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Freedom House

Freedom on the Net 2018 - Zambia

Key Developments:

June 1, 2017 - May 31, 2018

- New rules were announced in May requiring WhatsApp group administrators to register their WhatsApp groups and create a code of ethics, or risk arrest (see Content Removals).
- A Cybersecurity and Cybercrimes Draft Bill was introduced in April and approved for review in August, with provisions that may infringe on internet freedoms (see Legal Environment).
- Several citizens were arrested for defaming the president online in the past year, with one individual sentenced to three years in prison (see Prosecutions and Arrests for Online Activities).
- The administrator and editor of the “Zambia Accurate News Services” Facebook page was reportedly tortured while in custody in July 2017 (see Intimidation and Violence).

Introduction:

Internet freedom declined slightly in Zambia during the coverage period due to uptick in arrests for online expression, particularly on charges of defamation against the president, in addition to the violent mistreatment of an online editor of an independent news website while in custody.

While there were no restrictions on connectivity or censorship compared to the previous period—when internet freedom violations flared during the contentious elections in August 2016—government officials continued to issue threats against social media “abuse.” In January 2018, the minister of transport and communication labeled fake news, cyber-bullying, and other computer-based “crimes” as threats to national security, and pointed to the “China way” and Ethiopia as models for dealing with the internet, threatening to ban Facebook, Google, and other social media sites to curb their abuse.

In May, Zambia’s regulatory authority announced new rules requiring WhatsApp group administrators to register their WhatsApp groups and create a code of ethics, or risk arrest. If enforced, the rules could lead to proactive censorship and increased self-censorship. Critics saw the new rules as part of the Zambian government’s effort to control online speech.

Meanwhile, a Cybersecurity and Cybercrimes Draft Bill was introduced in April and approved for review in August, with provisions that may infringe on internet freedoms. In particular, the draft bill provides penalties of up to one year in prison, fines, or both for “any electronic communication, with the intent to coerce, intimidate, harass, or cause substantial emotional distress to a person,” which could be used to crackdown on legitimate online expression.

Several citizens were arrested for defaming the president online in the past year, with one individual sentenced to three years in prison. The administrator and editor of the “Zambia Accurate News Services” Facebook page was reportedly tortured while in custody in July 2017.

Obstacles to Access:

Access to the internet continued to grow incrementally with no restrictions on connectivity, compared to previous years. A fourth mobile service provider entered the market, promising greater competition and affordability for users.

Availability and Ease of Access

Zambia was among the early adopters of the internet in sub-Saharan Africa with the installation of dial-up and satellite technology at the University of Zambia in the early 1990s, though access has grown slowly ever since. Internet penetration increased incrementally in the past year, growing from a rate of 26 percent in 2016 to 30 percent in 2017, according to the latest data from the We Are Social “Digital in 2018” report.¹ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote1sym>) With most users accessing the internet on their mobile devices, mobile broadband penetration rates were higher at 47 percent, according to government statistics from the Zambia Information and Communications Technology Authority (ZICTA) telecoms regulator as of May 2018.² (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote2sym>) Mobile phone penetration continued to grow, reaching nearly 79 percent in 2017, up from 75 percent the previous year.³ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote3sym>) Despite increasing access, internet connection speeds are still slow, with average download speeds at 2.45 Mbps.⁴ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote4sym>)

High costs of ICT ownership and access to internet services remain a major barrier to access for the majority of Zambian citizens, especially in rural areas.⁵ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote5sym>) In a positive step, the country’s three mobile service providers—MTN Zambia, Airtel Zambia, and state-owned Zamtel—all reported reducing the cost of data bundles by 70 percent in response to growing competition in 2018.⁶ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote6sym>) Zamtel was the cheapest internet provider offering daily 1.5 GB internet bundles at approximately US \$1.00 per day.⁷ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote7sym>)

Other mobile companies offered promotional data plans, such as social bundles that allow users to access social media apps for an unlimited time over a daily, weekly, or monthly period. Internet freedom advocates have challenged the practice of charging internet users different rates to access different content and services for violating the principle of net neutrality, though the promotions also encourage internet use and help expand access in low-income areas. Airtel also offers Facebook Free Basics, which allows users to access a simplified version of Facebook for free and enables access to a few other websites such as Wikipedia, Go Zambia Jobs, Mobile Alliance for Maternal Action, and a women’s rights app.⁸ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote8sym>) Zambia was the first African country where Facebook launched this free service in mid-2014. In May 2017, MTN Zambia launched Facebook Flex, a service that allows subscribers on the MTN network to access the full version of Facebook for free.⁹ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote9sym>)

