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Document #2100724

## Freedom House (Author)

### Freedom on the Net 2023 - Zimbabwe

**PARTLY FREE** 

51

/ 100

A Obstacles to Access 10 / 25

B Limits on Content 23 / 35

C Violations of User Rights 18 / 40

LAST YEAR'S SCORE & STATUS

49 / 100 Partly Free

Scores are based on a scale of 0 (least free) to 100 (most free). See the research methodology and report acknowledgements.

#### Overview

Several internet freedom issues in Zimbabwe remained of concern this year despite some improvements in electricity access. Ongoing hyperinflation reduced many Zimbabweans' ability to pay for internet access. As the country prepared for elections that were held after the coverage period, in August 2023, the online space became fertile ground for state-sponsored disinformation. Both journalists and ordinary users continued to face arrests, threats, and harassment for their online activities, particularly when they criticized President Emmerson Mnangagwa's government.

The Zimbabwe African National Union–Patriotic Front (ZANU-PF) has dominated Zimbabwean politics since independence in 1980, in part by carrying out severe crackdowns on the political opposition, critical media, and other sources of dissent. President Mnangagwa took power in 2017 after the military intervened to remove longtime president Robert Mugabe amid factional divisions within the ruling party. However, Mnangagwa has largely retained the legal, administrative, and security architecture of the Mugabe era, and has consolidated his authority

through repression. Endemic corruption, weak rule of law, and poor protections for workers and land rights remain among Zimbabwe's critical challenges.

### Key Developments, June 1, 2022 - May 31, 2023

- Pro-ZANU-PF Twitter accounts amplified smear campaigns in which Chinese government accounts sought to discredit local civil society and opposition figures (see B5).
- Opposition figures Fadzayi Mahere and Job Sikhala were convicted on charges of publishing false statements in reprisal for their online activity during the coverage period. Others who posted content that was critical of government officials also faced arrest and sometimes prosecution (see C3).
- In May 2023, journalist Hopewell Chin'ono was acquitted on all charges that were brought against him for posting critical content on Twitter during previous coverage periods (see C3).
- The Postal and Telecommunications Regulatory Authority of Zimbabwe (POTRAZ) released the draft Cyber and Data Protection Regulations in November 2022, seeking public comment on measures that would facilitate the enforcement of the previous year's Cyber and Data Protection Act (see C6).
- Repeated hacks of Zoom and Twitter accounts belonging to Parliament and other state institutions raised questions about the government's vulnerability and lack of cybersecurity safeguards (see C8).

### A Obstacles to Access

#### A1 0-6 pts

Do infrastructural limitations restrict access to the internet or the 2 / speed and quality of internet connections?

Score Change: The score improved from 1 to 2 because disruptions to access due to electricity rationing and power outages were reported less frequently during the coverage period.

Internet access is severely limited in Zimbabwe, and the problem is exacerbated by an ongoing economic crisis and inadequate electrical infrastructure. While the government reports favorable statistics on internet penetration, the quality and accessibility of connections remain poor in practice, especially in rural and marginalized communities. Internet penetration is lower in most rural and peri-urban areas due to relatively high costs and lack of infrastructure (see A2).

POTRAZ reported an internet penetration rate of 63.9 percent in the third quarter of 2022, citing a 2.6-point improvement from the rate of 61.3 percent that was reported in the second quarter of 2022.1 2 By contrast, the latest available data from the Digital 2023 report indicated a penetration rate of just 34.8 percent as of January 2023.3 In the past, the government has reported 100 percent mobile phone penetration, likely because many users had more than one subscription. In the third quarter of 2022, POTRAZ reported a mobile phone penetration rate of 95.9 percent.4

Access to the internet is severely affected by incessant power shortages. In November 2022, following droughts that lowered water levels at Kariba Dam, a hydroelectric power plant had to halt operations, leading to daily 19-hour power cuts beginning in December 2022.5 The Zimbabwe Electricity Supply Authority (ZESA) also cited vandalism of infrastructure as a factor contributing to the power shortages.6 In June 2023, after the end of the coverage period, media reports suggested that the country's electricity supply situation had improved, with a decrease in power cuts.7

The number of mobile-internet base stations increased between the second and third quarter of 2022. A reported 139 base stations using third-generation (3G) network technology were deployed together with 120 more advanced long-term evolution (LTE) base stations, improving the internet infrastructure, though disparities in access between rural and urban areas continue to widen (see A2).8 Nine second-generation (2G) base stations were also decommissioned and upgraded to 3G.

According to data from Ookla, as of March 2023, the median mobile download and upload speeds were 12.95 Mbps (megabits per second) and 6.71 Mbps, respectively, while the median download and upload speeds for fixed-line broadband stood at 7.85 Mbps and 7.91 Mbps, respectively.9

#### A2 0-3 pts

Is access to the internet prohibitively expensive or beyond the reach of certain segments of the population for geographical, social, or other reasons?  $\begin{pmatrix} 0 & 1 \\ 3 & 1 \end{pmatrix}$ 

Internet access is sharply limited by Zimbabwe's economic crisis, with users facing rising inflation and costs. Many poor rural communities and people with low incomes struggle to pay for access to the internet and other telecommunications services.

High inflation, lack of access to credit, reduced consumer spending, and foreign currency shortages have all complicated the economic crisis and its impact on the affordability of internet service.10 Incomes in Zimbabwe have failed to keep pace with inflation,11 making the cost of mobile connections more burdensome for ordinary users.12 This in turn has negatively affected the revenues and operations of service providers.13

Since 2020, mobile service providers have continued to increase their voice, data, and text-messaging prices,14 passing on the costs of high information and communication technology (ICT) taxes to consumers (see A4). On April 1, 2023, companies increased prices by 50 percent, shortly after another 50 percent increase in February 2023, for an overall 125 percent increase in the price of data.15 These moves were attributed to increases in the providers' own costs of doing business as a result of inflation and the broader economic meltdown in Zimbabwe.16

In April 2023, 8 gigabytes of private Wi-Fi data over 30 days from Econet Wireless cost Z\$18,557 (US\$50), a high rate compared with Zimbabwe's annual gross national income (GNI) per capita of US\$2,270.17

The Inclusive Internet Index's indicator measuring the cost of internet access relative to income ranked Zimbabwe 94th out of 100 countries in 2022.18 The Alliance for Affordable Internet ranked Zimbabwe 58th out of 72 low-income countries in terms of affordability of internet access in 2021.19

