

# Zambia

	2016	2017		
<b>Internet Freedom Status</b>	<b>Partly Free</b>	<b>Partly Free</b>	<b>Population:</b>	<b>16.6 million</b>
Obstacles to Access (0-25)	11	12	<b>Internet Penetration 2016 (ITU):</b>	<b>25.5 percent</b>
Limits on Content (0-35)	10	12	<b>Social Media/ICT Apps Blocked:</b>	<b>No</b>
Violations of User Rights (0-40)	17	17	<b>Political/Social Content Blocked:</b>	<b>No</b>
<b>TOTAL* (0-100)</b>	<b>38</b>	<b>41</b>	<b>Bloggers/ICT Users Arrested:</b>	<b>Yes</b>
			<b>Press Freedom 2017 Status:</b>	<b>Not Free</b>

\* 0=most free, 100=least free

## Key Developments: June 2016 – May 2017

- Following disputed presidential and national assembly elections in August 2016, mobile broadband networks were reportedly disrupted for up to 72 hours in parts of the country with strong opposition support (see **Restrictions on Connectivity**).
- Some online news outlets went offline after accusing the government of election fraud (see **Content Removal**).
- Social media and communications platforms played an important role in mobilizing political opposition and getting out the vote (see **Digital Activism**).
- Several individuals were arrested for critical comments made on Facebook, including an opposition politician, a university student, and an independence activist from the minority Barotseland region, marking an increase from years past (see **Prosecutions and Detentions for Online Activities**).

## Introduction

Internet freedom in Zambia declined during the coverage period due to contentious general elections in August 2016, which resulted in an array of restrictions. The government censored independent online news outlets, arrested people who criticized officials on social media, and may have interfered with mobile network connectivity to prevent the opposition from effectively challenging the official result of the vote.

President Edgar Lungu claimed victory, but his re-election was contested by opposition parties, whose supporters accused the ruling Patriotic Front party and the Electoral Commission of voter fraud. Amid protests, mobile broadband networks were reportedly disrupted in regions of the country with strong opposition support, leading to strong suspicions of deliberate government interference.

Critical online news outlets were also censored. In September 2016, the *Zambian Watchdog* and its Facebook page became temporarily inaccessible. The authorities had reportedly raided the offices of the outlet's hosting company. Another website, *Zambian Accurate and Balanced News* was also reportedly shut down after it accused the ruling party of rigging the elections and bribing judges.

Zambian government officials repeatedly warned against the "misuse" of social media tools in the past year and arrested more individuals for online speech than ever before. In April 2017, Chilufya Tayali, the leader of a newly formed Economic Equity Party (EEP), was arrested and detained for five days for comments he made on Facebook about the Inspector General of Police, Kakoma Kaganja, which the authorities deemed as libellous. Munyinda Munukayumbwa, an activist from the contentious Barotseland region, was separately arrested on charges of sedition for a Facebook post criticizing the government for marginalizing the region.

The political situation became more unstable when the authorities arrested the main opposition leader Hakainde Hichilema in April and charged him with treason because his convoy allegedly refused to make way for President Lungu's motorcade. A 90-day state of emergency was imposed in July to quell rising tensions. Supporters of Hichilema were harassed, including Larry Mweetwa, a leading social media activist for the opposition UPND, who was discredited by a fake social media profile operating in his name. Observers increasingly suspect that the government may be paying trolls to disseminate progovernment propaganda and sow misinformation about the opposition.

Despite the decline, the internet continues to be a vibrant platform for sharing critical information. Social media and communications platforms played a particularly important role in mobilizing Zambian citizens and civil society during the election season.

## Obstacles to Access

Mobile broadband networks were reportedly disrupted for 48 to 72 hours in opposition-leaning regions of the country after the disputed elections in August 2016, leading to strong suspicions that the government had deliberately shut them down. In April 2017, President Lungu asked the regulator ZICTA to monitor social media, especially Facebook, which he said was being abused by some Zambians.

### Availability and Ease of Access

Key Access Indicators		
Internet penetration (ITU) <sup>a</sup>	2016	25.5%
	2015	21.0%
	2011	11.5%
Mobile penetration (ITU) <sup>b</sup>	2016	75%
	2015	74%
	2011	60%
Average connection speeds (Akamai) <sup>c</sup>	2017(Q1)	2.3 Mbps
	2016(Q1)	2.1 Mbps

<sup>a</sup> International Telecommunication Union, "Percentage of Individuals Using the Internet, 2000-2016," <http://bit.ly/1cblxxY>.

<sup>b</sup> International Telecommunication Union, "Mobile-Cellular Telephone Subscriptions, 2000-2016," <http://bit.ly/1cblxxY>.

<sup>c</sup> Akamai, "State of the Internet - Connectivity Report, Q1 2017," <https://goo.gl/TQH7L7>.

Zambia was among the early adopters of the internet in sub-Saharan Africa with the installation of dial-up and satellite technology at the University of Zambia in the early 1990s, though access has grown slowly ever since. Internet penetration increased incrementally in the past year, growing from a rate of 21 percent in 2015 to 26 percent in 2016, according to the latest data from the International Telecommunication Union (ITU). The mobile phone penetration rate also grew incrementally, reaching nearly 75 percent in 2016, up from 74 percent the previous year. Despite increasing access, internet connection speeds are still slow, averaging 2.3 Mbps compared to a global average of 7.2 Mbps, according to Akamai's *State of the Internet* report.