While access to ICTs is steadily increasing, rural areas have lagged behind due to the high costs of hardware and software, poor network coverage, and high levels of illiteracy. The government and service providers have invested few resources into expanding ICT infrastructure in rural areas. Erratic and expensive electricity represents an additional obstacle to access in rural areas, where less than 6 percent of residents have access to electricity.¹⁰ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote10sym>) Consequently, there is a significant urban-rural divide in mobile network coverage.

The continual development of ICT infrastructure in the country promises to increase access. In August 2017, the second phase of The Zambia Communication Towers Project was launched, involving the construction of 808 new communication towers and over 1,000 2G/3G/4G wireless stations. As a segment of the Smart Zambia Project developed by Chinese company Huawei, the towers aim to increase mobile voice coverage to almost 100 percent and data service coverage from 5 to 40 percent of the country.¹¹ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote11sym>)

Meanwhile, the government’s Universal Access Fund has helped pay for more than 1,000 base stations countrywide, increasing mobile coverage to 92 percent of the population.¹² (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote12sym>) Other initiatives by ISPs and mobile providers are expected to increase mobile broadband penetration, including the deployment of WiMAX wireless broadband, LTE, and FttP (Fibre-to-the-Premises networks).

Progress on increasing ICT development and access is threatened by a new government announcement in August 2018 to tax web-based communications platforms like Facebook Messenger, WhatsApp, Skype, and Viber, following a model similar to Uganda’s controversial social media tax in effect since July 2018.¹³ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote13sym>) If implemented, the tax would cost users 30 Ngwee (US \$0.03) daily.¹⁴ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote14sym>) Officials argued the tax would help raise much needed government revenues, while critics fear the move will stifle freedom of expression and innovation.¹⁵ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote15sym>) The announcement came a month after the government had publicly assured citizens that it would not introduce a tax on social media.¹⁶ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote16sym>)

Restrictions on Connectivity

There were no reported shutdowns or other types of restrictions on connectivity during the coverage period.

Network disruptions last occurred after disputed presidential elections in August 2016, when mobile broadband networks were reportedly disrupted for 48 to 72 hours in regions of the country which challenged the result such as Southern province (the stronghold of the main opposition UPND), leading to strong suspicions of deliberate government interference.¹⁷ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote17sym>) The outage followed protests that erupted among opposition supporters who accused the electoral commission of voter fraud. Two mobile providers—MTN and Airtel—confirmed the disruptions but did not provide a reason, leaving it unclear whether the outage was ordered by the government.¹⁸ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote18sym>)

Partial state ownership of the country's fiber backbone and control over connections to the international internet may enable the government to restrict connectivity at will.¹⁹ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote19sym>) As a landlocked country, Zambia's national fiber backbone is provided by three operators: state-owned Zambia Telecommunications Ltd (Zamtel), state-owned Zambia Electricity Supply Corporation Ltd (ZESCO),²⁰ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote20sym>) and privately-owned Copperbelt Energy Corporation (CEC). Zamtel operates the fiber-optic connection to two international submarine cables: the WACS and Sat-3.²¹ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote21sym>) MTN and Airtel lease access to the undersea cables from Zamtel, while MTN also connects directly to the EASSy.²² (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote22sym>) There are three internet exchange points (IXPs) in the country owned by Hai Corporation, CEC Liquid Telecom and ZESCO. According to a July 2013 *Zambian Watchdog* report, the location of one of them, which is reportedly housed in the same building as state-owned Zamtel in the capital city, Lusaka, may further enable government influence over domestic internet traffic.²³ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote23sym>)

ICT Market

Zambia's ICT sector is one of the fastest growing sectors in the country, playing a significant role in agriculture, health, media, banking, governance, and education. The Zambian market for internet service providers (ISPs) is competitive with 23 registered ISPs, three of which are also the country's mobile phone providers: MTN, Airtel, and state-owned Zamtel.²⁴ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote24sym>) In March 2018, ZICTA granted a fourth mobile license to UZI Mobile Zambia.²⁵ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote25sym>) Vodafone also entered the internet data market in 2018.²⁶ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote26sym>) In June 2017, the Zambian Cabinet approved the introduction of a new Converged Licensing Framework, which decentralized the provision of network and service licenses and is expected to enhance competition and ultimately lower tariffs.²⁷ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote27sym>)

