



***FOR IMMEDIATE RELEASE***

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**CYBER SECURITY AND ELECTION READINESS**

The Centre for Trade Policy and Development (“CTPD”) is concerned about the implementation of digital security laws ahead of the August 12<sup>th</sup> General Elections.

In the second quarter of 2021, the Government of the Republic of Zambia enacted legislation that regulates cyber security as well as the storage, processing, and protection of electronic data in relation to private and corporate citizens. These include the Cyber Security Act No. 2 of 2021 which came into force on 1<sup>st</sup> April 2021.

The Cyber Security Act was enacted primarily to provide for the protection of persons against cyber crime and the continuation of the Central Monitoring and Co-ordination Centre (the “**Monitoring Centre**”), as well as the protection of critical information infrastructure. Among its salient provisions are that it empowers law enforcement officers to intercept communication of private individuals without prior notification to the citizen that they are being investigated or that communication to which they are a party is being intercepted and transferred to the Monitoring Centre. Furthermore, cyber inspectors are allowed to access and inspect the operation of any computer or equipment forming part of an information system and any associated apparatus or material which is believed to have been used in connection with any offence (with a warrant) without prior notice.

The legislation also provides for broader crimes such as hate speech and other forms of abuse on social media. Hate speech or conduct through any form of communication or electronic communication or the publication of information through a computer system, with the intent to coerce, intimidate, harass, or cause emotional distress to a person or to compromise the safety and security of another person is an offense for which the penalty is a fine of ZMW 150 000 or imprisonment for a period not exceeding two years, or both.

Although what constitutes hate speech is subject to interpretation, CTPD has noted with concern that certain politicians who have made derogatory comments directed at specific tribes or groups of people have not been brought to book pursuant to the Cyber Security Act, especially that these comments were published and streamed on social media. This brings into question the fairness and uniformity with which the law will be implemented especially given the concerns that were raised by civil society organisations and other stakeholders about

the Cyber Security Act curtailing freedom of expression and being used as a tool for political gain.

In addition, the provisions that allow interception of communication appear to be in conflict with the provisions in the Data Protection Act No. 3 of 2021 which has specific guidelines for the manner in which data (such as personal information) should be stored, processed and managed. According to this act, personal data cannot be accessed or processed without the consent of the subject. Generally, the fundamental rights and freedoms of the private citizens require protection in so far as the use of personal data, unless pursuant to a lawful purpose.

This lack of harmonization between the provisions in the statutes may present challenges in implementing and enforcing the law, especially as the country prepares to vote in the General Elections scheduled for 12 August 2021.

CTPD calls for increased collaboration between the institutions tasked with the regulation of cyber space and digital communication such as Zambia Information Communication and Technology Agency (ZICTA) and law enforcement agencies, as well as civil society organisations. The involvement of civil society organisations will ensure checks and balances in so far as ensuring uniformity in application of the law.

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**Editor's Note**

The Centre for Trade Policy and Development (CTPD) is a not-for-profit, membership based trade policy and development think tank. The organization was established in 1999 and existed as the civil society trade network (CSTNZ), until 2009 when it was rebranded as the Centre for Trade Policy and Development (CTPD).

The mandate of CTPD is to influence pro-poor trade and investment reforms at national, regional and multilateral levels as well as facilitate the participation of various stakeholders including member organizations in ensuring that trade is used as a tool for poverty eradication.

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