

Freedom on the Net 2021 - Zambia

Partly Free

59

/ 100

A [Obstacles to Access](#) 15 / 25

B [Limits on Content](#) 24 / 35

C [Violations of User Rights](#) 20 / 40

Last Year's Score & Status

59 / 100 Partly Free

Scores are based on a scale of 0 (least free) to 100 (most free)

Overview

Internet freedom declined during the coverage period, as a law passed in March 2021 threatens to expand the government's capacity to restrict online expression and violate the privacy of Zambians. An online journalist was attacked for the first time in recent years, while authorities continued to arrest and intimidate people who criticized President Edward Lungu online. Developments during the coverage period spelled concern that the Lungu-led Patriotic Front (PF) would restrict rights during or after the August 2021 general elections, which were sharply contested. Ultimately, the government restricted access to social media platforms amid record turnout, as Zambians elected opposition candidate Hakainde Hichilema in a landslide victory.

Freedom of expression, the right to attend peaceful demonstrations and meetings, and other fundamental freedoms are also restricted through restrictive laws. Opposition parties have faced onerous legal and practical obstacles to fair competition. In December 2018, the Constitutional Court ruled that President Lungu could seek a third term in the 2021 presidential election, despite the constitutionally mandated two-term limit.

Key Developments, June 1, 2020 – May 31, 2021

- No connectivity restrictions were reported during the connectivity period, an improvement from the two-day interruption reported by internet users in Southern Province in February 2020, which may have been politically motivated (see A3).
- In February 2021, regulators awarded the country's fourth mobile service provider license to Beeline Telecom Ltd. Uzi Mobile cancelled its plans to operate as Zambia's fourth mobile service provider in June 2020, citing regulatory barriers (see A4).
- Ahead of the August 2021 elections, political parties mobilized online commentators and the government banned nongovernment sources from reporting election results before the Electoral Commission of Zambia (ECZ) (see B5 and C2).
- The Cyber Security and Cyber Crimes Act (CSCCA), passed in March 2021, dramatically reforms the government's approach to online content, with implications for online speech, anonymity, privacy, and information security (see C2, C4, C5, C6, and C8).
- The Data Protection Act, which took effect in April 2021, establishes strong data-privacy safeguards, though it also mandates data localization; several important steps for the law's implementation remain to be taken (see C6).
- An online journalist was physically attacked along with a newspaper reporter in May 2021, the first such incident reported in recent years, and government officials sought to intimidate online critics (see C7).

A Obstacles to Access

A1 0-6 pts

Do infrastructural limitations restrict access to the internet or the speed and quality of internet connections? 2 / 6

Score Change: The score improved from 1 to 2 as recurring outages noted in previous coverage periods have lessened in severity.

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 since then. As of December 2020, there were 10.3 million internet users in Zambia, representing a 57.6 percent penetration rate, according to the Zambia Information and Communications Technology Authority (ZICTA).¹ In contrast, estimates from the International Telecommunication Union (ITU) identify an internet penetration rate of 14.3 percent as of 2018,² while DataReportal's *Digital in 2021* report identifies an internet penetration rate of 29.4 percent.³

The vast majority of internet users in Zambia rely on mobile internet subscriptions, with 10.2 million subscribers as of December 2020, according to ZICTA data.⁴ A 2018 survey conducted by ZICTA showed that 14 percent of mobile phone users used smartphones, and 71 percent of smartphone users accessed applications such as WhatsApp, Facebook, Twitter, and Messenger.⁵

Despite increasing access, internet connection speeds are still slow, with average download speeds of 16.52 Mbps on mobile connections and 15.10 Mbps on fixed-line broadband connections as of May 2021.⁶

Zamtel subscribers reportedly experienced slowed internet speeds in February 2021, which Zamtel attributed to vandalism of equipment.⁷ In September 2020, ZICTA fined Airtel, MTN, and Zamtel—the three mobile service providers active in the country—for providing poor service to subscribers. Airtel was fined 4.8 million kwacha (\$245,000), Zamtel was fined 450,000 kwacha (\$23,000), and MTN was fined 225,000 kwacha (\$11,500).⁸

The “Smart Zambia” plan aims to develop information communications and technology (ICT) infrastructure to bolster the economy and ultimately make the country’s ICT sector globally competitive. Huawei was contracted to upgrade Zambia’s state-owned mobile tower network for fifth-generation (5G) mobile service in May 2019, though no progress has been made as of May 2020.⁹

Continued development of ICT infrastructure in the country should increase access. In 2017, the second phase of a project to construct communications towers across the country was launched, involving the construction of 808 new communications towers and over 1,000 2G, 3G, and 4G wireless stations. The tower project is a component of the Smart Zambia project, and the towers—developed by Huawei—aim to increase mobile voice coverage to almost 100 percent and data service coverage from 5 to 40 percent.¹⁰

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.¹¹ As of March 2020, over 650 of the towers had been built, with the remainder planned for completion by the end of the year,¹² though delays were reported later that year.¹³ Other initiatives by technology companies, internet service providers (ISPs), and mobile providers are expected to increase mobile broadband penetration, including the deployment of WiMax (worldwide interoperability for microwave access) wireless broadband, long term evolution (LTE), 5G, and fiber to the premises (FTTP).

