

Zimbabwe

	2016	2017		
Internet Freedom Status	Partly Free	Partly Free	Population:	16.2 million
Obstacles to Access (0-25)	15	16	Internet Penetration 2016 (ITU):	23.1 percent
Limits on Content (0-35)	16	15	Social Media/ICT Apps Blocked:	Yes
Violations of User Rights (0-40)	25	25	Political/Social Content Blocked:	No
TOTAL* (0-100)	56	56	Bloggers/ICT Users Arrested:	Yes
			Press Freedom 2017 Status:	Not Free

* 0=most free, 100=least free

Key Developments: June 2016 – May 2017

- The government increased its share of the ICT market and control over the international gateways in its acquisition of mobile provider Telecel; it was also accused of actively undermining the operations of privately-owned telecom, Econet (see **Availability and Ease of Access**).
- A former director in the intelligence services was appointed director-general of the regulator POTRAZ in October 2016, which observers believe is part of the government's plans to monitor and restrict online activities (see **Regulatory Bodies**).
- WhatsApp was inaccessible for several hours in July 2016 during antigovernment protests. Shortly after, mobile data prices reportedly increased by 500 percent overnight in an apparent effort to curtail access by making it unaffordable (see **Restrictions on Connectivity and Blocking and Filtering**).
- Digital activism grew in momentum on a host of political and social issues (see **Digital Activism**).
- Observers worry that draft Computer Crime and Cybercrime Bill introduced in August 2016 will be used to curtail critical online speech as the country prepares for elections in 2018 (see **Legal Environment**).
- Pastor Evan Mawawire, whose social media posts launched the #ThisFlag protests in July 2016, was arrested several times and faces up to 20 years in prison on charges of subversion (see **Prosecutions and Detentions for Online Activities**).

Introduction

Internet freedom in Zimbabwe remained tenuous over the past year, beset by government efforts to exert greater control over the country's ICT market and internet infrastructure, restrictions on WhatsApp during antigovernment protests, and several arrests for online activities.

As the country geared up for elections in 2018 amid persistent political infighting, economic instability, and uncertainty over who will succeed President Robert Mugabe—the 93-year old authoritarian in power since 1980—Zimbabweans increasingly flocked to social media and communications apps to share critical news and information and to express discontent with the government's failing policies. Digital activism grew in momentum on a host of political and social issues. In July 2016, #ThisFlag social media movement launched by Pastor Evan Mawarire's online commentary criticizing the government led to unprecedented antigovernment protests. Mawarire was arrested several times throughout the year for his calls for protest and faces up to 20 years in prison on charges of subversion.

During the protests, WhatsApp became inaccessible for several hours on July 6, 2016, which observers believe was a deliberate move to cut off access to the popular mobile messaging app used by protestors to mobilize. Later in August, mobile data prices reportedly increased by 500 percent overnight after the regulator directed mobile operators to suspend data bundles, leading to suspicions that the government was deliberately curtailing access to mobile internet by making it unaffordable. The minister of ICT later reversed the directive.

Meanwhile, the government took concrete steps to increase its control over telecommunications in the past year. In one move, the government grew its share of the ICT market and control over the international gateways in its acquisition of mobile provider Telecel. In another move, a former director in the intelligence services was appointed director-general of the regulator POTRAZ in October 2016, which observers believe is part of the government's plans to monitor and restrict online activities. A new Computer Crime and Cybercrime Bill was introduced in August 2016 and includes provisions that threaten to penalize social media criticism. In October 2017, the government announced the creation of a new Ministry of Cybersecurity, Threat Detection and Mitigation, which observers widely believe is aimed at curbing freedom of expression online in the lead up to the 2018 elections.

Obstacles to Access

The government increased its share of the ICT market and control over the international gateways in its acquisition of mobile provider Telecel; it was also accused of actively undermining the operations of privately-owned telecom, Econet. WhatsApp was inaccessible for several hours in July 2016 during antigovernment protests. Shortly after, mobile data prices increased by 500 percent overnight in an apparent effort to curtail access by making it unaffordable. A former director in the intelligence services was appointed director-general of the regulator POTRAZ in October 2016, which observers believe is part of the government's plans to monitor and restrict online activities.

Availability and Ease of Access

Key Access Indicators		
Internet penetration (ITU) ^a	2016	23.1%
	2015	16.4%
	2011	8.4%
Mobile penetration (ITU) ^b	2016	83%
	2015	85%
	2011	69%
Average connection speeds (Akamai) ^c	2017(Q1)	3.7 Mbps
	2016(Q1)	4.7 Mbps

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

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

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

Access to the internet in Zimbabwe stood at 50 percent as of March 2017 according to official government data from the telecoms regulator POTRAZ, which incorporates mobile broadband access.¹ By contrast, the International Telecommunications Union (ITU) reported a much lower rate of 23 percent, up from 16 percent in 2015.² Mobile phone penetration was much higher at 83 percent as of per ITU's 2016 data,³ or 98 percent as of March 2017 per official government data, though millions of Zimbabweans remain virtually disconnected due to poor network coverage in remote areas or the lack of affordable services.

A significant urban-rural divide exists among Zimbabwean internet users due to fewer deployments of 3G and LTE in rural areas. According to the regulator, rural regions have only 4 of the 758 LTE base stations in the country.⁴ As a result, rural citizens are largely cut off from the internet.

