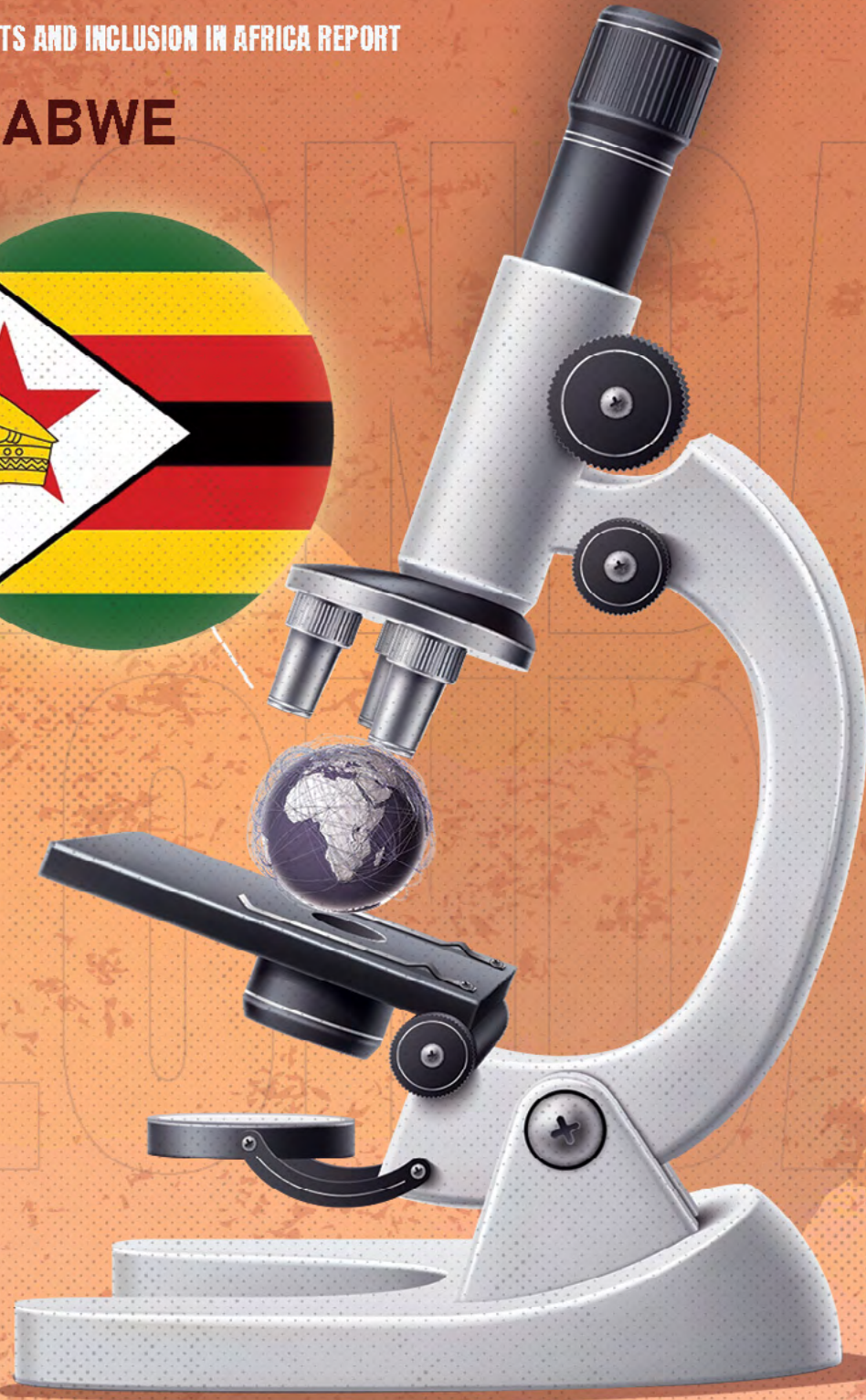


LONDA

DIGITAL RIGHTS AND INCLUSION IN AFRICA REPORT

ZIMBABWE



2022

LONDA

Digital Rights and Inclusion in Africa Report 2022

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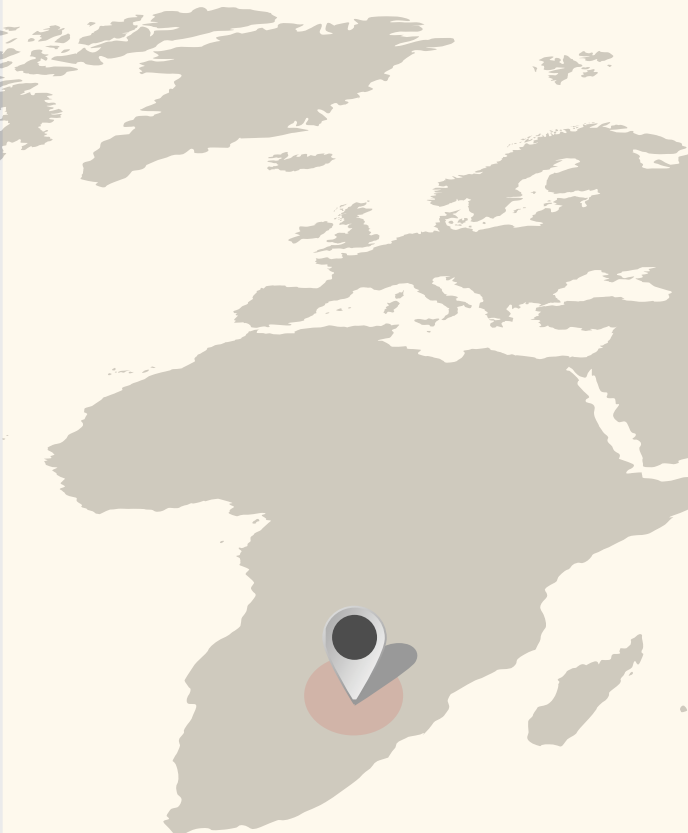
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Zimbabwe



► Executive Summary

This report is an overview of the state of digital rights in Zimbabwe. It highlights the incidence of internet disruptions in Zimbabwe and raises concerns about State action targeting the media and the draconian criminal sanctions in the Cyber and Data Protection Act [Chapter 12:07] as read with the Criminal Law (Codification and Reform) Act, 2004 used to shrink the online civic space. The government initiated a draft Cyber and Data Protection Regulations to operationalise some sections of the Cyber and Data Protection Act [Chapter 12:07] (CDPA).

Commendably, the government launched several Community Information Centres to increase Internet access and digital literacy in underserved areas in the country while ECONET was the first mobile network operator to launch 5G. The Judicial Service Commission authorised the Integrated Electronic Case Management System (IECMS) in February 2022 and rolled out virtual courts in the year, a positive step in advancing access to justice. Information gathered from several civil society organisations, media and government representatives showed concerns over the rise in misinformation ahead of presidential elections in 2023, signalling high levels of political intolerance. Further, an overview of the Universal Service Fund and highlights of government priorities on Artificial Intelligence and emerging technologies are given.

The report ends with key recommendations to the government to ensure compliance with its human rights obligations as prescribed in the Constitution of Zimbabwe and key human rights treaties. The report calls for promoting freedom of expression, privacy, internet freedom and digital access for marginalised communities. A call is made to the media and citizens to be more ethical, tolerant and diligent to avoid spreading misinformation and propagating hate speech. The private sector is called to bridge the divide ensuring affordable Internet access while the Zimbabwe Human Rights Commission is urged to continue to call for an online rights-respecting environment.