The Parliamentary Portfolio Committee for ICT, Postal, and Courier Services summoned representatives of two mobile service providers as well as the Ministry of ICT, Postal, and Courier Services in February 2023 to provide oral evidence on the performance and costs of internet services in Zimbabwe.20 The committee tasked the sector with addressing three issues that affect consumers: inability to roll over unused mobile data, inability to transfer mobile data to another user, and the high cost of the Econet Wireless data bundle.21

Although the cost of connectivity is high, Zimbabweans can access some websites for free. Econet partnered with the UN Children's Fund in 2020 to provide zero-rated access to health and educational information.22 Subscribers to Econet can also access news online from Pindula News at no charge.23

There are significant disparities between urban and rural Zimbabweans' access to internet. According to POTRAZ's 2022 third-quarter report, rural areas had a total of 923 3G base stations and 217 fourth-generation (4G) base stations, while urban areas had 2,034 and 1,324, respectively.24

The government has made some efforts to overcome these disparities. In December 2022, the director general of POTRAZ stated that 22 base stations would be relocated to rural areas to improve internet access.25 POTRAZ has also established programs to provide computers and internet access to schools in rural communities.26

For several years, POTRAZ has been establishing Community Information Centres (CICs) that are meant to improve internet access and digital literacy in marginalized communities.27 In November 2022, the *Herald*, a

state-owned newspaper, reported that about 170 CICs had been commissioned, with 32 more under construction.28 However, usage of CICs is limited by digital literacy challenges in most rural communities, accessibility challenges associated with long travel distances or limited hours of operation, and a lack of devices at CICs that provide Wi-Fi only and do not allow public access to computer rooms.29 In the past, there were public perceptions that access to CICs would be restricted for those who are critical of the ruling party, ZANU-PF.

#### A3 0-6 pts

Does the government exercise technical or legal control over internet infrastructure for the purposes of restricting 6 connectivity?

Score Change: The score improved from 4 to 5 because there were no reports of intentional connectivity restrictions during the coverage period.

The government did not exercise any form of technical or legal control over internet infrastructure for the purposes of restricting connectivity in the period under review. However, the minister of information, publicity, and broadcasting services, Monica Mutsvangwa, argued in November 2022 that internet shutdowns were justified during conflict situations; she was speaking on a panel at the global Internet Governance Forum.30 Civil society groups responded with concern and emphasized the importance of internet access ahead of the country's August 2023 elections.31

During the previous coverage period, ahead of by-elections scheduled for March 2022, users experienced slowed connectivity on February 20, 2022, the day that the opposition Citizens Coalition for Change (CCC) planned to live-stream a rally.32 The slowdown prevented users from watching the event. The director general of POTRAZ denied the government's involvement, instead claiming that the internet was slow because many internet users were downloading and sending videos at the same time.33

Users had also experienced slower traffic on the state-owned network TelOne on July 30 and July 31, 2020, after President Mnangagwa and other government officials reportedly ordered connectivity restrictions to be imposed.34 Activists had planned protests for July 31 of that year in response to the government's handling of the COVID-19 pandemic, reports of high-level corruption, and the economic crisis; the connectivity restrictions accompanied a broad crackdown on protesters and the opposition.35

Authorities had imposed social media blocking and network shutdowns on January 15, 2019 (see B1). Those disruptions came as the government struggled to control a series of national protests over the country's deteriorating economic conditions.36 Some observers denounced the shutdown as an attempt to cover up security forces' abuse of citizens during the demonstrations (see B8).37 The network shutdown was not

absolute; partial service was available on at least one of the affected days.38 Econet said it had received a warrant from the state security minister and the director general of the Central Intelligence Organization (CIO) that instructed the mobile service provider to shut down access under the Interception of Communications Act. Econet noted that its executives faced possible imprisonment if they did not comply with the order.39

The High Court ruled the government's actions to be illegal on January 21, 2019, and access was fully restored by January 24.40 The court's ruling against the network shutdown was based on the conclusion that the minister who issued the order did not have the authority to do so,41 rather than on the plaintiffs' constitutional argument, prompting some observers to express concern that the decision left room for future network disruptions ordered by an official with the correct legal authority.

Zimbabwe has five international gateways for internet traffic, controlled respectively by state-owned TelOne and Powertel and privately owned Dandemutande, Econet, and Africom. State control over two of the country's gateways gives the government some ability to unilaterally restrict access to internet and mobile networks.

#### A4 0-6 pts

Are there legal, regulatory, or economic obstacles that restrict 3 / the diversity of service providers?

Zimbabwe had 12 licensed internet access providers (IAPs) and 14 internet service providers (ISPs) registered with the Zimbabwe Internet Service Providers Association (ZISPA) as of 2022.42 In November 2022, POTRAZ licensed a new mobile service provider, Dolphin Telecom, making it the fourth in the country and the first to deploy a virtual network.43

As of the third quarter of 2022, Liquid, a subsidiary of Econet Wireless, had the largest market share among Zimbabwe's five providers of Voice over Internet Protocol (VoIP) service, with 49.8 percent of subscriptions, followed by Africom with 44.4 percent.44 Econet Wireless also dominated the mobile internet market, with 76.6 percent market share for internet and data traffic, while its subsidiary Liquid accounted for 77.1 percent of equipped international internet bandwidth capacity.45 By comparison, NetOne held 23.2 percent of the market for mobile internet and data traffic, pointing to limited competition within the sector.

Econet Wireless remains the only service provider offering fifth-generation (5G) mobile technology, with about 22 base stations deployed between February and May 2022.46

License fees for mobile service providers in Zimbabwe are US\$137 million for a 20-year period, and fees for fixed-line providers are US\$100 million for a 20-year period.47 In the past, Econet has claimed that state-owned

firms were not forced to pay the full license fee amounts, disadvantaging private companies.48

Providers have complained of being overtaxed, as they pay a 25 percent corporate tax to the revenue authority, a 15 percent value-added tax (VAT), a 5 percent health levy, a 3 percent fee for the Universal Services Fund (USF), and a 2 percent levy on electronic transactions, which could deter new players from entering the market.49 In June 2022, POTRAZ launched the Telecommunications Traffic Monitoring System, which has been criticized by mobile service providers as another tax burden, as it introduced a charge of US\$0.06 per minute of international incoming traffic.50

#### A5 0-4 pts

Do national regulatory bodies that oversee service providers and digital technology fail to operate in a free, fair, and independent  $\frac{0}{4}$  manner?

