

State of Internet Freedom in Zambia



From Repression & Fear to Freedom?
A Bloggers of Zambia in-country initiative for promoting digital transformation

3rd Edition

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Cover artwork by Kiss

Bloggers of Zambia

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About the Report



Bloggers of Zambia marchers during the commemoration of World Press Freedom Day in Lusaka on May 3, 2023. Picture by Bloggers of Zambia

The Digital Rights in Zambia report highlights key developments and the state of digital rights in the country from 2021 to 2023.

This is our third edition of the in-country report from the time we launched the initiative in 2019. We are glad to present the 2023 report, which outlines the developments in the Zambian internet freedom space ranging from the legal and policy environment, the ICT sector and assesses the enjoyment and protection of online freedom of expression, association and assembly, including access to information, personal data protection, security and privacy matters. Further, the report also

gives a brief overview of related developments in the media policy sector. The report outlines these issues by tracking key trends, analysing risk factors and noting key policy and legal developments, violations, arrests and other related activities. This edition goes on to assess the progress made on the issues highlighted in the previous editions and concludes by providing recommendations on measures that different stakeholders within Zambia can take to enhance and uphold digital rights, and positively shape internet law and policy in Zambia.

Key Developments in 2021 – 2023

- In 2021, Zambia held a highly contested general election that ushered in the United Party for National Development (UPND) government.
- The Cybersecurity and Cybercrimes Act 2021, Data Protection Act 2021, e-Government Act 2021 and repealed the Electronic Communications and Transactions Act 2021 were enacted in March 2021.
- The National Cyber Policy, Media Development Policy and Postal and Courier Services Policy were passed in 2021.
- The Postal and Courier Services bill was drafted alongside a revised National ICT policy and National Digital Transformation strategy in 2021 and 2022 respectively.
- The African Union Convention on Cybersecurity and Personal Data Protection (Malabo Convention) was ratified in November 2021.
- Consultations and efforts to review and enact the Access to Information Bill commenced in 2022 although the bill was not taken to parliament for enactment at the time of writing this report. The latest government promise is that the ATI bill will be enacted into law in June 2023.
- A parallel media regulation process, the Media Association for Pure Self-Regulation (MAPSR) was formed in January 2023 by media owners, media associations and organisations after disagreements with the Media Liaison Committee (MLC's) mechanism, which is the Media Self-regulation backed by an Act of Parliament. The MAPSR views the MLC Mechanism to have the potential for suppressing press freedom. The two factions are still debating the way forward.
- The Ministry of Technology and Science was established, replacing the Ministry of Information and Communication in 2021.
- Some provisions of the Cybersecurity and Cybercrimes Act 2021 were petitioned in court by some local human rights defenders.
- During the 2021 general election, social media applications (Facebook, Twitter, Messenger and WhatsApp) were blocked for about 48 hours, leading to Chapter One Foundation to petition the Zambia Information Communications Technology Authority (ZICTA) to restore the connectivity.
- Chapter One Foundation and ZICTA entered into a consent judgement in 2022, where ZICTA agreed not to act outside of its legal authority and restrict connectivity, and to inform the public of the reasons for any such disruptions within 36 hours.
- There was a spike in cases of online violence during the 2021 election period, in particular online gender-based violence, targeted at female politicians, online influencers and critical voices in the civil society space and other key female personalities.
- Zambia launched the first 5G network in 2022 with the goal of enhancing connectivity and speed.
- The government launched the Safe City Project in 2022.
- The government began implementing its first digital identity programme which was deployed in all 10 provinces of the country in 2022.
- A fourth mobile operator, ZedMobile, trading as Beeline Telecom Limited, launched operations in 2022.
- The Zambia Law Development Commission submitted the Public Gatherings bill to the government in 2023.
- Section 67 on Defamation of the President was removed from the Penal Code Act in 2022
- ZICTA appointed a new Director General and a new seven-member board of directors in 2023

1 Introduction



Picture by Bloggers of Zambia

Journalists, and the Zambia Police Service during a practical training in physical safety and security, ethics and professionalism

The 2022 census revealed that Zambia's population had risen to 19.6 million according to the Zambia Statistics Agency.

In terms of gender distribution, there are about 10 million females and 9.6 million males. The majority of Zambia's population (12 million) reside in rural areas as compared to the population in urban areas (8 million)¹.

With 17 active Internet Service Providers (ISPs), internet penetration stood at 57%, representing 11.2 million Internet users at the close of 2022 according to the Zambia Information and Communications Technology Authority (ZICTA)². Mobile phone usage stood at 101% according to ZICTA³, while GSM Association (GSMA) closely estimates a 91% mobile penetration rate. Meanwhile, the majority of the

population (56%) rely on mobile broadband to access the internet compared to the population (0.44) who use fixed line subscriptions⁵. The last National ICT Survey conducted by ZICTA in 2018 showed that 51% of active mobile phone users were female while 57% were males. And in terms of device ownership, 87% of males⁶ owned a mobile phone compared to 81% of females, in addition, 14% of mobile phone owners had a smartphone⁷. DataPortals notes that Facebook, Instagram, Messenger, LinkedIn and Twitter are the most popular social networking sites and Zambia had about 2.7 million social media users in early 2023⁸.