Costs to access the internet can fluctuate wildly. With the rising popularity of free over-the-top (OTT) communications apps such as WhatsApp and Viber over the past few years, mobile operators in Zimbabwe have reportedly lost US\$ 26 million in revenues, leading to calls on the regulator to either ban or increase the cost to access OTT platforms in a bid to force consumers to use voice calls.⁵ In

1 POTRAZ 4th Quarterly Report, 2016. See http://www.potraz.gov.zw/images/documents/QReports2016/4th_Quarter_Sector_Performance_Report_Final.pdf

2 International Telecommunication Union, "Percentage of Individuals Using the Internet, 2000-2015," <http://bit.ly/1cblxxY>.

3 International Telecommunication Union, "Mobile-Cellular Telephone Subscriptions, 2000-2015," <http://bit.ly/1cblxxY>.

4 Op Cit

5 Mpfu, B. "Zim mobile networks plot WhatsApp ban". In. Zimbabwe Independent, 20 January 2017, <https://www.theindependent.co.zw/2017/01/20/zim-mobile-networks-plot-whatsapp-ban/>

January 2017, the regulator approved a 50 percent increase in data prices, sparking online protests under the hashtag #Datamustfall (see “Digital Activism”).⁶ The public outcry on social media led the minister of ICTs, Supa Mandiwanzira, to intervene and reverse the price increase a week later.⁷

The reversal subsequently set in motion fierce competition among telecom providers, with each operator offering relatively affordable data packages to undercut competitors. As of mid-2017, Econet offered access to the social media apps Facebook, WhatsApp, and Twitter for US\$ 1 for up to 250 MB of use and daily social media access at US\$ 0.30. State-owned NetOne offered social media data access of 40 MB daily for US\$ 0.27 and 250 MB for US\$ 2.80 per month. Home fiber access the ISP Liquid Telecom (owned by Econet) cost US\$ 29 for 25 GB/month, a notable reduction from the previous year when start-up prices for home fiber was US\$ 39 for 15 GB/month. Meanwhile, eOne offered fiber broadband packages for US\$ 23 for 20 GB and speeds of up to 5 Mbps, compared to TelOne ADSL packages of US\$ 25 for 30GB at 3 Mbps and US\$ 42 for 60GB at 4 Mbps.

Laptops have maintained a steady average price of US\$ 300, while refurbished desktops and laptops can cost US\$ 50 and \$150, respectively. Internet cafes remain popular especially among youths for playing video games and downloading music.

Restrictions on Connectivity

The government made apparent efforts to place restrictions on connectivity in the past year. During antigovernment protests in July 2016, WhatsApp was inaccessible for several hours, which observers believe was a deliberate move to cut off access to the popular mobile messaging app used by protestors to mobilize (see “Blocking and Filtering”). Later in August, mobile data prices reportedly increased by 500 percent overnight after the regulator directed mobile operators to suspend data bundles, leading to suspicions that the government was deliberately curtailing access to mobile internet by making it unaffordable.⁸ The minister of ICT later reversed the directive. Separately, the internet research firm Renesys documented outages on 31 percent of the country’s networks on the same day.⁹

Zimbabwe has five international gateways for internet and voice traffic, three of which are operated by state-owned network TelOne, Telecel, and NetOne; the other two are owned by private operators, Econet and Africom. The balance of state control over the country’s gateways was tipped in the government’s favor when it acquired full ownership of Telecel in October 2016 (see “ICT Market”), increasing the government’s ability to restrict access to internet and mobile networks on three gateways, if desired.

A draft National Policy for Information and Communications Technology (ICT) introduced in late 2015 put forth an ambitious set of policies that, if implemented, would dramatically change

6 Enca, “Zim hikes voice data tariffs,” 12 January, 2017, <http://www.enca.com/africa/zimbabwe-hikes-data-voice-tariffs>

7 Sunday News, “Mandiwanzira attacks Econet,” January 15, 2017, <http://www.sundaynews.co.zw/mandiwanzira-attacks-econet/>; Financial Gazette, “Government suspends data tariff increases,” 13 January, 2017. <http://www.financialgazette.co.zw/government-reverses-data-tariff-hike/>

8 Lungelo Shezi, “Zimbabwe data prices hiked by up to 500% to curb social media activism and dissent,” Mail & Guardian, August 5, 2016, <https://mg.co.za/article/2016-08-05-zimbabwe-data-price-hiked-up-by-up-to-500-to-curb-social-media-activism-and-dissent>; <https://www.newsday.co.zw/2016/08/mobile-operators-suspend-data-bundles-promotions/>

9 “60 networks out in Zimbabwe,” Dyn Events, July 6, 2016, <http://b2b.renesys.com/eventsbulletin/2016/07/ZW-1467783360.html#more>

Zimbabwean's internet freedom landscape through centralized control over the country's internet. Section 5 of the document on "ICT Infrastructure" details plans to establish a single national ICT backbone to be owned by various public and private shareholders but ultimately controlled by the government.¹⁰ The section also mandates infrastructure sharing among telecoms, which private telecoms who have invested heavily in their own infrastructure have decried as a form of "backdoor nationalization."¹¹ Most troublingly, Section 21.3 creates "The National Backbone Company," defined by the document as "one Super Gateway which shall be the entry and exit point for all international traffic"¹² The policy had not been implemented as of October 2017.