Mobile and fixed-line service providers are regulated by POTRAZ, whose board members are appointed by the president in consultation with the ICT minister.51 POTRAZ is expected to operate independently, but in practice its independence has been questioned over the years, as it has become increasingly subordinated to state security agencies since the appointment of the current director general. Under the Postal and Telecommunications Act, the ICT minister may also give policy direction and instruct the POTRAZ board to reverse, suspend, or rescind its decisions or actions, thus interfering with its independence.52

In December 2021, the ICT minister dismissed three POTRAZ board members for allegedly defying directives to develop strategic plans to use the USF, demonstrating the ministry's involvement in POTRAZ's leadership and operations.53

POTRAZ receives levies and taxes of up to 3.5 percent from industry players (see A4).54 In the past, some stakeholders have accused the authority of neglecting its mandate by promoting the interests of the private sector at the expense of consumers.55

In January 2023, the Consumer Protection Commission, established through the 2019 Consumer Protection Act, became operational.56 The commission has demonstrated an intention to promote consumer rights and responsibilities in the postal and telecommunications sector, including through outreach programs to raise the cybersecurity awareness of rural communities, which were undertaken in partnership with POTRAZ in September 2022.57

POTRAZ was largely seen as having supported and enabled the government's order to restrict connectivity in January 2019. The authority was named as one of the defendants in the Media Institute of Southern

Africa (MISA) and Zimbabwe Lawyers for Human Rights (ZLHR) lawsuit against the government that eventually ended the network shutdown (see A3).58

Gift Machengete, a former intelligence official, has served as the director general of POTRAZ since 2016. Observers have stated that his appointment was an indication of the government's plans to monitor and restrict online activities.59 IAPs and ISPs are also subject to security screenings by the military, according to local sources.

#### **B** Limits on Content

#### B1 0-6 pts

Does the state block or filter, or compel service providers to block or filter, internet content, particularly material that is protected by international human rights standards?

No blocking or filtering of internet content was observed during the coverage period, though websites and social media platforms have been blocked during politically sensitive moments in recent years.

In January 2019, social media and messaging platforms—including Facebook, WhatsApp, Twitter, LinkedIn, Reddit, and Tinder—were blocked for about one week during contentious protests (see A3).60 The blocking began on January 15 and continued until a court ordered providers to lift it on January 21; access to social media was fully restored by January 24.61 Searches for and use of virtual private networks (VPNs) surged during this period, as individuals sought ways to circumvent the restrictions.62

In the days following the July 2018 elections, Zimelection.com, the website of the independent United Kingdom-based advocacy organization Zimbabwe Election 2018, was blocked by state-owned TelOne.63 The site remained accessible via other ISPs.

#### B2 0-4 pts

Do state or nonstate actors employ legal, administrative, or other means to force publishers, content hosts, or digital platforms to 3 / delete content, particularly material that is protected by 4 international human rights standards?

In the period under review, there was no record of removals or deletions of protected material.

The Cyber and Data Protection Act (see C6), enacted in December 2021, protects service providers from liability for illegal content uploaded by users. The law carries criminal penalties for providers that fail to remove illegal content when ordered to do so by a court or other public authority,

or upon discovery by the provider itself,64 including a fine of Z\$200,000 (US\$550) and imprisonment of up to two years.65

#### B3 0-4 pts

Do restrictions on the internet and digital content lack transparency, proportionality to the stated aims, or an 4 independent appeals process?

The network shutdown in mid-January 2019 exposed the lack of safeguards against arbitrary government decisions affecting internet access (see A3). The High Court judgment that nullified the shutdown also underscored the abuse of existing national laws, especially the Interception of Communications Act.66

Although the High Court ordered the government to restore connectivity during the January 2019 shutdown, it did not rule that internet shutdowns in general were illegal. Rather, it stated that only President Mnangagwa had the authority to order connectivity restrictions; the state security minister had issued the order for the January shutdown.67 In their legal argument against the shutdown, MISA and ZLHR noted that it resulted in unnecessary losses of income for citizens and businesses, among other disproportionate harms.68 The service disruption also affected students, and ordinary people were unable to carry out daily activities—such as electronic banking—that are essential for meeting their basic needs.69 In its response to the legal challenge, the government focused on national security, arguing that the shutdown was justified because the internet and social media were contributing to violence and illegal activity.70

#### B4 0-4 pts

## Do online journalists, commentators, and ordinary users practice 2 / self-censorship?

Self-censorship remains common among Zimbabweans. In March 2023, following threats from the president's spokesperson to journalists reporting on the release of an Al Jazeera documentary about corruption and money laundering in Zimbabwe, prominent journalist Hopewell Chin'ono said on Twitter that he would not be commenting on the matter out of fear for his safety.71 Media groups submitted a petition to Parliament arguing that the online threats against journalists surrounding the documentary would instill fear and promote self-censorship.72

In the past, civic and opposition leaders have deleted Facebook and Twitter posts in response to threats or arrests. Local sources reported that Chalton Hwende, a leading member of Parliament then representing the opposition Movement for Democratic Change (MDC), deleted Twitter posts in January 2019 that called for protests against President Mnangagwa after he received online threats and harassment from Mnangagwa's supporters.73 Hwende was arrested in March 2019 and

charged with treason; the case against him was dropped in September 2020 (see C3).74

The arrest of human rights defenders and opposition figures over their online activism (see C3), as well as the government's threatening statements about posting critical content, evidently increased individuals' reluctance to express their opinions online during the coverage period.75 The 2021 Cyber and Data Protection Act categorizes the publication of false news as a criminal offense (see C2).

Statements by the Ministry of Home Affairs, the military, police, and senior government officials have also been interpreted as attempts to motivate self-censorship among internet users. In April 2022, the permanent secretary for the Ministry of Information, Publicity, and Broadcasting Services argued for a law that would criminalize "campaigning against one's own country," following an address by Chin'ono on the state of human rights in Zimbabwe at a summit in Geneva.76 In November 2021, the minister of information, publicity, and broadcasting services said that the government had set up a "cyber-team" for the purpose of social media monitoring.77

Human rights activists and content creators based outside of Zimbabwe continue to share information and openly criticize the government, though they risk arrest or prosecution if they return to the country.78

#### B5 0-4 pts

Are online sources of information controlled or manipulated by the government or other powerful actors to advance a particular political interest?

