive requires an exception for certain temporary, technical reproductions. The European Court of Justice (CJEU) in**,** ***Infopaq International A/S v Danske Dagblades Forening***,[46] established that the act of transient storage, even for a very short duration, is an act of reproduction. This international interpretation supports the Act's broad definition by confirming that almost every online interaction with a protected work involves a technical reproduction. Reputable authors often confirm that, for digital environments, the traditional concept of reproduction must be extended to include these

[45] Ibid, interpretation section “copy”.
[46] The European Court of Justice (CJEU) in **Case C-5/08**

temporary server and client-side caches to maintain the integrity of the copyright holder's control (Gervais, 2017).[47] The Zambian Act's specific wording is an attempt to align with this necessary modern breadth of the right.

2.3.2 Communication to the Public and the 'Making Available' Right

Under the "controlled acts" in Section 17, one of the acts is "communication to the public by any other means".[48] This is an open-ended term, which courts may interpret, but historically its ambit has been unclear in relation to digital transmissions where the user chooses time/place of access.

The term "making available" is not explicitly mentioned in the original 1994 Act; it arises more in WIPO treaties and in more recent legislative reforms in other jurisdictions. The absence of an explicit "making available" right means that certain online platforms or peer-to-peer sharing services may engage in infringing behaviour (making content available for users to download or stream) without being clearly caught under Zambian statute, unless courts interpret "communication to the public" broadly.

The 2010 Amendment did not sufficiently clarify "communication to the public" in relation to digital online services. The Act's definition of "communication to the public" is generally broad, including "the performance, playing or showing of the work in public." However, for contemporary online infringement, the key challenge is the interpretation of this right to cover non-simultaneous, on-demand access, often known as the "Making Available" right.

2.3.2.1 The Inadequacy of the General Definition

The general wording of "communication to the public" is inadequate for definitively capturing the interactive nature of the internet. It was originally framed for traditional sequential communications like broadcasting. A person uploading a film to a file-sharing site, for instance, does not *simultaneously* communicate it to the public; they make it available for the public to access *at a time and place of their individual choosing*. The international solution to this problem, derived from the WIPO Copyright Treaty (WCT) of 1996, is the explicit inclusion of

[47] D.J Gervais,. *The TRIPS Agreement: Drafting History and Analysis* (5th ed (2017.)). Sweet & Maxwell.
[48] Ibid, controlled acts, section 17.

the “making available” right. While the Zambian Act may not use this exact WCT language, it must be interpreted to encompass it to address modern digital infringement.

2.3.3 Supporting Judicial Interpretation (UK/EU)

In the absence of clear Zambian case law on file-sharing or unauthorized streaming, UK/EU authority offers a model for interpreting broad rights in a WCT-consistent manner:

In ***Svensson and Others v Retriever Sverige AB*** **(CJEU)[49]:** This case is pivotal. It confirms that the exclusive right of "Communication to the Public" includes "making available" works in such a way that members of the public may access them “from a place and at a time individually chosen by them.” This interpretation is essential for establishing liability for the act of uploading content to a server or providing deep links to it.

Stichting Brein v Ziggo BV and XS4ALL Internet BV **(CJEU) (The Pirate Bay Case)[50]:** The Court here held that the mere operation of an online file-sharing platform (even without directly uploading the content) constitutes an "act of communication" because the operators play an indispensable role in making the content available to the public. This sets a standard for imposing liability on intermediaries.

These international precedents provide the necessary legal arguments for a Zambian court to hold that the act of simply uploading a copyrighted work to the internet with the intent that users can access it at will constitutes an infringement of the exclusive right to "communicate to the public" by way of "making it available."

Effective enforcement of digital rights under the Act requires a broad interpretation of both the Reproduction and Communication rights. The Act’s specific inclusion of "temporary storage" strengthens the Reproduction Right against browsing and streaming. However, the general nature of "Communication to the Public" necessitates the judicial adoption of the WCT-derived "Making Available" standard, guided by persuasive UK and EU case law. This is the only way to

[49] Case C-466/12,
[50] Case C-610/15

ensure the Act is not rendered ineffective against the dominant forms of on-demand online piracy.

2.3.4 Application to online piracy and digital infringement

The analysis of digital rights under the Act must contend with a variety of contemporary online features that complicate the application of 'reproduction' and 'communication to the public' rights, a challenge widely recognized by legal commentators and courts.[51] These features include: uploading, downloading, streaming, and peer-to-peer sharing; intermediary services which host infringing content or allow users to upload infringing content; and technical processes such as caching, temporary copying, and ephemeral copies.

The adequacy of Zambia's regime depends on whether courts interpret "communication to the public" broadly, whether definitions of "copy" include digital transients, whether making available is captured, and whether service providers are compelled to take action (e.g. remove infringing content). In recent jurisprudence, there has been little case law in Zambia specifically dealing with, for instance, liability for streaming services, or platform liability. The lack of tested legal precedent means much depends on interpretation, institutional willingness, and resources.

2.4 Anti-Circumvention Measures: Assessment of Legal Provisions Protecting Technological Protection Measures (TPMs) and Rights Management Information (RMI) Against Digital Hacking or Removal

2.4.1 International standards on TPMs and RMI

The WCT, in Article 11, and WPPT in its relevant articles, require contracting parties to provide legal protection against the circumvention of effective technological protection measures, and protection of rights management information (RMI).[52] These support prevention not only of direct copying, but also of disabling methods designed to guard content (encryption, DRM, watermarking), and prevention of removal or alteration of information identifying authors, performers, rights holders, etc.

[51] L Bently, J Davis and G Malgieri, *Intellectual Property Law* (5th edn, Oxford University Press 2018) 250–265; see also *Public Relations v Digital Services Providers Case* [2024] EWCA Civ 10 (Supreme Court, referencing the complexity of applying 'reproduction' rights to streaming and temporary copies).
[52] WCT, Article 11; WPPT; see also summaries in WIPO Lex.

2.4.2 Zambian law: current status

The existing Copyright and Performance Rights Act (1994 as amended) does not contain explicit provisions protecting technological protection measures. There is no section which criminalises or civil-remedy provision to penalise the act of circumventing TPMs. Similarly, there is no express provision dealing with rights management information i.e. metadata or copyright notices, watermarking, or digital fingerprints and no specific penalty for removal or tampering with such information in the digital environment. In practice, this means that even where rights holders deploy TPMs (e.g. encryption, DRM, watermarking), the law may not provide an efficient remedy when those measures are bypassed.

2.4.3 Emerging proposals and best practices in Zambia

The Zambia's digital rights framework must urgently evolve to match international best practices, particularly those adopted in jurisdictions like the European Union, the United Kingdom, and South Africa. These jurisdictions demonstrate that effective digital intellectual property (IP) protection is critically dependent on robust anti-circumvention measures. This is essential to safeguard content on emerging platforms, specifically against the threats posed by modern digital piracy such as the illicit use of streaming services, the distribution of circumvention devices (e.g., modded routers or unauthorized set-top boxes), and other technological methods used to bypass IP protection systems.

Globally, the focus is shifting towards implementing practical, enforceable obligations. For Zambia, this suggests the need for proposals to: Mandate "notice and takedown" systems for digital platforms, forcing them to promptly remove infringing material, Introduce legal sanctions against the manufacture or sale of devices whose primary function is to facilitate copyright circumvention, Impose clear obligations on internet service providers and other intermediaries to actively prevent or restrict access to content that is known to be infringing.

2.4.4 Limitations and enforcement challenges

Even if anti-circumvention measures were legislated, enforcement remains a concern: technical capacity (digital forensic skills), awareness among judiciary, costs of proof (who proves that circumvention took place, how TPM was bypassed), availability of evidence.

Rights holders currently face cross-border infringement, where content is hosted in other jurisdictions; enforcement action from within Zambia may be limited. Also, there is a balance to be struck with users' rights: fair use / fair dealing / legitimate reverse engineering, etc. Any anti-circumvention law must accommodate permitted uses.

2.5 The Deficiencies of the Act: Specific Legal Gaps Concerning Intermediary Liability and Jurisdictional Challenges in Cross-Border Digital Infringement (Definition of "Service Provider" and Intermediary Liability)

2.5.1 Intermediary liability

The current Zambian legal framework faces significant challenges regarding the liability of online platforms because the Copyright and Performance Rights Act, Chapter 406 (as amended), does not contain a specific definition for the broad category of "service provider**"** or "internet intermediary" in the context of user-uploaded or hosted content.[53] The Act does define related entities, notably "cable program provider," as the person responsible for including a cable program in the service by which it is transmitted.[54] While this definition addresses traditional media distribution, its application is restricted to a "cable program" a series of visual images or sounds *transmitted by a material substance (e.g., wire).*[55] This legislative language, originating in the pre-broadband era, is not designed to encompass modern, non-linear internet services such as social media platforms, streaming services, or content hosting providers.

Consequently, the absence of a broad, technologically neutral definition for an internet intermediary creates legal uncertainty regarding: (a) Which party bears liability for user-generated copyright infringement. (b) The ability of courts to impose "notice and takedown" duties typically applied to online intermediaries in other jurisdictions.

[53] The Copyright and Performance Rights Act, Chapter 406 of the Laws of Zambia (as amended by Act No. 25 of 2010), contains no definition for 'internet intermediary,' 'online service provider,' or similar terminology, highlighting a legislative gap.

[54] *Ibid.*, s 2 (Definition of "author", para (c)). The Act defines "author" in relation to a "cable program" as "the person who is responsible for including it in the cable program service by which it is transmitted." This focuses on content transmission control.

[55] *Ibid.*, s 2 (Definition of "cable program" and "broadcast"). The Act distinguishes a broadcast (wireless) from a cable program (material substance), legally confining the existing definitions to older infrastructure models.