ICT Market

The ICT market in Zimbabwe is diverse, with 12 licensed internet access providers (IAPs) and 27 internet service providers (ISPs) registered with the Zimbabwe Internet Service Providers Association (ZISPA) in 2017.¹³ As set by the regulator, license fees for ISPs range from US\$2-4 million, depending on the type of service, and must be vetted and approved by the regulator prior to installation.¹⁴ Providers must also pay 3.5 percent of their annual gross income to the regulator.

There are five mobile service providers in the country: privately-owned Econet and Africom, and state-owned TelOne, NetOne, and Telecel. Telecel had partial state-ownership until November 2016, when the government reportedly paid US\$ 21 million for its acquisition from Dutch company VimpelCom.¹⁵ The Telecel acquisition was seen as a move to consolidate the government's control of the telecommunications sector. Meanwhile, license fees for operating mobile phone services in Zimbabwe are steep at \$137.5 million,¹⁶ hindering new players from entering the market. By contrast, neighboring South Africa charges a telecom license fee of 100 million RAND (approximately US\$7 million).¹⁷ According to privately-owned Econet, the only operator to have paid the fee in full, license fee requirements have been used to undermine the private players and push business toward the state-owned operators, NetOne, TelOne, and Telecel, who have not been forced to pay the full fees.¹⁸

Econet also accused the government of damaging its business during the January 2017 price hike controversy (see "Availability and Ease of Access"). As the only provider to implement the 50 percent increase in data prices approved by the regulator, Econet saw nearly 300,000 subscribers switch

10 Zimbabwe National Policy for Information and Communications Technology (ICT), 2015, Section 5.1, <http://www.techzim.co.zw/wp-content/uploads/2015/12/Zimbabwe-Draft-National-ICT-Policy-2015-.pdf?x97092>

11 POTRAZ, "POTRAZ Embarks on Infrastructure Sharing Drive," accessed October 1, 2016, <http://www.potraz.gov.zw/index.php/categorylinks/103-potraz-embarks-on-an-infrastructure-sharing-drive>

12 Zimbabwe National Policy for Information and Communications Technology (ICT), 2015, Section 21.3.

13 Zimbabwe Internet Service Providers Association membership list, <http://www.zispa.org.zw/members.html>.

14 L.S.M Kabweza, "Zimbabwe Raises Telecoms License Fees, Migrates to Converged Licensing," TechZim, March 12, 2013, <http://www.techzim.co.zw/2013/03/zimbabwe-raises-telecoms-licence-fees-migrates-to-converged-licensing/>.

15 Moyo, A. "Govt Pays US\$21m for Telecel," The Sunday Mail, 6 November, 2016, <http://www.sundaymail.co.zw/govt-pays-us21m-for-telecel/>

16 Karombo, T "Zimbabwe sets telecom license fees at \$137.5mn," IT Web Africa, June 3, 2013, <http://www.itwebafrica.com/telecommunications/154-zimbabwe/231106-zimbabwe-sets-telecom-license-fees-at-1375mn>.

17 James Hodge, "Administered Prices, TELECOMMUNICATIONS, A Report for National Treasury," accessed October 30, 2017, www.treasury.gov.za/publications/other/epir/telecomm.pdf

18 "Econet dismisses Supa's "ludicrous" claims and accuses Netone and Telecel of fraudulent practices," Pindula, 12 February, 2017, <http://www.pindula.co.zw/news/2017/02/12/econet-dismisses-supas-ludicrous-claims-accuses-netone-telecel-fraudulent-practices/#.WONDb8mxVc8>; "Econet Wards into political fray," The Sunday Mail, 15 January 2017, <http://www.sundaymail.co.zw/econet-wades-into-political-fray/>; Chitemba, B. "Econet-Zimra bosses in US\$300 M scandal," The Sunday Mail, 5 February, 2017, <http://www.sundaymail.co.zw/econet-zimra-bosses-in-us300m-scandal/>; "Seething Econet Pulls no punches," The Sunday Mail, 12 February 2017.

over to state-owned NetOne, which along with Telecel did not increase its prices and instead waited to negotiate with the ICT ministry and regulator. The increase was reversed a week later. Econet accused the government of coordinating a scheme to undermine its place as a private player in the ICT market.

Regulatory Bodies

ISPs and mobile phone companies are regulated by the Postal and Telecommunications Regulatory Authority of Zimbabwe (POTRAZ), whose leaders are appointed by the president in consultation with the minister of information communication technologies and courier services. POTRAZ is expected to operate independently, but in practice, its independence has eroded over the years, becoming increasingly subsumed by security organs of the state. Most recently in October 2016, a former director within the intelligence agency, Gift Machengete, was appointed as director-general of POTRAZ, which observers believe is part of the government's plans to monitor and restrict online activities.¹⁹ IAPs and ISPs are also subject to security screenings by Zimbabwe's military, according to local sources.

The regulator has also become increasingly political. At the height of antigovernment protests inspired by social media in July 2016 (see "Digital Activism"), POTRAZ threatened social media users with arrests for posting messages that it deemed offensive and inciting violence.²⁰

Limits on Content

WhatsApp was inaccessible for several hours during antigovernment protests in July 2016, which were inspired by the #ThisFlag social media movement led by Pastor Evan Mawawire. Digital activism grew in momentum on a host of political and social issues.