Despite the increased access to the

internet, mobile phones and social networking, internet connection speeds and quality are proportionately slow. As of December 2022, average download speeds were 13.43 Mbps on mobile connections and 8.73 Mbps on fixed-line connections⁹. In October 2022, the Science and Technology Minister, Felix Mutati called for an ICT sector 'reboot' and investigation into poor network connectivity stating that the poor services were causing apprehension among subscribers because access to quality connectivity was key for the development of the telecommunications industry. In addition, load-shedding continued to disrupt telecommunications services in some areas of the country¹⁰ much to the detriment of the gains recorded during the COVID-19 lockdown period when the use of ICT services had increased¹¹. In November 2022, MTN in partnership with Huawei Technologies launched the country's first 5G service with the aim of enhancing connectivity and speeds on its network. The was initially piloted in January 2022 and currently serves six major cities of the country, covering about 15% of the population^{12,13}.

Zambia's mobile market is currently dominated by Airtel with a market share of 46.4%, MTN (35.9%) and state-owned Zamtel (17.8%) which is also the only fixed-line service provider¹⁴. A fourth mobile network operator (MNO) ZedMobile trading as Beeline Telecommunications officially launched operations in December 2022¹⁵, after failing to launch operations within the agreed period and requested for an extension from the ICT regulator on several occasions since it was granted a licence in February 2021¹⁶.

The cost of accessing the internet remains relatively high, according to Cable, a UK-based consultancy, the estimated price of a 1GB data bundle at ZMW 25 (\$1.36), the most expensive at ZMW 551 (\$30.6) and the cheapest at ZMW 8 (\$0.45) in May 2022¹⁷.

Zambia's political situation experienced some stability after the August 12, 2021 general elections in which the United Party for Democratic Development (UPND) leader President Hakainde Hichilema emerged winner after scooping 59% of the total votes¹⁸. The election was highly contested and also there was a blockage of social media applications (Facebook, Twitter, WhatsApp Messenger and Instagram)¹⁹. The political stability referred to followed President Hichilema's pronouncements to end intolerance, caderism and political violence, and he encouraged unity and tolerance among opposing political camps²⁰.

The period preceding the 2021 general elections was characterised by intolerance, autocracy, repression and fear, while the Internet and particularly social media was targeted to limit citizen's use of technology and keep them away from performing their civic functions and to exercise rights such as expression, assembly and association. We experienced a change of government from fear and repression to a more open political environment that is promoting freedom, tolerance, love, unity, participation and inclusion. However, is this freedom tangible and sustainable for all?

In 2021, Zambia's Gross Domestic Product (GDP) stood at 22.15 billion showing a significant increase from the 18.22 billion recorded in 2020²¹. Zambia's economic growth is attributed to post-election investor confidence, favourable copper prices, good rainfall, positive business-friendly policies and efforts to negotiate a debt restructuring process with the International Monetary Fund (IMF)²². Although between 2022 and 2023, this growth slowed down due to spillovers from the Ukraine war, falling copper prices and uncertainty about debt restructuring²³. The annual inflation rate remained at a single digit of 9.9% in December 2022, compared to 16.4% recorded in December 2021²⁴.

2

Legal & Policy Landscape



Members of the parliamentary Committee on Media and ICT pose for a photograph with civil society representatives after a capacity building and networking meeting on Internet law and policy norms and standards in Lusaka

Prior to 2021, Zambia's ICT legal and regulatory landscape was governed by the Information Technology and Communications Act 2009 and the Electronic Commerce and Transactions Act 2009

However, 2021 marked a significant turn of events when over three ICT-related laws were enacted. For instance, the Electronic Communications and Transactions Act 2021 (repealed)²⁵, e- Government Act 2021²⁶, Data Protection Act 2021²⁷ and the controversial Cybersecurity and Cybercrimes Act 2021^{28,29} were enacted. Furthermore, several policies were passed such as the National Cybersecurity Policy 2021³⁰, and Postal and Courier Services

Policy 2021 - 2031³¹. The National ICT Policy 2006 was reviewed alongside the Digital Transformation Strategy draft and the government promised to produce both drafts by June 2023. Upon assuming office, President Hichilema established the Ministry of Technology and Science³², to oversee the function of technology policy formulation and implementation, replacing the Ministry of Information Communications and Technology in November 2021. Meanwhile, the ICT sector is regulated by the Zambia Information Communications Technology Authority (ZICTA), which

appointed a new seven-member board of directors³³ and Director General³⁴, Choolwe Nalubamba, in October 2022 and March 2023 respectively.

In November 2021, Zambia joined the list of about 13 countries³⁵ that have ratified the African Union Convention on Cybersecurity and Personal Data Protection otherwise known as Malabo Convention³⁶. The convention provides a framework for establishing how African states address and cooperate on matters of cybercrime, data protection, e-commerce, and cybersecurity.

In terms of the regulation of traditional media platforms, the National Broadcaster, Zambia National Broadcasting Corporation (ZNBC), is regulated through the Zambia National Broadcasting Corporation (ZNBC) Act 2017³⁷ while the Independent Broadcasting Authority (IBA) Act 2010³⁸, through the Independent Broadcasting Authority (IBA), regulates private radio and television broadcasting in the country. Internet content is not regulated in Zambia, although, in March 2022, the IBA warned that it would begin regulating online broadcasters, stating that anyone wishing to offer broadcasting services in Zambia should obtain a broadcasting licence regardless of the medium used to disseminate content³⁹. The IBA also emphasised that the process would be for licensing purposes only and not to regulate the type of content that platforms would broadcast. There have been concerns in the country as to who is responsible for regulating internet broadcasting stations between the IBA and the ICT regulator ZICTA.

