



Bonavero
Institute
of Human
Rights



PRICE MEDIA LAW MOOT COURT COMPETITION CASE

2023/2024 COMPETITION YEAR

**Official case of the 2024 International Rounds and the
2023/2024 Regional Rounds in South Asia, Asia Pacific,
Europe, the Americas, the Middle East, and Africa**

Cero

1. Cero is a country with a population of approximately 50 million people. In 2022, Cero recorded its highest economic growth rate in its history and became the first 'high income' nation in its region. Cero's successful technology and arms manufacturing industries are widely credited for this rapid economic growth.
2. Cero's Constitution recognises the right to the freedom of expression. Article 9 of the Constitution provides:
 1. Everyone shall have the right to the freedom of expression, including publication. This right shall also include the freedom to seek, receive and impart information and ideas of all kinds through any media.
 2. The exercise of this right entails special duties and responsibilities. It may, therefore, be subject to restrictions, provided that every restriction is provided by law and is necessary:
 - (a) For respect of the rights or reputations of others;
 - (b) For the protection of public order or public health; or
 - (c) For the protection of national, regional, or international peace and security.
3. Article 19 of the Constitution provides:
 1. Everyone has duties towards their family and society, the state, and the international community.
 2. Everyone has the duty not to compromise the security of the state, to preserve and strengthen social and national solidarity, particularly when the latter is threatened, to preserve and strengthen the national independence and the territorial integrity of Cero, and to contribute to its defence in accordance with the law.
4. Article 20 of the Constitution defines 'everyone' to mean both legal and natural persons. Moreover, article 21 establishes the jurisdiction of the Constitutional Court of Cero to hear petitions by both natural and legal persons with respect to the violation of any constitutional right by legislative, executive, or judicial action. Article 22 meanwhile provides that when interpreting any constitutional right, the Constitutional Court shall ensure such interpretation is consistent with Cero's obligations under international law. In 2000, Cero ratified the International Covenant on Civil and Political Rights (ICCPR) without reservations.
5. In 2018, Cero enacted the Digital Safety Act to, among other objectives, regulate the use of social media and the offering of social media services within Cero. Section 28 of the Act provides:
 1. No natural or legal person shall publish or disseminate on any digital device or social media platform content that is likely to be understood by a

reasonable person as a direct or indirect encouragement or other inducement to the commission, preparation, or instigation of acts of terrorism.

2. A person commits an offence under subsection 1 of this section if, at the time they publish or disseminate the content in question, they—
 - (a) intend members of the public to be directly or indirectly encouraged or otherwise induced by the content to commit, prepare, or instigate acts of terrorism; or
 - (b) are reckless as to whether members of the public will be directly or indirectly encouraged or otherwise induced by the content to commit, prepare, or instigate acts of terrorism.
3. For the purposes of this section, the content that is likely to be understood by a reasonable person as indirectly encouraging the commission or preparation of acts of terrorism include content that amounts to the glorification of any entity that engages in the commission or preparation of such acts of terrorism.
4. A person found guilty of an offence under this section shall, after summary trial before the High Court, be liable to pay a fine of up to USD 50,000 or imprisonment for a term not exceeding seven years, or both. The High Court may additionally impose a restriction order on such person found guilty of an offence, and such order may include restriction of the use of, or provision of any service relating to, any specified digital devices or social media platforms for a prescribed period.
6. Section 77 of the Digital Safety Act establishes the Digital Regulatory Commission, which is empowered to ‘monitor social media and receive and investigate complaints on the violation of this Act’. Accordingly, the Commission is authorised to prepare a report on ‘credible complaints’ and forward the same to law enforcement authorities for appropriate legal action.
7. Section 100 of the Digital Safety Act defines ‘terrorism’ and ‘glorification’ as follows:

‘Terrorism’ is the use or threat of violent action, both in and outside of Cero, designed to influence any government, or international organisation, or to intimidate the public, and for the purpose of advancing a political, religious, racial, or ideological cause.

‘Glorification’ includes any form of praise or celebration, and cognate expressions are to be construed accordingly.

OneAI

8. Cero is home to OneAI, a technology company that has developed some of the most sophisticated AI programmes in the world. On 1 January 2022, OneAI launched a beta-version of a new opensource AI tool called RMSM (‘Run-my-social-media’). RMSM is designed to aid a social media user to automatically generate content on their behalf. The tool can be plugged into an existing social media platform and can ‘learn’ to

generate content that the user would ordinarily generate. The aim of the tool is to post content imitating the style of the user. The user interface of the RMSM application resembles a web browser. A user can login to any social media account through RMSM, which then enables the user to use RMSM's features when posting on their social media pages.