Traditional media organizations in Zimbabwe, many of which are owned wholly or partly by the government, have developed presences online, influencing access to information.79

The government and the ruling party continue to dominate the online discourse. Progovernment commentators known as *varakashi* defend the administration and attack opponents on social media, relying on platforms like Facebook, Twitter, and WhatsApp to spread favorable narratives.80 Some observers argue that the country's social media landscape has entered a new era of disinformation and propaganda.81

State-owned media outlets sometimes spread false information that paints the government in a positive light. In January 2023, the *Herald* published a news article claiming that the government had refurbished 400 kilometers of the Harare-to-Beitbridge Highway,82 but the accompanying image was of a road in Ireland.83 In September 2021, another article published by the *Herald* alleged that some citizens and members of the media were being paid by the United States to spread misinformation against Chinese companies and nationals in Zimbabwe.84

In November 2022, the Digital Forensics Research Lab (DFRLab) reported that official Twitter accounts of the Chinese government had targeted prominent opposition figures and civil society organizations with disinformation and smears, which were amplified by pro-ZANU-PF accounts.85

In April 2022, the Varakashi4ED, a pro-ZANU-PF social media group, wrote a petition calling on the attorney general to expedite the drafting of the so-called Patriotic Bill following journalist Hopewell Chin'ono's speech at the UN Human Rights Summit in Geneva (see B4 and C2).86 In 2019, Mnangagwa's spokesperson, George Charamba, appeared to imply that ZANU-PF paid a prominent progovernment Twitter user.87 Addressing ZANU-PF youth activists in March 2018, Mnangagwa urged them to "dominate" the social media space ahead of that year's elections.88 Observers noted that the statement coincided with an increase in anonymous accounts on both Facebook and Twitter that attacked perceived government opponents, especially human rights defenders and opposition party members.89 The trend continued in subsequent years, with human rights activists and opposition figures reporting harassment on social media by accounts that they suspected were linked to ZANU-PF.90

#### B6 0-3 pts

Are there economic or regulatory constraints that negatively 1 / affect users' ability to publish content online?

The high costs of internet access and the poor quality of service are among the factors that limit individuals' and media outlets' capacity to publish content online (see A2).91

News outlets and other content producers are free to seek online advertising without onerous legal restrictions. However, the allocation of advertising may be affected by political pressures or interests, limiting revenues for outlets that are critical of the authorities. The country's dire economic situation, which can be attributed in large part to government corruption and mismanagement, also threatens the financial viability of online publishing.

In January 2022, the government announced that it had formed a partnership with Daedalus World Limited, a business management consultant company, to collect taxes from e-commerce operators, including digital advertisers and content platforms.92

The Broadcasting Authority of Zimbabwe (BAZ) requires that webcasting be licensed under the Broadcasting Services Act.93 However, the rule has largely been ignored by recently formed online news agencies, many of which distribute content on YouTube without being licensed.

Access to diverse information remains a challenge for people in rural and marginalized communities who receive news primarily from radio and television. The relative few who have access to the internet often rely on promotional bundles that allow access to a limited number of platforms.94

Zimbabwe's online landscape continues to grow in vibrancy, with services like Facebook, Google, and YouTube freely available and among the country's most popular websites. The Digital 2023 report found that 1.5 million social media accounts were active in Zimbabwe as of January 2023.95 Numerous citizen initiatives have taken advantage of the broader access to ICT networks and increased the diversity of available information online. The youth ICT network Magamba's @OpenParlyZW Twitter account monitors parliamentary activities.96 Other citizen journalism efforts on social media, such as @263 on Twitter, have developed into full-fledged online news outlets.97 Community Podium,98 a nonprofit media organization that seeks to promote stories about rural and marginalized communities, distributes a monthly newsletter through WhatsApp; in March 2023 it featured a story in Tonga,99 one of the country's minority languages.

In the 2022 Inclusive Internet Index, Zimbabwe was ranked 80th out of 100 countries for availability of news in local languages.100

In recent years, various online news agencies have been launched by both junior and senior journalists, many of whom were frustrated over a lack of journalistic opportunities and the political capture of mainstream newspapers. Such platforms include NewsHawks, an investigative journalism outlet associated with senior Zimbabwean journalists.101 The Centre for Innovation and Technology, a digital start-up, has also reshaped the media landscape by taking advantage of tools like Twitter Spaces to deliver information.102

Online misinformation has become more prevalent over time, and the government and ruling party have used it to promote favorable narratives or discredit the opposition (see B5).

Several stories amplifying falsehoods have gained enough traction that the government was obliged to address them directly. In June 2020, the government issued a statement denying social media stories that a coup to topple President Mnangagwa was imminent.103 The Reserve Bank of Zimbabwe issued a statement in January 2021 to deny online rumors that it was introducing higher Zimbabwe dollar denominations as inflation continued to rise.104

Do conditions impede users' ability to mobilize, form communities, and campaign, particularly on political and social 6 issues?

Social media are a key source of information for citizens and activists, and Zimbabweans frequently mobilize in online protests and campaigns. During the coverage period, users supported and engaged with social media campaigns criticizing human rights abuses, poor governance, and corruption. For example, the Twitter hashtag #FreeWiwa was employed to campaign against the prolonged pretrial detention of opposition party member Job Sikhala, and #ZanuPFMustGo was the rallying point of a campaign against the ruling party. Teachers advocated for better salaries and working conditions under the hashtag #Teachers4USD.105

Zimbabweans have used the hashtag #DataMustFallZW since May 2020 to protest mobile service providers' price hikes on data packages.106 As a result of this online mobilization, in February 2022 NetOne reverted to its older, lower prices for mobile and data services.107 In May 2022, citizens also used the hashtag #ShutDownZimbabwe to protest against the ongoing economic crisis.108

Some digital activists use fake names and pseudonyms online to reduce the risk of arrest or harassment by government supporters (see B5).109

President Mnangagwa has referred to the online campaigns against human rights abuses and corruption as "a cyber-war on our country in pursuit of a regime change agenda."110 People active on social media during protests have been targeted for arrest, including Hopewell Chin'ono and MDC leader Jacob Ngarivhume, both of whom were charged with using social media to incite violence in 2020 (see C3).111 Social media users campaigned for their release online.112

Initial government plans for the draft Criminal Law Codification and Reform Amendment Act, known as the "Patriotic Bill," were understood as an effort to silence human rights defenders and digital activists following the 2020 #ZimbabweanLivesMatter campaign, as the legislation would criminalize "campaigning against one's country."113 It was eventually enacted in July 2023, after the end of the coverage period (see C2).