All internet and mobile service providers are privately owned, with the exception of Zamtel, which was renationalized in January 2012 under the late President Michael Sata.²⁸ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote28sym>) Sata's predecessor, President Rupiah Banda, had privatized the company.²⁹ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote29sym>) While Zamtel has the smallest share in the mobile phone market,³⁰ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote30sym>) it commands the largest share of internet subscriptions, with over 60 percent of the market.³¹ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote31sym>) It is also the only mobile operator which also offers landline telephone service. Nonetheless, MTN is the dominant player with 44.1 percent of the network coverage, followed by Airtel with 42.7 percent, and lastly Zamtel with 27 percent.³² (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote32sym>)

Regulatory Bodies

The Zambia Information and Communications Technology Authority (ZICTA) is the regulatory body for the ICT sector. Established under the Information and Communication Technologies Act of 2009, ZICTA is known to be generally autonomous in its decision-making, although the government has some ability to influence ZICTA's activities.³³ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote33sym>)

The Minister of Information and Broadcasting Services is mandated to oversee ZICTA’s activities and appoint the members and chairperson of the ZICTA board.³⁴ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote34sym>) The minister is also entitled to issue general directives, which the regulator is obligated to carry out.³⁵ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote35sym>)

Some internet content is also regulated by the Independent Broadcasting Authority, which oversees the enforcement and compliance of regulations in broadcast programming. This includes programming that TV and radio stations make available online.³⁶ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote36sym>)

Limits on Content:

No content was blocked during the coverage period, though new rules announced in May will require WhatsApp group administrators to register with the regulator, which may lead to proactive censorship and increasing self-censorship.

Blocking and Filtering

There was no evidence of blocking of political or social content during the coverage period. Social media and communications platforms such as YouTube, Twitter, Facebook, WhatsApp, Instagram, and international blog hosting services were freely available.

However, this has not always been the case in Zambia. During the August 2016 election period, tests conducted by the Open Observatory of Network Interference (OONI) and Strathmore University’s Centre for Intellectual Property and Information Technology Law (CIPIT) found that 10 different websites were consistently inaccessible, though the tests were inconclusive regarding whether the websites were blocked.³⁷ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote37sym>) The sites affected included a forum on drugs, a pornography hub, and a dating website for LGBTI (lesbian, gay, bisexual, transgender, or intersex) individuals, which may be linked to the prohibition of homosexuality under Zambia’s Penal Code.³⁸ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote38sym>)

Zambia was the first country in sub-Saharan Africa to censor online content in 1996,³⁹ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote39sym>) when the government demanded the removal of a banned edition of *The Post* from the newspaper’s website by threatening to hold the ISP, Zamnet, criminally liable for the content.⁴⁰ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote40sym>) There were no other reported incidents of internet censorship until July 2013, when four independent online news outlets—*Zambia Watchdog*, *Zambia Reports*, *Barotse Post*, and *Radio Barotse*—were blocked until April 2014, apparently for their critical coverage of the Patriotic Front ruling party under President Michael Sata.⁴¹ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote41sym>)

Despite the lack of censorship in the past year, government officials threatened to crackdown on freedom of expression online. Speaking on “Let the People Talk” program on Radio Phoenix in January 2018, Minister of Transport and Communication Brian Mushimba threatened to ban Facebook, Google, and other social media sites to curb their abuse.⁴² (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote42sym>) Citing issues of fake news, cyber-bullying, and other computer-based “crimes” as threats to national security, the minister pointed to the “China way” and Ethiopia as models for dealing with the internet. Civil society organizations, such as Panos Media Institute of Southern Africa, strongly condemned the minister’s remarks. The minister later clarified his statement saying that the government would not ban social media but regulate its use through the introduction of a Cybercrime and Cybersecurity Bill and a Data Protection Bill.⁴³ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote43sym>)

Content Removal

Intermediaries are not held liable for content under the 2009 Electronic Communications and Transactions Act,⁴⁴ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote44sym>) though the government has been known to censor content by directing online media editors to remove material considered problematic or offensive upon request.