Blocking and Filtering

On July 6, 2016 during largescale antigovernment protests, WhatsApp was reportedly inaccessible for nearly five hours, which activists believe was a deliberate effort to curtail the dissemination of protest messages about bad governance in Zimbabwe.²¹ While the government denied that it had blocked the service, sources in the telecoms sector confirmed that they had received instructions from the government to shut down WhatsApp.²² The WhatsApp outage followed months of threats made by government officials to restrict social media and may bode further restrictions to come.

19 Chidza, R. "Top CIO Officer takes Charge of POTRAZ," *Newsday*, 20 October, 2016, <https://www.newsday.co.zw/2016/10/20/top-cio-office-takes-charge-potraz/>

20 The POTRAZ statement read: "All SIM cards in Zimbabwe are registered in the name of the user. Perpetrators can easily be identified. We are therefore warning members of the public that from the date of this notice, any person caught in possession of, generating, sharing or passing on abusive, threatening, subversive or offensive communication messages, including WhatsApp or any other social media messages that may be deemed to cause despondency, incite violence, threaten citizens and cause unrest, will be arrested and dealt with accordingly in the national interest." See: *The Financial Gazette*, July 6, 2016. "POTRAZ threatens subscribers over social media," <http://www.financialgazette.co.zw/potraz-threatens-subscribers-over-social-media/>

21 "Totalitarian Regime blocks WhatsApp," *New Zimbabwe.com*, 6 July 2016, <http://www.newzimbabwe.com/news-30060-Totalitarian+regime+blocks+WhatsApp/news.aspx>

22 Freedom House consultant interviews, May 2016.

Aside from the brief block on WhatsApp, no websites were reported blocked or filtered in Zimbabwe and access to social media platforms such as Facebook, Twitter, and YouTube and international blog-hosting platforms were all freely available during this report's coverage period.

Content Removal

There were no reported incidents of forced content removal of online content during the coverage period, though Zimbabwean government authorities have been known to pressure users and content producers to delete content from social media platforms. Most notably, the government is suspected of being behind the removal of the anonymous whistleblower Baba Jukwa's Facebook page in July 2014, but the manner in which it was removed remains shrouded in mystery.²³

Media, Diversity, and Content Manipulation

Zimbabwe's online landscape is growing in vibrancy, with Facebook, Google, Yahoo, and YouTube among the most popular websites among Zimbabwean internet users. Increasing access to ICTs has spawned numerous citizen initiatives, such as the @OpenParlyZw Twitter account owned by the youth ICT network Magamba that actively monitors parliamentary activities.²⁴ Magamba also runs a weekly Facebook comic analysis of key national issues titled, "This Week," and carries interviews on key national issues.²⁵ Other citizen journalism efforts on Facebook and Twitter, such as @263 on Twitter, have morphed into full-fledged online news outlets that engage in debates on citizen issues.²⁶

Nonetheless, a lot of critical news and information typically stems from independent news websites and other digital media outlets based outside Zimbabwe. Local media outlets reporting on controversial issues are often met with threats of arrest from state officials. Locally based online news sites such as Newzimbabwe.com and NehandaRadio.com typically report on sensitive issues under the cover of pseudonyms.

Self-censorship both online and off among Zimbabweans remains high. In a 2016 survey by Afrobarometer on perceptions of citizen engagement with leaders, 86 percent of respondents indicated they do not engage with leaders out of fear of violent reprisals, despite the finding that 75 percent of respondents believed engagement was important.²⁷ The arrest of digital activists like Evan Mawarire (see "Prosecutions and Detentions for Online Activities"), as well as the government's threatening statements about posting critical content have palpably increased fear and self-censorship, according to local observers. For example, in its July 6, 2016 statement to social media users mobilizing for the #ThisFlag protests, POTRAZ warned: "All SIM cards in Zimbabwe are registered in the name of the user. Perpetrators can easily be identified"²⁸ On July 10, the ICT minister publicly warned citizens that the government was watching "all those who abuse social

23 "Baba Jukwa effect: Anonymous Zim social media pages pulling down," Bulawayo 24, 3 January 2014, <http://bulawayo24.com/index-id-news-sc-national-byo-48438.html>

24 See: <https://twitter.com/OpenParlyZw>

25 See: <https://www.facebook.com/MagambaTV/videos/1384161648302489/>

26 See: <https://twitter.com/263Chat>

27 Afrobarometer. "Citizen Engagement in Zimbabwe at lowest level in a decade." Dispatch No. 70 | 27 January 2016.

28 "POTRAZ threatens subscribers over social media," The Financial Gazette, July 6, 2017, <http://www.financialgazette.co.zw/potraz-threatens-subscribers-over-social-media/>

media to provoke trouble in the country.... anyone sharing 'subversive' material would be arrested."²⁹ In March 2017, an anonymous message circulated via WhatsApp warning the public to refrain from commenting on President Mugabe's age and health and the associated succession politics due to suspicions of police surveillance of WhatsApp messages.