According to the Inclusive Internet Index 2021, Zambia ranks 105th in internet availability—defined in terms of the quality and breadth of available infrastructure required for access and the levels of internet usage—out of 120 countries.¹⁴

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? 1 / 3

Access to the internet in Zambia is still prohibitively expensive for some people, particularly among marginalized rural communities and lower-income individuals. During the COVID-19 pandemic, many people have lost their jobs or have had their salaries cut, negatively impacting their ability to access the internet.

The high costs of ICT ownership, digital literacy, and access to internet services remain major barriers to access for many people, especially in rural areas.¹⁵ During the coverage period, Zamtel was the most affordable ISP, offering daily 1.3 GB internet bundles at 10 kwacha (\$0.82) per day.¹⁶

According to Cable, a UK-based consultancy, Zambia ranked 62nd out of 230 countries and territories based the average price of 1 GB of data in 2021, at \$1.13 in Zambia.¹⁷

Despite the introduction of less expensive social bundles, including for students using educational tools online, and free Facebook, affordability remains a concern for many Zambians. According to the World Bank, as of 2015, 58 percent of the Zambian population lived below the international poverty line of \$1.90 per day.¹⁸ According to the Inclusive Internet Index 2021, Zambia ranks 93rd out of 120 countries surveyed in affordability, referring to relative cost and market competition, and 82nd in readiness, which considers capacity to access the internet, including skills, cultural acceptance, and supporting policy.¹⁹

Other mobile companies offer promotional data plans, such as social bundles that allow users unlimited access to social media platforms for a daily, weekly, or monthly period. Internet freedom advocates have criticized the practice of charging internet users different rates to access different content and services for violating the principle of net neutrality, though the promotions 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, WikiHow, AccuWeather, Go Zambia Jobs, the Mobile Alliance for Maternal Action, and a women's rights group.²⁰ Zambia was the first African country where Facebook launched this free service in 2014. In 2017, MTN launched Facebook Flex, a service that allows subscribers to access the full version of Facebook for free.²¹

In July 2019, the parliament adopted a motion to prohibit internet providers from prescribing expiry dates on data bundles to protect consumers and enhance digital inclusion.²² As a result, all three mobile service providers now offer expiry and nonexpiry data bundles to customers.²³ Consumer advocates have complained that the nonexpiry bundles target high-income individuals because of the pricing structure.²⁴

While access to ICTs is steadily increasing, rural areas have lagged 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 toward expanding ICT infrastructure in rural areas. Erratic and expensive electricity presents an additional obstacle to access in rural areas, where less than 6 percent of residents had access to electricity as of 2018.²⁵ Consequently, there is a significant urban-rural divide in mobile network coverage and internet access.

Progress on increasing access to ICTs was threatened by an August 2018 government announcement that web-based communications platforms like Facebook Messenger, WhatsApp, Skype, and Viber would be taxed.²⁶ If implemented, the Zambian tax would have cost users 30 ngwee (\$0.02) daily.²⁷ Officials argued that the tax would help raise much-needed government revenue, while critics objected to what they viewed as the government seeking to bolster dwindling public coffers with a tax on free expression online.²⁸ The announcement came a month after the government had publicly assured citizens that it would not introduce a tax on social media.²⁹ A similar plan to tax Netflix was announced in 2019.³⁰ Due to fierce opposition from civil society and social media users, both plans appear to be abandoned.

A3 0-6 pts

Does the government exercise technical or legal control over internet infrastructure for the purposes of restricting connectivity? 5 / 6

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

No restrictions on connectivity were reported during the coverage period, though disruptions have been noted in the past.

In August 2021, after the coverage period, reports emerged that the government would restrict connectivity during that month's general elections.³¹ Zambian and international civil society organizations mobilized in response to the reports, urging the Lungu government and telecommunications companies to maintain internet access.³² Information Minister Amos Malupenga issued a statement the following day stating that the Zambian government would not restrict internet connectivity.³³

On August 12, election day, WhatsApp, Facebook, Twitter, and Messenger were blocked on most networks, apparently in response to an order from ZICTA (see B1).³⁴ Access to all platforms was restored on August 14, after the high court issued a stay on ZICTA's blocking order in response to a lawsuit filed by the Chapter One Foundation.³⁵

During the previous coverage period, the internet was inaccessible for two days in Southern Province in February 2020, with outages reported on February 19 and service restored on February 21.³⁶ Government authorities attributed the disruption to seasonal rains.³⁷ The disruption occurred as Zambia faced a period of political tension. The country also faced an ongoing wave of gas attacks

beginning in December 2019, along with incidents where members of the public killed suspected assailants.³⁸ Hichilema, leader of the United Party for National Development (UPND), predicted on February 19, 2020 that the government would accuse the UNPD of perpetrating the attacks and seek to arrest Hichilema himself.³⁹ As Southern Province is a UNPD stronghold and Hichilema's home region,⁴⁰ UPND officials speculated that the Southern Province shutdown was politically motivated.⁴¹ Misinformation about the attacks circulated broadly online.⁴²