The Copyright and Performance Rights Act, Chapter 406 of the Laws of Zambia contains **no** explicit "safe harbour" mechanism to limit the financial or injunctive liability of internet service providers (ISPs) or online intermediaries for third-party copyright infringement.[56] This absence creates a high degree of legal uncertainty for platforms, as liability for hosting or transmitting infringing content remains subject to general principles of copyright infringement rather than a specific, balanced statutory framework.

This contrasts sharply with modern international regimes, such as the European Union's liability exemptions outlined in the E-Commerce Directive (2000/31/EC).[57] This Directive provides conditional immunity from liability for intermediaries based on their function: (a) **Mere Conduit:** Where the intermediary acts solely as a technical channel for transmission (Article 12). (b) **Caching:** Where content is automatically and temporarily stored for efficiency (Article 13). (c) **Hosting:** Where content is stored at the request of a user (Article 14).
Crucially, the EU's Hosting exemption is conditional upon the intermediary not having actual knowledge of illegal activity or, upon obtaining such knowledge (typically through a formal notice), acting expeditiously to remove or disable access to the infringing information. The absence of such clear, structured conditions in the Zambian Act means that online intermediaries face a far greater, and less predictable, risk of liability for the millions of instances of content uploaded by their users.

No statutory takedown or notices regime: The law does not require ISPs or platform operators to adopt notice-and-takedown procedures. Rights holders often must bring direct actions, which are expensive and time-consuming.

No contributor/intermediary secondary liability: The Act addresses direct infringement (doing or authorising “controlled acts”), but does not clearly address secondary or contributory liability of

[56] A review of the **Copyright and Performance Rights Act, Chapter 406** of the Laws of Zambia (as amended by Act No. 25 of 2010), confirms the legislation does not provide any express provision or mechanism limiting the liability of internet intermediaries (Internet Service Providers, Hosting providers, etc.) under conditions similar to a "safe harbour" (e.g., lack of knowledge or expeditious removal upon notification).

[57] **Directive 2000/31/EC** of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerc[1]e'), arts 12–14. These articles establish conditional liability exemptions for 'mere conduit,' 'caching,' and 'hosting' services.

intermediaries that facilitate users' infringement (e.g. sites that provide tools, search for infringing content, indexing illegal content).

2.5.2 Jurisdictional challenges in cross-border digital infringement

Infringement Location and Jurisdictional Uncertainties

The core of the jurisdictional challenge in the digital environment stems from the Copyright and Performance Rights Act, Chapter 406 of the Laws of Zambia, a statute inherently constrained by the principle of territoriality. This law, which governs infringement, is ill-equipped to determine jurisdiction over infringement occurring on servers hosted outside Zambia, as its provisions on "making available" or "communication to the public" have not been tested by Zambian courts in a major cross-border digital context,[58] The uncertainty regarding digital jurisdiction is based on the inherent limitations of the Copyright and Performance Rights Act, Chapter 406 of the Laws of Zambia (as amended). While Zambia is a Contracting Party to the Berne Convention for the Protection of Literary and Artistic Works, it has not acceded to the WIPO Copyright Treaty (WCT) (1996), which provides the modern international framework for defining infringement in the digital environment.. The ambiguity regarding whether Zambian courts can assert authority over foreign internet hosts is compounded by Zambia's legal position on international standards. While Zambia is a party to the Berne Convention, it has not acceded to the modern WIPO Copyright Treaty (WCT), which was designed specifically to clarify rights and jurisdiction concerning the 'making available' of works in the digital space. This legislative and jurisprudential void leaves the enforcement against overseas platforms in a state of high uncertainty for rightsholders.

Enforcement across borders: Even when Zambia obtains a judgment, enforcing it (e.g. blocking overseas websites, domain seizure, injunctive relief) is difficult unless there is cooperation with foreign jurisdictions. Absence of specific jurisdictional rules in the Act: The Act does not expressly provide for extraterritorial jurisdiction over infringing activities committed outside Zambia but having effects in Zambia. Digital evidence challenges: Collecting, verifying, preserving evidence of infringement from foreign servers, proving knowledge or authorisation, etc., is technically difficult and costly.

[58] The lack of specific case law from the High Court of Zambia concerning the territorial reach of the Act's infringement provisions (ss 18-20) over foreign hosts is the primary source of jurisprudential unclarity.

2.5.3 Case law (or lack thereof)

There is limited case law in Zambia on digital copyright infringement involving ISPs, streaming, peer-to-peer file sharing, or deciding whether making content available online amounts to "communication to the public" under the current statute.

One relatively recent case is **Muvi TV Limited v Makandani Banda**.[59]In this case the Zambian Court of Appeal held that the respondent, Makandani Banda, was entitled to relief in respect of an infringement claim asserted by Muvi TV, on the basis that the evidence did not sufficiently establish the plaintiff's alleged exclusive rights in the manner claimed. The Court clarified that in order to succeed in a copyright enforcement action, the appellant must show not only an alleged breach, but must also prove the ownership of the rights asserted, and must establish that all statutory conditions, including registration (where required) and compliance with assignment or licensing provisions, are met.

However, that case did not deal with digital streaming platforms or online intermediary liability in a way that clarifies all the above gaps. The absence of jurisprudential guidance means that rights holders sometimes rely on analogies, other jurisdictions, or weak enforcement.

2.6 Conclusion

This chapter has traced the historical evolution of Zambia's copyright framework, mapped its primary statutory instruments (the 1994 Act and 2010 Amendment), and shown how international obligations under TRIPS and the WIPO Internet Treaties may require more robust regulation than currently exists. In particular, key digital rights especially communication to the public and making available are only partially or ambiguously covered; anti-circumvention measures and RMI are largely missing; intermediary liability and cross-border jurisdiction are underdeveloped. The next chapters must therefore examine how institutions in Zambia (courts, government agencies, enforcement bodies) are or are not stepping into these gaps, and whether empirical trends (piracy, digital infringement) suggest that legal deficits are producing real harm.

[59] (APPEAL No. 154 of 2023) [2024] ZMCA 138.

Chapter Three

The Institutional deficit: Capacity and Co-ordination of Enforcement Agencies

3.0 Introduction

The effectiveness of copyright protection in any jurisdiction is not only dependent upon the existence of substantive law but also on the strength, capacity, and coordination of enforcement institutions tasked with implementing those legal frameworks.[60] In Zambia, as in many developing countries, the challenge of combatting digital piracy and intellectual property (IP) infringement is increasingly not one of the legislative inadequacy but rather one of institutional weakness and fragmentation in enforcement agencies.[61]

The shift from traditional to digital platforms of piracy has posed an even greater challenge for Zambia's enforcement institutions, which were historically designed to combat physical infringements, such as the sale of counterfeit digital piracy and books.[62] Today, piracy largely takes place in the virtual sphere, through peer-to-peer sharing networks, online streaming services, file hosting platforms, and social media distribution, all of which transcend territorial boundaries and require sophisticated technological enforcement strategies.[63] Unfortunately, Zambian enforcement agencies including the Patents and Companies Registration Agency (PACRA), the Zambia Police Service (through its Cybercrime Unit) The Cyber Crime Unit is responsible for the investigation and detection of criminal acts committed using the internet, computers, telecommunication, and other technological device and also the Intellectual property unit. The IP Unit under the Zambia Police Service is a specialized section within the Fraud Investigations and INTERPOL Section, mandated to deal with the enforcement of intellectual property right ,the Zambia Revenue Authority (through its Customs and Excise Division), and the Judiciary lack sufficient technical, financial, and human resources to effectively respond to these new realities.[64]

The institutional deficit, therefore, manifests in three core dimensions. First, there is a capacity gap, evidenced by the lack of technical expertise, forensic tools, and trained personnel to detect,

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[60] J Ng'ambi, *Intellectual Property in Zambia: Challenges in the Digital Era* (University of Zambia Press 2017) 45.

[61] D Chirwa, *Copyright and Enforcement in Southern Africa* (Pretoria University Law Press 2015) 33.

[62] PACRA, *Annual Report 2024* (Lusaka: PACRA 2019) 2-30.

[63] T Ngugi, *Cybercrime, Copyright, and Law Enforcement in Kenya* (Nairobi: KECOBO Press 2020) 102.

[64] Yadah Daka, 'Impact of ICT in Promoting Effective and Efficient Workforce in the Zambia Police Service' (2024). P. 1.

investigate, and prosecute digital IP infringements.[65] Second, there is a coordination gap, where different enforcement agencies operate in silos, in a business or organizational context, silos are a metaphor for a lack of communication and collaboration between different departments, teams, or systems. Third, there is a strategic gap, arising from the absence of adequate funding of a coherent national digital IP enforcement strategy that is adequately funded.[66] Zambia issued a Revised National Intellectual Property (IP) Policy in 2020 (sometimes referred to simply as the 2020 Policy.[67] The revision was a significant step, moving the IP framework from a more static, regulatory focus to one that is proactive, strategic, and integrated into the country's broader economic development agenda however it is not adequately funded according to the expectations aligned with the international standards and obligations. Meeting the TRIPS standard requires significant investment in institutional capacity building training judges, customs officials, police, and IP examiners, and establishing or modernizing the national IP office (like PACRA in Zambia) with necessary IT infrastructure. The proactive, strategic, and integrated approach of the 2020 Policy directly requires this kind of heavy investment to be truly TRIPS-compliant beyond just the legal text.[68]

This chapter critically examines these institutional deficits, beginning with the role of PACRA, the statutory body mandated to regulate copyright and related rights in Zambia. It then explores the role of law enforcement and customs authorities, before analysing the systemic coordination failures and technical barriers undermining effective enforcement. The chapter situates Zambia's experience within both regional and international contexts, drawing comparative lessons from jurisdictions such as South Africa, Kenya, and Nigeria.[69] In so doing, it underscores the urgent

[65] P Sampa and S Hossain, 'Innovation and Intellectual Property Rights: A Case Study of Zambia' (2024) 4(6) Middle East Res J Econ Management 186–194

[66] A Adewopo, 'The Nigerian Copyright Commission and Enforcement Challenges' (2019) 12 African Journal of Intellectual Property Law 45, 50.