Introduction

Zimbabwe is a country in Southern Africa with a population of 15,420,701¹. The Gross Domestic Product (GDP) for Zimbabwe in 2021 stood at 28.37, while in 2018, it was 38.16 showing a decline in the country's economic well-being.² With an increasingly difficult economy in 2022, the growth in ICTs was retarded, making the available cash for individuals to access digital technologies such as smartphones leaner. The effect was an increasing digital divide against the backdrop of a National Development Strategy 1 (NDS1), which among other things, aims to ensure growth in ICTs in Zimbabwe by the year 2025.³ The Constitution of Zimbabwe (the Constitution) provides for fundamental rights and freedoms in Chapter 4. The Constitution does not make specific reference to digital rights but guarantees equality, privacy, freedom of expression, access to information and education under sections 56, 57, 61, 62 and 75, respectively.⁴

The United Nations settled that rights offline should also be protected online.⁵ To this end, constitutionally protected rights in Zimbabwe must be equally safeguarded on the internet. For instance, where there are data breaches online, this is a violation of privacy. Where digital access is impeded for some segments of the population, that is a violation of equality. Internet freedom or digital rights are simply human rights in this light.

Zimbabwe has not yet ratified the African Union Convention on Cyber Security and Personal Data Protection (Malabo Convention) adopted by the African Union on June 27, 2014, a disregard for compliance with an African treaty which guides States on how to address the risks and dangers associated with the use of electronic data and cybercrimes.⁶ However, Zimbabwe is a state party to the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples Rights (African Charter), which provide for freedom of expression in articles 19 and 9 respectively.

1 Worldometer 'Zimbabwe Population' <https://www.worldometers.info/world-population/zimbabwe-population/> (accessed on December 30, 2022).

2 The World Bank 'GDP Current (US\$)' <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=ZW> (accessed on December 30, 2022).