The last major network disruptions prior to 2021 occurred after the disputed presidential election in August 2016, when mobile broadband networks were reportedly disrupted for between 48 and 72 hours in regions that challenged the results, including Southern Province, leading to strong suspicions of deliberate government interference.⁴³ The outage followed protests that erupted among opposition supporters who accused the ECZ of voter fraud. Two mobile providers—MTN and Airtel—confirmed the disruptions but did not explain them, leaving it unclear whether the outage was ordered by the government.⁴⁴

Partial state ownership of the country's fiber backbone and state control over connections to the international internet may enable the government to restrict connectivity at will.⁴⁵ As a landlocked country, Zambia's national fiber backbone is provided by three operators: the state-owned Zamtel, the state-owned ZESCO,⁴⁶ and the privately owned Liquid Intelligent Technologies (which acquired its subsidiary CEC Liquid Telecom, then Zambia's third operator, in October 2018).⁴⁷ Zamtel operates the fiber-optic connection to two international submarine cables: the West African Cable System (WACS) and the South Atlantic 3 (SAT-3).⁴⁸ MTN and Airtel lease access to the undersea cables from Zamtel, while MTN also connects directly to the Eastern Africa Submarine Cable System (EASSy).⁴⁹ There is one internet exchange point (IXP) in the country.⁵⁰ According to a 2013 report from the *Zambian Watchdog*, an online investigative journalism outlet, the IXP is reportedly housed in the same building as Zamtel in Lusaka, which may further enable government influence over domestic internet traffic.⁵¹

A4 0-6 pts

Are there legal, regulatory, or economic obstacles that restrict the diversity of service providers? 5 / 6

The diversity of service providers is not significantly limited by significant legal or economic obstacles, although prospective mobile service provider Uzi Mobile stated that licensing issues contributed to its decision to withdraw from Zambia. The subscriber base in the country continues to grow as service providers introduce new products to the market and the government grants licenses to new entrants.

The Zambian ICT sector is one of the fastest growing in the country, playing a significant role in agriculture, health, media, mobile banking, governance, and education. The Zambian market for ISPs is competitive with 17 active as of the first quarter of 2021, according to ZICTA. Three ISPs are also mobile service providers: MTN, Airtel, and Zamtel.⁵²

In February 2021, ZICTA granted the country's fourth mobile service provider license to Beeline Telecom, Ltd., a Zambian company. The company's ownership structure is not known. Beeline must begin operations within six months or risk the revocation of its license, according to ZICTA. The regulator had invited applications for the license in September 2020.⁵³

In June 2020, Uzi Mobile informed ZICTA that it would not be entering the mobile market, despite previous plans to become Zambia's fourth mobile service provider. The company had postponed the launch of its services several times, citing licensing issues with the government and continued infrastructural work. In November 2019, Uzi Mobile had requested another extension, stating it wanted to roll out 5G as opposed to 4G, for which spectrum was originally allocated. The company was given a final extension to May 2020.⁵⁴ ZICTA had granted a mobile license to Uzi Mobile in March 2018.⁵⁵

Vodafone lost its license to provide internet services in September 2019, after shareholders failed to inject sufficient capital. ⁵⁶ The company first entered the internet-data market in 2018,⁵⁷ when it was granted a license to begin offering voice-over-data service.⁵⁸ ZICTA said that Vodafone was not technically and financially capable of meeting the obligations of the terms and conditions of the license. The company had invited bids from interested buyers. Many Vodafone subscribers took to social media to complain that the company continued to sell data bundles and other products while aware that it was not financially sound.⁵⁹

In 2017, the 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.⁶⁰

All internet and mobile service providers are privately owned, with the exception of Zamtel, which was renationalized in 2012 under former president Michael Sata.⁶¹ Sata's predecessor, Rupiah Banda, had privatized the company.⁶² While Zamtel has the smallest share in the mobile market,⁶³

it has historically commanded a much larger share of fixed-line subscriptions.⁶⁴ It is also the only mobile operator that offers landline telephone service. MTN is the dominant player among mobile service providers, with 44 percent of the mobile market, followed by Airtel with 39.7 percent, and Zamtel with 15.9 percent, as of May 2018.⁶⁵

A5 0-4 pts

Do national regulatory bodies that oversee service providers and digital technology fail to operate in a free, fair, and independent manner? 2 / 4

The independence of the national regulatory bodies that oversee service providers is undermined by the legal framework that guides their activities. ZICTA is the main regulatory body for the ICT and postal-service sectors, established under the Information and Communication Technologies Act of 2009⁶⁶ and the Postal Services Act of 2009.⁶⁷ ZICTA is nominally an independent and autonomous body.⁶⁸ However, both acts provide opportunities for the minister of transport and communications—who oversees ZICTA’s activities and appoints the members and chairperson of its board⁶⁹—to interfere with its operations.