9. The RMSM tool requires the user to train it through several steps. It first requires a user to answer forty questions related to the user's habits, preferences, economic, social and political views, and cultural background. Next, the tool monitors the user's activity on social media for a period of three months, and analyses user habits, preferences, and views. Finally, after the expiration of three months, the tool generates content by making 'suggestions' to the user. The content is posted only if the user approves the content. For example, the tool can plug into Twitter, and after having monitored the user's behaviour over three months, the tool can 'suggest' tweets it estimates the user would like to post on a scheduled basis in response to a news item or event. At the beta stage of RMSM, the AI-generated tweet would only be posted if the user consents to posting the 'suggestion'. RMSM does not prevent a user from continuing to post on social media directly, and when such direct posts are made, it continues to learn from the user's behaviour.
10. A 'settings' button on the RMSM application permits a user to control the frequency of 'suggested' content, list preferences in terms of themes and topics on which the user would like RMSM to make 'suggestions', and schedule 'suggestions' at particular times of the day. A user can also select an option where the RMSM application marks all suggested posts with the label 'suggested' to alert all those who view the post that it was 'suggested' by RMSM. A user can also deselect this option, choosing not to label 'suggested' content as such. The appearance of the label is similar to the label that appears next to posts that are 'promoted' using the paid promotion feature available on many social media platforms.
11. Prior to the launch of RMSM, OneAI spent over two years negotiating with major tech companies that operate social media platforms. In late 2021, a breakthrough in negotiations was achieved, and OneAI entered into agreements with all the major tech companies to permit this beta-version of RMSM to be used on their platforms as a plug-in. One of the features of RMSM that convinced the tech companies to come on board was its ability to ensure full compliance with the community standards of the relevant social media platform. OneAI argued that RMSM only generated content that was fully compliant with relevant community standards and, therefore, contributed towards a safer user experience. OneAI claimed that this feature assured users that the content 'suggested' by RMSM would always comply with relevant community standards. During pilot testing, OneAI was able to demonstrate that 99.3% of its AI-generated content complied with the relevant community standards of the platform on which the content was posted. It also claimed that this percentage would improve to 100% by the time it launched its market version.

12. Since its release on 1 January 2022, the beta-version of RMSM has become popular among celebrities and social media influencers whose revenue models are dependent on the continuous production of content. On 1 December 2022, OneAI announced that, on 1 January 2023, it would be launching the market version of RMSM as a subscription-based service, which requires users to pay USD 9.99 per month to use the tool. At the time, approximately 1 million users were beta-testing RMSM. Approximately 80% of these users subscribed to the paid service. The remaining users lost access to RMSM on 1 January 2023.
13. The market version of RMSM had a new optional feature which permitted users to authorise RMSM to automatically generate ('autogenerate') content and post it without prior approval from the user. OneAI's updated 'terms of service' specified that '100% of autogenerated content fully complied with the community standards of the social media platform on which the content is posted'. Users could access the RMSM settings to control the frequency of 'autogenerated' content, list preferences in terms of themes and topics on which the user would like RMSM to produce 'autogenerated' content, and to schedule such content. Any 'autogenerated' content could still be removed at any time by the user, as is the case for any content on all social media platforms. All 'autogenerated' posts are by default labelled as 'autogenerated' when viewed by others on the relevant social media platform. However, a user can access the settings and opt out of this labelling feature, similar to the labelling opt out function with 'suggested' content.
14. A user can select only one of the optional RMSM features at any given time. Therefore, the user can choose to select either the 'suggested' posts option or the 'autogenerated' posts option at any given time. Alternatively, the user has the option of simply deselecting both features and only posting directly. RMSM will continue to 'learn' from the user's posts – whether or not these features are enabled.

Una

15. Una is a Cerovian model and social media influencer. She has thirteen million followers on Instagram and four million followers on Facebook from around the world. It is estimated that around six million of her followers on Instagram and around two million followers on Facebook are from Cero. Una became famous for producing short videos on fashion, culture, and tourist destinations in Cero, and secured several endorsement contracts with luxury brands and hotels due to her popularity. She also posts regularly on political issues, including on women's rights and LGBTQIA+ rights, and has been a vocal critic of the arms trade. In 2022, she was named 'Cero's Most Influential Person' in an online poll of several thousand internet users. She is estimated to make close to USD 200,000 a month through her online engagements.
16. Una began to use RMSM as soon as the beta-version was released in 2022 and subscribed to the paid market version of the tool on 1 January 2023. At the time, around 40 percent of Una's content on Instagram and Facebook, including her posts endorsing products and destinations, was 'suggested' by RMSM. Una had the 'suggested'

labelling feature switched off, so people viewing her posts could not tell which posts were ‘suggested’ and which posts were not.