During this report’s coverage period, the authorities accessed a user’s social media page extralegally to remove content. In July 2017, police reportedly deleted a Facebook page run by the news outlet *Zambia Accurate News Services*, after they arrested the page administrator and physically forced her to hand over her log-in details (see Prosecutions and Detentions for Online Activities, and Intimidation and Violence).⁴⁵ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote45sym>)

There has only been one removal request from the Zambian government to Google since the company began publishing its Transparency Report. The request was in December 2015 for impersonation.⁴⁶ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote46sym>) Zambia does not feature in other transparency reports produced by Facebook and Twitter.

In a troubling new development that could lead to increased content removals, ZICTA announced new rules in May 2018 requiring WhatsApp group administrators to register their WhatsApp groups and create a code of ethics, or risk arrest.⁴⁷ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote47sym>) Critics saw the new rules as part of the Zambian government's effort to control online speech, though it remained unclear how the rules would be enforced as of mid-2018.⁴⁸ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote48sym>)

Media, Diversity, and Content Manipulation

Online content producers face considerably less government pressure than their traditional media counterparts, possibly because some web platforms allow them to publish anonymously. As a result, social media platforms and citizen journalists have emerged as important sources of information, and Zambians now recognize the parallel existence of official media and alternative voices from online sources. The Zambian blogosphere and social media are vibrant, representing diverse viewpoints and opposition voices, and many mainstream journalists have turned to social media to express themselves more freely. Facebook is one of the most popular platforms among Zambians, with 1,600,000 members as of December 2017, according to Internet World Stats.⁴⁹ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote49sym>)

Local content from mainstream media is available online but the country still lags behind in terms of diverse local content, particularly for groups in rural areas. According to “The Inclusive Internet: Mapping Progress 2017” report, Zambia ranks 69 out of 75 countries in the category of content which has local relevance or is available in local languages.⁵⁰ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote50sym>)

While blogs hosted on international platforms such as WordPress have proliferated in recent years, online publications face economic constraints that compromise their ability to remain financially sustainable. The government is the largest source of advertising revenue for traditional media outlets and has been known to withhold advertisements from critical outlets.⁵¹ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote51sym>) Moreover, private companies often do not advertise in news outlets that seem antagonistic to government policies out of fear of the potential repercussions.⁵² (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote52sym>) These trends are likely mirrored online, though in general, online news platforms are much less developed than print and broadcast media. Some online news outlets are hosted abroad and receive advertising revenue from international sources.

Growing government pressure on the media in recent years has created a climate of self-censorship among journalists, both on and offline. Online journalists and bloggers increasingly write anonymously to avoid harassment or the threat of legal action,⁵³ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote53sym>) particularly on issues regarding politics and corruption involving government officials. More social media users also restrict their communications to a private circle instead of sharing information publicly. Many commentators on news sites use pseudonyms to speak freely. With the exception of *News Diggers*, a newer outlet, most independent news sites do not share publicly their addresses, ownership, management, or actual names of their reporters.

A survey by Afrobarometer—an African-led series of national public attitude surveys on democracy and governance in Africa—published in July 2017 found that many Zambians believe freedom of speech is being eroded, while the percentage of people who watch what they say about politics online rose from 62 percent to 72 percent between 2012 and 2017.⁵⁴ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote54sym>) The survey also found that only one in three Zambians feel comfortable criticizing the president.

Commenting on the general state of human rights since the 2016 election of President Edgar Lungu, Amnesty International Secretary General Salil Shetty noted during his visit to Zambia in October 2017 that the space for political dissent and freedom of expression has shrunk significantly.⁵⁵ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote55sym>) In particular, he pointed to the regular use of vague provisions in the Public Order Act and Penal Code to limit freedom of expression, peaceful assembly, and association.