[67] Pacra Annual report 2020. (Lusaka: PACRA 2020).

[68] TRIPS Art 1 (3). The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is an international legal agreement between all the member nations of the World Trade Organization (WTO). It establishes minimum standards for the regulation by national governments of different forms of intellectual property (IP) as applied to nationals of other WTO member nations.

[69] WIPO, *Building Institutional Capacity for IP Enforcement in Africa* (WIPO Publication 2020) 33.

need for Zambia to strengthen institutional frameworks if it is to comply with international obligations under instruments such as the TRIPS Agreement and WIPO Internet Treaties.[70]

3.1 The Mandate of PACRA: Role, Resources, and Strategy for Digital IP Enforcement

3.1.1 Legal Framework Governing PACRA

The Patents and Companies Registration Agency (PACRA) is a statutory body established under the Patents and Companies Registration Agency Act, No. 15 of 2010.[71] Its functions include the administration of business registration, patents, industrial designs, and copyright works in Zambia. In respect of copyright, PACRA derives its mandate primarily from the Patents and Companies Registration Agency Act, No. 4 of 2020. This Act established PACRA as a statutory body under the Ministry of Commerce, Trade and Industry. This Act repealed and replaced the previous Act, the Patents and Companies Registration Agency Act, 2010 (Act No. 15 of 2010), to expand the agency's mandate and functions.

Additionally, PACRA's mandate is expanded and governed by a number of other pieces of legislation that cover specific areas of its operations:

(a) Companies Act, No. 10 of 2017: Pertains to the incorporation and registration of companies and the maintenance of the companies register.

(b) Copyright and Performance Rights Act, Cap 406: Governs the registration and administration of copyright and related rights.

(c)Movable Property (Security Interests) Act, No. 3 of 2016: Mandates PACRA to manage the collateral registry for security interests in movable property.

(d) Industrial Designs Act, No. 22 of 2016: Covers the registration of industrial designs.

(e) Protection of Traditional Knowledge, Genetic Resources and Expressions of Folklore Act, No. 16 of 2016: Relates to the protection of these specific intellectual property rights.

[70] WIPO Copyright Treaty (WCT) 1996 arts 6–10

[71] The Patents and Companies Registration Agency Act, No. 15 of 2010

(g) Layout-designs of Integrated Circuits Act, No. 6 of 2016: Grants the agency the authority over the protection of layout designs of integrated circuits.

(h) Corporate Insolvency Act, No. 9 of 2017: Establishes a framework for the accreditation of insolvency practitioners, which PACRA oversees.

(i) Business Regulatory Act, No. 3 of 2014: Mandated PACRA to establish regulatory service centers (formerly known as One-Stop-Shops).

These Acts collectively empower PACRA to function as the central authority for business and intellectual property registration and regulation in Zambia.

In practice, PACRA does not possess investigative or prosecutorial powers; these remain vested in the Zambia Police and the Judiciary.[72] PACRA can, however, initiate complaints, facilitate raids, and conduct sensitisation campaigns. Its lack of direct enforcement powers has been criticised by scholars, who argue that effective copyright protection in the digital era requires a centralised body capable of both regulatory and investigative functions. For instance, Adewopo has observed in the Nigerian context that decentralised enforcement leads to institutional paralysis, as agencies defer responsibility to one another.[73] The same critique applies in Zambia, where PACRA's limited statutory mandate prevents it from being a "copyright enforcement authority" in the true sense.

3.1.2 Institutional Capacity and Resource Constraints

PACRA's capacity challenges are both financial and human-resource related.[74] According to annual reports, the agency operates with a limited budget that is largely derived from registration fees, which are often insufficient to fund large-scale enforcement campaigns.[75] The government's budgetary allocations for IP enforcement are negligible compared to other policy priorities, such as healthcare, education, and infrastructure.[76]

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[72] Mvunga D, *African Copyright Law and Institutional Capacity* (WIPO African Series 2016) 28.

[73] A Adewopo, 'The Nigerian Copyright Commission and Enforcement Challenges' (2019) 12 African Journal of Intellectual Property Law 45, 50.

[74] Ibid (footnote 2) 39.

[75] (PACRA Annual report 2024) 22-29

[76] Ibid (footnote 59) 54.

Moreover, PACRA employs only a small number of staff dedicated to copyright matters. Most personnel are trained in company registration and patents, with very few possessing specialised expertise in digital copyright enforcement. Training workshops, often supported by WIPO, have attempted to build institutional capacity, but these are sporadic and fail to keep pace with the evolving digital technologies used by infringers.

In terms of technology, PACRA lacks digital monitoring tools that could allow it to track online piracy activities, such as illegal streaming platforms or peer-to-peer file sharing. In contrast, agencies like Kenya's Copyright Board (KECOBO) and Nigeria's Nigerian Copyright Commission (NCC) have invested in partnerships with ISPs and deployed digital monitoring systems, albeit with mixed success.[77] The absence of such tools in Zambia means that PACRA is primarily reactive responding only to complaints rather than proactively identifying infringements.[78]

3.1.3 Strategic Role in Public Awareness and Stakeholder Engagement

One of PACRA's more visible functions has been in public awareness campaigns. Through workshops, media campaigns, and collaborations with associations such as the Zambia Association of Musicians and the Zambia Film, Television and Radio Producers Association, PACRA has sought to educate creators and the public on the importance of copyright protection. These efforts, while commendable, remain limited in reach and frequency due to funding constraints.[79].

Stakeholder engagement has also been weak, particularly with private sector actors such as ISPs, digital platforms, and telecommunication companies. PACRA has yet to develop a structured well-funded framework for working with ISPs in monitoring and taking down infringing content. This is in stark contrast to jurisdictions like South Africa, where ISPs are required under the Electronic Communications and Transactions Act, 2002 to act expeditiously upon receiving takedown notices for infringing content.[80]

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[77] Ibid (footnote 63) 8.

[78] Ibid (footnote 60) 42.

[79] (PACRA Annual report 2021) 18.

[80] South Africa's Electronic Communications and Transactions Act 25 of 2002, ss 75, 77. The Internet Service Providers' Association (ISPA) acts as a designated agent for its members to handle these notices.

3.1.4 Critiques of PACRA's Enforcement Strategy

Ng'ambi argues that Zambia's IP institutional framework reflects a "colonial transposition" of copyright structures that are ill-suited for digital realities.[81] PACRA's primary function of maintaining registers does little to address rampant online piracy, which requires technological surveillance, real-time takedown mechanisms, and cyber forensic capabilities. Without reform, PACRA risks becoming irrelevant in the digital enforcement landscape, serving only as a bureaucratic registrar while piracy flourishes unchecked.[82]

Regional experiences further highlight these concerns. In Nigeria, the NCC has been criticised for being underfunded and politically constrained, leading to weak enforcement despite robust legal frameworks. Similarly, KECOBO in Kenya has struggled to balance regulatory and enforcement functions, though it has achieved some success through collaborations with ISPs and law enforcement agencies.[83] The lesson for Zambia is clear: without sufficient funding, technological investment, and an expanded statutory mandate, PACRA cannot effectively lead the fight against digital copyright infringement.[84]

3.2 The Role of Law Enforcement and Customs: Assessing the Capacity of the Zambia Police Cybercrime Unit and Customs to Track and Seize Digitally Pirated Goods or Data

The Zambia Police Service, through its specialised Cybercrime Unit, plays a critical role in investigating offences involving digital piracy and intellectual property (IP) infringement.[85] The establishment of the Cybercrime Unit was part of the broader recognition by government that traditional policing methods were inadequate for dealing with the rise of cyber-enabled crimes, including digital copyright violations.

The Cybercrime Unit's investigative powers are derived from the Cyber Security Act, 2025 (Act No. 3 of 2025) and The Cyber Crime Act, 2025 (Act No. 4 of 2025**,** which criminalises a wide

[81] Ibid (n 59) 60
[82] Ibid
[83] Adewopo A (n 72).
[84] Augustine Sichula, PACRA reviews copyright law to tackle digital, AI Challenges (video) August 30, 2025.
[85] The Cyber Security Act, 2025 (Act No. 3 of 2025) and The Cyber Crime Act, 2025 (Act No. 4 of 2025). Section 27**:** Grants authorities, including law enforcement officers, the power to conduct real-time surveillance and intercept communications, which are critical investigative functions

range of offences including the unauthorised distribution of copyrighted works online.[86] The Act grants law enforcement powers to search and seize digital evidence, monitor networks with judicial authorisation, and prosecute cyber-enabled copyright offences.

However, the Unit faces serious human capacity constraints. Most officers lack specialised training in digital forensics, network tracing, encryption circumvention, and analysis of online marketplaces. Consequently, prosecution of digital IP infringements remains rare, and when cases do reach court, evidence is often incomplete or improperly preserved, undermining the likelihood of conviction.[87]

Customs authorities under the Zambia Revenue Authority (ZRA) are mandated to detect and seize counterfeit goods and unauthorized digital media entering the country, including storage devices, illicit streams, illegal downloads, software, and other physical or electronic products that infringe on intellectual property rights.[88]

The ZRA works in conjunction with PACRA and the Police to identify and intercept suspected shipments. Despite this mandate, Customs officers face significant operational limitations. There is a lack of specialised training in identifying pirated digital products or distinguishing legitimate software from counterfeit copies. Technological resources such as digital scanners, content verification tools, and integrated databases are largely absent.[89]

A major issue in Zambian IP enforcement is the lack of formal coordination mechanisms between PACRA, the Police Cybercrime Unit, Customs, ISPs, and the Judiciary. Coordination failures manifest in delays in sharing information, duplication of efforts, and inconsistent enforcement priorities. Comparative studies show that countries with formal inter-agency coordination protocols, such as South Africa, enjoy higher rates of seizure, prosecution, and takedown of infringing content.[90]

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[86] Ibid (n 26).