3 National Development Strategy 1 (2021-2025) para 558 https://www.veritaszim.net/sites/veritas_d/files/NDS.pdf (accessed on December 30, 2022).

4 Constitution of Zimbabwe Amendment (No.20) Act of 2013 (the Constitution). See secs 56, 57, 61, 62 and 75 which provide for equality, privacy, freedom of expression, access to information and education. <https://www.veritaszim.net/node/6030> (accessed on December 30, 2022).

5 United Nations A/HRC/32/L.20 'The promotion, protection and enjoyment of human rights on the Internet' <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F32%2FL.20&Language=E&DeviceType=Desktop&LangRequested=False> (accessed on December 30, 2022).

6 See the African Union Convention on Cyber Security and Personal Data Protection preamble.

Country Analysis

INTERNET FREEDOM



INTERNET ACCESS AND DISRUPTIONS

Zimbabwe has had a bad record for internet disruptions, a reputation characterised by the blatant internet shutdown experienced in January 2019⁷ following the fuel price hike protest action and other throttling trends ahead of planned protests and political events.

In 2022, an internet disruption was recorded, impeding the free flow of information,

violating freedom of expression and access to information. Many users in Zimbabwe experienced internet throttling on February 20, 2022, during a political opposition party rally held in Harare. The incident was aimed at interfering with the live streaming of the Yellow Sunday rally by the opposition party, Citizens' Coalition for Change.⁸

Mobile network operators occasioned other disruptions to internet access. In February 2022, internet service providers (ISPs) expressed concerns over the imposed 10 per cent excise duty on all internet services. ISPs like ZOL announced this increase to their clients.⁹ This regulatory increase on ISPs had a negative impact as the cost of data increased. An ECONET private Wi-Fi bundle for 5GB is \$8.04, while one for 10GB is \$12.06.¹⁰ This cost is prohibitive for low-income earners amidst a tough economic climate.

FREE SPEECH AND MEDIA FREEDOMS

Zimbabwe dropped on the World Press Freedom Ranking from 126 out of 180 in 2020, to 130 out of 180 countries in 2021, and to 137 out of 180 countries in 2022, showing a decline in terms of its media freedom record.¹¹ While freedom of expression and media freedom is guaranteed in section 61 of the Constitution, the Criminal Law (Codification and Reform) Act, 2004 (the Criminal Code)¹² has provisions which pose a threat to the constitutionally guaranteed right. Section 33(2) of the Criminal Code provides for the offence of undermining authority or insulting the president, stating that a conviction will follow anyone who

7 Access Now 'Zimbabwe orders a three-day, country-wide Internet shutdown' <https://www.accessnow.org/zimbabwe-orders-a-three-day-country-wide-Internet-shutdown/> (accessed on December 30, 2022).

8 Netblocks 'Internet slowdown limits coverage of Zimbabwe opposition rally' <https://netblocks.org/reports/Internet-slowdown-limits-coverage-of-zimbabwe-opposition-rally-oy9Ykoy3> (accessed on December 30, 2022).

9 IT Web 'Internet costs increase in Zimbabwe as ISPs hit with new tax' <https://itweb.africa/content/rW1xL759kpO7Rk6m> and TechZim 'ZOL to start charging 10% tax on Internet packages next month!' <https://www.techzim.co.zw/2022/02/zol-to-start-charging-10-tax-on-Internet-packages-next-month/> (accessed on January 15, 2023).

10 Econet 'Private Wi-Fi Bundle' <https://www.econet.co.zw/services/bundles/Smart-USD-Bundle> (accessed on January 15, 2023).

11 RSF 'Index' <https://rsf.org/en/index> (accessed on January 2, 2023).

12 Criminal Law (Codification and Reform) Act (Chapter 9:23), 2004 <https://www.veritaszim.net/node/225> (accessed on December 31, 2022).

publicly, unlawfully and intentionally does the following:

makes any statement about or concerning the President or an acting President with the knowledge or realising that there is a real risk or possibility that the statement is false and that it may engender feelings of hostility towards; or cause hatred, contempt or ridicule of the President or an acting President, whether in person or in respect of the President's office; or makes any abusive, indecent or obscene statement about or concerning the President



or an acting President, whether in respect of the President personally or the President's office.