The costs involved in information and communication technology (ICT) ownership and access to internet services are a major barrier to access for the majority of Zambian citizens, especially in rural areas.<sup>1</sup> According to a recent survey by the regulator ZICTA,<sup>2</sup> only 13.5 percent of mobile phones users have smartphones, though the same survey noted that the number of people who know how to use the internet is increasing.

Many mobile companies offer promotional data plans. For example, Airtel offers a social bundle, which allows users to access social media for an unlimited time over a daily, weekly or monthly period. Internet freedom advocates have challenged the practice of charging internet users different rates to access different content and services for violating the principle of net neutrality, though the promotions also encourage internet use and help expand access in low income areas. Bundles were priced at US\$ 0.10 per day for Facebook and US\$ 0.20 per day for WhatsApp, Facebook, and Twitter in 2017. Airtel also offers Facebook Free Basics, which allows users to access a simplified version of

1 "Zambia Human Development Report 2016," United Nations Development Program, <http://bit.ly/2vfFDGg>

2 "63% of Zambians online spend their times on Social Networking sites – ZICTA survey," Lusaka Times, <http://bit.ly/2ucidNU>

Facebook for free. Free Basics also enables free access to a few other websites such as Wikipedia, Go Zambia Jobs, Mobile Alliance for Maternal Action, and a women's rights app. Zambia was the first African country where Facebook launched this free service in mid-2014. In May 2017, MTN Zambia launched Facebook Flex, a service that allows subscribers on the MTN network to access the full version of Facebook for free.

While access to ICTs is steadily increasing, access in rural areas has lagged behind due to the high costs of hardware and software, poor network coverage, and high levels of illiteracy. The government and service providers have invested few resources into expanding ICT infrastructure in rural areas. Erratic and expensive electricity represents an additional obstacle to access in rural areas, where less than 6 percent of residents have access to electricity.<sup>3</sup> Consequently, there is a significant urban-rural divide, with mobile network coverage reaching 99 percent of individuals in urban areas compared to 84 percent of individuals in rural areas.

## Restrictions on Connectivity

After disputed presidential elections in August 2016, mobile broadband networks were reportedly disrupted for 48 to 72 hours in regions of the country which challenged the result such as Southern province (the stronghold of the main opposition UPND), leading to strong suspicions of deliberate government interference.<sup>4</sup> The outage followed protests that erupted among opposition supporters who accused the electoral commission of voter fraud. Two mobile providers—MTN and Airtel—confirmed the disruptions but did not provide a reason, leaving it unclear whether the outage was ordered by the government.<sup>5</sup> Nonetheless, the subsequent banning of independent broadcast and radio outlets further strengthened suspicions that the disruptions were part of an overall strategy to crack down on press freedom and freedom of expression in order to consolidate the president's power.<sup>6</sup>

Partial state ownership of the country's fiber backbone and control over connections to the international internet may enable the government to restrict connectivity at will.<sup>7</sup> As a landlocked country, Zambia's national fiber backbone is provided by three operators: state-owned Zambia Telecommunications Ltd (Zamtel), state-owned Zambia Electricity Supply Corporation Ltd (ZESCO),<sup>8</sup> and privately-owned Copperbelt Energy Corporation (CEC). Zamtel operates the fiber-optic connection to two international submarine cables: the WACS and Sat-3.<sup>9</sup> MTN and Airtel lease access to the undersea cables from Zamtel, while MTN also connects directly to the EASSy.<sup>10</sup> There are three internet exchange points (IXPs) in the country owned by Hai Corporation, CEC Liquid Telecom

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3 ZICTA, "ICT survey report 2015 – Households and individuals."

4 Nigel Gambanga, "Zambian government suspected of causing internet shutdown following outage in opposition strongholds," TechZim, August 18, 2016, <http://www.techzim.co.zw/2016/08/zambian-government-suspected-causing-internet-slowdown-shutdown-following-outage-opposition-strongholds/>

5 Moses Karanja, Twitter post, August 19, 2016, [https://twitter.com/Mose\\_Karanja/status/766684089613185025](https://twitter.com/Mose_Karanja/status/766684089613185025)

6 Conor Gaffey, "Zambia: Three broadcasters shut down as opposition alleges media crackdown," Newsweek, August 23, 2016, <http://www.newsweek.com/zambia-three-independent-broadcasters-shut-down-opposition-alleges-media-492764>

7 According to the ITU, the gateway to the international internet in Zambia is fully liberalized and competitive. See, International Telecommunication Union, "Zambia Profile (Last data available: 2013)," *ICT-Eye*, accessed August 1, 2016, <http://bit.ly/1NEhLHk>.

8 Michael Malakata, "ZESCO begins leasing fiber communication backbone," Network World, September 24, 2008, <http://bit.ly/1LcyRkN>.