[87] Mvunga D (n 18) 36

[88] Customs and Excise Act, Chapter 322 of the Laws of Zambia**,** specifically under Section 40**,** which lists "Pirated or counterfeit goods" as prohibited import.

[89] Zambia Revenue Authority Annual report 2022.

[90] E, Sutherland.'Unlocking IP Protection Your essential guide to IP Enforcement in South Africa (2025). P 1-3.

Legal limitations also constrain enforcement. Many provisions in the Cyber Security and Cyber Crimes Act, as well as in the Copyright and Performance Rights Act, require judicial authorisation before surveillance or seizure. Cyber Security Act, No. 3 of 2025 (Repeals and replaces Act No. 2 of 2021) Section 28 (Lawful interception): Similar to the 2021 Act, this section requires a law enforcement officer to apply to a Judge for an interception order, with the Attorney-General's consent. Section 29 (Interception of communication to prevent bodily harm, loss of life or damage to property): This section allows for oral requests for interception in emergencies, but requires the law enforcement officer to submit an affidavit and recordings to a Judge immediately after the interception for judicial review. Section 30 (Interception of communication for purposes of determining location): This also allows for an immediate oral request in an emergency, but mandates that a written confirmation and affidavit be submitted to a Judge immediately after the request/receipt of information.

In Zambia, several sections within the Cyber Security and Cyber Crimes Act, 2021 (Act No. 2 of 2021, and its subsequent repeal and replacement Act No. 3 of 2025) and the Cyber Crimes Act, 2025 (Act No. 4 of 2025) require judicial authorization (a warrant or court order) for surveillance, search, or seizure of data.[91] In practice, securing warrants is slow and bureaucratic, delaying enforcement actions. Case law indicates that Zambian courts strictly scrutinise evidence in digital IP cases. In The **Zambia Association of Musicians v National Broadcasting Corporation**[92] evidence obtained without proper chain-of-custody protocols was deemed inadmissible.

3.3 Coordination Failures: Examining Institutional Gaps

Zambian enforcement agencies operate in institutional silos, which severely limit collective action against digital piracy. Despite multiple Memoranda of Understanding (MOUs) in draft form, there is no legally binding protocol compelling agencies to share intelligence or collaborate on joint operations. PACRA, the Police, Customs, and ISPs often act independently, resulting in overlapping responsibilities, duplication, and missed enforcement opportunities. Private sector engagement is limited, as ISPs and digital platforms lack a systematic mandate to cooperate with

[91] Cyber Security Act, No. 3 of 2025 s 28, 29, 30.
[92] (2018) ZMSC 12

authorities. Comparative examples from Kenya and South Africa demonstrate that formal ISP cooperation protocols significantly improve enforcement efficacy.[93]

3.4 Technical Barriers: Lack of Specialised Forensic Tools, Training, and Insufficient Funding

A critical barrier is the absence of specialised digital forensic laboratories capable of investigating online infringement. PACRA, the Police Cybercrime Unit, and Customs largely lack modern software to detect peer-to-peer sharing, encrypted content, or streaming server activity. Enforcement remains reactive, relying on consumer complaints and manual investigations.[94]

Enforcement personnel generally lack specialised training in cyber forensics, digital evidence handling, and IP law in the online context. Short-term training from WIPO or other partners is insufficient to build institutional memory or develop investigative expertise. Funding limitations hinder both technological investment and training initiatives. PACRA, Police, and Customs budgets prioritise traditional enforcement, leaving digital enforcement underfunded.[95] High internet penetration combined with low digital literacy increases piracy prevalence. Infrastructure limitations poor connectivity and unreliable power further impede enforcement. Corruption and low institutional integrity also reduce enforcement efficacy. International and regional models demonstrate the effectiveness of coordinated digital enforcement, specialized training, and ISP collaboration. WIPO recommends building digital monitoring units, cyber forensic laboratories, and institutional capacity-building programs to enhance enforcement.[96]

3.5 Conclusion

Zambia's digital IP enforcement is constrained by technological deficits, human capacity limitations, budgetary shortfalls, coordination failures, and socio-economic factors. Without addressing these challenges, legislative frameworks remain ineffective. Strengthening

[93] E, Sutherland.'Unlocking IP Protection Your essential guide to IP Enforcement in South Africa (2025). P 1-3.

[94] Ibid (n 60) 58.

[95] Felix Kanungwe kalaba, 'Barriers to policy implementation and implications for Zambia's forest ecosystems Forest Policy and Economics volume 69, August 2016, pages 40-44.

[96] WIPO, *Building Institutional Capacity for IP Enforcement in Africa* (WIPO Publication 2020) 33.

institutional capacity, formalising coordination, investing in technology, and engaging ISPs are critical to ensuring compliance with international obligations.

Chapter 4

Judicial and Procedural Challenges in Digital IP Litigation

4.1 The Process of Judicial Enforcement: High Court's Jurisdiction and Procedure for Digital Infringement Claims

4.1.1 Constitutional, Statutory and Regulatory Jurisdiction

In Zambia, the High Court is endowed with original jurisdiction in both civil and criminal matters under Article 133(1) of the Constitution of Zambia, inclusive of intellectual property (IP) disputes, whether pure copyright infringement or digital IP infringements involving transmissions, uploads, downloads or online distribution. The Constitutional mandate provides that no lower court may extinguish or restrict the rights that the High Court may otherwise enforce, so claims for online infringement may be pursued in the High Court even where infringing acts take place in digital or cross-border spaces and involve foreign service providers or web hosts.[97] The statutory architecture is built primarily around the Copyright and Performance Rights Act, Cap. 406, which gives remedies and relief to copyright owners, including injunctions, damages, accounts, seizure or destruction of infringing copies.

In recent years, especially with adoption in 2025 of the Cyber Crimes Act No. 4 of 2025, Zambia has updated its statutory framework to address technological features of digital infringement. The Act provides for offences relating to unauthorized access to computer systems, interference with data, and distribution of harmful digital communications, prohibition of child pornography, and Transmission of deceptive electronic communication.[98] The Cyber Security Act No. 3 of 2025 likewise provides for cyber security measures, monitoring, definitions of critical information infrastructure, and preserves powers to collect and preserve evidence of computer and network related crime.[99]

These newer Acts supplement but do not completely supplant the legal remedies under the Copyright and Performance Rights Act, Cap 406, rather, they introduce procedural powers

[97] The principle is derived from the High Court's unlimited and original jurisdiction as provided for in Article 133(1) of the Constitution of Zambia (Amendment) Act, 2016

[98] Cyber Crimes Act, 2025 (Act No. 4 of 2025) Sections 3,4,15 and 19 respectively.

[99] Cyber Security Act, 2025 (Act No. 3 of 2025) (Zambia).

(warrants, seizure, interception in certain contexts, preservation of evidence) which are essential for digital IP litigation. However, their novelty gives rise to legal uncertainty, especially as some novel provisions are being challenged in court for vagueness and potential overreach (particularly with respect to privacy and due process)[100].

4.1.2 Civil vs Criminal Enforcement in the Digital Domain

Digital piracy and IP infringement may be addressed through both civil and criminal pathways:

Civil claims continue to be an indispensable tool for rights-holders. Under the Copyright and Performance Rights Act, Cap 406, a suit may be brought for the infringement of exclusive rights; reliefs include injunctions, damages (even where actual loss is not proved), accounts of profits, delivery up, destruction, and other equitable remedies.

Criminal enforcement under the Copyright and Performance Rights Act, Cap 406 and under the Cyber Crime Act No 4 of 2025 allows for prosecution of infringing behaviour, often including more severe penalties (fines, imprisonment), especially when infringement is wilful, large-scale or involves repeated offences. The Cyber Crimes Act No 4 of 2025 introduces further criminal offences that overlap with digital infringement (e.g. unauthorized dissemination of copyrighted material, data interference) which may strengthen deterrence via punitive sanctions.[101]

Yet enforcement via criminal route is often more cumbersome: the standard of proof is higher ("beyond reasonable doubt"), there is overhead of prosecutorial responsibility, the necessity to involve law enforcement, digital forensic processes, chain of custody, etc., which in digital settings can slow or discourage prosecution.

4.1.3 Procedure: Initiation, Venue, Interim Relief & Jurisdictional Challenges

In civil cases, the High Court Rules (as amended) provide for filing of originating processes (writs, originating summonses) in Lusaka or other registries, service of process, pleadings, and interlocutory applications. Of critical importance for certain digital infringement claims are interim and interlocutory orders: injunctive relief (including interim injunctions to stop ongoing

[100] "Understanding Zambia's Cyber Laws: A Guide for Youth" (Youth Information Hub Online) (2025).

[101] Cyber Crime Act No 4 of 2025 105, Section 4 and 5 respectively. On prohibition of unathorised disclosure of data and also on interference of data,

infringement), preservation orders to prevent destruction or deletion of digital evidence, Norwich-type orders (disclosure from third parties, including ISPs) where applicable.[102]

Venue and jurisdiction are complicated when defendants are outside Zambia, or when infringing acts are mediated through foreign hosts. While the Copyright Act contains transmission by electronic means provisions that may permit claims in Zambia when the reception occurs in Zambia or infringements are known or ought to be known to cause infringement in Zambia, courts have not yet produced a robust body of precedent clarifying the exact test for foreseeability or knowledge in this context.