In May 2021, the ZICTA board declined to renew the contract of Director General Patrick Mutimushi. According to news site *Zambian Watchdog*, the decision resulted from disagreement over the implementation of the CSCCA (see C2), while the *Zambia Business Times* attributed it to dissatisfaction with the Uzi Mobile withdrawal (see A4). Mulenga Chisanga, a ZICTA executive, was appointed acting director general.⁷⁰

In January 2021, Mutotwe Kafwaya, then the minister of transport and communications, inaugurated a new board for the regulator,⁷¹ after dissolving the board in November 2019.⁷² When asked about the regulator operating without a board in January 2020, said he had “the authority to function as a board in its absence” and would appoint a board within 90 days of the dissolution.⁷³ The minister is also entitled to issue general directives, which the regulator is obligated to carry out.⁷⁴

Some internet content is also regulated by the Independent Broadcasting Authority (IBA), which oversees the enforcement of regulations in broadcast programming, including content that television and radio stations make available online.⁷⁵

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? 6 / 6

There was no evidence of blocking of political or social content during the coverage period.

Access to social media and communications platforms was restricted during the August 2021 elections, after the coverage period. On election day, WhatsApp, Facebook, Twitter, and Messenger were blocked on most networks, apparently in response to an order from ZICTA. Zambians responded by advocating for the use of circumvention tools to access the blocked platforms.⁷⁶ Access to all platforms was restored on August 14, after the high court issued a stay on ZICTA’s blocking order in response to a lawsuit filed by the Chapter One Foundation.⁷⁷ The foundation’s lawsuit against ZICTA, which contends that the regulator acted illegally in disrupting access to social media platforms, remained under consideration as of mid-August 2021.⁷⁸

The government has restricted online content in the past. 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 sites were blocked.⁷⁹ The sites affected included a forum on drugs, a pornography hub, and a dating website for LGBT+ people, which may have been linked to the prohibition of homosexuality under the penal code.⁸⁰

In 2018, a parliamentary committee on media, information, and communications technologies submitted a report before the parliament stating that neither ZICTA nor the IBA had the authority to regulate the use of social media platforms. The committee chairperson said, “regulatory agencies [should] devise means of regulating and censoring of undesirable content on social media and not to shut down social media since they have no capacity to regulate them.” At the time, critics noted that if the report was adopted by the parliament, it would mean that the government could not block platforms via ZICTA and the IBA, though authorities would still be able to block sites without the intervention of regulatory agencies.⁸¹

Zambia was the first country in sub-Saharan Africa to censor online content in 1996,⁸² 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.⁸³ There were no other

reported incidents of internet censorship until 2013, when four independent online news outlets—Zambia Watchdog, Zambia Reports, the Barotseland Post, and Radio Barotseland—were blocked for nine months, apparently for their critical coverage of the PF under former president Sata.[84](#)

B2 0-4 pts

Do state or nonstate actors employ legal, administrative, or other means to force 2 publishers, content hosts, or digital platforms to delete content, particularly material that / is protected by international human rights standards? 4

The government has been known to censor content by directing online media editors to remove material considered problematic or offensive upon request.

In May 2020, a popular Facebook group called ZNBC Top Stories was removed from the platform for unknown reasons. The group’s users supported opposition leader Hichilema, referring to him by his nickname, Bally. Many of the users, who formed new groups with similar names, alleged that that ZICTA closed the group because of its support for Hichilema.[85](#) In July 2020, a Facebook group with a similar name also reported being removed.[86](#)

There has only been one removal request from the Zambian government to Google since the company began publishing its transparency reports. The request was in December 2015, for impersonation.[87](#)

In February 2019, the Zambia Police Command directed all police officers who are administrators of any social media groups to immediately delete them.[88](#) The directive added that any officer who failed to follow the instructions would face disciplinary action. The directive said that police officers had been posting messages and photos on social media that put the police in disrepute. Then home affairs minister Stephen Kampanyongo claimed that police officers were using social media to incite the public to rise against the government.[89](#)

Intermediaries are not held liable for content under the Electronic Communications and Transactions Act 2021 (ECT Act), which received assent in March 2021;[90](#) similar safeguards were enshrined in the 2009 version of the law.[91](#) However, a 2017 report noted that the state and its agencies approach intermediaries without following legal and policy procedures in the name of upholding national security and morality.[92](#)

B3 0-4 pts

Do restrictions on the internet and digital content lack transparency, proportionality to 3 / the stated aims, or an independent appeals process? 4

Restrictions on internet and digital content are largely transparent and proportional. For instance, under the ECT Act, service providers are required to remove content only with a court order or on receipt of a detailed complaint alleging a violation of a user’s rights, and establishes a dispute mechanism for such takedowns.[93](#)

The government has passed bills on cybersecurity and cybercrime, data protection, and electronic commerce that it claims are aimed at promoting online safety and curbing abuse of social media. The lack of stakeholder participation and engagement in the drafting of the bills has raised concerns that they might impinge on digital rights.