17. On 15 January 2023, Una decided to select the option to permit RMSM to ‘autogenerate’ posts on Instagram and Facebook. She selected themes such as ‘fashion’, ‘luxury’, ‘Women’s rights’, ‘LGBTQIA+’, ‘Anti-war’, and ‘Anti-guns’ in her preferences. She also went to her settings and opted out of RMSM’s labelling option. As a result, Una’s followers are not able to differentiate between direct and ‘autogenerated’ posts on Una’s social media feeds.
18. Over the next few months, Una closely monitored the ‘autogenerated’ posts on her social media feeds and was satisfied that they captured her preferences. She scheduled one ‘autogenerated’ post on Instagram at 9.00AM every day, and one ‘autogenerated’ post on Facebook at 11.00AM every day. The ‘autogenerated’ posts mostly included reviews of luxury items and hotels that Una regularly posted directly about. For example, on 15 February 2023, Una visited a luxury boutique hotel on the Cerovian coast and posted several photographs of the destination on Instagram. RMSM used these same photographs to ‘autogenerate’ new similar content throughout her week-long stay. The ‘autogenerated’ posts ensured that Una’s Instagram feed was regularly featuring the hotel and its facilities. Meanwhile, her followers liked and shared all her posts, including the ‘autogenerated’ posts.

Crisis in Enos

19. Cero shares a border with Enos, a low-income country with a population of approximately 20 million people. Over the past decade, Enos has experienced a brutal armed conflict between the Enosian military and an armed rebel group known as the Enos Liberation Army (ELA). The rebels claim that state corruption has devastated Enos’s economy, and that no free and fair elections have taken place in the country for decades. In this context, ELA launched an armed rebellion in 2012 with the aim of overthrowing the government and installing a new administration. The Enosian government has described ELA as a ‘terrorist’ organisation that is attempting to overthrow the government through violence. The rebels meanwhile claim to be ‘fighting for democracy’ and enjoy notable support among the Enosian population. In a nation-wide survey carried out in 2020 by Enos Polls, an independent polling organisation, more than forty percent of the three thousand respondents who participated in the poll stated that ELA represented their grievances.
20. The current government in Cero maintains good relations with the Enosian government. In 2020, Cero signed the Regional Defence Pact with Enos. As a result, Cero remains the largest supplier of defence technology and military equipment to Enos. However, many within the Cerovian population sympathise with ELA’s cause and have called for both a ceasefire and for a negotiated settlement between the Enosian government and ELA. Fearing public backlash, the government of Cero has not designated ELA as a ‘terrorist’ organisation under its Counter-Terrorism Act.

21. In early March 2023, fighting between the Enosian military and ELA intensified. ELA's numbers had depleted to just over 7,000 fighters due to sustaining heavy casualties. On 10 March 2023, the rebels retreated to the coastal Enosian town of Naut and were then surrounded by the Enosian military, which began to use heavy artillery fire to force the rebels to surrender. Most of the weaponry used by the military in this offensive were obtained from Cero.
22. By mid-March, around 25,000 Enosian civilians from Naut were trapped alongside the rebels as the Enosian military continued to shell the town. Reports from within Naut suggested that civilian casualties were rising as a result of the siege. Photographs and videos from the warzone, often depicting dead and injured civilians from Naut, began to circulate social media. Supporters of ELA used their social media handles to call on the international community to intervene to stop what they called 'war crimes' perpetrated by the Enosian military. The Enosian government maintained that the military was adopting a 'zero civilian casualty' policy and that any collateral damage to civilian targets was purely due to ELA's policy of intermingling with civilians and using civilians as 'human shields'.
23. Many social media users in Cero called on the Cerovian government to intervene to negotiate a ceasefire. The situation in Enos was described by these users as a 'humanitarian crisis'. Some users also criticised the Cerovian government for selling weapons to the Enosian government and called on the Cerovian government to cease all military ties with Enos.
24. On the morning of 14 March 2023, Una posted a video of herself on Instagram calling for a ceasefire in Naut. In the video, she says: 'My heart goes out to all my brothers and sisters in Naut. The bloodshed must stop!'. The caption on the post contained the hashtags '#❤️Naut' and '#StopArmingEnos'. This post went viral with thousands of Una's followers sharing it. Some of those who shared the post used the additional hashtag '#👊Ela'. This emoji '👊' is often associated with solidarity.
25. On 16 March 2023, while the situation in Naut worsened, Enos Rights Watch, a reputed non-governmental organisation based in Enos, claimed that 'unofficial estimates' of the civilian death toll was around three thousand. The report prompted another wave of social media posts in Cero. Some users began to use the term 'genocide' to describe the crisis.
26. Later that day, Una posted a picture of herself on both Instagram and Facebook with the identical caption: 'The genocide must stop! #❤️Naut #StopArmingEnos #👊Ela'. This post was also shared by thousands of followers using the same hashtags. None of Una's content relating to Naut was removed by Instagram or Facebook.
27. At 9.00AM on 17 March 2023, the RMSM feature on Una's Instagram handle autogenerated and published a post with a picture of her along with the caption: 'Stop the genocide! #❤️Naut #StopArmingEnos #👊Ela'. Una reviewed this published post at around 9.35AM and retained it on her feed.