The penalty for undermining the authority of or insulting the President is a fine not exceeding level six (ZW\$30,000)¹³ or imprisonment for a period not exceeding one year or both. This provision was used on several occasions in 2022 to effect arrests for both offline and online speech. Tinashe Evans Wille, from Bindura was arrested on October 13, 2022 for allegedly shouting to the ruling party ZANU PF the words "*Pasi ne ZANU PF, Mnangagwa imbwa*" translated to "Down with ZANU PF, Mnangagwa is a dog."¹⁴ The *ZimLive* Editor Mduduzi Mathuthu, was also arrested and charged for allegedly undermining the authority of the president in a tweet which followed a May 17, 2022 announcement by President Emmerson Mnangagwa that the government was suspending the lending of banks, the tweet in issue read as follows: "*I understand Mnangangwa was in Glen Lorne drinking when he was called to read this and Mthuli Ncube and John Mangudgya only learnt of the bank lending suspension when they were shown the speech. Work of some CIO economics department.*"¹⁵

In November 2022, Edith Mupondi, a teacher was charged with contravening section 88(b) of the Postal and Telecommunications Act [Chapter 12:05] for allegedly sending by telephone, a message that she knew to be false for the purpose of causing annoyance, inconvenience or needless anxiety to any person, a provision overly broad and unreasonably limiting of speech. The allegations were that she sent a message to a WhatsApp group that translated, "At Epworth High School, Mr Muzondo, Mr Mudzengere and Mrs Sithole, please respect us by staying at your respective homes. You are fighting people that are clamouring for payment of improved salaries for teachers."¹⁶

The Cyber and Data Protection Act (CDPA),

¹³ Statutory Instrument 209 of 2021, a level 6 fine is ZW \$30,000 (US\$94) https://www.veritaszim.net/sites/veritas_d/files/SI%202021-209%20%20Criminal%20Law%20%28Codification%20and%20Reform%29%20%28Standard%20Scale%20of%20Fines%29%20Notice%2C%202021.pdf (accessed on January 28, 2023).

¹⁴ 263 Chat 'Police Arrests Bindura Man For Insulting ED' <https://www.263chat.com/police-arrests-bindura-man-charged-with-insulting-ed/> (accessed on December 31, 2022).

¹⁵ CITE 'ZimLive editor arrested for 'insulting' President Mnangagwa' <https://cite.org.zw/zimlive-editor-arrested-for-insulting-president-mnangagwa/> (accessed on December 31, 2022).

¹⁶ Zim Morning Post 'Teacher arrested over decrying poor pay on WhatsApp' <https://www.zimorningpost.com/teacher-arrested-over-decrying-poor-pay-on-whatsapp/> (accessed on January 11, 2023).

[Chapter 12:07]¹⁷ is a law in Zimbabwe enacted in December 2021 amidst fears that it would be used to crack down on the media. The first journalists to fall victim to the law which amended the Criminal Code are two journalists, Wisdom Mdzungairi and Desmond Chingarande, from *News Day*, a national paper. They were arrested on August 3, 2022, for allegedly sharing false data messages. The two were charged with contravening Section 164C of the Criminal Code as amended by the CDPA, which relates to publishing false data messages intending to cause harm. The offence violates freedom of expression as provided for in section 61 of the Constitution, articles 19 and 9 of the ICCPR and African Charter.

Similarly, Section 14 of Statutory Instrument 83 of 2020 (S.I 83) criminalises false publishing of information about any public officer, official or enforcement officer involved with enforcing or implementing the national lockdown or any private individual that has the effect of prejudicing the implementation of the national lockdown with a draconian criminal penalty not exceeding a level 14 fine or 20 years imprisonment.¹⁸ It is settled that criminalisation of false news is an affront to freedom of expression.¹⁹ The African Commission on Human and Peoples' Rights Declaration of Principles of Freedom of Expression and Access to information guides States on how to comply with their obligations under article 9 of the African Charter and

principle 22, which specifically mentions that States shall repeal laws that criminalise sedition, insult and publication of false news.

MISINFORMATION AND HATE SPEECH

Information gathered from several civil society actors and the media in Zimbabwe through a deployed questionnaire revealed that misinformation is a cause for concern in Zimbabwe. The level of political tolerance was very low, with increased hate speech through online and mainstream media platforms. On August 12, 2022, the Zimbabwe Human Rights Commission condemned the hate speech by unruly political actors calling for respect for tolerance of divergent political views and interests.²⁰

PRIVACY AND SURVEILLANCE

The CDPA provides for the protection of personal data, ideally adequate to safeguard privacy online. However, the same law, as far as it amends select provisions of the Criminal Code, may be used arbitrarily to violate the right under the guise of addressing cybersecurity.²¹ There is a need for State security agents to have a better appreciation of the required need to prioritise privacy and only limit it in line with human rights standards. The Minister of Home Affairs and Cultural Heritage Kazembe Kazembe, attended the International Exhibition for National Security and Resilience in the United Arab Emirates from October 10

17 Cyber and Data Protection Act, (Chapter 12:07) <https://www.veritaszim.net/node/5522#:~:text=Act%20as%20gazetted%20with%20correct,in%20GN%20491%2F2022.%5D&text=ENACTED%20by%20the%20Parliament%20and%20the%20President%20of%20Zimbabwe.&text=This%20Act%20may%20be%20cited,%5BChapter%2012%3A07%5D> (accessed on December 29, 2022).