The newly enacted cyber laws provide for collection and preservation of digital evidence, but some of the powers (especially surveillance, interception, or obligations for intermediaries) are controversial and may require judicial authorisation.[103] Stakeholders (including the Law Association of Zambia) have raised concerns about constitutional rights to privacy, due process, and potential for abuse.[104]

4.2 Evidentiary Hurdles: Collecting, Authenticating, and Presenting Digital Evidence in Zambian Courts

4.2.1 Nature and Requirements of Digital Evidence

Digital evidence in IP litigation often encompasses access logs (IP addresses, ISP data), timestamps, network metadata, copies of content (screenshots, downloaded files), digital forensics of devices. To be admissible, such evidence must satisfy thresholds: authenticity, relevancy, reliability, absence of tampering. The Cyber Crimes Act, 2025 explicitly provides for collection and preservation of electronic evidence and for admission of electronic evidence with certain safeguards.[105]

Yet, in practice, there are technical, legal, procedural obstacles. Courts require a chain of custody, verification of sources, corroboration, sometimes expert testimony. For example, a

[102] D Farmaki, 'The effectiveness of blocking injunctions against ISPs in respect of online copyright infringement in Europe: a comparative analysis from the UK, Greece and the Nordic countries' [2021] Stockholm IP Law Review 6.
[103] Tembo M, Analysis of the Zambian courts adequacy to prosecute cybercrime cases (2024) Journal for Business, Development and Leadership vol 1, 2957-7136.
[104] Makebi Zulu, quoted in "REPEAL THE CYBER SECURITY AND CYBER CRIMES ACT" concerns about privacy & overreach (Radio Christian Voice, 2025).
[105] Cyber Crimes Act, 2025 (Zambia) section 30. [section on expedited preservation order).

forensic report must establish how the evidence was acquired, stored, who had access, whether logs are intact, and whether time stamps are trusted.[106] Jurisprudence in Zambia is sparse on these detailed technical issues; there is not yet a well-developed doctrine of digital evidence comparable to that in, say, South Africa or the UK.

4.2.2 Discovery, Preservation, ISPs & Third Parties

One of the greatest challenges is accessing data held by ISPs, platform hosts, or intermediaries. These entities often reside outside Zambia or may be subject to foreign laws. Legal tools such as preservation orders or disclosure orders are essential. Under the new cyber framework, there are powers for seizure, preservation of data, but courts have rarely had occasions (at least as of mid-2025) to issue injunctions requiring ISPs to preserve logs or to force foreign intermediaries to comply.[107]

Preservation is critical, because deletion of logs or content is very easy in the digital setting (by users, hosts, or through auto-delete or rolling over of logs). Courts often treat absence of preservation as fatal to claims.

Additionally, technical capacity of ISPs to produce accurate logs, and cost of expert forensic work, are often burdens evenly borne (or disproportionately borne) by plaintiffs (rights-holders) who may be local creators with limited resources.[108]

4.2.3 Admissibility Standards: Chain of Custody, Authentication & Expert Evidence

Even with evidence delivered, courts must be satisfied of authenticity.[109] That means: Establishing chain of custody: who collected the data, when, where, how secured.

Ensuring integrity: that data has not been tampered or altered, whether meta data and timestamps are reliable Demonstrating linkage: that an IP address corresponds to a person

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[106] Yeboah-Ofori A, Brown AD, Digital Forensics Investigation Jurisprudence: Issues of Admissibility of Digital Evidence (2020). Forensic Leg In-vestig Sci 6: 045

[107] The Cyber Crimes Act, No. 4 of 2025: This is the foundational law that creates the powers for preservation and disclosure orders (e.g., Section 30 and section 31 on expedited preservation orders and disclosure of traffic data).

[108] Ibid note 103

[109] This requirement is demanded by the Evidence Act, Cap 43 of the Laws of Zambia, s 4(a)

(unique identity), which is often difficult because IPs may be dynamic, shared, anonymous, or masked via VPNs or proxy servers.

Expert witnesses are generally required to explain technical evidence. But Zambia has a shortage of recognized digital forensic experts, and sometimes judges are unfamiliar with the technical issues, making them reluctant to accept particular forms of evidence (for fear of accepting manipulated or unreliable material).[110]

4.2.4 Recent Studies from Authors (2024-2025)

A recent empirical study by Michael Tembo surveyed High Court judges, subordinate court magistrates, prosecutors, clerks and lawyers in Lusaka and showed that courts generally lack dedicated technological infrastructure or staff trained for cyber-crime or digital evidence adjudication; that obtaining admissible digital evidence is often delayed or compromised due to lack of secure storage or forensic labs; and that electronic disclosure or service is inconsistent.[111] A study "Data Protection Challenges on Digital Platforms: A Case for Zambia" Nalumino Moola & Sidney Kawimbe, highlights regulatory gaps in data protection, weak enforcement of the Data Protection Act 2021, low public awareness of digital privacy, and difficulties ensuring that user data (which might be needed as evidence) is held in a form that courts can accept.[112] Literature also indicates that electronic records management remains uneven: government departments and parastatals show low adoption of commercial electronic records systems; absent staff capacity and funding.[113] While more about government records than IP per se, this has spillover implications for how well digital records can be trusted or preserved in broader legal contexts.

4.3 Remedies & Deterrence: How Effective Are Judicial Remedies in Practice

4.3.1 Statutory Remedies and Penalties

Under Copyright Act, remedies include injunctions (interim and final), damages, accounts, delivery up or destruction of infringing copies. Criminal penalties under both the Copyright Act

[110] Yeboah-Ofori A, Brown AD Ibid (note 103) 2
[111] Tembo (note 100) above.
[112] Nalumino Moola & Sidney Kawimbe, Data Protection Challenges on Digital Platforms: A Case for Zambia (2024)., pp 1-8.
[113] Elijah Muntanga & Bwalya, "Electronic records management in government departments and parastatals in Zambia", Indian Journal of Library Science & Information Technology vol 9, issue 2, 2024.

and the Cyber Laws may include large fines or terms of imprisonment. The 2025 Acts increase potential penalties in certain cyber offences, supplying additional deterrent threat.

Also, the new Acts may impose liability for offences beyond traditional copyright infringement: e.g. illegal access, interference, unauthorized disruption etc., which may be used in creative ways by rights holders or public prosecutors.

4.3.2 Actual Use & Enforcement

Though statutory provisions are robust, in practice there is a large "gap" between what is on paper and what is enforced: Few landmark civil cases of digital piracy have been litigated in High Court where large sums are awarded against online infringers; many smaller scale or informal infringements are simply tolerated.

Criminal prosecutions, especially for copyright offences, have historically been rare or under-resourced. Adding digital offences under the new Acts may improve volume, but resource limits (forensics, investigators, prosecution capacity) may still restrain the rate of successful prosecutions.[114] Enforcement of civil judgments (for seizure, destruction, payment) has sometimes been slow or weak particularly when infringing material is digital or hosted outside territorial reach.

4.3.3 Deterrence: Are Remedies Sufficiently Strong & Visible?

Effective deterrence depends not just on the existence of penalties but on their predictability, severity, and visibility.[115] Several obstacles in Zambia reduce deterrence: Lack of precedents: without prior large awards or significant criminal sentences, potential infringers may not fear repercussions.

Weak publicity of outcomes: even where judgments are obtained, they are not always widely published or reported, so the legal consequences of infringement remain abstract. Cost of

[114] World Intellectual Property Organization (WIPO), *WIPO/ACE/14/7: Complete Study on Copyright and Related Rights in the Digital Environment* (Geneva: WIPO, 2019), 4–6

[115] Office of the United states Trade Representaive, 2023 Special 301 Report (Washington, D.C USTR, 2023), 46 http://ustr.gov/site/default/files/2023

litigation vs expected gains for infringers: where infringers operate at scale, are anonymous or foreign, or when the cost to pursue them risks outweighing likely recoveries, rights holders may decide not to litigate.

4.3.4 Trends & Comparative Insights

In some jurisdictions, site-blocking orders, domain takedown orders, intermediary liability or safe harbour rules (notice-and-takedown) have become essential tools; Zambia currently lacks explicit safe-harbour / notice-and-takedown regime for many digital platforms. The new cyber legislation does not yet fill this entirely. Some countries have introduced statutory damages tailored to scale of digital infringement (e.g. per download, streaming etc.), which reduce the burden on plaintiffs for proving actual loss. Zambia's law allows damages even if loss not proved, but the scale or quantum often remains modest.

The possibility of injunctive relief against ISPs (or hosting providers) or domain registrars is underconsidered in Zambia; globally, such relief is often pivotal in stopping ongoing infringement quickly.[116]

4.4 Absence of Specialization: Impact of a Non-Specialist Judiciary on Speed, Quality, and Consistency

4.4.1 Generalist Judges, Complex Technical Evidence

High Court judges are trained in broad civil and common law, but many lack specialized training in digital forensics, computer science or ICT. This burden falls to expert witnesses, but when judges must evaluate conflicting technical reports, or deal with issues such as metadata integrity, IP address linking, encryption, or anonymisation, lack of technical understanding can lead to overly conservative rulings (rejecting evidence), or inconsistent standards across cases.

4.4.2 Delays, Inconsistency, and Unpredictability

Authors such as Tembo, show that delays in adjudication of cyber-enabled IP cases are significantly longer, partly because judges unfamiliar with ICT require more time to understand

[116] F, Asadi, 'Digital Platforms and Intellectual Property Infringement: Exploring Legal Liability for User-Generated Content in the Context of Digital Media' (2023) 2 Legal Stud Dig

technical pleadings or require more detailed expert evidence,[117] because precedents are few, different High Court judges make diverging decisions on similar issues (e.g. how stringently to gate chain of custody; whether dynamic IP address can be linked to defendant). This inconsistency undermines predictability, deters rights holders, and reduces the willingness of parties to litigate.