28. Then at 11.00AM on 17 March, the RMSM feature on Una's Facebook page autogenerated and published the following post: 'The genocide must stop! I stand in solidarity with ELA. #❤️Naut #StopArmingEnos #🟡Ela'. While the post was liked and shared by many users, it also encountered some negative comments, as some users began to comment that Una was supporting 'terrorists'. Una was not active on Facebook between 10.45AM and 12.15PM, as she was traveling to a luxury hotel at the time and the mobile phone service reception had been poor during the journey. Una reviewed the post at around 12.15PM and decided to delete it due to the backlash. Una did not post any further content on social media with regard to the Enosian crisis.
29. On the morning of 18 March 2023, the Cerovian state news channel, Cero National Network reported that 'unidentified saboteurs' had detonated a small bomb at a Cerovian weapons manufacturing facility close to the border with Enos. The explosion had caused minor damage to one building and a weapons cache and had not resulted in any casualties. The report claimed that the 'terrorist attack' had been carried out at around 2.00AM. The station also aired a press briefing featuring the spokesperson for the Cerovian Ministry of Defence who claimed that initial investigations pointed to 'ELA sympathisers' as the likely perpetrators of the attack. Later that day, ELA issued a statement denying responsibility for the attack. The statement was carried on several independent news channels in Cero and was circulated on social media.
30. By the end of May, the Enosian military overran ELA in Naut. Around three thousand ELA rebels surrendered to the military, while the remainder were thought to have perished in the fighting. In an official statement, the Enosian government claimed that 'very few civilians were lost in the tactical operation' and that 'this was possible thanks to the precision with which attacks on terrorist-held locations in Naut were carried out'. However, Enos Rights Watch released its own statement claiming that nearly five thousand civilians and four thousand rebels had died during the operation. In mid-June, the United Nations Human Rights Council adopted a resolution calling for an independent fact-finding mission led by the Office of the High Commissioner for Human Rights to 'inquire into civilian and combatant deaths and the possible occurrence of war crimes during military operations in Naut, Enos'. A vast majority of Council members voted in favour of the resolution. Enos and Cero – both members of the Council – voted against the resolution.

Legal Proceedings

31. On 18 and 19 March 2023, the Digital Regulatory Commission received around a dozen complaints from Facebook users based in Cero that Una had glorified 'terrorism' in her Facebook post of 17 March at 11.00AM. Screenshots of the post were submitted along with the complaints. Some of the complaints filed on 19 March claimed that Una's 17 March post was connected to the 'terrorist' attack on Cerovian soil. The Commission reviewed the content, and on 20 March, submitted a report to the Cerovian Criminal Investigation Department (CCID) recommending Una's prosecution under section 28 of the Digital Safety Act.