18 Statutory Instrument 83 of 2020 (S.I 83) <https://www.veritaszim.net/node/4046> (accessed on December 30, 2022). Section 14 reads as follows:

'For the avoidance of doubt any person who publishes or communicates false news about any public officer, official or enforcement officer involved with enforcing or implementing the national lockdown in his or her capacity as such, or about any private individual that has the effect of prejudicing the State's enforcement of the national lockdown, shall be liable for prosecution under section 31 of the Criminal Law Code ("Publishing or communicating false statements prejudicial to the State") and liable to the penalty there provided, that is to say a fine up to or exceeding level fourteen or imprisonment for a period not exceeding twenty years or both.'

This reference also made in Paradigm Initiative's Londa Zimbabwe 2021 Report <https://paradigmhq.org/report/londa-digital-rights-and-inclusion-annual-report-2021-zimbabwe/> (accessed on December 30, 2022).

19 Veritas Commissions Watch 6/2022 <https://www.veritaszim.net/node/5868> (accessed on January 2, 2023).

21 See the Cyber and Data Protection Act, (Chapter 12:07) <https://www.veritaszim.net/node/5522#:~:text=Act%20as%20gazetted%20with%20correct,in%20GN%20491%2F2022.%5D&text=ENACTED%20by%20the%20Parliament%20and%20the%20President%20of%20Zimbabwe.&text=This%20Act%20may%20be%20cited,%5BChapter%2012%3A07%5D> (accessed on December 29, 2022).

And the amended Criminal Code provisions

to 12, 2022 with the purpose of learning how to strengthen national security.²² There were concerns that this mission was motivated by the government's quest to increase surveillance, particularly in the upcoming 2023 presidential elections.²³

DATA GOVERNANCE IN ZIMBABWE

DATA PROTECTION

Zimbabwe enacted a data protection law on December 3, 2021, which was titled the Data Protection Act (DPA) and on March 11, 2022, corrected the title to the Cyber and Data



Protection Act (CDPA), [Chapter 12:07].²⁴ The objective of the CDPA is to increase cyber security to build confidence and trust in the

secure use of information and communication technologies by data controllers, their representatives, and data subjects.

Notably, the enacted DPA of December 3, 2021, had a differently framed objective, which was to increase data protection to build confidence and trust in the secure use of information and communication technologies by data controllers, their representatives and data subjects. The CDPA objective suggests the prioritisation of cyber security over data protection and suggestively reflects the government's attitude towards cracking down on vulnerable groups such as the media and human rights defenders as they express themselves online. The CDPA currently in force gives the impression that it provides for cybercrimes when its actual effect is that it mainly provides for data protection so arguably, the original title of the act sufficed. The CDPA amends the Interception of Communications Act [Chapter 11:20], 2007²⁵ and amends the Criminal Code in sections 162 to 166 making provision for the investigation and collection of evidence of cybercrime and unauthorised data collection.

The CDPA vests the mandate of the Data Protection Authority in the Postal and Telecommunications Regulatory Authority of Zimbabwe (POTRAZ), an additional mandate to its main roles and functions under the PTA, a move that was criticised long before the enactment of the data protection law. Of concern was the possibility of failure of POTRAZ to effectively discharge its mandate considering it is a regulatory authority in the postal and telecommunications sector before it addresses its designated role by the CDPA as a Data Protection Authority. The CDPA has existed for at least a year, so there is still a need to raise public awareness.

22 Bulawayo 24 News 'Kazembe's visit to UAE surveillance expo ahead of 2023 raises eyebrows' <https://bulawayo24.com/index-id-news-sc-local-byo-225764.html> (accessed on December 31, 2022).

23 Bulawayo 24 News 'Kazembe's visit to UAE surveillance expo ahead of 2023 raises eyebrows' <https://bulawayo24.com/index-id-news-sc-local-byo-225764.html> (accessed on December 31, 2022).

24 Cyber and Data Protection Act, (Chapter 12:07) <https://www.veritaszim.net/node/5522#:~:text=Act%20as%20gazetted%20with%20correct,in%20GN%20491%2F2022.%5D&text=ENACTED%20by%20the%20Parliament%20and%20the%20President%20of%20Zimbabwe.&text=This%20Act%20may%20be%20cited,%5BChapter%2012%3A07%5D> (accessed on December 29, 2022).

25 Interception of Communications Act (Chapter 11:20), 2007 <http://www.veritaszim.net/node/252> (accessed on December 31, 2022).