4.4.3 Institutional Specialization & Capacity Building

There has been recommendation (in academic literature and in stakeholder reports) for establishing a specialized IP / digital law bench or tribunal, or at least dedicated judges assisted by technical advisors. For example, the Tembo study recommends that courts allocate dedicated technological infrastructure, staff and personnel with expertise in digital forensics.[118]

Judicial training programs (continuing legal education) are necessary to equip judges with awareness of modern digital evidence, cyber crimes law, data protection, privacy, encryption, cloud computing etc.

4.5 Recent & Under-explored Challenges, 2024-2025, and Forward-Looking Trends

4.5.1 Constitutional & Rights-Based Pushback Against Cyber Laws

The 2025 Acts (Cyber Security Act No. 3, Cyber Crimes Act No. 4) have been subject to public, academic and judicial criticism that some provisions infringe constitutional rights (privacy, freedom of expression, due process). For example, concerns have been raised over broad definitions such as “critical information infrastructure” or “network interference”, lack of sufficiently precise warrant thresholds, and strong powers for monitoring or surveillance.

Criticism such as this may lead to judicial review, invalidation, or modification of certain sections, which in turn creates uncertainty for rights holders seeking to rely on them for evidence gathering or enforcement.[119]

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[117] Michael Tembo, “Analysis of the Zambian courts adequacy to prosecute cybercrime cases” (2024) ZLJ 101 Business, Development & Leadership.

[118] Ibid

[119] Ibid

4.5.2 Extraterritorial Enforcement, Mutual Legal Assistance & International Cooperation

Many hosts, platforms or infringers in online piracy are located outside Zambia. The legal framework provides for cooperation, but Zambia's practical engagement in mutual legal assistance for digital IP enforcement is not yet robust. The cost, diplomatic hurdles, and technical challenges (e.g. requiring foreign court orders, different data protection laws abroad) impede effective enforcement.

There is growing interest in international treaties (such as WIPO, TRIPS, bilateral investment treaties) to push for stronger enforcement; the normative pressure may encourage Zambia to adopt models such as transnational injunctions or orders against foreign intermediaries (for example, domain name registrars).

4.5.3 Intermediary Liability and Safe Harbour Ambiguity

One of the least developed areas in Zambian law is intermediary liability. Key questions remain:

whether ISPs or hosting platforms are required to take down infringing content on notice or risk liability; what safe harbour, if any, is conferred; what obligations platforms have to preserve logs, metadata, and to disclose to law enforcement or rights holders; The current cyber laws do not supply clear safe harbour rules comparable to those in the EU Digital Services Act or the US DMCA, etc. This leaves both rights holders and platforms uncertain.[120]

4.5.4 Real-Time & Automated Monitoring, AI, Encryption & Anonymity

Emerging trends globally, automated content identification (via AI), encryption, use of Virtual Private Networks (VPNs), anonymity networks pose new difficulties: Encryption can make it very hard to access content, links, logs; even if legal powers exist, technical decryption is demanding and can be resisted by service providers on privacy or cost grounds. Use of anonymisers or VPNs complicates linking IP addresses to persons. Courts may treat such evidence skeptically or require high proof thresholds.[121] AI-generated content or deep fakes introduce new forms of infringing or misattributed content, making identification and

[120] The Unites States of America Digital Millenium Copyright Act DMCA: Section 230.
[121] Caroline B Ncube,'Africa and Fourth Industrial Revolution: Legal and Policy perspective In Harmonising Digital Content and Cross-Boarder IP Enforcment: Regional and National Perspective (2004) p. 211

authentication harder. Zambia has not yet produced doctrinal or statutory responses specific to AI content, which may become more relevant soon.

4.5.5 Evidence Spoliation & Blockchain / Immutable Logging as Potential Solutions

In other jurisdictions, concern over spoliation (intentional or unintentional deletion/tampering of digital evidence) has led to use of preservation orders and technologies to secure evidence (e.g. hash functions, blockchain based logging).[122] Zambia's legal framework allows for seizure and preservation of data, but the operational practice (are courts issuing such preservation orders, are litigants using such secure logging or blockchain tools) remains underdeveloped.

Opportunities exist for rights holders to deploy secure logging and hash verification, digital timestamping, watermarking etc. These are not yet widespread among local creators but may be emergent in cross-border or international collaborations.

4.6 Strengthened Case Law Survey: Zambian and Comparable Jurisdictions

Zambian published case law on pure digital IP infringement is still emerging, this section draws from recent decisions, scholarly judgments, and comparative law to illustrate judicial trends, and where Zambia might draw lessons.

These cases are more often related to cybercrime or defamation than pure copyright, they establish precedent for digital proof being tolerated.

In the Tembo (2024) study, respondents reported that civil High Court cases involving digital evidence often suffer delays because of lack of forensic labs; delays in getting expert reports; and sometimes hearsay or chain of custody objections leading to exclusion of parts of evidence.[123]

From South Africa, many decisions have developed robust standards for digital evidence: for example Electronic Communications and Transactions Act cases where IP address logs, metadata, proof of identity have been tested in courts; also, site-blocking orders are now common. These provide useful comparators. From commonwealth jurisdictions like the UK,

[122] I Kreso, 'USING BLOCKCHAIN TECHNOLOGY FOR PRESERVING DIGITAL EVIDENCE IN DIGITAL FORENSICS' (2025) 68(3) *KNOWLEDGE - International Journal* 331.
[123] Michael Tembo, "Analysis of the Zambian courts adequacy to prosecute cybercrime cases" (2024) J ZLJ 101 Business, Development & Leadership.

Australia, Canada: safe harbour regimes, notice-and-takedown, intermediary liability, injunctive relief, statutory damages have matured, providing visible deterrent effect.

4.7 Case Law Survey: Zambia (2020–2025) and Related Precedents

4.7.1 Bentry Ruling (Zambia) Admissibility of "data message" under the ECT Act

In **Benttry Siamalambwa v Magna Mining Limited**[124] ,the High Court considered objections to production of documents and a compact disk (CD) containing digital data, argued to be "data messages" under the Electronic Communications and Transactions Act, 2021 (ECT Act). The defendant opposed their admission on grounds that the plaintiff had not certified them under section 9(4) of the ECT Act, and that no foundation had been laid to show integrity of the data (i.e. absence of tampering).

The court noted that documents appearing in the plaintiff's bundle (including a CD) were challenged because they had not been certified as required by ECT Act. The plaintiff admitted oversight but argued they be considered because they were not prejudicial. The court examined whether a proper foundation was laid in witness statements. This ruling is significant for digital evidence in Zambia: it underlines that when digital evidence is tendered as a "data message," compliance with statutory certification requirements is necessary (or else admissibility may be contested). This case illustrates the practical burden of certification in Zambia and how courts are scrutinising digital data under newer statutes.

4.7.2 World Vision Zambia Ltd v Beck Banda[125] (Interlocutory / Appeal) Copyright / Infringement counterclaims

In **World Vision Zambia Ltd v Dr. Beck Banda**,[126] an interlocutory appeal, one of the issues concerned a counterclaim for copyright infringement relating to a "Safe Motherhood Action Groups (SMAGs) Model."

[124] (2022HPC0624) [2024] ZMHC 136 (1 February 2024),
[125] Appeal No. 83 of 2020 or APP 083/2020 (The appeal heard by the Court of Appeal regarding the High Court's ruling on the consolidation of actions)
[126] 2019/HP/0119 (The initial suit filed by World Vision Zambia Limited against Beck Banda for defamation, which included the copyright infringement counterclaim by Beck Banda)

The respondent counterclaimed inter alia for damages, injunctions, and an account of profits for alleged infringement of copyright in the SMAGs Model. The appeal involved procedural matters (e.g. consolidation of causes) but shows that copyright counterclaims have been entertained in Zambian courts and that rights holders are invoking classical remedies like damages and injunctions even in local content model-based works.

Though not a digital piracy case per se, its inclusion of a copyright infringement counterclaim is relevant to your analysis of how courts manage rights in creative works and how the process intersects with procedural issues.

4.7.3 Copyright and Performance Rights Act provisions; search & seizure powers

While not a specific judicial decision, the Copyright and Performance Rights Act, Cap 406 provides that infringement is actionable in the High Court, and grants the power to issue warrants to enter, search, and seize infringing copies or materials used in infringement.[127]

These statutory powers have been cited in academic commentary (for example in Enforcement of Intellectual Property Rights in Africa) as analogous to provisional measures in other jurisdictions.[128] However, the operational use of these powers in digital settings (e.g. seizing servers, retrieving logs) appears not to have been tested in published case law in Zambia as of 2025.

4.7.4 Comparative or Peripheral Precedents (Non-IP / Freedom / Digital Infrastructure Cases)

IP-specific digital cases are scarce, some peripheral cases involving digital regulation, telecom regulation, freedom of expression, or digital regulation of platforms may offer useful judicial reasoning to analogize or to fill gaps. **Chapter One Foundation v Zambian Information Communication Technological Authority[129]**: The High Court at Lusaka issued a consent judgment confirming that ZICTA must not act outside its legal authority to interrupt telecommunications platforms in a way that would stifle access to information.[5] This is relevant

[127] Copyrights and Performance Act, Cap 406, Section 32 allows for warrants, and section 33 for use of force, detaining persons.
[128] Schneider, Marius, and Vanessa Ferguson**.** ***Enforcement of Intellectual Property Rights in Africa***. (Oxford University Press, 2020) p. 1-10.
[129] 2021/HP/0955

for your jurisdictional / regulatory arguments about government's ability (or overreach) to regulate platforms, which may intersect with IP enforcement or takedowns.

Kapasa v People[130] While not digital at all, this is a significant Supreme Court criminal procedure case. It is unlikely to be directly cited in digital IP, but it is a precedent on criminal procedural adaptation, serving as part of the Zambian criminal jurisprudence backdrop.

"Oreo v Moreo's" (Zambian High Court, 2024 – trademark case)[131]: While it is not on copyright, this trademark judgment involved brand protection and opposition/expungement, which can be instructive about how IP disputes are treated in the court, the style of judgment, and procedural approach to contested IP matters.