## C Violations of User Rights

#### C1 0-6 pts

Do the constitution or other laws fail to protect rights such as freedom of expression, access to information, and press freedom, 2 / including on the internet, and are they enforced by a judiciary 6 that lacks independence?

The 2013 constitution provides for press freedom, freedom of expression, and access to information.114 These guarantees are contradicted by

several laws, including by the 2021 Cyber and Data Protection Act and the Criminal Law Codification and Reform Act (see C2).

The Freedom of Information General Regulations, enacted in September 2021, require ordinary citizens to pay fees to gain access to information or file an appeal on decisions related to such requests.115 Another law, the Interception of Communications Act, was used as a justification for the internet shutdown in January 2019 (see A3).116

Zimbabwe's courts have been inundated with cases involving the arrest of online journalists and political activists for their online activities (see C3). Contrary to a positive development in April 2021, wherein a High Court judge invalidated Section 31(a)(iii) of the Criminal Law Codification and Reform Act, a provision used to charge many of those arrested for their online activities (see C2), in April 2022 a court convicted and sentenced opposition party spokesperson Fadzayi Mahere based on the same charge and facts as the previously dismissed case against journalist Hopewell Chin'ono (see C3).117

Human rights defenders and opposition political groups continue to raise concerns that the judiciary is complicit in human rights violations. Journalists like Chin'ono have faced long periods of pretrial detention, political activists have also been denied bail, and others have been brought to court in leg irons or denied medical attention while in prison (see C3).118

#### C2 0-4 pts

Are there laws that assign criminal penalties or civil liability for online activities, particularly those that are protected under 4 international human rights standards?

Several laws criminalize online expression in Zimbabwe, including a law that seeks to criminalize the spread of false information.

In December 2022, a month after the cabinet approved principles for the development of a "Patriotic Bill," the government introduced the Criminal Law Codification and Reform Amendment Bill, which criminalized willfully injuring the sovereignty or national interests of Zimbabwe, including through meetings or communication with foreign governments, their agencies, or proxies. Human rights defenders expressed concerns that the legislation was aimed at silencing government critics, including online activists.119 Mnangagwa signed the bill into law in July 2023, after the end of the coverage period.120

Section 14 of Statutory Instrument 83 of 2020, Public Health (COVID-19 Prevention, Containment, and Treatment), criminalizes the publication of "false news" about public officials involved in enforcing lockdown restrictions. Anyone arrested for an infraction would be prosecuted under

the criminal code, with punishments of up to Z\$500,000 (\$1,400) in fines, up to 20 years in prison, or both.

In December 2021, the government enacted the Cyber and Data Protection Act (see C6).121 Section 164, which amended the Criminal Law Codification and Reform Act, barred messages distributed via computer or information system with the intention of inciting others "to commit acts of violence against any person or persons, or to cause damage to any property." Violation of this section carries a fine of up to Z\$280,000 (US\$774), up to five years' imprisonment, or both. The law imposes similar criminal penalties for sending threatening messages, cyberbullying and harassment, and the transmission of intimate images without consent. The law also imposes fines of up to Z\$280,000 (US\$774), up to 10 years' imprisonment, or both, for the creation or distribution online of "racist or xenophobic material" and "language that tends to lower the reputation or feelings of persons" because of their membership in a protected group.122

The Criminal Law Codification and Reform Act places restrictions on certain types of speech that apply equally online and offline. Section 33 of the law characterizes "undermining [the] authority of or insulting [the] President" in any printed or electronic medium as a crime against the state and prescribes fines, penalties of up to one year in prison, or both as punishment.123 A landmark constitutional ruling in 2016 annulled Section 96 of this act, which had criminalized defamation,124 though the vaguely defined "criminal insult" remains an offense under Section 95.

In April 2021, the High Court invalidated Section 31(a)(iii) of the Criminal Law Codification and Reform Act, which criminalized publishing or communicating falsehoods prejudicial to the state, on the grounds that the Constitutional Court struck it down under the former constitution.125 However, in April 2023, lawyer and spokesperson of the CCC opposition party Fadzayi Mahere was convicted of violating the same provision.126 Mahere later appealed the conviction and sentence (see C3). Factcheck Zimbabwe attributed these continued arrests to the fact that only one part of Section 31(a) was struck down, while the other sections, on which Mahere was originally charged, have not yet been subjected to a constitutional test.127

Section 88(b) of the Postal and Telecommunications Act criminalizes the sending of offensive or false telephone messages intended to cause annoyance, inconvenience, or needless anxiety to another person, and one arrest was made under this section during the coverage period (see C3).

#### C3 0-6 pts

Are individuals penalized for online activities, particularly those 3 / that are protected under international human rights standards? 6

The government is intolerant of critical online commentary and activism, often invoking vaguely written laws to arrest social media users who engage in such behavior. Lengthy pretrial detention has become very common, though lengthy prison sentences are rarer.

In April 2023, Fadzayi Mahere, a lawyer and CCC spokesperson, was convicted of publishing false statements in contravention of Section 31 of the criminal code (see C1 and C2), having posted a video on Twitter in which she alleged that a police officer had beaten to death a baby carried on its mother's back.128 She was detained for seven days after her arrest before she was granted bail. Mahere was ordered to pay a US\$500 fine; she was acquitted of another charge of promoting and inciting public violence.129 She later filed an appeal challenging the conviction and sentence.130

In November 2022, Edith Mupondi, a teacher in Harare, was arrested and stood trial for allegedly sending a message she knew to be false for the purposes of causing annoyance, inconvenience, and needless anxiety to a person in contravention of Section 88(b) of the Postal and Telecommunications Act (see C2). The case centered on a message she sent in a school WhatsApp group to call out poor working conditions and teachers who were working during an ongoing national strike effort.131 She was acquitted in January 2023.132

In September 2022, journalist Hope Chizuzu was arrested and charged with transmitting false data messages intended to cause harm in contravention of Section 164(c) of the Criminal Law Codification and Reform Act, in connection with posts made on his Facebook page.133 In January 2023, the prosecution indicated that it was not ready to proceed with trial; the case was pending at the end of the coverage period.134

In August 2022, two journalists from the private print and digital media outlet *NewsDay*—editor Wisdom Mudzungairi and reporter Desmond Chingarande—were arrested for allegedly publishing false messages through their coverage of a legal dispute between local authorities and supposed owners of a memorial park called Glenforest. The journalists deemed the arrest an "intimidation tactic."135 They were accused of violating Section 164(c) of the Criminal Law Codification and Reform Act, a provision that was introduced as part of the 2021 Cyber and Data Protection Act. Mudzungairi and Chingarande were detained for three hours of questioning before being charged and released. The charges were later withdrawn.