9 Michael Malakata, "Zambia's Zamtel connects to WACS, Sat-3 undersea cables," PC Advisor, July 26, 2012, <http://bit.ly/1OxJLFC>.

10 "MTN Zambia to invest USD3 million on connection to EASSy," Tele Geography, March 29, 2012, <http://bit.ly/1k89kjF>.

and ZESCO. According to a July 2013 *Zambian Watchdog* report, the location of one of them, which is reportedly housed in the same building as Zamtel in the capital city, Lusaka, may further enable government influence over domestic internet traffic<sup>11</sup>

## ICT Market

Zambia's ICT sector is one of the fastest growing sectors in the country, registering 40 percent growth in 2016.<sup>12</sup> The Zambian market for (internet service providers) ISPs is competitive without a dominant player.<sup>13</sup> There are 23 registered ISPs, three of which are also the country's mobile phone providers: MTN, Airtel, and state-owned Zamtel.<sup>14</sup> Vodafone is the latest entrant to the mobile market. In April 2017, Transportation and Communication Minister Brian Mushimba announced a new licensing framework for the telecommunication industry, which paved the way for the new operator.<sup>15</sup>

All internet and mobile service providers are privately owned, with the exception of Zamtel, which was renationalized in January 2012 under the late President Michael Sata.<sup>16</sup> Sata's predecessor, President Rupiah Banda, had privatized the company.<sup>17</sup> While Zamtel has the smallest share in the mobile phone market,<sup>18</sup> it commands the largest share of internet subscriptions, with over 60 percent of the market.<sup>19</sup> It is also the only mobile operator which also offers landline telephone service.

## Regulatory Bodies

The Zambia Information and Communications Technology Authority (ZICTA) is the regulatory body for the ICT sector. Established under the Information and Communication Technologies Act of 2009, ZICTA is known to be generally autonomous in its decision-making, although the government has some ability to influence ZICTA's activities.<sup>20</sup> In April 2017, President Lungu asked ZICTA to monitor social media, especially Facebook, which he said was being abused by some Zambians.

The Minister of Information and Broadcasting Services is mandated to oversee ZICTA's activities and appoint the members and chairperson of the ZICTA board.<sup>21</sup> The minister is also entitled to issue general directives, which the regulator is obligated to carry out.<sup>22</sup>

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11 "In bid to spy on citizens, Sata gives Chinese complete access to Zambia's military, OP files" *Zambian Watchdog*, "July 23, 2013, <http://bit.ly/1LczMlf>

12 Zambia's ICT sector grew by 40.02% in 2016," IT Web Africa, <http://bit.ly/2hPD5UR>

13 ShullerHabeenzu, "Zambia ICT Sector Performance Review 2009/2010," (policy paper, Research ICT Africa, 2010) <http://bit.ly/1NK9LgU>.

14 ZICTA "Internet Service Provider," accessed February 10, 2015, <http://bit.ly/1MsuzmW>.

15 "Fourth Mobile Operator Finally Coming to Zambia," *Zambia Reports*, <http://bit.ly/2ot9l4r>

16 Sata "deemed it desirable to acquire back the 75 percent shareholding of Libya's Lap Green Network in Zamtel." George Chellah "Press Statement: ZAMTEL Nationalization," press release, January 24, 2012, <http://on.fb.me/1OxKlmp>.

17 Matthew Saltmarsh, "Privatization of Zambian Phone Company Degenerates into a Feud," *New York Times*, October 3, 2010, <http://nyti.ms/1VURg8z>.

18 "MTN Zambia is the country's largest mobile operator – ZICA," *Lusaka Voice*, March 2, 2015, <http://bit.ly/1KbWIT2>.

19 Deloitte, *Doing Business in Zambia – A unique flavour*, March 2013, <http://bit.ly/1NeSJUU>.

20 International Telecommunication Union, "Zambia Profile (Last data available: 2013)."

21 First Schedule (Section 4), The Information and Communication Technologies Act [No. 15 of 2009], <http://bit.ly/1KbWEx7>.

22 The Information and Communication Technologies Act, No. 15 of 2009, Part XI, art 91, <http://bit.ly/1KbWEx7>; See also, ShullerHabeenzu, "Zambia ICT Sector Performance Review 2009/2010," (policy paper, Research ICT Africa, 2010) <http://bit.ly/1NK9LgU>.

Some internet content is also regulated by the Independent Broadcasting Authority, which oversees the enforcement and compliance of regulations in broadcast programming. This includes programming that TV and radio stations make available online.<sup>23</sup>

## Limits on Content

*Critical online news outlets and their associated Facebook pages were taken offline following the disputed general elections in August 2016. The elections period also saw the proliferation of progovernment commentators and disinformation.*

## Blocking and Filtering

Political and social content is not systematically blocked, though some websites were unavailable during the reporting period and may have been restricted. Social media and communications platforms such as YouTube, Twitter, Facebook, WhatsApp, and international blog hosting services were freely available in 2017.