In November 2020, the government validated and launched the revised Media Development Policy which sets out the government's roadmap for developing the media sector through enhanced media freedom, pluralism, independence and safety of journalists⁴⁰. In November 2021, the new dawn government announced that it was prioritising the enactment of the

Zambia Media Council (ZAMEC) bill (2019)⁴¹, and the Access to Information bill (2013). The ATI bill enactment process has been a stalled project, often characterised by emotional contention and often driven by political shadow-boxing over 20 years in Zambia. While previous governments had national security concerns over the ATI Bill's potential to compromise classified information⁴², civil society organisations⁴³ are concerned that the current political will to enact the bill into law is mere political pronouncements as has been witnessed through the previous governments, who gave very major promises to enact the bill but once they got into power, the election campaign promise was abandoned. In February 2023⁴⁴, Chief Government Spokesperson Chushi Kasanda said the government will enact the ATI Bill into law in June 2023. The Zambia Media Council (ZAMEC) bill (2019)⁴⁵ on the other hand seeks to provide a framework for national media self-regulation to promote professionalism, transparency and accountability in the media sector. This form of media regulation mechanism is an independent self-regulation backed by law, meaning a bill drafted by media bodies and practising journalists. The ZAMEC is envisaged to be an Act of Parliament but it will be owned by the media sector and not the government to limit and minimise government interference. The self-regulation mechanism backed by law remains contentious, but it was proposed because according to the MLC, voluntary self-regulation failed to be implemented as some media houses were not compelled to abide by the decisions and pronouncements of the then Media Council of Zambia (MECOZ). The ZAMEC is expected to regulate all forms of media, including public media and the Zambia National Broadcasting Corporation (ZNBC), which regulates itself under the ZNBC Act. Other private and independent broadcasters are regulated by the Independent Broadcasting Authority (IBA).

But in January 2023, another group of stakeholders comprising media owners, media associations and organisations formed a parallel process, the Media Association for Pure Self-Regulation (MAPSR), after forming a different view from the final draft of the ZAMEC bill⁴⁶. The MAPSR was established as a self-regulatory framework that seeks to empower media practitioners to manage their own affairs and some of the contentions are that the media regulation backed by an Act of Parliament has the

potential to erode media freedom and independence and gave lee-way for politicians, especially the ruling elite to infiltrate media regulation and begin to target individual journalists and media houses^{47,48}. President Hichilema in his inaugural speech encouraged journalists to be professional and exercise their press freedom, especially those in the public media sector that has historically been perceived to be censored and biased towards the ruling party in their reporting of news and current affairs⁴⁹.



Art by Choklet

3

Enjoyment of Human Rights



Picture by Bloggers of Zambia

Bloggers of Zambia activists during the commemoration of World Press Freedom Day in Lusaka on May 3, 2023

The Constitution of Zambia 1996⁵⁰ recognises and guarantees the right to freedom of expression⁵¹, freedom of assembly, freedom of association⁵², access to information⁵³, and privacy⁵⁴.

Zambia is also a signatory to the African Charter on Human and Peoples Rights (ACHPR)⁵⁵ and the International Convention on Civil and Political Rights (ICCPR)⁵⁶, both human rights frameworks that affirm the protection of human rights in

the digital age⁵⁷ through the Africa Declaration of Principles on Freedom of Expression and Access to Information 2019 and the United Nations Human Rights Council's Resolution on Protection of Freedom of Expression on the Internet 2021⁵⁹.

Laws such as the Cybersecurity and Cybercrimes Act 2021, Public Order Act (amended 1996), State Security Act (amended 1985), and some seditious and defamation provisions in the Penal Code 2022 continue to restrict the enjoyment of freedom of expression, association and assembly in the country. These laws have been used to restrict legitimate speech by citizens and political opponents who have attempted to exercise their constitutionally guaranteed freedom of speech and expression to critique the government's approach to solving socio-economic problems facing the country^{60 61}. In 2021 Amnesty International noted that the enjoyment of human rights in Zambia had deteriorated in the previous five years with restrictions on freedom of expression, assembly and association (offline and online) and that these restrictions were usually disguised as protecting national security and public health⁶².

Months before the 2021 general elections, several ICT bills were enacted into law, the Cybersecurity and Cybercrimes Act was the most contentious and received much publicity from stakeholders. Zambian civil society organisations challenged the law in court citing that it was unconstitutional and threatened the enjoyment of the right to free expression and the right to the protection law⁶³. The organisations, Chapter One Foundation, Bloggers of Zambia, Gears Initiative, People's Action for Accountability and Good Governance in Zambia and the Alliance for Community Action argued that the law had the potential to empower state actors and government officials to intimidate, prosecute members of the public and media, and curtail airing of their opinions on online platforms⁶⁴.

In particular, Section 69 prohibits harassment utilising means of electronic communication. While online harassment and trolling are serious issues on the Zambian digital sphere, the provision is vague, subjective and open to interpretation thereby giving the government broad

powers to pursue arbitrary criminal action against individuals and government critics who play a watchdog role⁶⁵.

Section 69: "A person who using a computer system intentionally initiates any electronic communication, with the intent to coerce, intimidate, harass, or cause emotional distress to a person commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both."