In June 2022, the editor of the news website ZimLive, Mduduzi Mathuthu, was detained and charged with insulting and undermining the authority of the president, having criticized the president's fiscal policies in a Twitter

post.136 Although the journalist remained out of custody at the end of the coverage period, the matter had yet to be prosecuted.

A key member of the CCC, Job Sikhala, was arrested and detained on June 14, 2022, for allegedly inciting violence after a video circulated online in which he accused the ruling party of being responsible for the murder of another CCC lawmaker whose body was found mutilated in a well that month.137 Sikhala was denied bail 15 times and held in pretrial detention for 300 days.138 He was convicted on May 3, 2023, and received a sixmonth suspended sentence and a US\$600 fine; however, Sikhala remained in custody as he awaited trial on two other charges of incitement to violence and disorderly conduct.139 His conviction barred him from participating in the August 2023 general elections.140

In a positive development, two journalists from the online television channel Heart & Soul TV were acquitted on all charges during the current coverage period.141 They had been arrested in May 2022 after photographing officers as they attempted to detain an opposition lawmaker; the two were charged with taking photos within a polling station and disorderly conduct in a polling station.142

In May 2022, social media user Raymond Chari was arrested for allegedly cyberbullying Zimbabwe's ambassador to Tanzania, Anselem Sanyatwe, and his wife Chido Sanyatwe, a member of Parliament representing ZANU-PF. According to the prosecutor, Chari harassed the two by using "unprintable words" in a WhatsApp group. He was charged under Section 164(b) of the Criminal Law Codification and Reform Act, as amended by the Cyber and Data Protection Act.143 The status of his case was unclear at the end of the coverage period.

Prominent journalist Hopewell Chin'ono was arrested multiple times in relation to his online activism during previous coverage periods. In July 2020, he was charged with incitement to violence in connection with photos and videos he had posted on Twitter about antigovernment protests. When he was released on bail after subsequent arrests in 2020, it was on the condition that he not post on Twitter in ways that would "obstruct justice."144 He was arrested again on January 8, 2021, for allegedly publishing false information when he wrote on Twitter that a police officer had beaten a child to death while enforcing COVID-19 restrictions.145 In April 2021, the High Court threw out the charges from his January arrest in a ruling that invalidated Section 31(a)(iii) of the Criminal Law Codification and Reform Act (see C2). Chin'ono's trial on the charge of inciting public violence commenced in October 2022.146 He was then acquitted of all charges, including obstructing the course of justice, in May 2023.147

Several cases from 2019 and early 2020 were still pending or presumed to be ongoing at the end of the coverage period. Chrispen Rambu, an

opposition party council member in Chipinge, was arrested in April 2020 for calling President Mnangagwa a fool in a WhatsApp message. Rambu was charged under Section 33 of the Criminal Law Codification and Reform Act and was released on bail to await trial as of May 2020.148 The status of his case remained unclear.

In May 2020, Robert Zakeyo and Admire Mupemhi were arrested and charged under Section 33(2)(b) of the Criminal Law Codification and Reform Act for allegedly undermining the authority of the president. The two are said to have shared a video clip on WhatsApp lampooning President Mnangagwa over his economic policies and calling him a frog. They were reported to the police by another member in the group. Both men were soon released pending charges,149 and the status of their cases has not been reported.

Goodman Musariri, a member of the ruling ZANU-PF party, was arrested in April 2020, also for allegedly undermining the authority of the president. He was accused of sending a WhatsApp message in a political party group that said President Mnangagwa had nothing to offer the country, had less than 18 years to live, and must resign and let his deputy take over. Musariri was released on bail pending trial in May 2020;150 he appeared in court in May 2021.151 At the end of the coverage period, his case was still pending in the High Court.

#### C4 0-4 pts

# Does the government place restrictions on anonymous 3 / communication or encryption?

User privacy and anonymity are compromised by SIM-card registration regulations implemented in 2011. They require mobile phone subscribers to submit details about their personal identity to service providers, ostensibly to combat crime and curtail threatening or obscene communications.152 Under the 2013 Postal and Telecommunications (Subscriber Registration) Regulations (Statutory Instrument 142 of 2013), subscribers must register with all telecommunications service providers by providing personal details, including a full name, permanent residential address, nationality, gender, subscriber identification number, and national identification or passport number.153 Service providers are then required to retain such personal information for five years after either party has discontinued the subscription.

Under Section 11(1) of the 2007 Interception of Communications Act, security and law enforcement agencies can require individuals to hand over decryption keys for vague reasons, including to protect the interests of national security, to prevent or detect a serious criminal offense, or to ensure the country's economic well-being.154

Under Section 163(b) of the Criminal Law Codification and Reform Act, individuals cannot deny, hinder, or block authorized persons, such as law

As in 2018, when ZANU-PF sent unsolicited campaign messages to mobile subscribers, the ruling party resumed sending unsolicited messages to subscribers in April 2023, identifying the location of the recipients' polling stations.156 In 2018, both the Zimbabwe Electoral Commission (ZEC) and mobile service providers denied giving the party access to phone numbers,157 but the ZEC was known to have compiled phone numbers as part of the voter registration process. ZANU-PF's campaign messages extended to many recipients who were not party members, suggesting that individuals' privacy rights had been violated.

#### C5 0-6 pts

Does state surveillance of internet activities infringe on users' 2 / right to privacy? 6

Concerns that the government is increasing its surveillance capacity were substantiated during the coverage period.