In February 2022, POTRAZ called for anyone controlling the personal information of at least 30 data subjects to notify the DPA, employ a data protection officer and for anyone to report data breaches to POTRAZ.²⁶

On November 16, 2022, POTRAZ invited inputs into the draft Cyber and Data Protection Regulations (Licensing of Data Controllers and Appointment of DPOs), 2022²⁷, which provide for reporting of data breaches within 24 hours and prescribe the appointment of DPOs within six months of the regulations coming into effect among others provisions.²⁸ The deadline for submission of comments was December 12, 2022. Enactment of the regulations will be a milestone in line with section 32 of the CDPA as Zimbabwe takes baby steps toward full operationalisation of data protection in Zimbabwe.

DIGITAL IDS

Obtaining national identity cards (IDs) in Zimbabwe can be tedious and challenging due to the numerous requirements of obtaining birth certificates and administrative barriers. With the upcoming presidential elections in

2023, many undocumented people will be disenfranchised from voting. The Zimbabwe Electoral Commission rolled out its first phase of mobile biometric voter registration in February 2022 and proceeded to roll out the second phase, which ended on April 30, 2022, in a move to register more people to vote.²⁹ Through the biometric voter registration system, fingerprints and facial scans are taken for identification.

REVIEW OF THE UNIVERSAL SERVICE FUND

The Universal Service Fund (USF) in Zimbabwe was established by section 73 of the Postal and Telecommunications Act (Chapter 12:05) of 2000 (PTA). Among other objects of the fund, section 74(c) of the PTA stipulates its purpose is to finance or assist in financing the extension of postal and telecommunication services to underserved areas and community centres within or outside such areas.³⁰ Funds are collected from holders of licenses in terms of the Act, including telecommunications operators. The amount collected under this fund, as of the end of 2022, is not readily ascertainable, but as of June 2018, it was

26 The Chronicle 'POTRAZ calls for employment Data Protection Officers' <https://www.chronicle.co.zw/potraz-calls-for-employment-of-data-protection-officers/> (accessed on January 1, 2023).

27 Tech Zim 'POTRAZ invites your input on data protection regulations, you might want to participate' <https://www.techzim.co.zw/2022/11/potraz-invites-input-on-data-protection-regulations-please-participate/> (accessed on 1 January 2023) and POTRAZ <https://www.potraz.gov.zw/?p=2341> (accessed on January 1, 2023).

28 Cyber and Data Protection Regulations (Licensing of Data Controllers and Appointment of DPOs) Regulations, 2022 <https://www.potraz.gov.zw/wp-content/uploads/2022/11/Draft-Cyber-and-Data-Protection-Regulations-.pdf> (accessed on January 1, 2023).

29 ZESN 'ERC & ZESN Deploy Observers for 2022 Voter Registration Blitz and Provides Analysis of Phase 1 List of Registration Centres' <https://www.zesn.org.zw/wp-content/uploads/2015/10/ERC-ZESN-Statement-on-Observer-Deployment-FINAL-18022022.pdf>

30 Postal and Telecommunications Act (Chapter 12:05) of 2000 https://old.zimlil.org.zw/legislation/num-act/2000/4/Postal_Act.pdf (accessed on 1 January 2023). See section 74 below.

⁷⁴ Objects of Fund The objects of the Fund shall be—

- (a) the standardisation of postal and telecommunication services and the maintenance of high standards of quality in the provision of such services; and
- (b) to make grants to local authorities or their appointed agents for the purpose of assisting needy persons to obtain access to postal and telecommunication services; and
- (c) to finance or assist in financing the extension of postal and telecommunication services to underserved areas and community centres within or outside such areas; and
- (d) to assist in the training of persons in the provision of postal or telecommunication services; and
- (e) to promote or contribute towards research and development in the field of postal and telecommunication services; and
- (f) to promote and contribute towards the expenses of the adaptation or facilitation of the use of telecommunication services for the benefit of disabled persons, including the provision without charge of directory information services appropriate to meet the needs of such persons; and
- (g) to encourage and facilitate, for the benefit of Zimbabwe, the transfer of telecommunications technology from foreign providers of such technology; in accordance with an annual implementation plan prepared by the Authority in consultation with cellular telecommunication, postal and telecommunication licensees and the appropriate successor company.

estimated at US\$120,000,000. The Postal and Telecommunications Regulatory Authority of Zimbabwe (POTRAZ), as the Trustee for the Universal Service Fund, gazetted a call



for bidders on July 29, 2022, to among other things, provide solar power backup systems for 40 Community Information Centres (CICs) and 24 Community Village Information Centres (CVICs)³¹ in Zimbabwe in a move that will presumably address challenges posed by the erratic supply of electricity in the areas the CICS and CVICs are situated.