Similarly, Section 54 (Publication of Information) has the potential to limit legitimate and lawful expression from civil society and the public leading. This clause in the law has the potential to make the government the arbiter of the truth, expression and thereby erode democratic norms⁶⁶. In addition, the law defines hate speech in broad and vague terms and provides excessive powers to the Minister of ICT and the regulator to literally be in charge of the entire ICT ecosystem. The regulator and law enforcement may be used to restrict online platforms, thereby shrinking the already constrained civic space. This was experienced during the 2021 general elections when social media platforms were restricted for 48 hours. In May 2022, the Minister of Technology and Science, Hon. Felix Mutatai confirmed the process to review and revise the contentious Cyber Security and Cybercrimes Act 2021 and encouraged stakeholders to participate in the review process⁶⁷. However, there is not a publicly available and clear roadmap for the review of all ICT legislation. Prior to the enactment of the law in 2021, a limited number of stakeholder consultations were made on the initial draft law led by the Ministry of Justice and then the Ministry of Transport and Communications. Press Association of Zambia, Bloggers of Zambia and others were invited. However, it was noted that the consultations were rushed, insufficient and lacked key stakeholders, while government agencies and the

defence forces dominated the meetings. Generally, the enactment of the Cybersecurity and Cybercrimes law was done in a fast-paced manner where parliamentary standing orders were suspended⁶⁸. In addition, the process was secretive and lacked adequate and diverse stakeholder consultation.

Furthermore, criminal libel and defamation of the president laws within the Penal Code Act have historically been used to intimidate, arrest and detain political opponents, human rights defenders and members of the public. In particular, defamation of the president law was used to arrest several internet users over the last five years. Both local and international civil society organisations continuously advocated for the abolishment of this law because it was being systematically used by the state to suppress people's rights and freedoms, especially freedom of expression⁶⁹. President Hakainde Hichilema made pronouncements to repeal undemocratic legislation, subsequently, in December 2022, section ⁶⁹ of the Penal Code, Criminal Defamation of the President, was abolished from the Penal

Code Act, marking a significant milestone in the legislative review agenda⁷⁰. However, human rights watchdogs have warned that while defamation of the president may have been repealed, criminal defamation still exists and could still be used to stifle freedom of expression⁷¹.

On the other hand, the Public Order Act governs public gatherings, but this law has been a source of consternation regarding the interpretation of some clauses and also how it is implemented by the police. The contention is whether members of the public must obtain a police permit prior to a public gathering or whether the police must just be notified of a public event. Additionally, the public has been seen to suffer from political influence regarding the implementation of the as meetings of opposition parties are not allowed while others are disrupted violently if they proceed without police authorisation⁷². In January 2023, the Zambia Law Development Commission submitted to the government the Public Gatherings bill which seeks to repeal and replace the controversial Public Order Act⁷³.



4

Data Protection Implementation



Image by Mark Ramos

Data Protection and Privacy

In March 2022, Zambia deployed the Integrated National Registration Information System (INRIS), a digitally enabled electronic national identity management system at a cost of K1 billion to replace the manual and paper-based systems to enhance security and service delivery by both the public and private sector.

The Home Affairs and Internal Security Minister Jack Mwiimbu confirmed that the system, which will capture personal details from birth, had already

been deployed in 11 districts, namely; Choma, Livingstone, Mongu, Solwezi, Ndola, Mansa, Kasama, Chinsali, Chipata, Lusaka and Kabwe. The system is currently deployed to about 15 000 people, and the exercise commenced with the capture of

biometrics, registration of births as well as the issuance of birth certificates⁷⁴.

In a related event, the government in partnership with Chinese firm ZTE Corporation in August 2022 launched the Public Security System Safe City Project which will serve operations of five units under the Home Affairs and Internal Security Ministry, the Police, Drug Enforcement Commission, Immigration Department, Correctional Services and Anti-Terrorism Centre^{75 76}. The project installed security cameras (Closed-Circuit Television- CCTV) in key public places of the country complete with a National Command Centre. Initially, the project had instigated fears among citizens that the cameras could be used to profile activists, political opponents and the general public, especially since the system was being