In July 2022, President Mnangagwa launched a project to develop "Zim Cyber City" in Mount Hampden, New Harare, in partnership with Mulk International, a company based in the United Arab Emirates.158 Investors have claimed that Zim Cyber City will utilize surveillance technology and facial-recognition systems connected directly to law enforcement agencies, drawing expressions of concern from digital rights and privacy advocates.159

In October 2022, the permanent secretary for the Ministry of Information, Publicity, and Broadcasting Services, Nick Mangwana, stated that the government does not have the tools to monitor social media or the intention to censor the platforms, but that it will deal with all cybercrimes according to the law.160 In November 2021, the minister of information, publicity, and broadcasting services had indicated that the government was monitoring social media communications (see B4).

An investigation released by Toronto-based Citizen Lab in December 2020 identified the Zimbabwean government as a likely customer of Circles, a surveillance company that enables the monitoring of calls, texts, and mobile phone geolocation by exploiting weaknesses in telecommunications infrastructure.161 In February 2021, NewsHawks, the Zimbabwean investigative reporting website, alleged that then vice president Kembo Mohadi was targeted by Circles spyware amid power struggles within ZANU-PF, citing anonymous intelligence sources; audio recordings that seemed to implicate Mohadi in extramarital affairs had been released publicly, eventually prompting his resignation.162

In May 2020, member of Parliament Joana Mamombe and fellow opposition activists Cecilia Chimbiri and Netsai Marova alleged that they had been arrested during a protest, abducted, tortured, and sexually

assaulted by security forces. In June of that year, Home Affairs Minister Kazembe Kazembe challenged their allegations, releasing an analysis of their mobile phones' geolocation data that purportedly showed they were not at the location of their reported arrest. 163 It was unclear whether the data were accurate and how the government obtained them; the possible surveillance technology means included or request telecommunications providers. Prosecutors pursued legal action against Mamombe, Chimbiri, and Marova for making false accusations, and officials have repeatedly detained them in an apparent attempt to reduce the credibility of their allegations.164 The Zimbabwe Human Rights Commission corroborated the torture allegations in a May 2020 preliminary investigation, shortly after the three women were released.165 During their trial in September 2020, the activists successfully sought a court order to compel Econet to release their mobile phone records, including location information, during the period of their abduction; the records have not been made public.166 In September 2022, the High Court proceedings were stayed to allow for the review of the dismissal of the group's application for discharge in the magistrates court. They were finally acquitted in July 2023, after the end of the coverage period.167

Opposition leaders have claimed that their online activities are under constant state surveillance. In 2020, lawmaker and then MDC representative Chalton Hwende, who faced treason charges in 2019, claimed that his communications were under surveillance.168

In March 2018, the government partnered with Chinese company CloudWalk Technology to implement a nationwide facial-recognition program.169 MISA expressed concerns about how the technology might infringe on ordinary citizens' privacy rights.170 In May 2019, the deputy commissioner general of the police announced the receipt of advanced surveillance equipment, though he did not specify the technologies.171

In October 2020, a document that accused several online journalists and activists of seeking to sabotage the government was leaked to *NewsDay*. The document, which was attributed to Zimbabwean security services, listed the names of individuals accused of leading online campaigns and called on state security agents to place their online activities under constant watch. Officials associated the success of these tactics with the arrests of Hopewell Chin'ono and Jacob Ngarivhume (see B8 and C3) and have noted "a critical need to widen the net."172

Several legal provisions may permit the government to conduct surveillance without sufficient oversight. The Post and Telecommunications Act of 2000 allows the government to intercept ostensibly suspicious communications.173 Provisions in the Cyber and Data Protection Act also authorize the interception, search, and seizure of electronic devices, without mandating sufficient oversight to prevent

abuse (see C6).174 The 2007 Interception of Communications Act allows the police, intelligence officers, the Tax Revenue Authority, and the Department of National Security in the Office of the President to request warrants from the minister of transport and communications to intercept communications for the purposes of law enforcement, national security, or compelling national economic interests.175 The law does not ensure judicial oversight of the warrants or ensure that users are notified if there is a warrant for their communications.

The Cyber and Data Protection Act amended the Interception of Communications Act and established the Cybersecurity and Monitoring of Interception of Communications Centre. The institution is housed in the president's office, making it difficult to facilitate oversight of its activities.

#### C6 0-6 pts

Does monitoring and collection of user data by service providers and other technology companies infringe on users' right to  $\frac{2}{6}$  privacy?

Zimbabwe's legal framework requires service providers and technology companies to provide user information to the government. The government has enacted a data protection law, which established baseline protections for personal information.

The 2021 Cyber and Data Protection Act regulates the collection, processing, transmission, use, and storage of data. It establishes a baseline set of protections for data processed in Zimbabwe, with special safeguards for sensitive personal information, such as information about a person's race, ethnicity, or sex life, and for health data, biometric data, and genetic data.176 The consent requirement for the processing of nonsensitive personal data includes a provision stating that consent "may be implied," significantly weakening such protections.177 The legislation also has broad and poorly defined exemptions to its protective framework, such as for processing data "in the public interest" or in the interest of national security.178 It permits the data protection authority to create new categories of exemption. Though the law imposes some limits on the transfer of personal data outside of Zimbabwe to countries without an adequate standard of protection, those limits similarly feature broad exemptions.179

The act designates POTRAZ, the telecommunications regulator, as the data protection authority. MISA's Zimbabwe office has criticized the government for granting this role to POTRAZ, citing concerns about the regulator's independence and noting potential conflicts of interest, given that POTRAZ regulates the industry with the most data controllers and processors.180 In February 2022, POTRAZ issued a notice calling on all data controllers and processors to start complying with the Cyber and Data Protection Act and to provide it with information about the purpose

of their data collection. POTRAZ has established mechanisms for users to submit complaints when their data are processed without consent.181

In November 2022, POTRAZ issued a public call for input and comments on the proposed Cyber and Data Protection (Licensing of Data Controllers and Appointment of Data Protection Officers) Regulations, which would facilitate the implementation and enforcement of the 2021 law's data protection and privacy framework.182

In the lead-up to the August 2023 general elections, citizens reported receiving unsolicited messages from the ruling party that promoted Mnangagwa's reelection. Econet and the ZEC have been accused of providing voters' personal data to ZANU-PF, as was the case ahead of the 2018 elections (see C4).