In 2022, 32.5 per cent of Zimbabweans were living in urban areas while the majority, 67.5 per cent were in rural areas,³² a clear sign of the need to ensure the disbursement of the

USF for the purposes for which it is collected. In November 2022, the government launched 10 CICs in the capital city, Harare, to bridge the digital divide and promote internet access. The government also launched 16 CICs and school computer laboratories in Gweru, Shurugwi and Kwekwe in December 2022.³³ While an increase in CICs is a welcome development in urban areas, there is a need for more to be done for marginalised communities to bridge the digital divide.

DEVELOPMENTS IN ICT AND EMERGING TECHNOLOGIES

The largest mobile network operator, Econet, was the first to launch 5G technology in Zimbabwe on February 24, 2022,³⁴ a development which came against the backdrop of a growing digital divide in the country exposed by the Covid-19 pandemic. Twenty-two 5G Sites were launched as of May 6, 2022, the majority in Harare's capital city. National Development Strategy 1 (NDS1) is the government strategy for development from 2021 to 2025 which includes improvement of innovation through prioritisation of the Virtual Collaboration Nodes (VCN) programme to support e-applications across sectors, block-chain and big data analytics technologies, among others.³⁵ NDS1 highlights the government's commitment to develop and implement a policy on the adoption and adaptation of emerging technologies, mainly Big Data Analytics, Artificial Intelligence (AI) and Virtual Augmented Reality (VAR). There is currently no independent national AI strategy, and guidance is gleaned from NDS1 on the priorities of the government with regard to emerging technologies. The existence of the CDPA is a progressive legislative development ensuring data protection.

The Ministry of Finance allocated

31 Government Gazette General Notice 1711 of 2022 <https://gazettes.africa/archive/zw/2022/zw-government-gazette-dated-2022-07-29-no-100.pdf> (accessed on December 31, 2022).

32 Datareportal [https://datareportal.com/reports/digital-2022-zimbabwe#:~:text=There%20were%204.65%20million%20Internet,percent\)%20between%202021%20and%202022](https://datareportal.com/reports/digital-2022-zimbabwe#:~:text=There%20were%204.65%20million%20Internet,percent)%20between%202021%20and%202022) (accessed on December 31, 2022).

33 263 Chat 'Community Information Centres A drive To Better Economy: Muswere' <https://www.263chat.com/community-information-centers-a-drive-to-better-economy-muswere/> (accessed on January 1, 2023).

34 Econet <https://www.econet.co.zw/services/5G-Launch> (accessed on December 30, 2022).

35 National Development Strategy 1 (2021-2025) para https://www.veritaszim.net/sites/veritas_d/files/NDS.pdf (accessed on January 23, 2022).

ZWL\$3,300,000,000 to the Ministry of Information Communication and Technology in the National Budget for the implementation of projects such as increasing broadband access and installation of smart e-government services.³⁶ This allocation was a marked reduction from the allocation of ZW\$ 7,958,500,000 made in 2021.³⁷ There is a need for adequate resourcing of the ICT sector to bridge the digital divide and ensure growth in using e-services in Zimbabwe.

SMART CITY INITIATIVES

While smart city initiatives bring about efficiency in service delivery across many sectors such as health, education and agriculture, in the absence of transparency as to how they are implemented, distrust may be fostered. Additionally, where there is no transparency of process and proactive disclosure as to how data collected for the purposes of rolling out these initiatives are being used, vulnerable groups such as human rights defenders and the media may be placed at risk of data breaches and arbitrary surveillance. The Minister of Information Communication Technology, Postal and Courier Services, Dr Jenfan Muswere, mentioned that through ICT technologies, the government seeks to increase efficiency in law enforcement operations and city administration.³⁸ He reportedly highlighted that his ministry was working with the e-Government Unit housed in the office of the President and Cabinet to automate government systems and implement the Zim Connect project, which will offer e-services to citizens, private and public sectors.³⁹ Prioritising e-service was a positive step in service delivery and access to information

across government services. However, the extent of influence of the e-Government Unit in the rollout of e-services through government platforms is unclear and may pose a concern for human rights. Additionally, the exclusion of low-income earning individuals from accessing e-services is a consequence of the existing digital divide.

LEVERAGING TECHNOLOGY FOR RIGHTS

Technology plays a key role in realising human rights and can connect marginalised communities to the rest of the world. In Zimbabwe, some success has been realised in the education sector. In 2021, the United Nations International Children's Emergency Fund (UNICEF) partnered with the Ministry of Primary and Secondary Education to roll out the Learning Passport platform, an application with over 1,000 pre-recorded radio lessons and modules for learners in line with the Zimbabwean Schools Examination Council (ZIMSEC) curriculum.⁴⁰ The application can be downloaded on Playstore for Android smartphones and is positive for children with access to digital technologies such as smartphones, laptops or desktop computers. Zimbabwe conducted its first digital census using digital technologies to conduct the process.