Meanwhile, pro-government trolls are becoming increasingly common on social media platforms such as Facebook, typically responding to posts that are critical of the government with a flood of insults or comments on unrelated issues.⁵⁶ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote56sym>) Observers suspect that the government may be paying the trolls to disseminate propaganda.⁵⁷ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote57sym>)

net/2018/zambia#sdfootnote57sym) Some pro-government trolls have been accused of opening fake Facebook accounts to smear opposition supporters. In one high profile example, a fake Facebook profile impersonating Larry Mweetwa, a leading social media activist for the opposition UPND, posted comments that made Mweetwa appear to celebrate a fire that devastated a popular market in Lusaka.⁵⁸ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote58sym>)

Fake news disguised to look like real reports and fake “official” statements have become a more prominent feature of the online information landscape in the past few years. In January 2018, the special assistant to the president asked the Inspector General of Police to work with the regulator, ZICTA, to investigate the forgery of state house statements.⁵⁹ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote59sym>) The State House subsequently announced several measures to curb fake news, including broadcasting State House press statements on the national broadcaster, Zambia National Broadcasting Corporation (ZNBC), within thirty minutes of being issued, as well as issuing media alerts to media houses every morning to prevent being pre-empted by online news sources.⁶⁰ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote60sym>)

In an extreme response to fake news, Minister of Information Dora Siliya warned, during remarks at a World Press Freedom Day event in May 2018, that police would “soon arrest people behind the Facebook pages and websites that contain what the government says is fake news.”⁶¹ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote61sym>) To address the proliferation of fake Facebook accounts that had been created under the president’s name and those of senior officials, the government directed ZICTA in July 2018 to contact Facebook and seek the removal of dozens of the fraudulent pages.⁶² (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote62sym>) In a positive step toward combatting fake news, the Alliance for Community Action, a local non-governmental organization, launched a fact-checking project in 2017.⁶³ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote63sym>)

Digital Activism

Social media continued to play an important role in facilitating political and social debates and discussions. Two hashtags, #42for42 and #CholeraWatch, stood out during the coverage period for mobilizing citizens to make government accountable. The hashtag #42for42 was an effort by digital activists to challenge a government decision to order 42 fire engines at the price of USD \$1 million an engine through a company connected to government officials.⁶⁴ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote64sym>) The hashtag, #CholeraWatch, trended during one of the worse cholera outbreaks in the country in early 2018.⁶⁵ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote65sym>) It was used as a campaign tool to highlight the government’s inefficiency in areas such as water, sanitation, and garbage collection.

Facebook was also successfully used as a mobilization tool against the Inspector General of Police’s decision to recruit eight Chinese nationals into Zambian police reserves in December 2017.⁶⁶ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote66sym>) When a photo of the Chinese nationals in Zambian police uniform spread on social media, citizens took to Facebook to express their shock and anger, arguing that the move was unconstitutional. The constitution only allows Zambian citizens to serve in the police force, excludes Zambians with dual nationality, and even bans Zambian police from marrying foreigners.⁶⁷ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote67sym>) Following the outcry, the Inspector General of Police rescinded the decision in less than 24 hours.⁶⁸ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote68sym>) No clear reasons were given for the recruitment of the Chinese nationals.

Violations of User Rights:

A Cybersecurity and Cybercrimes Draft Bill was introduced in April and approved for review in August. Critics worry the bill may be used to infringe on internet freedoms. Several citizens were arrested for defaming the president online, with one individual sentenced to three years in prison. The administrator and editor of the Zambia Accurate News Services Facebook page was reportedly tortured while in custody in July 2017.

Legal Environment

President Lungu enacted the Constitution of Zambia (Amendment) Act of 2016 in January 2016, implementing a new constitution that had been in the works for several years.⁶⁹ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote69sym>) The amendments stemmed from a process that started in 2011 under then-President Michael Sata. While many drafts emerged from local conferences that sought multi-stakeholder engagement from citizens and civil

society organizations, the amendments lacked many of the provisions sought by citizens, including the protection of fundamental rights and freedoms.⁷⁰ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote70sym>)

A constitutional referendum was held in August 2016 alongside general elections to seek voter approval of new amendments to the constitution’s “Bill of Rights,” which provides specific protections for print, broadcast, and electronic media freedom, and explicitly prohibits the government from exercising control or interfering with media activities.⁷¹ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote71sym>) Though approved by 71 percent of voters, the referendum failed to garner the minimum voter turnout threshold of 50 percent required to validate the results.⁷² (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote72sym>)

In 2018, there were calls from various stakeholders to either amend or completely abolish the constitution. Minister of Justice Given Lubinda remarked in a public forum in February that the newly adopted constitution is “a mess” while civil society organizations have made submissions to the ministry asking for it to be completely abolished.