In February 2021, Mnangagwa launched the National Data Centre, a data storage infrastructure project that the government planned to link to the national identity registration system and a Smart City network, which would be equipped with surveillance technology.183 Civil society organizations like MISA-Zimbabwe have raised concerns about the misuse of personal data,184 while others have criticized the involvement of Chinese companies with links to the Chinese military.185

In September 2020, the High Court invalidated a warrant for Econet's subscriber database due to privacy concerns. Police had sought access to the database in pursuit of illegal dealers of foreign currency, who were allegedly using Econet's mobile money-transfer platform Ecocash.186

Under a 2014 amendment to the 2013 Postal and Telecommunications (Subscriber Registration) Regulations (Statutory Instrument 142 of 2013), law enforcement agents must obtain a court order or a warrant to request information from a central subscriber information database established under that law.187 Zimbabwe's Parliamentary Legal Committee noted that the 2014 amendment fell short of independent judicial oversight since a warrant "can be issued by police officers who have been designated as justices of the peace."188 In 2017, POTRAZ invited companies to bid for a contract to build the information database.189 POTRAZ issued another invitation for expressions of interest in 2019.190

The Cyber and Data Protection Act amended the Criminal Procedure and Evidence Act to specify that the police are required to obtain a warrant from a judicial official before accessing a computer or computer data.191

The Postal and Telecommunications Act of 2000 requires a telecommunications licensee, such as an ISP, to supply information to government officials upon request.192 Section 88 of the act also obligates

the companies to report any communications with "offensive" or "threatening" content.193

#### C7 0-5 pts

Are individuals subject to extralegal intimidation or physical violence by state authorities or any other actor in relation to their online activities?

Online journalists and ICT users face regular harassment and intimidation in reprisal for their online activities. Members of the political opposition and human rights defenders similarly encounter threats in response to their communications via social media and messaging tools.194

In March 2023, a Twitter user known by the pseudonym @Tinoedzazvimwe, believed to be the presidential spokesperson George Charamba, threatened journalists including Hopewell Chin'ono, Mduduzi Mathuthu, and those at the investigative outlet NewsHawks for providing commentary and reporting on an Al Jazeera documentary that exposed alleged corruption and money laundering associated with the gold trade in Zimbabwe (see B4).195

Separately in March 2023, a Twitter user under the name @GeorgeCharamba, who claimed to be the presidential spokesperson, responded to a post about the documentary by opposition party youth activist Makomborero Haruzivishe, reminding Haruzivishe of his prior abduction and claiming to have agents at his location.196 Screenshots of the threatening post were widely shared and interpreted as evidence of extralegal intimidation meant to silence critics of the government.197

Journalists and activists often receive harassing and intimidating phone calls from unknown individuals in response to their online activities. In June 2022, a journalist for the online outlet Bulawayo24, Simbarashe Sithole, received a threatening call from a youth supporter of the ruling party over a story he had written on corruption in the constituency of the home affairs minister. The youth activist threatened to assault Sithole and to "deal with him on social media." 198

In January 2022, journalist Mujopeni Mudimba was harassed by an unknown person who called him using a private number. Mudimba had published and circulated a story via WhatsApp on the eviction of villagers by a Chinese company.199

During the coverage period, ZANU-PF supporters continued to harass Joana Mamombe, Cecilia Chimbiri, and Netsai Marova—all opposition youth leaders—on social media in reprisal for their allegations that they had been arrested and tortured by security forces in May 2020 (see C5).

In previous years, users also faced violence in retaliation for their online activities. In February 2021, ZANU-PF supporters besieged the office of

MDC vice president Tendai Biti and threatened to kill him over his social media posts.200 A ZANU-PF spokesperson had criticized Biti that January for arguing in a Twitter post that the government should take responsibility for every COVID-19 death in Zimbabwe.201 In September 2020, user Nickson Mpofu was abducted and severely tortured after posting on Facebook about government corruption involving a rental car company that was linked to the abduction and torture of student Tawanda Muchehiwa.202

#### C8 0-3 pts

Are websites, governmental and private entities, service providers, or individual users subject to widespread hacking and other forms of cyberattack?

Cyberattacks targeting government websites, official Twitter accounts, and online government meetings continued to succeed during the coverage period. Repeated hackings have raised concerns about the government's vulnerability and poor cybersecurity mechanisms.

On January 31, 2023, Parliament conducted public hearings on the Electoral Amendment Bill using the videoconferencing platform Zoom. The session was hacked, resulting in a disruption of the hearing.203 Parliament's Twitter account was also hacked for several hours on September 14, 2022.204

In November 2022, the Judicial Service Commission website was offline for six days due to what it claimed was a hack. The incident came after watchdog group Team Pachedu revealed that the site had links to a web developer named Kudzanai Machemedze, despite the commission previously denying claims that it had hired the developer and paid him exorbitant fees.205 In the same month, the ZEC accused Team Pachedu of hacking its website after the group pointed out alleged irregularities in the voter rolls for the 2023 elections.206

The Twitter account of Finance Minister Mthuli Ncube was hacked in December 2022.207

In October 2021, the National University of Science and Technology's website was hacked, and students' examination results were deleted from the website.208

In July 2020, the websites of 17 government ministries and departments were hacked by Ghost Squad Hackers, a politically motivated group of international hackers. Some of the websites, including those of the Defence Ministry, the army, and the surveyor general's office, were briefly inaccessible, though it was unclear whether data was exfiltrated.209

#### **Footnotes**

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#### ecoi.net description:

Report on digital media and internet freedom (reporting period June 2022 - May 2023)

Country:

Zimbabwe

Source:

Freedom House (Author)

Original link:

https://freedomhouse.org/country/zimbabwe/freedom-net/2023

Document type:

**Expert Opinion or Position** 

Language:

English

Published:

4 October 2023

Available on ecoi.net since:

30 November 2023

Document ID:

2100724

Austrian Red Cross
Austrian Centre for
Country of Origin and
Asylum Research and
Documentation
(ACCORD)

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ecoi.net is run by the Austrian Red Cross (department ACCORD) in cooperation with Informationsverbund Asyl & Migration. ecoi.net is funded by the Asylum, Migration and Integration Fund, the Austrian Ministry of the Interior and Caritas Austria. ecoi.net is supported by ECRE & UNHCR.