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.[94](#) Critics saw the new rules as part of the Zambian government’s efforts to control online speech.[95](#) As of September 2021, there has not yet been evidence of enforcement of the new rules.

B4 0-4 pts

Do online journalists, commentators, and ordinary users practice self-censorship? 2 / 4

Growing government pressure on the media in recent years has led to increased self-censorship among journalists, both online and offline. Journalists, social media users and bloggers increasingly write anonymously or pseudonymously to avoid harassment or the threat of legal action,[96](#) 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. Most independent online news sites do not publicly share their addresses, ownership, management, or actual names of their reporters, practices that stem in large part from fears of harassment.

A survey by Afrobarometer (an African-led series of national public attitude surveys on democracy and governance in Africa) published in 2017 found that many Zambians believe freedom of speech is being eroded, while the percentage of people who said they watched what they say about politics online rose from 62 percent to 72 percent between 2012 and 2017.[97](#) The survey also found that only one in three Zambians felt comfortable criticizing the president.

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? 2 / 4

Both the PF and UPND heavily rely on online resources, particularly social media, to advance their political agendas, particularly ahead of the August 2021 general elections. There is a proliferation of progovernment and proopposition websites and social media pages, as well as WhatsApp groups.

Ahead of the August 2021 general elections, the PF and UPND mobilized bloggers and social media users to spread supportive narratives online, though the extent of the coordination by party authorities is unclear.⁹⁸ Progovernment and proopposition social media accounts have been known to publish false news. False news disguised to look like real reports or government statements have become a more prominent feature of the online information landscape in the past few years. Both the PF and UPND were accused of spreading misinformation to shape the outcome of the August 2021 elections.⁹⁹

An investigative article published in April 2020 disclosed that the PF's 2018–21 strategic plan aimed to establish a media intelligence unit for covert operations. This included equipping the PF's media center with permanent bloggers, hackers, and reporters to control their narrative.¹⁰⁰ Laura Miti, a political commentator and activist, noted that troll accounts created on Facebook and Twitter in May and June 2020 appeared to push the PF's agenda and attack its opponents. Most of the accounts used names of people belonging to the same ethnic group as Hichilema. ¹⁰¹

In March 2020, ZICTA announced plans to fight the online circulation of false or misleading information about COVID-19. ZICTA called on social media users to share only verified information about the pandemic and stated that the authority would support law enforcement action against people sharing COVID-19 misinformation.¹⁰²

Government institutions and agencies routinely regulate the online activity of employees or other affiliated people by threatening discipline or termination. In April 2020, the University of Zambia (UNZA), a government-operated institution, announced that it planned to make it a dismissible offense for lecturers and other staff members to use social media to post libelous materials likely to bring the UNZA into disrepute.¹⁰³ Also that April, the IBA dismissed a board member after he claimed in a viral tweet that Zambia had no new COVID-19 cases because it had run out of test kits. ¹⁰⁴

B6 0-3 pts

Are there economic or regulatory constraints that negatively affect users' ability to publish content online? 2 / 3

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. The African Media Barometer 2017 noted that the Zambian government is very selective in choosing where it advertises, and most government agencies list state-owned media as the first priority for advertising. In some cases, advertising may be tied to positive coverage of the funder. In addition, some government agencies are unreliable in paying their advertising bills, potentially starving outlets of necessary revenue.¹⁰⁵

Private companies often do not advertise in news outlets that seem antagonistic to government policies out of fear of the potential repercussions. The African Media Barometer 2017 notes that some multinational companies, such as MTN and Airtel, may attempt to influence coverage by threatening to cancel or canceling advertisements with a media house in response to negative stories.¹⁰⁶ 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.

In August 2020, the IBA claimed online broadcasters would have to apply for licenses from the authority and be subject to its regulations. The statement followed an inquiry as to whether Prime TV, a popular television station known for its criticism of the PF government, could operate exclusively online;¹⁰⁷ the IBA had delicensed Prime TV in March 2020,¹⁰⁸ though Hichilema restored its license in August 2021, shortly after assuming office as president.¹⁰⁹ The IBA had previously stated that Spring TV, an online station that incorrectly reported that a former government official had died by suicide, was not bound by its regulations because it broadcast over the internet.¹¹⁰ Legal experts criticized the IBA's claim, arguing that Zambian law designates ZICTA as the sole regulator with authority over the internet.¹¹¹ The IBA again urged online broadcasters to register with the regulator in March 2021.¹¹²

B7 0-4 pts

Does the online information landscape lack diversity and reliability? 3 / 4

The online information landscape lacks diverse content from rural populations and marginalized groups such as LGBT+ people, people with disabilities, and women.