Tests conducted by the Open Observatory of Network Interference (OONI) and Strathmore University's Centre for Intellectual Property and Information Technology Law (CIPIT) during the August 2016 election period found that 10 different websites were consistently inaccessible, though the tests were inconclusive regarding whether the websites were blocked.<sup>24</sup> The sites affected included a forum on drugs, a pornography hub, and a dating website for LGBTI (lesbian, gay, bisexual, transgender, or intersex) individuals, which may be linked to the prohibition of homosexuality under Zambia's Penal Code.<sup>25</sup>

Zambia was the first country in sub-Saharan Africa to censor online content in 1996, when the government demanded the removal of a banned edition of *The Post* from the newspaper's website by threatening to hold the ISP, Zamnet, criminally liable for the content. There were no other reported incidents of internet censorship until July 2013, when four independent online news outlets—*Zambia Watchdog*, *Zambia Reports*, *Barotse Post*, and *Radio Barotse*—were blocked until April 2014, apparently for their critical coverage of the Patriotic Front ruling party under President Michael Sata.<sup>26</sup>

## Content Removal

Intermediaries are not held liable for content under the 2009 Electronic Communications and Transactions Act,<sup>27</sup> though the government has been known to censor content by directing online media editors to remove material considered problematic or offensive upon request.

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23 Independent Broadcasting Authority, "About Us," accessed August 1, 2016, <http://www.iba.org.zm/about-us.html>

24 Maria Xynou et al., "Zambia. Internet censorship during the 2016 general elections?" October 11, 2016, <https://ooni.torproject.org/post/zambia-election-monitoring/#finding>

25 Sections 155 through 157, <http://www.parliament.gov.zm/sites/default/files/documents/acts/enal%20Code%20Act.pdf>

26 Peter Adamu, "Zambia Reports, Watchdog 'Unblocked,'" *Zambia Reports*, April 4, 2014, <http://bit.ly/1KbWYfu>; "The Watchdog has been released," *Zambia Weekly*, March 27, 2014, <http://bit.ly/1X7wVPP>; "Zambia blocks third website: Barotse Post," *Zambian Watchdog*, September 10, 2013, <http://bit.ly/1MFdqls>

27 Electronic Communications and Transaction Act No. 21 of 2009, Part X, Limitation of Liability of Service Providers, <http://bit.ly/1Pk92TO>

In September 2016, the critical online news outlet *Zambian Watchdog* and its Facebook page became completely inaccessible even outside Zambia, indicating that they were taken down rather than blocked. The authorities had reportedly raided the offices of a local web hosting company in search of *Zambian Watchdog's* servers.<sup>28</sup> Though the government did not make an official statement about the issue, the shutdown followed weeks of post-election criticism by the news outlet, which the government tried to ban in 2012, and which was temporarily blocked in 2013 (see “Blocking and Filtering”). It is not clear whether the outlet’s Facebook page was taken down by the company because it was reported for violating user guidelines, or whether the page administrators removed it themselves. Both the website and the Facebook page were back online as of mid-2017. The *Zambian Accurate and Balanced News* was also reportedly shut down in August 2016 after it published articles accusing the ruling party of rigging the elections and bribing constitutional judges.<sup>29</sup>

The authorities also accessed users’ social media pages extralegally to remove content. In July 2017, police reportedly deleted a Facebook page run by the news outlet *Zambia Accurate News Services*, after they arrested the page administrator and physically forced her to hand over her log-in details (see Prosecutions and Detentions for Online Activities, and Intimidation and Violence).<sup>30</sup>

There has only been one removal request from Zambian government to Google since the company began publishing its Transparency Report. The request was in December 2015 for impersonation.<sup>31</sup> Zambia does not feature in other transparency reports produced by Facebook and Twitter.

## Media, Diversity, and Content Manipulation

Online content producers face considerably less government pressure than their traditional media counterparts, possibly because some web platforms allow them to publish anonymously. As a result, social media platforms and citizen journalists have emerged as important sources of information, and Zambians now recognize the parallel existence of official media and alternative voices from online sources. The Zambian blogosphere and social media are vibrant, representing diverse viewpoints and opposition voices, and many mainstream journalists have turned to social media to express themselves more freely. Local content from mainstream media is now available online but the country still lags behind in terms of diverse local content, particularly for groups in rural areas. According to “The Inclusive Internet: Mapping Progress 2017” report, Zambia ranks 69 out of 75 countries in the category of content which has local relevance or is available in local languages.<sup>32</sup>

While blogs hosted on international platforms such as Wordpress have proliferated in recent years, online publications face economic constraints that compromise their ability to remain financially sustainable. The government is the largest source of advertising revenue for traditional media outlets and has been known to withhold advertisements from critical outlets.<sup>33</sup> Moreover, private

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28 “The Plight of the Zambian Watchdog: Embattled Opposition News Site Goes Down,” Global Voices (blog), October 11, 2016, <https://advoc.globalvoices.org/2016/10/11/the-plight-of-the-zambian-watchdog-embattled-opposition-news-site-goes-down/>

29 “Message From The Zambian Watchdog 2.0 : Be Aware Of Imitators And Fake Pages,” The Zambian Observer, September 23, 2016, <http://www.zambianobserver.com/message-from-the-zambian-watchdog-2-0-be-aware-of-imitators-and-fake-pages/>