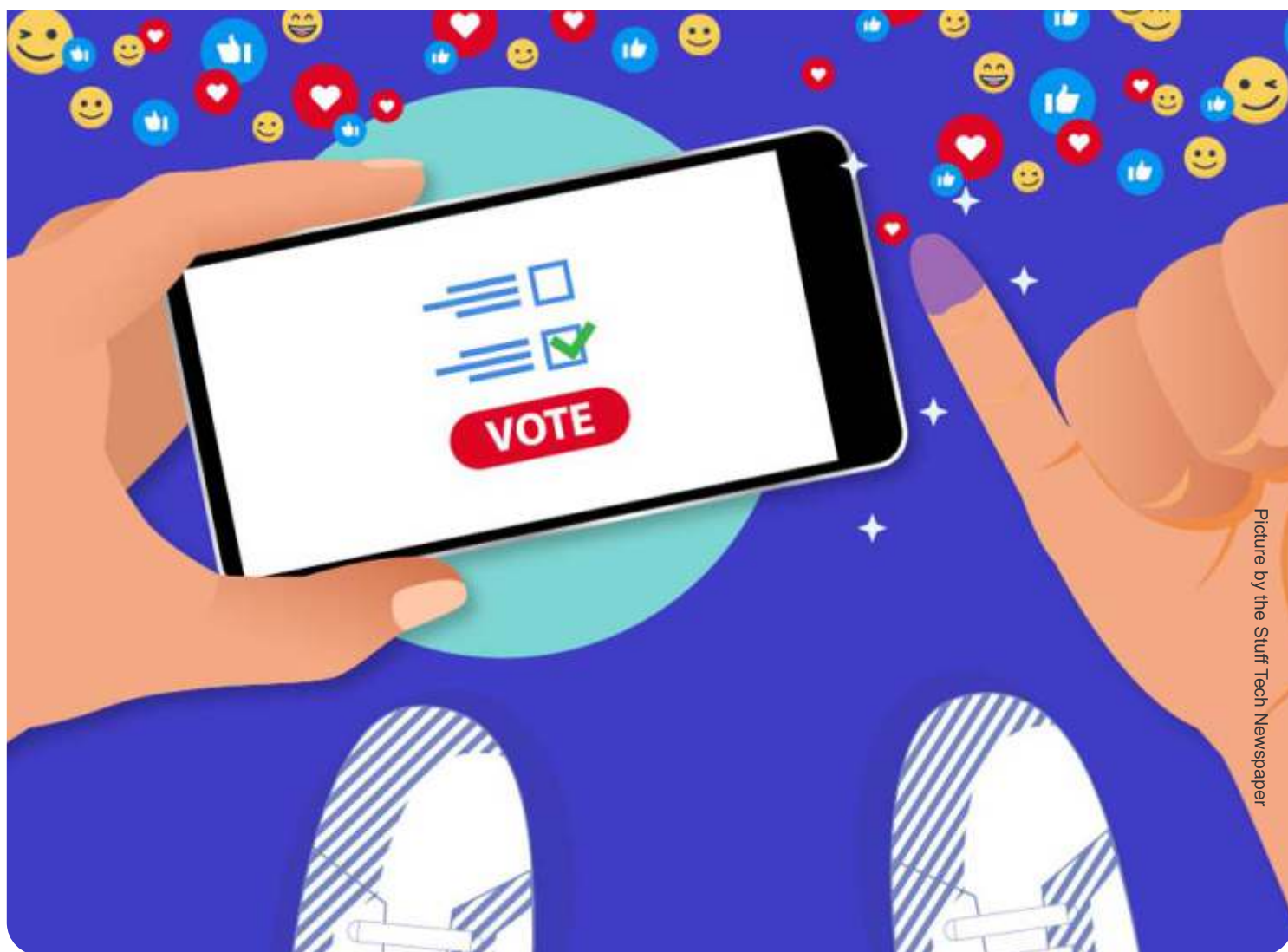
operated amid legislative gaps such as inadequate data protection safeguards or public information⁷⁷. Citizen Lab, a Canadian-based human rights watchdog has cited the Zambian government twice for allegedly using digital surveillance technology to spy on citizens⁷⁸.

Two years after the enactment of the Data Protection Act, Zambians are yet to experience any tangible benefits of the law, it is also speculated that ZICTA carries out the function of the Data Protection Authority. In March 2023, Technology and Science Minister Felix Mutati announced that the government had started processes to operationalise the office of the Data Protection Commissioner to resolve concerns surrounding personal data protection issues and the localisation of data.



5

Social media blocks, elections & digital rights



Picture by the Stuff Tech Newspaper

Social media and elections in Zambia.

The year 2021 was characterised by massive political activity owing to the highly contested general election.

The battle was ostensibly between the then-ruling PF and the largest opposition UPND. There were several incidents of physical clashes between the

Patriotic Front (PF) and the United Party for National Development (UPND). Also, violence was experienced within the ruling PF among different party factions at various levels across Zambia, especially during the adoption process and at the internal party

meetings such as the incident at the party secretariat in Lusaka where one party member Innocent Kalimashi was brutally assaulted and he ended in hospital admission⁷⁹. Aside from physical violence, the election period saw an increase in cases of online gender-based violence (oGBV) where women politicians, and digital influencers and reported to have experienced cyberbullying, hate speech and sexual harassment⁸⁰.

In June 2021, the Electoral Commission of Zambia (ECZ) suspended the UPND and PF from holding active physical campaigns in Lusaka, Namwala, Mpulungu and Nakonde districts for a fortnight due to violence. Media coverage was also banned in the affected districts⁸¹. In a related event, opposition political party leader Chishimba Kambwili was also barred from campaigning for violating the electoral code of conduct by uttering hate speech in a video that had gone viral on Facebook⁸².

In June 2021, the COVID-19 situation worsened, forcing authorities to impose a partial lockdown⁸³. The COVID-19 lockdowns presented unique challenges whose restrictions demanded social distancing and digital interaction. As a result of this environment, there was perpetual dependence on internet technology for survival among citizens. This reliance on internet technology exposed many key issues such as low digital skills, high demand and low supply of quality digital services and low online security standards by consumers among others. Service providers were also overwhelmed and many systems were congested resulting in an intermittent supply of services.

The Covid-19 humanitarian situation forced authorities to ban physical campaigns⁸⁴ and consequently, most of the political activities shifted to the internet, especially social media (especially Facebook, Twitter, and WhatsApp)⁸⁵. The quality of the internet in most parts of Zambia, especially rural and peri-urban areas remains low. This situation

was exacerbated by regular and intensified power cuts and consequently, many citizens did not have adequate and reliable energy to power their devices. This meant citizens in those areas were ostracised from participation in important political and electoral processes that should have enhanced inclusion and helped form political decisions ahead of the polls. All academic processes were shifted online. This meant that students, pupils and other learners in these regions did not have meaningful access to the internet to access online lessons.