Online content producers face considerably less government pressure than their traditional media counterparts, possibly because some web platforms allow them to publish anonymously and the ICT regulator does not have the full capacity to control them. As a result, social media platforms and citizen journalists have emerged as important sources of diverse information, and news consumers have become increasingly aware of alternative, diverse voices from online sources. The Zambian blogosphere and social media are vibrant, representing diverse, critical viewpoints and opposition voices, and many mainstream journalists have turned to social media to express themselves more freely and publish articles and commentaries that would not be allowed by media houses. Zambian Bloggers Network and Bloggers of Zambia are currently the main civil society groups pushing for digital and bloggers' rights through training, advocacy, and activism. Facebook remains the most popular social media platform among Zambians, with 2.4 million users as of February 2021. The majority of Facebook users in Zambia, 56 percent, are men.¹¹³

Zambia's online information space suffers in reliability, in part because supporters of political parties often post false or misleading content on social media, and especially did so ahead of the August 2021 general elections (see B5). For instance, inflammatory and unfounded speculation about a wave of gas attacks circulated online in February 2020, with many posts ascribing the attacks and resulting deaths to the PF or the UPND.¹¹⁴ UPND leader Hichilema alleged that the attacks were "state sponsored and specifically intended to eliminate political opponents."¹¹⁵

In a positive step toward combating fake news, the Alliance for Community Action, a local nongovernmental organization, launched a fact-checking project in 2017. ¹¹⁶

Local content from the mainstream media is available online, but the diversity of local content remains limited, particularly for those living in rural areas and marginalized groups such as LGBT+ people. Most online media houses' content is in English. According to the Inclusive Internet Index 2021, Zambia ranks 88th out of 120 countries in relevance, which considers the availability of content in local languages and relevant content.¹¹⁷

B8 0-6 pts

Do conditions impede users' ability to mobilize, form communities, and campaign, 4 / particularly on political and social issues? 6

Mobilization platforms are generally available to users, and social media continues to play an important role in facilitating political and social debates and discussions. However, pressure from the government and political parties, and fear of arrest and prosecution, can sometimes stifle online activism.

Political parties and activists used social media and held virtual rallies to mobilize ahead of the August 2021 general elections,¹¹⁸ though campaigning remained primarily offline despite limits on in-person campaigning. In May 2021, then president Lungu barred in-person campaign rallies, citing the COVID-19 pandemic. The ECZ later banned all in-person campaigning in Lusaka and several other districts in June 2021, citing violence between PF and UPND supporters.¹¹⁹

C Violations of User Rights

C1 0-6 pts

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

The constitution and a number of laws threaten freedom of expression and other key rights online. The Constitution of Zambia (Amendment) Act of 2016¹²⁰ amended the constitution but lacked many of the provisions sought by citizens, including the protection of fundamental rights and freedoms.¹²¹

In June 2019, the government introduced the Constitution (Amendment) Bill 10 of 2019¹²² after a national dialogue and consultation process that was boycotted by the opposition. ¹²³ Bill 10 does not seek to abrogate the protections for freedom of expression and the press under the current constitution. After postponements¹²⁴ prompted by sharp criticism from the opposition,¹²⁵ the parliament rejected the bill by a six-vote margin in October 2020.¹²⁶

A constitutional referendum was previously held in 2016, alongside elections, to seek voter approval of new amendments to the constitution's Bill of Rights that provide specific protections for print, broadcast, and electronic media freedom, and explicitly prohibit the government from exercising control over or interfering with media activities.¹²⁷ Though approved by 71 percent of voters, the referendum failed to reach the threshold of 50 percent turnout required to validate the results.¹²⁸

In March 2019, Dora Siliya, then information and broadcasting services minister and chief government spokesperson, announced that the cabinet approved the Access to Information Bill, which has been pending since 2002.¹²⁹ Media observers raised concerns that the bill would not be introduced by Lungu's government.¹³⁰ The bill had not yet been introduced to the parliament as of August 2021.

Judicial independence is guaranteed in the constitution but is not respected in practice, and is undermined by other laws that allow for executive interference in the justice system. For instance, Lungu warned Constitutional Court judges in 2017 against disqualifying him from running for a third term in 2021, despite the constitutionally mandated two-term limit.¹³¹ The Constitutional Court ultimately ruled in Lungu's favor.¹³²

Constitutional protections have been seriously undermined in the past, such as when Lungu declared a state of emergency on July 5, 2017, following a series of arson attacks that authorities claimed opposition members had carried out.¹³³ The 90-day period of emergency rule prohibited public meetings, closed roads, imposed curfews, and restricted movements.¹³⁴ Though no specific limits were placed on online activities, critics believe the move was an effort by the then president to tighten his grip on power. The state of emergency was lifted in October 2017.

C2 0-4 pts

Are there laws that assign criminal penalties or civil liability for online activities, particularly those that are protected under international human rights standards? 1 / 4

Score Change: The score declined from 2 to 1 because the Cyber Security and Cyber Crimes Act (CSCCA), passed in March 2021, defines new penalties for online speech that may restrict legitimate expression.

Without constitutional protections, freedom of expression and the media are limited by clauses in the penal code that criminalize defamation of the president¹³⁵ and give the president "absolute discretion" to ban publications regarded as "contrary to the public interest."¹³⁶

In March 2021, Lungu signed into law the CSCCA, which enacts a range of changes relating to cybersecurity, online activities, and telecommunications surveillance (see C5 and C6). The law includes criminal penalties for online activities, many of which seek to limit the use of computers for abusive or behavior deemed exploitative.