Content manipulation was not an evident issue in Zimbabwe during the coverage period, though it may become prevalent as the country gears up for elections slated for 2018. The draft National Policy for Information and Communications Technology (ICT) introduced in late 2015, if implemented, seeks to expand the government's social media reach and may enable it to manipulate the online information landscape. In particular, section 18 of the draft on social networks includes a policy to "ensure availability of local capacity to snuff out undesirable social content."³⁰ Speaking to ZANU PF youth in January 2017, President Mugabe said that social media was being abused and urged the party youths to prepare for a social media battle in the lead-up to elections in 2018. Though vague, the "battle" may result in the proliferation of various online propaganda manipulation strategies seen during recent elections in other countries around the world.³¹

Digital Activism

Citizens have increasingly turned to digital tools to engage in activism and mobilize for political and social issues in the past few years. WhatsApp has become particularly popular for organizing and sharing information, especially during the #ShutDownZim protests beginning in July 2016, which urged citizens to stay at home from work for two days in protest of the government's alleged negligence and mismanagement of the country.³² During the protests, WhatsApp became inaccessible for several hours, leading to strong suspicions of deliberate government interference, particularly given various threats that had been made by public officials against social media (see "Restrictions on Mobile Connectivity" and "Blocking and Filtering"). The protests were inspired by the #ThisFlag social media movement launched by Pastor Evan Mawarire through his spoken word commentary that criticized Zimbabwe's state of affairs in a YouTube video that went viral in April 2016.³³ Throughout 2016 and 2017, Mawarire continued to post critical commentary on his social media pages, including via livestream, to call attention to the ongoing governance issues in Zimbabwe, leading to his arrest on several occasions (see "Prosecutions and Detentions for Online Activities").³⁴

Many other social and political activists turned to social media to livestream or report on public events such as marches and civic meetings. In one successful campaign, online mobilization and digital activism was credited with saving the creative community space and tech hub, Moto Republik, from the Harare City Council's plans to demolish the building in March 2017. The council claimed that the

29 "'ThisFlag' opposition leader, Pastor Evan Mawarire, arrested in Zimbabwe," DW, July 12, 2016, <http://www.dw.com/en/thisflag-opposition-leader-pastor-evan-mawarire-arrested-in-zimbabwe/a-19396073>

30 Zimbabwe National Policy for Information and Communications Technology (ICT), 2015, Section 18.1.

31 Ncube, X. "Mugabe plots 2018 social media onslaught," Newsday, January 21, 2017, <https://www.newsday.co.zw/2017/01/21/mugabe-plots-2018-social-media-onslaught/>

32 "Zimbabwe shutdown: What is behind the protests?," BBC, July 13, 2016, <http://www.bbc.com/news/world-africa-36776401>

33 Dominic Mhiripiri, "Joining #ThisFlag? Use this App to Overlay Your FB Profile Picture," TechZim, May 13, 2016, <http://www.techzim.co.zw/2016/05/thisflag-b-profile/#.V4Qff6lVdx>

34 #ThisFlag Evan Mawarire Twitter page, <https://twitter.com/PastorEvanLive>

building had been constructed without council authorization,³⁵ even though the hub was able to provide proof of the building's authorization. An innovative structure built out of scrap containers, the tech hub had been the nerve center of recent online activism, including the @OpenPartyZim, #ThisWeek, Zambezi News, as well as other youth online media platforms. Activists rallied behind the extensive #SaveMotoRepublik campaign, which was ultimately credited for the council's decision to allow the hub to stay standing.³⁶

Violations of User Rights

Observers worry that draft Computer Crime and Cybercrime Bill introduced in August 2016 will be used to curtail critical online speech as the country gears up for elections in 2018. Pastor Evan Mawawire was arrested several times for calling for protests on social media and faces up to 20 years in prison on charges of subversion.

Legal Environment

Zimbabwe's new constitution enacted in 2013 provides for press freedom, freedom of expression, and access to information but is contradicted by laws that may curtail these rights.³⁷ Most notably, the Criminal Law Codification and Reform Act (CODE) places restrictions on certain types of speech that apply equally online and off. Section 33 of the CODE characterizes "undermining [the] authority of or insulting [the] President" in any printed or electronic medium as a crime against the state and prescribes penalties of fines, up to one year in prison, or both.³⁸ In a positive step, a landmark constitutional ruling in February 2016 annulled Section 96 of the CODE, which had criminalized defamation,³⁹ though "criminal insult," vaguely defined, remains an offense under Section 95.

A draft Computer Crime and Cybercrime Bill introduced in August 2016 has raised alarms about potential new restrictions on Zimbabwe's internet freedom, particularly given its timing following widespread antigovernment protests that were largely mobilized via social media and communications platforms in July. In addition to potentially curtailing social media inspired activism, observers believe the new restrictions are aimed at curbing free speech in the lead-up to general elections slated for 2018.