Chinese Nationals Cybercrime Case (2024): In a separate but related domain, 22 Chinese nationals were sentenced in Lusaka for cyber-crimes including internet fraud and online scams, under the then extant Cyber Security / Cyber Crimes Act 2021.[132] This is not IP infringement, but it is a concrete example of digital offences being prosecuted, which gives some real precedent that courts are willing to apply digital laws. Also, it signals that Zambian courts are handling online crime, which potentially gives confidence to rights holders that digital IP offences might be similarly prosecuted.

4.7.5 Analytical Observations & How the Gap is applied

The scarcity of published Zambian judgments directly addressing digital IP infringement (logs, metadata, cross-border servers, ISP disclosures) indicates a nascent stage of case law development in Zambia. This very fact supports your thesis: the "digital deficit" is not just in law but in judicial experience.

The Bentry decision emphasizes procedural formalities (e.g. certification) under digital evidence law (ECT Act), which is directly relevant to your evidentiary challenges section.

The World Vision/Banda case shows that copyright counterclaims are recognized (albeit in more conventional, non-digital contexts), meaning the legal machinery for IP is being invoked.

[130] Cause Number 1980
[131] [2022/HPC/0788]

[132] (2024)

The Chinese Nationals case and others show that digital crimes are being prosecuted; though not IP, it provides institutional precedent that the courts are not entirely averse to making digital findings.

4.8 Conclusion

This chapter has mapped the existing judicial and procedural landscape in Zambia for digital intellectual property litigation and identified both the legal tools in place and the gaps that weaken their effectiveness. While the Copyright Act, together with the newer Cyber Crimes Act (2025) and Cyber Security Act (2025), provide a sufficient skeletal framework, enforcement in practice is hampered by evidentiary, procedural, institutional, and jurisdictional challenges. The lack of judicial specialization, weak capacity for digital forensics, inconsistent admissions of digital evidence and insufficient incentives (visible large penalties, effective interim methods) all combine to reduce the deterrent effect of the legal framework. As Zambia's digital economy continues to grow, a failure to address these judicial/procedural challenges risks a widening "digital deficit" where legal protections exist in theory but are under-utilised in practice. The following chapter will examine institutional, regulatory, and policy challenges to complement the judicial deficits identified here.

Chapter five

Conclusions, Findings, and Recommendations

5.0 Introduction

This final chapter serves as the synthesis of the entire research study, which critically assessed the adequacy of Zambia's copyright law and institutional framework in the face of escalating online piracy. Having examined the historical evolution of the law in Chapter Two, the institutional enforcement mechanisms in Chapter Three, and the judicial hurdles in Chapter Four, this chapter consolidates the research outcomes. It presents a definitive conclusion on the state of digital IP in Zambia, categorizes the systemic findings identified throughout the study, and proposes a comprehensive roadmap for legislative and policy reform.

5.1 Conclusion of the Research

The central conclusion of this dissertation is that Zambia currently operates under a profound **"Digital Deficit."** This deficit represents a structural misalignment between the country's 20th-century legal framework and the 21st-century digital marketplace.

The research confirms that while the **Copyright and Performance Rights Act (Cap 406)** provided a solid foundation for protecting physical works, it has failed to evolve alongside the internet. The study concludes that the "analogue bias" inherent in the current law has rendered it a "paper tiger" technically present but operationally toothless against modern infringement methods such as bit-torrenting, illegal streaming, and the bypassing of digital locks. Furthermore, the research concludes that unless there is a shift toward technology-neutral legislation and specialized judicial training, Zambia's creative industries will continue to suffer from significant revenue leakage, stifling the growth of the local knowledge economy.

5.2 Summary of Key Findings

The study identified three interconnected systemic gaps that constitute the "digital deficit" in Zambia. These findings are derived from the critical analysis performed in the preceding chapters:

5.2.1 Legislative Anachronism

The primary finding is that Cap 406 is technologically obsolete. The law defines "reproduction" in ways that imply a requirement for a physical or "material" medium. In the digital realm, where a song or film exists as transient data packets, this ambiguity creates a loophole that infringers exploit. Furthermore, the lack of explicit protection for **Technological Protection Measures (TPMs)** means that hackers can bypass digital security with little to no legal repercussion.

5.2.2 The Regulatory Vacuum on Intermediaries

A critical finding of this research is the total absence of a **Safe Harbour** regime for Internet Service Providers (ISPs). Without a statutory "Notice-and-Takedown" procedure, rights-holders are forced to pursue expensive and slow court injunctions for every instance of infringement, rather than utilizing the efficient administrative removals common in modern IP jurisdictions.

5.2.3 Institutional and Forensic Constraints

The study found that enforcement agencies, such as **PACRA** and the **Zambia Police Intellectual Property Unit**, are profoundly under-resourced. There is a lack of specialized digital forensic labs and a clear failure in inter-agency coordination. This results in a "siloed" approach where ZICTA, the Police, and PACRA rarely pool intelligence, allowing digital pirates to operate in the gaps between these institutions.

5.2.4 Judicial and Evidentiary Hurdles

Finally, the research found that the Zambian judiciary lacks the specialization required for complex cyber-IP litigation. The "non-specialist" nature of the courts leads to delays and inconsistencies, particularly regarding the admissibility and authentication of volatile digital evidence, such as IP logs and server metadata.

5.3 Recommendations

To address the findings above and bridge the digital deficit, the following specific, policy-relevant recommendations are proposed:

5.3.1 Legislative Reforms: Modernizing Cap 406

5.3.1.1 Technology-Neutral Amendments

Section 17 of the Act should be amended to replace the term "material form" with "any form, whether tangible or intangible." This would ensure that digital files and streaming services are explicitly protected under the law. Currently, Section 17(2) (b) grants the copyright owner the exclusive privilege to reproduce a musical work in "any material form." This phrase implies a restriction, as it suggests that protection is only extended to works embodied in physical or tangible mediums, thereby failing to accommodate non-physical digital music files consumed in the contemporary digital environment. Consequently, this paper advocates for replacing the term "material form" with the broader phrase "any form," following the precedent set by the Kenyan Copyright Act of 2001. This semantic change would properly update the provision for the digital age.

5.3.1.2 Statutory ISP Liability and Safe Harbour

The government should introduce a "Safe Harbour" framework. This would grant ISPs immunity from liability for third-party content on the condition that they implement a formal Notice-and-Takedown system, allowing for the rapid removal of infringing content without prior court intervention.

5.3.1.3 Anti-Circumvention Provisions

New provisions must be introduced to criminalize the manufacture, import, or distribution of tools designed to bypass digital locks (DRM). This aligns Zambian law with the WIPO Internet Treaties.

5.3.2 Institutional Capacity Building

5.3.2.1 Creation of a Digital IP Task Force (DIPTF)

A permanent, cross-functional task force comprising PACRA, ZICTA, and the Cybercrime Unit should be established. This body would be responsible for real-time monitoring of online piracy and sharing forensic resources.

5.3.2.2 Modernizing CMO Mandates

Collective Management Organizations (CMOs) should be statutorily empowered to use digital fingerprinting and watermarking technologies to track music usage online, ensuring that royalties are distributed accurately and frequently.

5.3.3 Judicial and Procedural Improvements

5.3.3.1 Establishment of a Specialized IP Bench

The High Court should designate specific judges to handle IP and digital technology cases. These judges should undergo compulsory training in digital forensics and international IP trends.

5.3.3.2 Electronic Evidence Guidelines

The Chief Justice should issue specialized **Practice Directions** on the handling of digital evidence. These guidelines would standardize the "chain of custody" for online data, making it easier for rights-holders to present authenticable evidence in court.

5.4 Conclusion

The research has demonstrated that while Zambia possesses a willing creative sector, it lacks the legal and institutional armor necessary to protect it in a digital world. The systemic "digital deficit" identified throughout this dissertation is a direct result of stagnant legislation and fragmented enforcement. However, by adopting the multi-pronged approach of legislative modernization, institutional coordination, and judicial specialization, Zambia can transform its IP landscape. These reforms will not only curb online piracy but also provide the legal certainty required to attract investment into Zambia’s burgeoning digital economy, ensuring that the nation's "knowledge assets" are both protected and profitable.

Bibliography

Books

- Bently, L., Davis, J. and Malgieri, G., *Intellectual Property Law* (5th edn, Oxford University Press 2018) 250–265.
- Chirwa, D., *Copyright and Enforcement in Southern Africa* (Pretoria University Law Press 2015) 33.
- Gervais, D.J., *The TRIPS Agreement: Drafting History and Analysis* (5th ed (2017.)). Sweet & Maxwell.
- Lessig, Lawrence, *Free Culture* (Penguin 2004) 23.
- Maskus, Keith, *Intellectual Property Rights in the Global Economy* (Institute for International Economics 2000) 12.
- Mvunga, D., *African Copyright Law and Institutional Capacity* (WIPO African Series 2016) 28.
- Ng'ambi, J., *Intellectual Property in Zambia: Challenges in the Digital Era* (University of Zambia Press 2017) 45.
- Ngugi, T., *Cybercrime, Copyright, and Law Enforcement in Kenya* (Nairobi: KECOBO Press 2020) 102.
- Okediji, Ruth, 'The International Copyright System: Limitations, Exceptions and Public Interest Considerations for Developing Countries' (UNCTADICTSD 2006) 6.
- Schneider, Marius, and Ferguson, Vanessa, *Enforcement of Intellectual Property Rights in Africa* (Oxford University Press, 2020) 1-10.
- WIPO, *Building Institutional Capacity for IP Enforcement in Africa* (WIPO Publication 2020) 33.
- WIPO, *Building Institutional Capacity for IP Enforcement in Africa* (WIPO Publication 2020) 33.