The 2022 legal year was launched under the theme, *Use of Technology to Enhance Efficiency and the Rule of Law in the Judiciary*.⁴¹ The Judicial Service Commission began training its staff on the Integrated Electronic Case Management System (IECMS) in January 2022 and the ICEMS was commissioned on February 7, 2022.⁴² Launching the ICEMS is

36 TechZim <https://www.techzim.co.zw/2021/11/download-the-2022-national-budget-speech/> (accessed on January 1, 2023).

37 Veritas '2021 Budget' para.393 https://www.veritaszim.net/sites/veritas_d/files/2021%20%20NATIONAL%20BUDGET%20STATEMENT.pdf (accessed on January 1, 2023).

38 The Sunday News <https://www.sundaynews.co.zw/smart-cities-to-generate-investment-boost-economic-growth/> (accessed on December 31, 2022).

National Development Strategy

39 The Sunday News <https://www.sundaynews.co.zw/smart-cities-to-generate-investment-boost-economic-growth/> (accessed on December 31, 2022).

40 UNICEF Transforming Education '#ForEveryChild in Zim — a renewed commitment' <https://www.unicef.org/zimbabwe/stories/transforming-education-foreverychild-zim-renewed-commitment> (accessed on January 2, 2023).

41 Further Africa 'Zimbabwe to introduces e-courts and commercial courts' <https://furtherafrica.com/2022/05/03/zimbabwe-to-introduces-e-courts-and-commercial-courts/> (accessed on January 2, 2023).

42 Sunday Mail 'Zim Courts Enter Digital Age' <https://www.sundaymail.co.zw/zim-courts-enter-digital-age> (accessed on 2 January 2023). See also the Chronicle Virtual Court in Zimbabwe takes justice delivery system to the people' <https://www.>

2022

a timely development and a positive step in promoting access to justice in Zimbabwe. The operation of virtual courts is highly dependent on the Internet and the government is urged to consider consequential human rights violations that may occur due to internet disruptions. Such actions amidst positive steps towards digital transformation are retrogressive and tantamount to "shooting oneself in the foot".

Conclusion and Recommendations

Critical concerns marked the state of digital rights and inclusion in Zimbabwe for freedom of expression and the unwavering practice of disrupting the Internet. The media bore the brunt of the newly enacted CDPA while false news criminal sanctions continued in Zimbabwean law. Data governance in Zimbabwe continues to evolve as the implementation of the CDPA act continues on the path to full realisation. The following recommendations are made:

GOVERNMENT	PRIVATE SECTOR	CIVIL SOCIETY
<ul style="list-style-type: none"> • Collaboratively work with all stakeholders to ensure no internet disruptions or shutdowns. • Repeal sections 33(2) and 164 C of the Criminal Code, section 14 of S.I 83 of 2020 and amend section 88(b) of the Postal and Telecommunications Act [Chapter 12:05]. • Be more proactive in disclosing information on smart city initiative rollout plans and ensure effective data protection for data subjects. • Ensure regular proactive disclosures of the value of the Universal Service Fund and its utilisation. • Develop a national Artificial Intelligence and Emerging Technologies strategy. • Ensure inclusive consideration for marginalised groups in the design and implementation of smart city initiatives. • Launch more CICs in 	<p><i>To Mobile Network Operators</i></p> <ul style="list-style-type: none"> • Proactively disclose to the public any government instructions to disrupt the Internet. • Collaborate with the government to bridge the digital divide by reducing data tariffs and increasing broadband access in marginalised communities. 	<p><i>To the Zimbabwean Community</i></p> <ul style="list-style-type: none"> • Responsibly share information and fact-check the truthfulness of information shared on social media platforms. • Exercise tolerance for divergent political views and interests, refraining from hate speech.

GOVERNMENT	MEDIA	
<p>rural areas to bridge the digital divide for marginalised communities.</p> <ul style="list-style-type: none"> Enact Cyber and Data Protection Regulations that respect human rights following the call for inputs to the draft regulations to operationalise section 32 of the CDPA. Practice and encourage tolerance for dissent and divergent political views. Take legislative or other measures to improve its media freedom record, refraining from arbitrary arrests and harassment of the media. <p><i>To the Zimbabwe Human Rights Commission</i></p> <ul style="list-style-type: none"> Continue to call for the promotion and protection of freedom of expression and access to information in Zimbabwe. 	<ul style="list-style-type: none"> Be guided by ethics in reporting, to avoid misinformation and disinformation. Raise awareness of the CDPA law in collaboration with the government and civil society organisations. 	



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