30 “State of emergency: police delete critical facebook page after arresting, torturing owner,” Zambian Watchdog, July 15, 2016, <https://www.zambiawatchdog.com/state-of-emergency-police-delete-critical-facebook-page-after-arresting-torturing-owner/>

31 “Google Transparency Report,” Google, <http://bit.ly/2uNu6xy>

32 “The Inclusive Internet: Mapping Progress 2017,” <http://bit.ly/2vayCXC>

33 Freedom House, “Zambia,” *Freedom of the Press 2017*, <http://www.freedomhouse.org/report/freedom-press/2017/zambia>

companies often do not advertise in news outlets that seem antagonistic to government policies out of fear of the potential repercussions.<sup>34</sup> These trends are likely mirrored online, though in general, online news platforms are much less developed than print and broadcast media. Some online news outlets are hosted abroad and receive advertising revenue from international sources.

Growing government pressure on the media in recent years has created a climate of self-censorship among journalists, both on and offline. This intensified following the August 2016 presidential elections, which saw a concerted crackdown on independent media,<sup>35</sup> and a growing number of arrests for online expression (see Prosecutions and Detentions for Online Activities). The state of emergency invoked in July 2017 exacerbated the tensions and fears underlying self-censorship.

Online journalists and bloggers increasingly write anonymously to avoid harassment or the threat of legal action,<sup>36</sup> particularly on issues regarding politics and corruption involving government officials. More social media users also restrict their communications to a private circle instead of sharing information publicly. Many commentators on news sites use pseudonyms to speak freely. With the exception of *News Diggers*, a newer outlet, most sites do not share publicly their addresses, ownership, management, or actual names of their reporters.

A survey by Afrobarometer—an African-led series of national public attitude surveys on democracy and governance in Africa—published in July 2017 found that many Zambians believe freedom of speech is being eroded, while the percentage of people who watch what they say about politics online rose from 62 percent to 72 percent between 2012 and 2017.<sup>37</sup> The survey also found that only one in three Zambians feel comfortable criticizing the president.

Meanwhile, pro-government trolls are becoming increasingly common on social media platforms such as Facebook, typically responding to posts that are critical of the government with a flood of insults or comments on unrelated issues.<sup>38</sup> Observers suspect that the government may be paying the trolls to disseminate propaganda.<sup>39</sup> Some progovernment trolls have been accused of opening fake Facebook accounts to smear opposition supporters. In one high profile example, a fake Facebook profile impersonating Larry Mweetwa, a leading social media activist for the opposition UPND, posted comments that made Mweetwa appear to celebrate a fire that devastated a popular market in Lusaka.<sup>40</sup>

Fake news reports disguised to look like the real thing and fake “official” statements have become a dominant feature of the online information landscape, particularly following the disputed general elections in August 2016 and the arrest of the main opposition leader Hakainde Hichilema for

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34 “Zambia 2013,” African Media Barometer (Friedrich-Ebert-Stiftung: fesmedia Africa, 2013).

35 For example, in August 2016, immediately after the elections, the Independent Broadcasting Authority (IBA) suspended the licences for independent Komboni Radio, ItheziTezhi Radio and MUVI TV for allegedly posing a risk to national security. Shortly before the elections, the largest independent daily newspaper, The Post, known for its criticism against the government, had their offices locked up and printing equipment seized for not paying taxes (which the paper disputes). After the election the authorities liquidated the paper.

36 “Zambia 2013,” African Media Barometer (Friedrich-Ebert-Stiftung: fesmedia Africa, 2013).

37 Afrobarometer, “Zambia at a crossroads: Will citizens defend democracy?” 2017 [http://afrobarometer.org/sites/default/files/publications/Dispatches/ab\\_r7\\_dispatchno157\\_zambia\\_democracy\\_at\\_a\\_crossroads.pdf](http://afrobarometer.org/sites/default/files/publications/Dispatches/ab_r7_dispatchno157_zambia_democracy_at_a_crossroads.pdf)

38 *Zambian Economist*, Facebook Post, July 12, 2014, <http://on.fb.me/1GIYKED>.

39 Evans Mulenga, “Zambia’s Growing Censorship Problem,” *Zambia Reports*, May 6, 2014, <http://bit.ly/1jriYOu>.

40 “Fake Post Being Circulated On Social Media By PF Carders On Burning Of Soweto Market – Larry Mweetwa,” *The Zambian Observer*, July 4, 2017, <http://www.zambianobserver.com/fake-post-being-circulated-on-social-media-by-pf-carders-on-burning-of-soweto-market-larry-mweetwa/>

treason in April 2017. Political parties have reportedly formed “rapid response teams” to counter misinformation.

## Digital Activism

Social media and communications platforms played an important role in mobilizing Zambian citizens and civil society during the 2016 elections. The hashtag #ZambiaDecides was used by many observers to follow, monitor, report, and share election related news and information. The Zambia Elections Information Centre (ZEIC), a multistakeholder platform, allowed citizens to monitor the vote and report any suspicious incidents via SMS or WhatsApp. The center also solicited reports of election-related wrongdoing on Facebook and Twitter. The Electoral Commission of Zambia used Facebook and Twitter to communicate with voters while its press conferences were live-streamed on social media. Citizens set up two election-related social media platforms, “Know Your Candidate,” which introduced candidates to voters, and “Scorpion,” which provided details on the candidates’ platforms and campaign promises. Voters were also able to verify their registration status by SMS.