Among the problematic provisions of the bill, Section 23 penalizes the dissemination of "electronic communication, with intent to coerce, intimidate, harass, threaten bully or cause substantial emotional distress" (sic) with a fine, prison up to ten years, or both,⁴⁰ which observers believe

35 LSM Kabweza, "Breaking: City of Harare attempts to demolish Moto Republik, a tech & arts hub in Harare, because it's an 'illegal structure,'" TechZim, March 9, 2017, <http://www.techzim.co.zw/2017/03/breaking-city-harare-breaks-tech-arts-hub-harare-apparently-illegal-structure/>

36 William Chui, "Moto Republik Saved The Noose..." TechZim, March 22, 2017, <http://www.techzim.co.zw/2017/03/city-of-have-not-to-demolish-moto-republik/>; <http://kalabashmedia.com/2017/03/24/5-things-saved-moto-republik/>

37 Sections 61 and 62, https://www.constituteproject.org/constitution/Zimbabwe_2013.pdf

38 Criminal Law (Codification and Reform) Act [Chapter 4:33], https://www.unodc.org/res/cld/document/zwe/2006/criminal_law_codification_and_reform_act.html/criminal_law_codification_and_reform_act.pdf

39 "Con-Court outlaws criminal defamation," The Herald, 4 February 2016, <http://www.herald.co.zw/concourt-outlaws-criminal-defamation/>

40 Computer Crime and Cybercrime Bill (September 2016 draft), http://www.pindula.co.zw/news/wp-content/uploads/2017/01/MISA_DSZ-Position-Computer-Crimes_2016.pdf

will be used to penalize government criticism on social media.⁴¹ The provision would be an update to current penalties of up to six months in prison for “offensive or false telephone messages” disseminated “for the purpose of causing annoyance, inconvenience or needless anxiety to any other person” under the Postal and Telecommunications Act, Section 88.⁴²

As of mid-2017, the ICT ministry had carried out public hearings and consultations on the cybercrime bill, which officials note had been informed by model laws from the ITU and Southern Africa Development Community. Other proposed bills that may impact internet freedom include the Data Protection Bill and the Electronic Transaction and Electronic Commerce Bill. According to local sources, the passage of these bills have been delayed for parliamentary review in part because of interagency power struggles between the ICT ministry and various security arms. The ICT ministry argues that telecommunications and the internet in particular are under its purview, while the military views the internet as a security matter.

In October 2017, the government announced the creation of a new Ministry of Cybersecurity, Threat Detection and Mitigation, which observers widely believe is aimed at curbing freedom of expression online as the country gears up for elections in 2018.⁴³ A government spokesperson stated that the new cybersecurity minister would learn from countries like China and Russia, applauding the two restrictive countries for doing well “in ensuring some kind of order and lawfulness” in cyberspace.⁴⁴

Prosecutions and Detentions for Online Activities

Several individuals were arrested for legitimate online activities during the coverage period, reflecting the government’s ongoing intolerance for critical online commentary and activism.

During antigovernment protests in July 2016, police arrested Pastor Evan Mawarire, whose #ThisFlag social media movement had inspired the widespread protests, on allegations of inciting public violence and later, subversion.⁴⁵ The courts dismissed his case shortly after his arrest over a technicality, though widespread international attention and the popular #FreePastorEvan social media campaign may have played a role.⁴⁶ He subsequently left the country in self-imposed exile after an agitated Mugabe himself had urged him to leave.⁴⁷ While in exile, Mawarire remained vocally critical of the government through social media, often posting videos and livestreams of his commentary,⁴⁸ and organizing protests at events such as the UN General Assembly in September 2016.⁴⁹

41 Paul Kaseke, “Zim’s cyber laws – Going nowhere quickly,” *Newsday*, August 25, 2016, <https://www.newsday.co.zw/2016/08/25/zims-cyber-laws-going-nowhere-quickly/>

42 Postal and Telecommunications Act 2000, https://www.potraz.gov.zw/images/documents/Postal_Act.pdf

43 Tawanda Karombo, “Zimbabwe has a new “minister of WhatsApp” whose first job seems to be to stop WhatsApp,” *Quartz*, October 14, 2017, <https://qz.com/1102603/zimbabwes-mugabe-wants-to-control-whatsapp-facebook-groups/>

44 Tawanda Karombo, “Mugabe lauds ‘protective’ cyber security ministry,” *IT Web Africa*, October 11, 2017, <http://www.itwebafrica.com/security/887-zimbabwe/240828-mugabe-lauds-protective-cyber-security-ministry>

45 MacDonald Dzirutwe, “#ThisFlag: Zimbabwean pastor Evan Mawarire released from police custody,” *Mail & Guardian*, July 13, 2016, <http://mg.co.za/article/2016-07-12-thisflag-pastor-evan-mawarire-summoned-by-zimbabwean-police>

46 Columbus Mavhunga et al., “Mugabe speaks out against #ThisFlag pastor Evan Mawarire,” *CNN*, July 19, 2016, <http://www.cnn.com/2016/07/06/africa/zimbabwe-shut-down/>

47 “Mawarire faces Mugabe wrath, told to leave,” *Zimeye*, 19 January, 2017, <https://www.zimeye.net/mawarire-faces-mugabe-wrath-told-to-leave-zim/>

48 Evan Mawarire’s Facebook page: <https://www.facebook.com/evan.mawarire>

49 “Mugabe faces ‘massive’ protests at UN summit,” *News24*, September 15, 2016, <http://www.news24.com/Africa/Zimbabwe/mugabe-faces-massive-protests-at-un-summit-20160915-5>

Mawarire returned to Zimbabwe in February 2017 after six months in exile and was immediately arrested upon his arrival.⁵⁰ He was detained for a week before being granted bail.⁵¹ Later in September 2017, the pastor was arrested yet again, this time for a video he posted on social media that called for protests against fuel shortages and commodity price hikes.⁵² If convicted, he faces up to 20 years in prison on multiple counts of subversion.⁵³