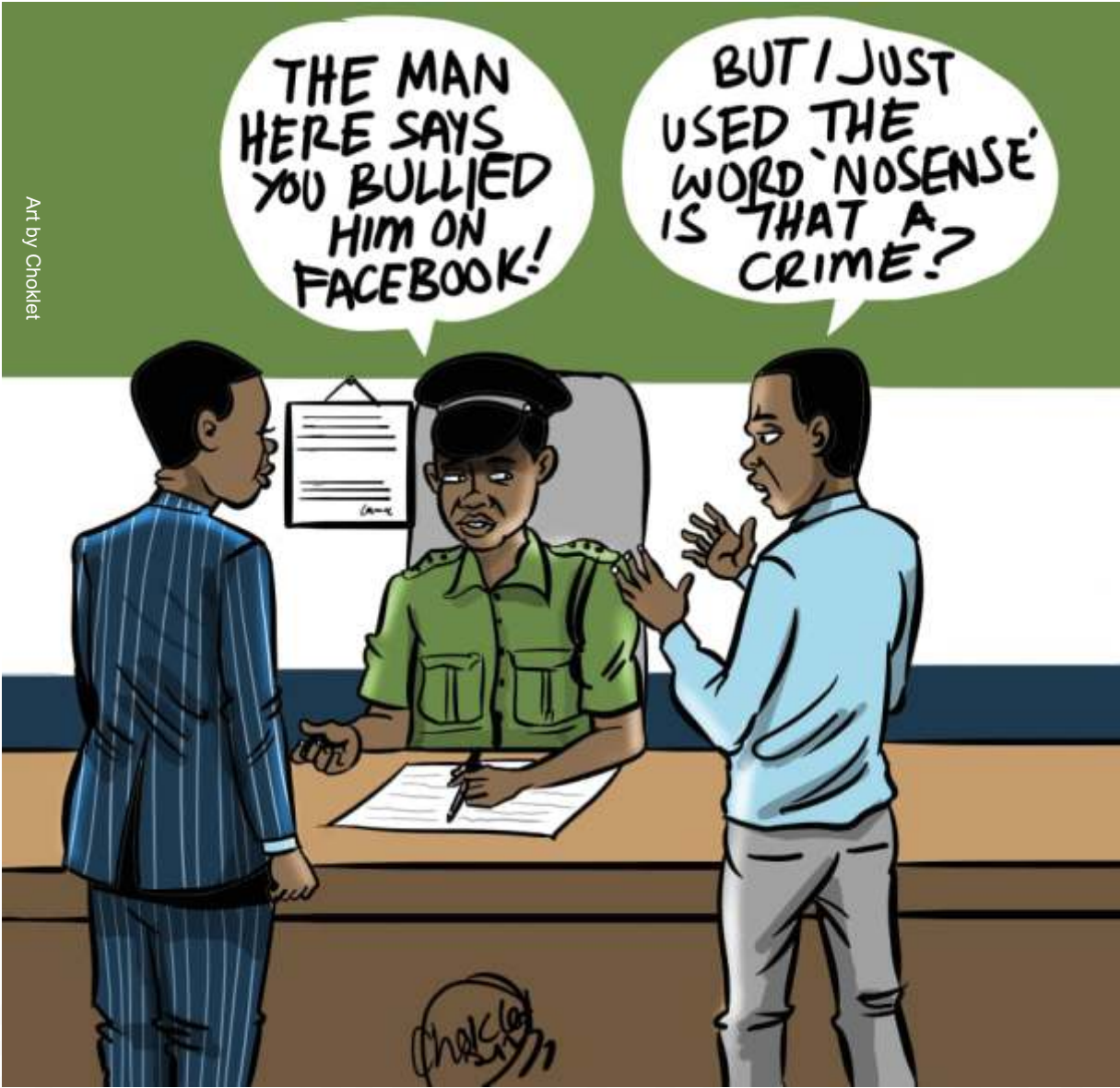
Prior to the elections, reports surfaced that the government was planning to shut down the Internet because citizens were using social media to cause confusion, insult leaders and disturb public peace and order⁸⁶. These fears were fueled by statements from some senior government officials who stated that the government would be forced to shutdown the internet if citizens continued to abuse social media⁸⁷. The government officials later assured the nation that the government would not restrict Internet connectivity⁸⁸.

On polling day, social media platforms (Facebook, Twitter, WhatsApp, Messenger and Instagram) were restricted and there was a significant loss in Internet connectivity on all major networks from August 12 to August 14, 2021⁸⁹. Measurements by the Open Observatory of Network Interference (OONI) confirmed that connectivity to social media platforms was restricted meaning the network providers were using the same technique to restrict Internet access and social media sites on their networks Internet users took to social media to condemn the social media block which had kept them from receiving important updates about the election. Consequently, many installed Virtual Private Networks (VPNs) to access the Internet during this period.

Chapter One Foundation filed a court order against ZICTA leading to the full restoration

of internet services on August 14, 2021⁹⁰⁹¹. As a result, the two organisations in March 2022 settled for a consent judgement in March 2022. ZICTA had agreed to only act within its legal authority and committed to informing the public of any network interruption within 36 hours of such an incident. This litigation case was the first of its kind in Zambia and set a precedence for digital rights in the country⁹³.

President Hakainde assured the nation that his government would not restrict online platforms but would instead enforce the relevant laws to curb abuse⁹⁴. So far, no internet restriction has been recorded during his tenure. He further cautioned against abuse of social media to spread hate speech and fake news, commit cybercrime and corrupt the morals of the country”, including spreading fake news.



6

Arrests and Detentions for Online Activities



Picture by Bloggers of Zambia

Zambia Police armoured vehicle.