Without constitutional protections, freedom of expression and the media are limited by clauses in the penal code that criminalize defamation of the president⁷³ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote73sym>) and give the president “absolute discretion” to ban publications regarded as “contrary to the public interest.”⁷⁴ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote74sym>)

In August 2018, the Zambian Cabinet approved for review the Cybersecurity and Cybercrimes Draft Bill, first introduced in April.⁷⁵ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote75sym>) Civil society organizations expressed immediate concern about the bill’s potential to infringe on internet freedoms.⁷⁶ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote76sym>) In particular, the draft bill provides penalties of up to one year in prison, fines, or both for “any electronic communication, with the intent to coerce, intimidate, harass, or cause substantial emotional distress to a person,” which could be used to crackdown on legitimate online expression.⁷⁷ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote77sym>)

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

In November 2017, President Edgar Lungu warned *Constitutional Court judges* against disqualifying him from standing for presidency in 2021.⁷⁸ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote78sym>) He was commenting on the ongoing case in which four political parties aligned to the ruling party are seeking a constitutional interpretation of President Edgar Lungu’s eligibility to contest in the 2021 presidential elections.⁷⁹ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote79sym>)

Following protests, arson incidents around the country, and the refusal by the main opposition party to recognize the 2016 election results, President Edgar Lungu declared a state of emergency on July 5, 2017.⁸⁰ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote80sym>) The 90-day period of emergency rule prohibited public meetings, closed roads, imposed curfews, and restricted movements.⁸¹ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote81sym>) Though no specific limits were placed on online activities, critics believe the move was an effort by the president to tighten his grip on power. The state of emergency was lifted in October 2017.

Prosecutions and Detentions for Online Activities

Several individuals were arrested for their online activities in the past year, marking an increase over the numbers of cases documented in past years. A number of cases related to defamation against the president:

- In July 2017, police arrested engineering student at DMI St. Eugene University, Edward Makayi, for allegedly insulting President Lungu and other government and party officials in Facebooks posts published between April and July 2017.⁸² (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote82sym>) He faces three counts of defamation in total, and there have been no updates to his case as of mid-2018.

- In January 2018, a magistrates court in Mongu, Western Province, convicted and sentenced Dr. Kwalela Kafunya of Luampa Mission Hospital to three years in prison on three counts of defaming the president. Dr. Kafunya had been found guilty of creating a fake Facebook account to post insulting remarks and digitally altered images of the president with “intent to bring his name into disrepute.”⁸³ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote83sym>)
- In July 2018, police arrested a 29-year old man from Luapula province for allegedly defaming the president on Facebook through derogatory posts across four different Facebook accounts. He was charged with defamation under the penal code.⁸⁴ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote84sym>)

Officials also went after independent journalists. In July 2017, police arrested and reportedly tortured Mutinta Lushoma Haabasune, an administrator/editor of the *Zambia Accurate News Services* Facebook page (see Content Removal and Intimidation and Violence).⁸⁵ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote85sym>)

Zambian-Canadian marijuana activist, David Julian Wightman, was arrested and detained in July 2017. He was charged with eight counts, including inciting the public through the marijuana legalization advocacy Facebook page, NORML Zambia. He spent over two months in detention and was acquitted in November 2017.⁸⁶ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote86sym>)

Surveillance, Privacy, and Anonymity

Zambia currently lacks an effective data protection framework, and little is known about the Zambian government’s surveillance practices and capabilities, though investigative journalism has revealed problematic practices in recent years. In July 2017, Thomas Allan Zgambo and Clayson Hamasaka, Lusaka-based journalists affiliated with the critical website *Zambian Watchdog* and the opposition UPND, sued the mobile phone company Airtel for intercepting a total of 225 phone conversations between 2013 and 2014 and diverting the calls to a number belonging to state intelligence.⁸⁷ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote87sym>)

Email leaks from the Italian surveillance firm Hacking Team in July 2015 revealed that the company may have sold sophisticated spyware known as Remote Control System (RCS) to the Zambian authorities.⁸⁸ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote88sym>) While the leaked emails did not confirm that a sale took place, they point to the government’s intent to acquire technologies that can monitor and intercept user communications.