In August 2016, Jealous Mawarire, a former spokesperson for former Vice President Joyce Mujuru's opposition party (and no relation to Evan Mawarire), was arrested for a Twitter post that accused higher education minister Jonathan Moyo of stealing from a government administered education fund. Mawarire was charged under Section 88(b) of the Postal and Telecommunications Act, which penalizes false messages that cause "annoyance, inconvenience or needless anxiety to any other person."⁵⁴ The case was still before the court as of mid-2017.⁵⁵

Also in August 2016, police in Hwange summoned Praise Moyo to court on charges of inciting public violence through a WhatsApp group. Moyo had allegedly sent messages criticizing the failure of traditional leaders to compel the authorities at Hwange Colliery Company (HCC), the country's largest coal producer, to remunerate its employees. Armed with legal representation from the Zimbabwe Lawyers for Human Rights, Moyo's charges were dropped a week later.⁵⁶

Following the creation of a new cybersecurity ministry in October 2017, the authorities arrested an American citizen, Martha O'Donovan, for a tweet deemed insulting to President Mugabe.⁵⁷

Surveillance, Privacy, and Anonymity

Unchecked government surveillance is a persistent concern in Zimbabwe, and several legal provisions may allow the government to conduct surveillance without sufficient oversight.

The Post and Telecommunications Act of 2000 allows the government to intercept suspicious communications and requires a telecommunications licensee, such as an ISP, to supply information to government officials upon request.⁵⁸ Section 88 of the act also obligates telecoms to report any communications with "offensive" or "threatening" content.

The Interception of Communications Act of 2007 provided for the establishment of a Monitoring of

50 Mavhunga, C. "Zimbabwe police arrest anti Mugabe pastor Evan Mawarire." CNN, 2 February, 2017, <http://edition.cnn.com/2017/02/02/africa/zimbabwe-pastor-arrest/>

51 Muzulu, P. "Mawarire granted bail," Newsday, February 9, 2017, <https://www.newsday.co.zw/2017/02/09/mawarire-granted-bail/>

52 "Zimbabwean activist pastor arrested for criticizing Mugabe government," Reuters, September 24, 2017, <https://www.reuters.com/article/us-zimbabwe-politics/zimbabwean-activist-pastor-arrested-for-criticizing-mugabe-government-idUSKCN1BZ0SY>

53 Columbus S. Mavhunga, "Zimbabwe slaps vocal pastor with more subversion charges," CNN, September 25, 2017, <http://www.cnn.com/2017/09/25/africa/zimbabwe-pastor-mawarire-jailed/index.html>

54 Postal and Telecommunications Act 2000: https://www.potraz.gov.zw/images/documents/Postal_Act.pdf

55 "Zim opposition spokesman arrested over tweet," News24, 13 August 2016, <http://www.news24.com/Africa/Zimbabwe/zim-opposition-spokesperson-arrested-over-tweet-20160813-2>

56 "Police drop case against Hwange man charged over social media "abuse," The Zimbabwean, August 15, 2016, <http://www.thezimbabwean.co/2016/08/police-drop-case-against-hwange-man-charged-over-social-media-abuse/>

57 Jason Burke, "US woman charged over tweet allegedly insulting Robert Mugabe," The Guardian, November 3, 2017, https://www.theguardian.com/world/2017/nov/03/martha-odonovan-arrested-zimbabwe-alleged-mugabe-goblin-tweet-harare?CMP=tw_t_gu

58 Postal and Telecommunications Act 2000, Part XII, Section 98, "Interception of communications," https://www.potraz.gov.zw/images/documents/Postal_Act.pdf

Interception of Communications Center with the power to oversee traffic in all telecommunications services and to intercept phone calls, emails, and faxes under the pretext of national security, though it is unclear whether the Center is in operation.⁵⁹ Section 9 of the act requires telecommunications operators and ISPs to install necessary surveillance technology at their own expense and to intercept information on the state's behalf.⁶⁰ Failure to comply is punishable with a fine and sentence of up to three years in prison. Warrants allowing the monitoring and interception of communications are issued by the minister of information at his/her discretion; consequently, there is no adequate judicial oversight or other independent safeguard against abuse,⁶¹ and the extent and frequency of monitoring remains unknown.

The draft National Policy for Information and Communications Technology (ICT) introduced in late 2015 put forth an ambitious set of policies that, if implemented, would provide the government with the ability to shut down networks or block websites as well as strengthen its surveillance capabilities through centralized control over the country's internet (see "Restrictions on Connectivity"). In October 2015, Portnet Software—an IT company that provides security solutions for various sectors and in which the government has a 51 percent share—reportedly upgraded its capacity to help the government intercept and analyze ICT communications.⁶² IT experts saw the move as part of efforts to facilitate the implementation of the draft National Policy.⁶³ Provisions in the draft cybercrime bill introduced in August 2016 also potentially intrude on citizens' right to privacy by authorizing interception, search, and seizure of electronic gadgets without sufficient oversight to prevent abuse, which would further strengthen the government's surveillance capabilities.

Anonymous communication and user data are compromised by SIM card registration regulations implemented in 2011, which require mobile phone users to submit personal identity details to mobile operators, ostensibly to combat crime and curtail threatening or obscene communications.⁶⁴ Under the 2013 Postal and Telecommunications (Subscriber Registration) Regulations (Statutory Instrument 142/2013), subscribers are required to register with all telecommunications service providers with details including a full name, permanent residential address, nationality, gender, subscriber ID number, and national ID or passport number.⁶⁵ Network operators are then required to retain such personal information for five years *after* either the subscriber or operator has discontinued service.