In September 2022, Lawrence Bwalya Muchinda a 35-year-old man of Lusaka was arrested for allegedly issuing defamatory remarks against President Hichilema on TikTok⁹⁵.

In the same month, police arrested opposition Patriots for Economic Progress (PeP) leader Sean Tembo, for allegedly insulting the President on Facebook. Mr Tembo was

granted bail after six days of detention⁹⁶. In August 2022, Benson Tembo, an evangelist of Chipata was imprisoned for 15 months with hard labour for calling the head of State a Satanist during a sermon⁹⁷. In June 2022, Danny Kapambwe and

Justine Chimpinde of Chiengi district were sentenced to 24 months in prison for allegedly verbally insulting the president in a TikTok video⁹⁸.

In April 2022, two Patriotic Front bloggers, Joshua Malama and Victor Kapungwe, were taken in for questioning and investigation by the police⁹⁹.

In the same month, Andsen Zulu, a driver at Evelyn Hone College was sentenced to one year in prison for allegedly defaming the president by stating that the president was an atheist in a Facebook post¹⁰⁰.

In January 2022, a station manager of KBN TV, Petty Chanda was summoned and questioned by police over a leaked audio involving government officials who were allegedly plotting to ban opposition Democratic Party representatives from contesting in a local by-election in Kabwata. Chanda who was initially investigated under the Cybersecurity Act was later charged with the offence of destroying evidence under the penal code (Section 111) after she failed to produce the audio in question¹⁰¹.

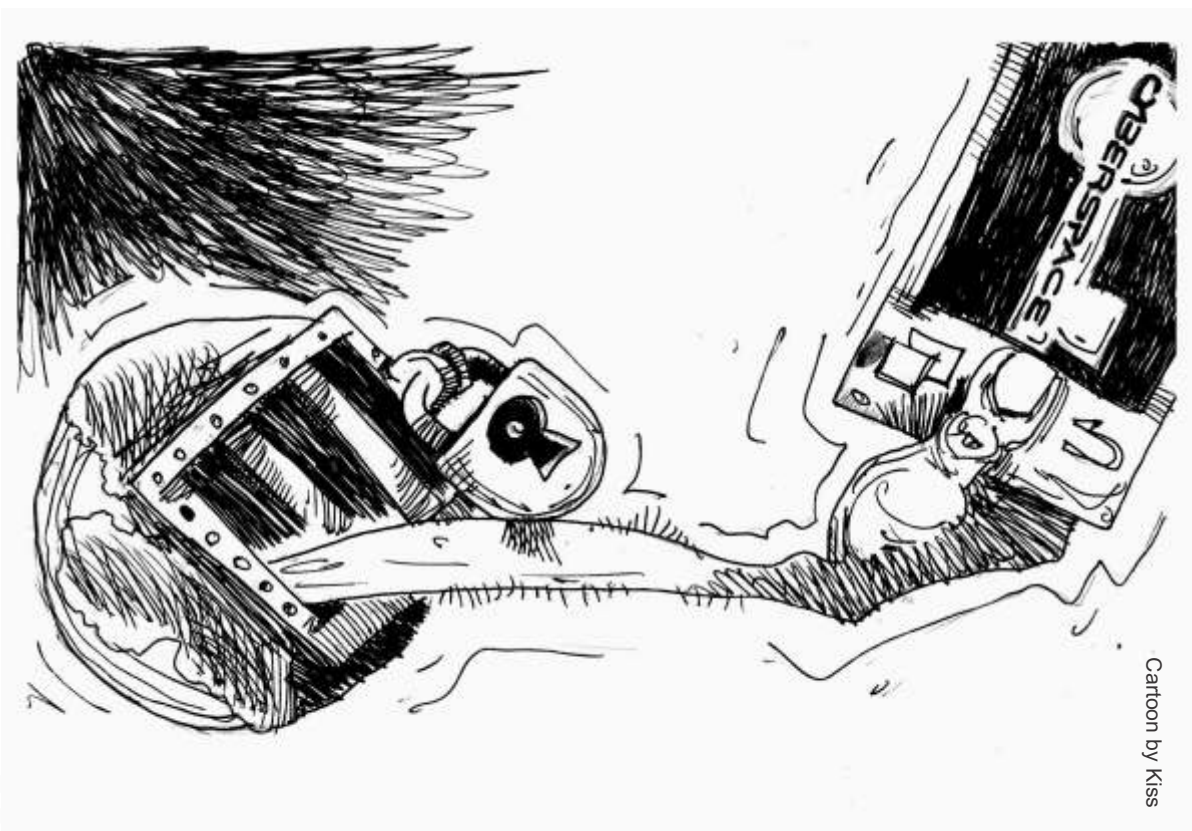
In July 2021, photographer Cornelius

Mulenga, also known as Chella Tukuta, was convicted of libel and sentenced to two years in prison for allegedly defaming government officials in a Facebook Live video; he was pardoned in August by outgoing president Lungu¹⁰².

In May 2021, President Hichilema's aide Mubita Nawa was arrested and charged with defaming then-president Lungu in a video distributed over social media. Nawa was released on bond later that month¹⁰³.

In May 2021, authorities arrested Chilufya Tayali, president of the opposition Economic and Equity Party (EEP), after he posted a social media video criticising violence by PF cadres and blaming Lungu. Tayali was charged with defaming the president. He was released a week later¹⁰⁴.