32. On 21 March, the CCID summoned Una for an inquiry on the allegations. Una attended the inquiry along with her lawyers and explained that she had not intentionally posted the phrase 'I stand in solidarity with ELA', which had caused offence to some users. Her lawyers maintained that, although her Facebook post did not glorify terrorism in the first place, it was not, in any event, generated by her, and that she could not be held liable for it. Both Una and her lawyers explained how RMSM worked and argued that the AI tool had 'overstepped the mark' in autogenerating the impugned post. They also claimed that an official apology would be issued explaining the situation, and that legal action would be taken against OneAI for the 'glitch'.
33. Later that day, Una issued a short statement on all her social media handles apologising for 'the post of 11.00AM on 17 March'. She stated that the post had been 'autogenerated' due to a 'glitch on RMSM', and she 'intends to take necessary legal action'. Una thereafter deleted the RMSM feature on her social media handles. She did not, however, take any further action against OneAI.
34. On 22 March, the CCID summoned representatives of OneAI for a further inquiry. At the inquiry, representatives of OneAI maintained that the hashtag '#🇲🇻Ela' meant 'solidarity with ELA' and that the autogenerated post was entirely in line with Una's previous content. They also maintained that the content in question was fully compliant with Facebook's policy on 'Dangerous Organisations and Individuals', and was not flagged for any violation, including praising or glorifying 'terrorism'.
35. On 25 March, the CCID decided to institute legal action against both Una and OneAI in a joint prosecution under section 28 of the Digital Safety Act. Both Una and OneAI immediately filed petitions before the Constitutional Court of Cero complaining that their right to freedom of expression had been violated. Una claimed that her prosecution was arbitrary, unfair, and unreasonable, and that it violated her freedom of expression. She also claimed that the prosecution was motivated by the government's geopolitical and economic interests in supporting the government of Enos, and not by a good faith application of the relevant law. OneAI, meanwhile, claimed that it has the right to impart information and ideas through its AI tools, and its prosecution under the Digital Safety Act violated this right. However, the Constitutional Court decided to hear both petitions only after the conclusion of the trial in the High Court of Cero.
36. On 13 April, both Una and OneAI were found guilty of offences under section 28 of the Digital Safety Act after summary trial by the High Court. The Court found that the content was 'jointly produced' by Una and OneAI, and that the co-defendants were, therefore, jointly responsible for the content. It found Una and OneAI guilty of 'recklessly publishing content that indirectly encouraged acts of terrorism by glorifying an entity that committed acts of terrorism'. The Court held that, although ELA was not a designated 'terrorist' organisation, 'any reasonable person would recognise that it engaged in acts of terrorism as defined by the Act'. Una was sentenced

to pay a fine of USD 1,500 with a suspended prison sentence of one year, whereas OneAI was sentenced to pay a fine of USD 50,000. Additionally, the High Court issued a restriction order against Una under section 28(4) of the Digital Safety Act, prohibiting her from using any social media platform for a period of one month from the date of the conviction. It also issued a restriction order against OneAI, prohibiting it from offering the RMSM tool for a period of one month.

37. Both Una and OneAI immediately appealed their convictions before the Court of Appeal of Cero. The restriction orders of the High Court were suspended pending this appeal. However, both appeals were dismissed on 25 April, and the restriction orders were reactivated on that date.
38. Then, on 1 May, a panel of five judges of the Constitutional Court heard Una's and OneAI's pending petitions together. In a split decision of 3-2, the Court decided to dismiss both petitions on the basis that the restrictions imposed on the petitioners' freedom of expression were 'permissible under law'. It also noted that both petitioners had relevant constitutional duties under article 19(2) of the Constitution.
39. Una's conviction sparked considerable debate on social media in Cero. Many users came forward in support of Una, whereas many others called for her boycott and for her to be 'cancelled'. By 25 May (i.e., at the end of the period of Una's one-month ban from using social media), Una had lost 90% of her endorsement contracts with luxury brands and hotels in Cero due to the controversy surrounding her conviction and ban. She also lost six million of her followers on Instagram and two million followers on Facebook. As a result, Una's monthly income decrease to under USD 10,000. By this date, the number of subscribers of the RMSM tool, which had also been prohibited for a period of one month, had dwindled to 200,000 users.
40. No further information or statements were published on the alleged attack on the Cerovian weapons manufacturing facility on 18 March. The Ministry of Defence maintained that the findings of a military commission of inquiry had been 'classified on the grounds of national security'.

Universal Court of Human Rights

41. The Universal Court of Human Rights exercises exclusive jurisdiction to receive and consider applications from persons alleging the violation of rights recognised in the ICCPR.
42. Una and OneAI have exhausted all domestic remedies. They filed applications before the Universal Court of Human Rights alleging violations of Article 19 of the ICCPR.
43. The Court decided to hear the applications together, and certified the applications on two discrete issues:

Issue A: Whether the State of Cero, by convicting and sentencing Una under the Digital Safety Act, and specifically by imposing a one-month ban on her use of social media, violated her right to the freedom of expression recognised by Article 19 of the ICCPR.

Issue B: Whether the State of Cero, by convicting and sentencing OneAI under the Digital Safety Act, and specifically by imposing a one-month ban on its service, ‘RMSM’, violated its right to the freedom of expression, including the freedom to impart information and ideas, recognised by Article 19 of the ICCPR.

44. Una and OneAI sought from the Universal Court of Human Rights: (1) declarations that their rights under the ICCPR have been violated, and (2) directions to the State of Cero to take immediate measures to fulfil its obligations under the ICCPR.