In addition, the regulations require ISPs to provide POTRAZ with copies of their subscriber registers to be stored in a Central Subscriber Information Database to enable POTRAZ to "assist law enforcement agencies on safeguarding national security," among other aims.⁶⁶ An amendment to the regulations in 2014 requires law enforcement agents to obtain a court order or a warrant to request

59 The law is available at http://www.vertic.org/media/National%20Legislation/Zimbabwe/ZW_Interception_of_Communications_Act.pdf

60 Interception of Communications Act, No. 6/2007, Section 9, "Assistance by service providers."

61 Interception of Communications Act, No. 6/2007, Section 6, "Issue of warrant."

62 Ndebele, H. "Govt hones spying tools," Zimbabwe Independent, October 9, 2015, <http://www.theindependent.co.zw/2015/10/09/govt-hones-spying-tools/>

63 Ndebele, H. "Govt sharpens spying tools," Zimbabwe Independent, January 8, 2016, <http://www.theindependent.co.zw/2016/01/08/govt-sharpens-spying-tools/>

64 "POTRAZ Issues Mobile Phone Registration Reminder," Technology Zimbabwe, January 31, 2011, <http://www.techzim.co.zw/2011/01/potraz-registration-reminder/>

65 Garikai Dzoma, "Zimbabwe's new online spying law," TechZim, October 9, 2013, <http://www.techzim.co.zw/2013/10/zimbabwes-new-online-spying-law/>; Postal and Telecommunications (Subscriber Registration) Regulations, 2013, https://docs.google.com/file/d/0B006T_7m0f19NTR2b1BsZjZza2s/edi

66 See Section 8 (1) and (2); https://docs.google.com/file/d/0B006T_7m0f19NTR2b1BsZjZza2s/edi

information from the central database,⁶⁷ which some analysts worry falls short of judicial oversight since a warrant “can be issued by police officers who have been designated as justices of the peace.”⁶⁸

Intimidation and Violence

Online journalists and ICT users faced regular harassment, intimidation, and violence for their online activities in the past year.

During the July 2016 antigovernment protests, journalists were reportedly arrested and forced to delete images covering the demonstrations as part of an effort to suppress reporting and sharing of information via social media.⁶⁹ Before arresting Evan Mawarire, the pastor who had inspired the protests, police raided his home, reportedly in search of subversive materials. The raid and Mawarire’s subsequent arrest were seen as an attempt to disrupt the pastor’s calls for protest on social media.⁷⁰

In January 2017, the offices of the Media Centre, an NGO that promotes the use of social media and offers space for internet access to journalists and civil society groups, were broken into and ransacked. Though the suspects remain unknown, the attacks followed numerous police visits to the Centre during which police questioned employees about the Centre’s activities.⁷¹

University students were subject to disproportionate repercussions for their social media posts. In August 2016, one student, Anele Dube of Lupane State University, was suspended and summoned for a hearing for allegedly disrupting university activities by sending a message on social media calling for a class boycott. Three other students from Midlands State University had been suspended in April 2016 for using social media to mobilize protests against the university’s decision to open a satellite campus.⁷² In a positive demonstration of judicial oversight, a Bulawayo High Court judge ordered the university to reinstate the three students in October 2016, defending the principles of academic freedom and freedom of expression in his order.

Technical Attacks

There were no technical attacks against government critics, online news outlets, or human rights organizations reported during the coverage period, though government websites were the targets of hacks. During the #ThisFlag protests in July 2016, a group calling itself Anonymous Africa hacked into the website of ruling party, ZANU PF, as well as the state-owned Zimbabwe Broadcasting Corporation (ZBC), apparently in retribution for restrictions on WhatsApp on the same day.⁷³

67 Postal and Telecommunications (Subscriber Registration) Regulations, 2014, <http://www.cfuzim.org/images/si9514.pdf>.

68 “Bill Watch 29/2014 of 21st July,” The Zimbabwean, July 22, 2014, <http://bit.ly/1Gae1nc>.

69 Privilege Musvanhiri, Twitter post, July 6, 2016, <https://twitter.com/Musvanhiri/status/750673802716119040>

70 Dewa, T. “Police raid Evan Mawarire home, looking for helmet and truncheon,” Nehanda Radio, 12 July, 2016, <http://nehandaradio.com/2016/07/12/police-raid-evan-mawarire-home-looking-helmet-truncheon/>

71 Nyakudya, M. “Suspicious Break-ins at Media Centre, ZDI,” Newsday, 24 January, 2017, <https://www.newsday.co.zw/2017/01/24/suspicious-break-ins-media-centre-zdi/>

72 Zenda, C. “Face to face with Zimbabwe’s Judge Extraordinaire,” The Financial Gazette, 27 October 2016, <http://www.financialgazette.co.zw/face-to-face-with-zimbabwes-judge-extraordinaire/>

73 Gambanga, N. “Hacker group anonymous says ZANU PF potential target,” 15 July, 2016, <http://www.techzim.co.zw/2016/06/hacker-group-anonymous-africa-says-zanu-pf-potential-target/>