In March 2021, police arrested UPND official Matomola Likwanya, for proposing violence and insulting the president in a video Likwanya streamed on Facebook Live. Likwanya was reportedly released in mid-April, though it is unclear on what terms¹⁰⁵.



Cartoon by Kiss

7 Conclusion



The Digital Rights in Zambia report sought to highlight key developments and the state of digital rights in the country in the period under review.

The Digital Rights in Zambia report sought to highlight key developments and the state of digital rights in the country in the period under review. The report

presented the noteworthy developments in the Zambian internet freedom space ranging from the legal and policy environment, the ICT sector and assessed the enjoyment and protection of digital rights. Further, the report also gives a brief

overview of related developments in the media policy sector. The report outlines these issues by tracking key trends, analysing risk factors and noting key policy and legal developments, violations, arrests and other related activities. Notably, the Cybersecurity and Cybercrimes Act, Data Protection Act, e-Government Act and Electronic Communications and Transactions Act were enacted into law. These legislations are operational and enforceable by the police. Some parts of the Cybersecurity and Cybercrimes Act remain a source of concern for civil society, media bodies and other stakeholders owing to the way they were enacted.

The government must heighten implementation of the National ICT Strategy, Digital Transformation Strategy and enforcement of the Data Protection Act in order to provide citizens with personal data protection safeguards in light of the introduction of the digital ID system and

other data-heavy systems like safe city projects.

The government's efforts to repeal repressive laws such as the abolishment of the criminal defamation of the President clause are commendable and these legislative revision processes must continue to include laws such as the Public Order Act, Cybersecurity and Cybercrimes Act, the Penal Code Act among others. The revision processes must be done timely and in a participatory manner.

For Zambia to realise its digital transformation agenda and methodically recover from a climate of fear and repression, Zambia must leverage clear laws and policies to protect rights and provide security.

Zambia must begin to study, develop and implement legal and policy frameworks for ethical governance of Artificial Intelligence and emerging technologies in compliance with international norms and standards.



8

Recommendations



Art by Bloggers of Zambia



Here are some recommendations for different stakeholders to consider in the multistakeholder approach to improve the digital rights environment in Zambia.

Government Must:

- Review and revise the Cybersecurity and Cybercrimes Act 2021. There is a need to provide a clear timeline and an inclusive and participatory process for revising the law. The review process started in 2022.
- Operationalise the office of the Data Protection Commissioner that is independent of ZICTA, and enforce and raise awareness of Data protection legislation, especially in view of data storage, the impending rollout of digital identification etc.
- Enact legislation for the safe city project and use of public security information systems and make this project transparent and accountable. Many citizens are suspicious of the CCTV cameras under the safe city project.
- Enact the Access to Information Law. There is a need to provide a clear timeline for enactment of this bill into law. Currently, stakeholders are subject

to the benevolence of verbal government pronouncements and deadlines keep shifting when the bill will be enacted.

- Stakeholders must amalgamate their efforts and resources and implement a media self-regulation mechanism that will be widely agreed upon and accepted to regulate the media landscape in Zambia. In doing this, stakeholders must give themselves a timeline for this process because it has been pending for many years
- Review and revise media laws and policies to enhance safety and security

standards and to protect journalists, and media practitioners from arbitrary arrests, detention, and unlawful surveillance etc

- Increase the annual budget allocations and Universal Service Funds towards the growth of ICTs in an effort to bridge the existing digital divide and improve internet and digital service delivery while taking into consideration the needs of underserved communities such as rural populations, people With disabilities, women and children in accordance with the national policies.

The ICT Regulator Must:

- Ensure that they regulate the ICT sector based on law, without arbitrariness and excesses, particularly to ensure service providers are giving quality and safe, affordable services

etc.

- Enhance the oversight role of Cybersecurity in Zambia to protect citizens from online attacks.
- Contribute to education and awareness raising on digital safety for citizens

Law Enforcement Must:

- Implement ICT laws fairly, in a transparent and accountable manner to avoid excesses and all forms of abuses

and safeguard public interest.

- Contribute to education and awareness raising on digital safety to enhance online security standards.

Civil Society Organisations (CSOs) Must:

- Continue to raise awareness on digital rights and digital inclusion matters in Zambia.
- Enhance advocacy and engagements

with the government on law and policy reforms on media and digital rights

- Continue to play a human rights-based watchdog role to provide the necessary checks and balances in the development and implementation of ICT policy and legal frameworks.

The Private Sector Must:

- Implement appropriate data protection measures to ensure enhanced compliance with the Data Protection Act.
- Comply with the UN Guiding Principles on Business and Human Rights and sensitise stakeholders on their

commitment to upholding relevant human rights standards.

- Complement the government's digitalisation efforts to create a vibrant ICT sector through investments that ensure universal, safe, equal and meaningful access to the Internet and other digital technologies.

The Academia Must:

- Contribute research efforts on digital rights and digital inclusion to inform the development of various ICT-related

strategies and policies.

- Contribute to monitoring and documenting digital rights and inclusion developments, trends and emerging issues in Zambia.

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ABOUT BLOGGERS OF ZAMBIA

Bloggers of Zambia is an independent, not-for-profit organisation. Our thematic areas of work are Internet Governance and Digital Rights, Press Freedom, Civic Tech and Media and Information Literacy.

MISSION

An open society where digital rights and the rights-based offline and online media platforms are guaranteed and protected.

MOTTO

Our motto is, 'Keeping Online Spaces Open'.
Hashtag #OpenSpaceZM

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