Journal Articles & Chapters

- Adewopo, Adebambo, 'Copyright in the Digital Environment: The Challenge for African Countries' (2002) *African Journal of International and Comparative Law* 10(2) 182, 189.
- Adewopo, A., 'The Nigerian Copyright Commission and Enforcement Challenges' (2019) 12 *African Journal of Intellectual Property Law* 45, 50.
- Adewopo, A., 'The Nigerian Copyright Commission and Enforcement Challenges' (2019) 12 *African Journal of Intellectual Property Law* 45, 50.
- Akintoye, O.D., 'Challenges of Protecting Music Intellectual Property in the Digital New Age in Nigeria' (2023) 6 *East African Journal of Law and Ethics*.
- Anamela, T., Kalifungwa, C., Nguluwe, C. & Muhyila, M., 'A Comparative Analysis of Copyright Laws Governing Music Streaming in Zambia, Kenya and the United States' (2024) 4 *Journal of Modern Law & Policy* 90, 92-95.

- Asadi, F., 'Digital Platforms and Intellectual Property Infringement: Exploring Legal Liability for User-Generated Content in the Context of Digital Media' (2023) 2 *Legal Stud Dig*.
- Asongu, Simplice, 'Fighting Software Piracy in Africa: How Do Legal Origins and Institutions Matter?' (2012) *Journal of Business Ethics* 110(3) 351, 357.
- Bah, A.B., 'The Implementation and Enforcement of Copyright Law in Selected Countries' (2025) *Central European University*.
- Beiter, Klaus, 'Not the African Copyright Pirate Is Perverse, But the Situation Is' (2021) *The South African Law Journal* 138(2) 312, 318.
- Danaher, B., 'Piracy and Copyright Enforcement Mechanisms' (2014) *University of Chicago Law Review* 82(1) 45.
- Danaher, B., 'Piracy and Copyright Enforcement Mechanisms' (2014) *University of Chicago Law Review* 82(1) 45.
- Moola, Nalumino & Kawimbe, Sidney, 'Data Protection Challenges on Digital Platforms: A Case for Zambia' (2024), 1-8.
- Muntanga, Elijah & Bwalya, "Electronic records management in government departments and parastatals in Zambia", *Indian Journal of Library Science & Information Technology* vol 9, issue 2, 2024.
- Musonda, Chileshe, 'Copyright Protection and Cultural Development in Zambia' (2015) *Zambia Law Journal* 47, 52.
- Musonda, Chileshe, 'Copyright Protection and Cultural Development in Zambia' (2015) *Zambia Law Journal* 47, 52.
- Ncube, Caroline B., 'Africa and Fourth Industrial Revolution: Legal and Policy perspective In Harmonising Digital Content and Cross-Boarder IP Enforcment: Regional and National Perspective' (2004) 211.
- Pistorius, T., 'Developing Countries and Copyright in the Information Age: The Functional Equivalent Implementation of the WCT' (2006), 101-120, Pretoria: University of Pretoria Press.
- Rimmer, M., 'Back to the Future: The Digital Millennium Copyright Act' (2017) *MDPI Journal*.
- Sampa, P. and Hossain, S., 'Innovation and Intellectual Property Rights: A Case Study of Zambia' (2024) 4(6) *Middle East Res J Econ Management* 186–194.
- Seckin, Y., 'The Role of Intermediary Liability in Balancing Copyright Law in the Digital World' (Comparative Law Working Papers, 2023), 13-25, London: CLWP.
- Tembo, Michael, "Analysis of the Zambian courts adequacy to prosecute cybercrime cases" (2024) *Journal for Business, Development and Leadership* vol 1, 2957-7136.
- Tembo, Michael, "Analysis of the Zambian courts adequacy to prosecute cybercrime cases" (2024) *ZLJ* 101 *Business, Development & Leadership*.
- Tembo, Michael, "Analysis of the Zambian courts adequacy to prosecute cybercrime cases" (2024) *J ZLJ* 101 *Business, Development & Leadership*.

- Yeboah-Ofori, A., Brown, A.D., ‘Digital Forensics Investigation Jurisprudence: Issues of Admissibility of Digital Evidence’ (2020). *Forensic Leg Investig Sci* 6: 045.
- Zingales, N., ‘Intermediary Liability in Africa: Looking Back, Moving Forward?’ in G Frosio (ed), *Oxford Handbook on Intermediary Liability* (OUP 2020, SSRN version 2019), 35-47, Oxford: Oxford University Press.

Statutes & International Treaties

- Copyright and Performance Rights Act, Cap 406 (Laws of Zambia, 1994).
- Copyright and Performance Rights Act, Cap. 406, Laws of Zambia (1994), Lusaka, Government Printer.
- Copyright and Performance Rights Act, Chapter 406, Laws of Zambia (1994) (as amended by Act No. 25 of 2010).
- Copyright and Performance Rights Act, Chapter 406 of the Laws of Zambia (as amended by Act No. 25 of 2010), contains no definition for 'internet intermediary,' 'online service provider,' or similar terminology, highlighting a legislative gap.
- Customs and Excise Act, Chapter 322 of the Laws of Zambia, specifically under Section 40, which lists "Pirated or counterfeit goods" as prohibited import.
- Cyber Crime Act, No. 4 of 2025 105, Section 4 and 5 respectively. On prohibition of unathorised disclosure of data and also on interference of data.
- Cyber Crime Act, 2025 (Act No. 4 of 2025) Sections 3,4,15 and 19 respectively.
- Cyber Crimes Act, 2025 (Act No. 4 of 2025). Section 27.
- Cyber Crimes Act, 2025 (Zambia) section 30.
- Cyber Security Act, No. 3 of 2025 s 28, 29, 30.
- Cyber Security Act, 2025 (Act No. 3 of 2025) (Zambia).
- Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce'), arts 12–14.
- Patents and Companies Registration Agency Act, No. 15 of 2010.
- South Africa's Electronic Communications and Transactions Act 25 of 2002, ss 75, 77.
- TRIPS, Articles 9-14 (copyright), and enforcement in Part III.
- TRIPS, Articles 41-61.
- WTO, Agreement on Trade-Related Aspects of Intellectual Property Rights.
- WIPO Copyright Treaty (WCT) 1996 arts 6–10.
- WIPO Copyright Treaty (1996); WIPO Performances and Phonograms Treaty (1996).

Dissertations, Theses, and Other Sources

- Kanungwe Kalaba, Felix, ‘Barriers to policy implementation and implications for Zambia's forest ecosystems’ *Forest Policy and Economics* volume 69, August 2016, 40-44. (Note: Treated as a special article/study).

- Hamanenga, M., ‘Copyright Infringement in Zambia vs Sustainable Development’ (Directed Research Essay, University of Zambia, 2013), 14-20.
- Mbewe, Moses, *Adequacy of Copyright Law in the Fight Against Piracy in Zambia* (LLB Dissertation, University of Zambia 2013) 40.
- Mbewe, M., ‘Adequacy of Copyright Law in the Fight against Piracy in Zambia’ (DPhil dissertation, University of Zambia, 2013), 65-78.
- Ngulube, Michael, *The Enforcement of Intellectual Property Rights in Zambia* (LLB Dissertation, University of Zambia 2013) 17.
- Office of the United states Trade Representaive, *2023 Special 301 Report* (Washington, D.C USTR, 2023), 46.
- PACRA, *Annual Report 2024* (Lusaka: PACRA 2019) 2-30.
- Pacra Annual report 2020 (Lusaka: PACRA 2020).
- (PACRA Annual report 2021) 18.
- (PACRA Annual report 2024) 22-29.
- Sichone, Clifford, *Enforcement of Copyright and Related Rights in Zambia – Is the Law Adequate?* (Univ. of Zambia LLM thesis, 2013) 3–5.
- Sikombe, Nicky, *The Enforceability of Intellectual Property Laws in the Digital Era: A Zambian Perspective* (LLB Dissertation, University of Zambia 2013) 32.
- Sikombe, N., *The Enforceability of Intellectual Property Laws in the Digital Era: A Zambian Perspective* (LLB Dissertation, University of Zambia 2013) 34.
- Sikombe, Namonje, ‘The Enforceability of Intellectual Property Laws in the Digital Age’ (University of Zambia dissertation, 2013), 33-45.
- Sichula, Augustine, *PACRA reviews copyright law to tackle digital, AI Challenges* (video) August 30, 2025.
- Sutherland, E., ‘Unlocking IP Protection Your essential guide to IP Enforcement in South Africa (2025). P 1-3.
- Sutherland, E., ‘Unlocking IP Protection Your essential guide to IP Enforcement in South Africa (2025). P 1-3.
- “Understanding Zambia’s Cyber Laws: A Guide for Youth” (Youth Information Hub Online) (2025).
- Wang, Z., Chen, C. & Sehwag, V., ‘Evaluating and Mitigating IP Infringement in Visual Generative AI’ (2024 preprint).
- WIPO Lex, Member Profile, Zambia.
- WIPO Lex and other policy reviews; see WIPO Lex entry on Zambia; reports in Creative Industries Policy Review.
- WIPO, Building Institutional Capacity for IP Enforcement in Africa (WIPO Publication 2020) 33.
- World Intellectual Property Organization (WIPO), *WIPO/ACE/14/7: Complete Study on Copyright and Related Rights in the Digital Environment* (Geneva: WIPO, 2019), 4–6.
- Zambia Revenue Authority Annual report 2022.

- Zhang, X., Guo, X., Zeng, Z. et al., ‘Argus: A Fully Transparent Incentive System for Anti-Piracy Campaigns (Extended Version)’ (2021).
- Zimba, Aaron et al., *Liberalisation of the International Gateway and Internet Development in Zambia* (2021).
- Zulu, Makebi, quoted in “REPEAL THE CYBER SECURITY AND CYBER CRIMES ACT” concerns about privacy & overreach (Radio Christian Voice, 2025).