Communications platforms have been crucial for advancing social justice. In June 2016, WhatsApp and social media helped publicize the assault of a woman by a group of men. A video of the incident captured filmed on a mobile phone was widely circulated on WhatsApp and social media, helping police hold the perpetrators accountable.<sup>41</sup> Another video which went viral on social media in March 2017 documented a drunk police officer threatening to shoot a member of parliament and his wife. The video ignited a nationwide debate about professionalism in the police force and forced police to commit to raising standards.<sup>42</sup>

## Violations of User Rights

*Several individuals were arrested for their online activities in the past year, marking an increase from years past. Online journalists and users faced increasing harassment and intimidation for their online activities amid repeated warnings by Zambian government officials against the “misuse” of social media tools.*

## Legal Environment

President Lungu enacted the Constitution of Zambia (Amendment) Act of 2016 in January 2016, implementing a new constitution that had been in the works for several years.<sup>43</sup> The amendments stemmed from a process that started in 2011 under then-President Michael Sata. While many drafts emerged from local conferences that sought multistakeholder engagement from citizens and civil

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41 The video of the incident was circulated on WhatsApp and shared on social media platforms. See: “Brutal assault, sexual abuse video goes viral,” Lusaka Times, July 2, 2016, <http://lusakavoice.com/2016/07/02/brutal-assault-sexual-abuse-video-goes-viral/>; YouTube video: <https://www.youtube.com/watch?v=IDYRjgdudBs>

42 “Video: Watch drunk police officer threatening to shoot Mazabuka MP,” Tumweko, <https://tumfweko.com/2017/03/27/video-drunk-zambia-policeman-with-a-fire-arm/>

43 “President Lungu ushers new constitution, calls for new approach to politics,” Lusaka Times, January 5, 2016, <https://www.lusakatimes.com/2016/01/05/president-lungu-ushers-in-a-new-constitution-calls-for-a-new-approach-to-politics/>

society organizations, the amendments lacked many of the provisions sought by citizens, including the protection of fundamental rights and freedoms.<sup>44</sup>

A constitutional referendum was held in August 2016 alongside general elections to seek voter approval of new amendments to the constitution's "Bill of Rights," which provides specific protections for print, broadcast, and electronic media freedom, and explicitly prohibits the government from exercising control or interfering with media activities.<sup>45</sup> Though approved by 71 percent of voters, the referendum failed to garner the minimum voter turnout threshold of 50 percent required to validate the results.<sup>46</sup>

Without constitutional protections, freedom of expression and the media are limited by clauses in the penal code that criminalize defamation of the president<sup>47</sup> and give the president "absolute discretion" to ban publications regarded as "contrary to the public interest."<sup>48</sup>

Compared to specific restrictions on the traditional media, there are no restrictive laws related to the regulation of ICTs and online activities, though government officials often state their intentions to introduce legislation regulating online media, citing the problems of "internet abuse" and cybercrime. In April 2017, Minister of Transport and Communication Brian Mushimba announced plans to introduce a Cybercrime Bill, a Cyber Security Bill, and a Data Protection Bill. The Cyber Security Bill will penalize abuse of social media, the minister said.<sup>49</sup>

Judicial independence is guaranteed in the constitution but is not respected in practice; it is also undermined by other laws that allow for executive interference in Zambia's justice system. Notably, the Service Commissions Act, which establishes a Judicial Service Commission to advise the president on judicial appointments, provides the president with the power to give the commission "general directions as the President may consider necessary" and obliges the commission to comply with the directions.

Following protests, arson incidents around the country, and the refusal by the main opposition party, UPND, to recognise the presidential results, President Edgar Lungu declared a state of emergency on July 5, 2017, after first threatening to do so in April 2017.<sup>50</sup> The 90-day period of emergency rule prohibited public meetings, closed roads, imposed curfews, and restricted movements.<sup>51</sup> Though no specific limits were placed on online activities, critics believe the move was an effort by the president to tighten his grip on power.

## Prosecutions and Detentions for Online Activities

Several individuals were arrested for their online activities in the past year, marking an increase over the numbers of cases documented in past years:

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44 "Zambia constitutional amendments do not protect basic rights," Freedom House, press release, January 6, 2016, <https://freedomhouse.org/article/zambia-constitutional-amendments-do-not-protect-basic-rights>

45 Constitution of Zambia Amendment Bill of Rights, June 2016, <http://bit.ly/2eAonTu>

46 "Referendum vote flops, fails to meet threshold," Lusaka Times, August 19, 2016, <http://bit.ly/2fGW1K1>

47 The Penal Code Act, Chapter 7, art. 69, <http://bit.ly/2fcA9ln>

48 The Penal Code Act, Chapter 7, art. 53.

49 "Bills to regulate social media on the cards - Mushimba," Daily Nation, <http://bit.ly/2vYiy9h>