Several provisions of the CSCCA may restrict political, social, and cultural speech online. These include Section 59, which bars the production and distribution of content "tending to corrupt morals" and which carries a fine of up to 3,000 kwacha (\$140) if violated. Section 69 criminalizes the use of electronic communication to "coerce, intimidate, harass, or cause emotional distress to a person" without defining those terms, and violators face a fine of up to 150,000 kwacha (\$7,100), up to five years' imprisonment, or both. Section 67 bars the disclosure of details relating to orders in a criminal investigation, without a public interest exception that would safeguard reporting on law enforcement investigations relevant to the public; the provision carries a penalty of up to five years imprisonment, a fine of up to 150,000 kwacha (\$7,100), or both.¹³⁷

The CSCCA also bans the use of a computer to disseminate hate speech, which is broadly defined in the law, and violators face up to two years imprisonment and a fine of 150,000 kwacha (\$7,100). The production and distribution of pornography carries harsh penalties, most severely that of 300,000 kwacha (\$14,300) and up to ten years' imprisonment for the production of pornography for sale using a computer. ¹³⁸

Offenses under the CSCCA may be prosecuted extraterritorially, if the purported damage occurs within Zambia but the alleged perpetrator and the computers used to facilitate the offence are not located in the country.¹³⁹

In May 2021, the parliament assented to the Electoral Process (Amendment) Act 2021, which implements several reforms to Zambian election laws. The act imposes penalties on those who "without lawful authority announce and declare the results of an election."¹⁴⁰ Transparency International Zambia noted that this provision applies to media, civil society organizations, and individuals.¹⁴¹ The breadth of the provision raised concerns that it would be used to restrict online speech about the election results; no such cases were publicly reported as of September 2021.

C3 0-6 pts

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

Several individuals were arrested, detained, and imprisoned for their online activities during the coverage period, often on charges of defamation against Lungu and senior PF officials.

On May 10, 2021, Hichilema aide Mubita Nawa was arrested and charged with defaming Lungu in a video distributed over social media.¹⁴² Nawa was released on bond on May 22, 2021.¹⁴³

On May 7, 2021, authorities arrested Chilufya Tayali, president of the opposition Economic and Equity Party, after he posted a social media video criticizing violence by PF cadres and blaming Lungu. Tayali was charged with defaming the president.¹⁴⁴ He was released as of May 14, 2021.¹⁴⁵

On March 17, 2021, police arrested UPND official Matomola Likwanya, charging him with proposing violence and insulting the president in a video Likwanya streamed on Facebook Live. Likwanya was reportedly released in mid-April,¹⁴⁶ though it is unclear on what terms.

Authorities arrested Lawrence Kasonde in November 2020 for a video shared over WhatsApp that criticized the PF and urged people to vote for the UPND. Kasonde was charged with insulting the president.¹⁴⁷ That same month, Alex Munganga was arrested for defaming then president Lungu on his Facebook account.¹⁴⁸ The status of both cases is unknown as of August 2021.

Maxson Nkhoma was arrested in July 2020 for allegedly defaming then housing minister Vincent Mwale in a social media post.¹⁴⁹

In June 2020, police arrested photographer Cornelius Mulenga, better known as Chella Tukuta, who allegedly defamed several government officials in a Facebook Live video.¹⁵⁰ Tukuta was convicted of libel and sentenced to two years' imprisonment in July 2021, after the coverage period; he was subsequently pardoned in August by outgoing president Lungu.¹⁵¹

In June 2020, police arrested Mwewa Evans Mpandashalo, a blogger affiliated with the news sites Zambia Reports and Eagle One, on charges of criminal libel, relating to a series of articles that Mpandashalo published alleging corruption by then home affairs minister Stephen Kampyongo.¹⁵² He was reportedly detained for over a week pre-trial before charges were dropped.¹⁵³

In July 2020, a court rejected an appeal to seek a ruling from the High Court and Constitutional Court on the constitutionality of defamation charges.¹⁵⁴ Chishimba Kambwili, the leader of the National Democratic Congress, was arrested in August 2019 on charges of defamation and temporarily detained after an online video in which he criticized Lungu went viral. In the video, Kambwili questioned former president Lungu's association with a local businessman whose name had come up in a US-based narcotics case,¹⁵⁵ and in an oblique analogy, likened Lungu to a dog.¹⁵⁶

C4 0-4 pts

Does the government place restrictions on anonymous communication or encryption? 3 / 4

The government does not place restrictions on encryption tools, but some government regulations threaten anonymous communications. Encryption tools used to prevent unauthorized access by a third party are uncommon in Zambia. They are mostly used by journalists and human rights defenders.