The Electronic Communications and Transaction Act of 2009 provides for the protection of personal information and details conditions for the lawful interception of communications,⁸⁹ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote89sym>) though several provisions give the government sweeping surveillance powers with little to no oversight. Article 79 requires service providers to enable interception and store call-related information. Article 77 requires service providers to install both hardware and software that enable communications to be intercepted in “real-time” and “full-time” upon request by law enforcement agencies “or” under a court order. Service providers are also required to transmit all intercepted communications to a Central Monitoring and Coordination Centre managed by the communications ministry.⁹⁰ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote90sym>) Service providers that fail to comply with the requirements could be held liable to a fine, imprisonment of up to five years, or both.

In a troubling admission, Transport and Communications Minister Brian Mushimba stated in January 2018 that ZICTA has the capability to monitor all digital devices in the country,⁹¹ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote91sym>) though evidence of the purported capabilities is lacking. In February, *Zambian Watchdog* reported that the Chinese telecommunication company Huawei had begun connecting government buildings in Lusaka under the Smart Zambia Project,⁹² (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote92sym>) raising concerns about potential digital surveillance given the company’s close ties to the Chinese government.⁹³ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote93sym>) The Chairman for the *Civil Service* Commission had warned civil servants in January that the Smart Zambia Project would allow the government to trace discussions of government issues on social media.⁹⁴ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote94sym>)

Anonymous communication through digital media is compromised by SIM card registration requirements instituted in September 2012.⁹⁵ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote95sym>) Registration requires an original and valid identity card such as a national registration card to be presented in person to the mobile service provider.⁹⁶

(<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote96sym>) While the government stated that the registration requirements were for the purposes of combatting crime,⁹⁷ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote97sym>) investigative reports from 2012 said that subscriber details may be passed directly to the secret service for the creation of a mobile phone user database.⁹⁸ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote98sym>) Fearing infringements on their privacy, some activists, politicians and investigative journalists have been using pre-registered SIM cards. The practice, however, is a criminal offence in the country. Cybercafés do not require user registration.

Registration for the .zm country code top-level domain (ccTLD) is managed by ZICTA as provided for under the 2009 Electronic Communications and Transaction Act, which may compromise the anonymity of .zm website owners given the murky independence of the regulatory authority.⁹⁹ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote99sym>) This may be the reason why almost all independent online news sites use the .com domain. The act also provides a government minister the authority to create statutory agreements governing domain name registration and “the circumstances and manner in which registrations may be assigned, registered, renewed, refused, or revoked.”¹⁰⁰ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote100sym>) Such direct oversight of local web domains may allow the government to access user data belonging to local content creators and hosts.

Intimidation and Violence

Online journalists and internet users faced violence, harassment, and intimidation for their online activities amid repeated warnings by Zambian government officials against the “misuse” of social media tools in the past year. One citizen, Mutinta Lushoma Haabasune, an administrator and editor of the *Zambia Accurate News Services* Facebook page, was reportedly tortured while in custody in July 2017 (see also: Prosecutions and Detentions for Online Activities). According to news reports, police forced Haabasune to give up her passwords which they later used to delete the page.¹⁰¹ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote101sym>)

In January 2018, Zambian police announced a search for lesbian couple, Kachana and Grace Tembo, after they had shared intimate photos on Facebook.¹⁰² (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote102sym>) Homosexuality is a criminal offence in Zambia. Separately, a Facebook account belonging to anti-gay journalist Chanda Chimba was taken down by Facebook for exposing Zambian lesbians online.¹⁰³ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote103sym>)

The British High Commissioner to Zambia was also subject to intimidation for his online expression, which often involved criticisms of the government on Twitter. In June 2018, the government threatened to deport the British envoy for his critical remarks, posting their threats on social media.¹⁰⁴ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote104sym>)

Technical Attacks

Technical attacks against opposition activists, internet users, or journalists are not common in Zambia and no examples were reported during the coverage period. Some cases have been documented in the past: *Zambian Watchdog* suffered a DDoS attack in May 2012 that brought the site down for about eight hours.¹⁰⁵ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote105sym>) Attacks on institutions have also been reported in the past. In April 2014, the website of the Media Institute for Southern Africa (MISA) was affected during a campaign by hackers reportedly based in the Middle East, who also targeted a number of government websites.¹⁰⁶ (<https://freedomhouse.org/report/freedom-net/2018/zambia#sdfootnote106sym>)

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