50 Mukosha Funga, "Lungu declares Threatened State of Emergency," News Diggers!, July 5, 2017, <http://bit.ly/2u93hvj>

51 "Zambia parliament approves 'enhanced security measures,'" Al Jazeera, July 14, 2017, <http://www.aljazeera.com/news/2017/07/zambia-parliament-approves-90-day-state-emergency-170711200535989.html>

- In April 2017, Chilufya Tayali, the leader of a newly formed Economic Equity Party (EEP), was detained for five days for comments he made on Facebook about the Inspector General of Police, Kakoma Kaganja, which the authorities deemed as libellous under section 191 of the Penal Code.<sup>52</sup>
- Also in April, Munyinda Munukayumbwa, an activist from the contentious Barotseland region, was arrested on charges of sedition for a Facebook post in which he allegedly cursed the state house in a reference to the national government.<sup>53</sup> Activists in Barotseland advocate for the region's self-determination. As of June 2017, Munyinda remained in pre-trial detention and had been denied bail.
- In May 2017, the Inspector General of Police threatened to arrest social media users who have "ill intentions of causing confusion" and said police had already arrested several people who had been using social media to encourage others to engage in violence. He did not give details of those who were arrested.<sup>54</sup>
- WhatsApp messages sent by Asher Hakantu in a group called "We need a better Zambia" in May 2017 led to defamation charges following a complaint from Mumbi Phiri, the deputy secretary general of the ruling party.<sup>55</sup> The messages contained allegations about politician's personal life.
- In July 2017, police arrested university student Edward Makayi for allegedly insulting President Lungu and other government and party officials in Facebook posts published between April and July.<sup>56</sup> He faces three counts of defamation in total.
- Also in July, police arrested and reportedly tortured Mutinta Lushoma Haabasune, an administrator/editor of the *Zambia Accurate News Services* Facebook page (see Content Removal and Intimidation and Violence).<sup>57</sup>

## Surveillance, Privacy, and Anonymity

Zambia currently lacks an effective data protection framework, and little is known about the Zambian government's surveillance practices and capabilities, though investigative journalism has revealed problematic practices in recent years. In July 2017, Thomas Allan Zgambo and Clayson Hamasaka, Lusaka-based journalists affiliated with the critical website *Zambian Watchdog*, sued the mobile phone company Airtel for intercepting a total of 225 phone conversations between 2013 and 2014 and diverting the calls to a number belonging to state intelligence.<sup>58</sup>

In July 2015, email leaks from the Italian surveillance firm Hacking Team revealed that the company may have sold sophisticated spyware known as Remote Control System (RCS) to the Zambian

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52 "Chilufya Tayali Arrested and charged with criminal libel," Lusaka Times, <http://bit.ly/2pfJfFE>

53 "Father of Munyinda Munukayumbwa," Barotseland Post, <http://bit.ly/2ucsN7P>

54 Mukosha Funga "There's no tension in Zambia: Police threaten to arrest social media users" News Diggers! May 20, 2017, <http://bit.ly/2v8xqUQ>.

55 Mukosha Funga, "Lusaka man denies defaming Mumbi Phiri in a Whatsapp group," News Diggers! <http://bit.ly/2ueDF4Y>

56 "Police arrest engineering student for 'insulting' President Lungu on Facebook," July 25, 2017, <http://bit.ly/2tOhoLG>

57 "State of emergency: police delete critical facebook page after arresting, torturing owner," Zambia Watchdog, July 15, 2017.

58 "Here are some of the ministers whose phone calls Airtel has been diverting," Zambian Watchdog, <http://bit.ly/2vYfntU>.

authorities.<sup>59</sup> While the leaked emails did not confirm that a sale took place, they point to the government's intent to acquire technologies that can monitor and intercept user communications.

The Electronic Communications and Transaction Act of 2009 provides for the protection of personal information and details conditions for the lawful interception of communications,<sup>60</sup> though several provisions give the government sweeping surveillance powers with little to no oversight. Article 79 requires service providers to enable interception and store call-related information. Article 77 requires service providers to install both hardware and software that enable communications to be intercepted in "real-time" and "full-time" upon request by law enforcement agencies "or" under a court order. Service providers are also required to transmit all intercepted communications to a Central Monitoring and Coordination Centre managed by the communications ministry.<sup>61</sup> Service providers that fail to comply with the requirements could be held liable to a fine, imprisonment of up to five years, or both.

The ability for Zambians to communicate anonymously through digital media is compromised by SIM card registration requirements instituted in September 2012 in accordance with the Information and Communication Technologies (ICT) Act No.15 of 2009 and the Statutory Instrument on the Registration of Electronic Communication Apparatus No. 65 of 2011.<sup>62</sup> Registration requires an original and valid identity card such as a national registration card to be presented in person to the mobile service provider.<sup>63</sup> While the government stated that the registration requirements were for the purposes of combatting crime,<sup>64</sup> investigative reports from 2012 said that subscriber details may be passed directly to the secret service for the creation of a mobile phone user database.<sup>65</sup> Cybercafes do not require user registration.

Registration for the .zm country code top-level domain (ccTLD) is managed by ZICTA as provided for under the 2009 Electronic Communications and Transaction Act, which may compromise the anonymity of .zm website owners given the murky independence of the regulatory authority.<sup>66</sup> This may be the reason why almost all independent online news sites use the .com domain. The act also provides a government minister the authority to create statutory agreements governing domain name registration and "the circumstances and manner in which registrations may be assigned, registered, renewed, refused, or revoked."<sup>67</sup> Such direct oversight of local web domains may allow the government to access user data belonging to local content creators and hosts.

## Intimidation and Violence

Online journalists and internet users faced increasing harassment and intimidation for their online

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59 Ryan Gallagher, Twitter Post, July 6, 2015, 1:10 PM, <http://bit.ly/10GeQoW>

60 Electronic Communications and Transaction Act No. 21 of 2009, Part XI, Interception of Communication, [http://www.zicta.zm/Downloads/The%20Acts%20and%20SIs/ect\\_act\\_2009.pdf](http://www.zicta.zm/Downloads/The%20Acts%20and%20SIs/ect_act_2009.pdf)

61 Articles 7, Electronic Communications and Transaction Act No. 21 of 2009, Part XI, Interception of Communication.

62 "Zambia switches off 2.4 million unregistered SIMs," *Lusaka Voice*, February 6, 2014, <http://bit.ly/1k8g15g>.

63 MTN Zambia, "SIM Registration," accessed September 25, 2014, <http://bit.ly/1NKgCXx>.

64 Gershom Ndhlovu, "Zambia: SIM Registration is For Security Reasons," Global Voices (blog), November 30, 2012, <http://bit.ly/1ZGFOC9>.

65 "OP compiling Database from simcard registration exercise," *Zambian Watchdog*, November 13, 2012, <http://bit.ly/1VUY9GZ>. An official from ZICTA also publicly stated in November 2012 that registration would "enable law enforcement agencies [to] create a database to help identify the mobile SIM card owners," according to a news report in *Lusaka Times*. See, "SIM card registration is not a political issue-ZICTA," *Lusaka Times*, November 25, 2012, <http://bit.ly/1LcFfZ8>.

66 Electronic Communications and Transaction Act No. 21 of 2009, Part IX, Domain Name Regulation.

67 Electronic Communications and Transaction Act No. 21 of 2009, Part IX, Domain Name Regulation, art. 52.

activities amid repeated warnings by Zambian government officials against the “misuse” of social media tools. On June 2, 2017, the Inspector General of Police Kakoma Kaganja told a journalist that it was unacceptable for people to abuse others on social media.<sup>68</sup> In October 2016, Minister of Home Affairs, Steven Kampyongo, and the former Minister of Information and Broadcasting, Chishimba Kambwili, appeared on national television to warn citizens that the Zambia Police and regulator ZICTA will deal with people who are using social media to criticize the government.

In April 2017, police and officers from the regulator ZICTA reportedly raided the offices of CEC Liquid Telecom in search of phone tapping equipment. The raid occurred two days after the high profile leak of a recorded telephone conversation that appeared to reveal presidential spokesperson Amos Chanda urging Inspector General of Police Kakoma Kaganja to use force against the opposition.<sup>69</sup> The government claimed that the raid was a routine inspection. ZICTA later claimed that CEC Liquid Telecom had allowed seven unregistered companies to use its infrastructure without paying taxes. CEC Liquid Telecom denied both claims.

One citizen, Mutinta Lushoma Haabasune, an administrator and editor of the *Zambia Accurate News Services* Facebook page, was reportedly tortured while in custody in July 2017 (see also: Prosecutions and Detentions for Online Activities). According to news reports, police forced Haabasune to give up her passwords which they later used to delete the page.<sup>70</sup>

## Technical Attacks

Technical attacks against opposition activists, internet users, or journalists are not common in Zambia and no examples were widely reported during the coverage period. Some cases have been documented in the past: *Zambian Watchdog* suffered a DDoS attack in May 2012 that brought the site down for about eight hours.<sup>71</sup>

Attacks on institutions are periodically reported. In April 2014, the website of the Media Institute for Southern Africa (MISA) was affected during a campaign by hackers reportedly based in the Middle East, who also targeted a number of government websites.<sup>72</sup>

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68 Lilian Zulu, “I don’t hate HH – IG,” News Diggers! June 2, 2017, <http://bit.ly/2veLRWW>; He said, “It’s too much, that’s why as police we want to bring this to an end. We will not allow people to abuse others and we sit there, that’s why we want to lead by example.”

69 “Police and ZICTA Raid CEC Liquid Telecom,” Zambia Watchdog, <http://bit.ly/2tXe7OB>

70 “State of emergency: police delete critical facebook page after arresting, torturing owner,” Zambia Watchdog, July 15, 2017.

71 Gershom Ndhlovu, “Zambia: Citizen News Website Hacked,” Global Voices, May 13, 2012, <http://bit.ly/1VUYw45>.

72 Limbikani Makani, “100+ Zambian websites hacked & defaced: Spar, Postdotnet, SEC, Home Affairs, Ministry of Finance,” Tech Trends, April 15, 2014, <http://bit.ly/1MFmY9c>.