The 2021 Electronic Communications and Transactions Act (ECT Act) asserts no limitation on the use of encryption, as did the 2009 version of the law. Section 88 of the 2021 legislation prohibits the unauthorized release of a decryption key and the unauthorized release of data, while Section 89 prohibits the use of encryption to obstruct a law enforcement officer, punishable by up to two years, a fine up to 60,000 kwacha (\$2,860), or both.¹⁵⁷

The ECT Act establishes a register of all cryptography providers. Unless they are registered with ZICTA—which is designated as the National Root Certification Authority (NCRA) by the ECT Act—a person cannot provide cryptographic services or products. Provision of cryptography services without registration is a criminal offense, punishable by imprisonment of up to five years, a fine of up to 150,000 kwacha (\$7,100), or both.¹⁵⁸

Anonymous communication through digital media is compromised by SIM card registration requirements instituted in 2012.¹⁵⁹ Registration requires an original and valid identity card, such as a national registration card, to be presented in person to the mobile service provider.¹⁶⁰ While the government stated that the registration requirements were instituted to combat crime,¹⁶¹ investigative reports from 2012 found that subscriber details may be passed directly to the secret service for the creation of a mobile phone user database.¹⁶² Fearing infringements on their privacy, some activists, politicians, and investigative journalists have used preregistered SIM cards. The practice, however, is a criminal offense in the country. Cybercafés do not require user registration.

Online anonymity is further compromised by the CSCCA (see C2). The law requires telecommunications companies to collect the full name, address, and identity number of all subscribers (see C2, C5, and C6).¹⁶³

Registration for the .zm country code top-level domain (ccTLD) is managed by ZICTA, through its designation as the NCRA under the ECT Act, which may compromise the anonymity of .zm website owners, given the questionable independence of the regulatory authority.¹⁶⁴ Almost all independent online news sites use the .com domain, which may stem from historical distrust of ZICTA. The ECT Act also provides the minister of transport and communications with the authority to regulate domain name registration.¹⁶⁵ Such direct oversight of local web domains may allow the government to access user data belonging to local content creators and hosts.

C5 0-6 pts

Does state surveillance of internet activities infringe on users' right to privacy? 3 / 6

Little is known about the Zambian government's surveillance practices and capabilities, though there is evidence that authorities are working to build their surveillance capabilities.

The CSCCA (see C2), passed in March 2021, establishes new authorities under which the government can compel telecommunications companies to intercept data (see C6). The law also grants ZICTA, which is designated as the enforcement authority under the law, to appoint inspectors who may search and seize computer systems on receipt of a warrant.¹⁶⁶

A December 2020 report by Citizen Lab identified the Zambian government as a likely customer of Circles, a surveillance company that allows customers to monitor calls, texts, and cell phone geolocation by exploiting weaknesses in mobile telecommunications infrastructure.¹⁶⁷

In a March 2020 State of the Nation address, then president Lungu noted that ZICTA and Zambian police are able to track down social media abusers.¹⁶⁸ The Zambian Business Times, a local media house, reached out to ZICTA to confirm the installation of equipment to track down social media users. The regulator referred the query to the Zambia Police, who did not provide further comment.¹⁶⁹

In February 2018, the Zambian Watchdog reported that Huawei had begun connecting government buildings in Lusaka under the Smart Zambia project,¹⁷⁰ raising concerns about potential digital surveillance given the company's close ties to the Chinese government, which operates a vast surveillance apparatus.¹⁷¹ The chairperson of the Civil Service Commission had warned civil servants that the Smart Zambia project would allow the government to trace discussions of political issues on social media.¹⁷²

In a troubling admission, then transport and communications minister Brian Mushimba stated in January 2018 that ZICTA has the capability to monitor all digital devices in the country,¹⁷³ though evidence of such capabilities is lacking.

In a 2018 report by Citizen Lab, Zambia is listed as one of 45 countries worldwide in which devices were likely breached by Pegasus, a targeted spyware software developed by Israeli technology firm NSO Group. Pegasus is known to be used by governments to spy on journalists, human rights defenders, and opposition members, though it is unclear if the Zambian government is a Pegasus client.¹⁷⁴

Email from the Italian surveillance firm Hacking Team leaked in 2015 revealed that the company may have sold sophisticated spyware known as Remote Control System (RCS) to Zambian authorities.¹⁷⁵ 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.

C6 0-6 pts

Does monitoring and collection of user data by service providers and other technology companies infringe on users' right to privacy? 2 / 6

Service providers and technology companies are required by law to assist the government in the lawful interception of communications, though the law gives the government significant powers to compel service providers to monitor communications with limited oversight.

In March 2021, Zambia passed the Data Protection Act 2021, which establishes a strong set of data protections for Zambians. The data rights established under the law are broad, including special protections for sensitive data, though it provides broad exceptions for criminal investigations and national security purposes. The act requires personal data to be stored in Zambia, with cross-border data transfer subject to review by the data protection commissioner.¹⁷⁶ Civil society organizations have raised concerns about the independence of the data protection commissioner, which reports to the minister of transport and communications, and the investigative powers afforded to authorities under the law.¹⁷⁷ The Data Protection Act entered into effect in April 2021,¹⁷⁸ though the minister of transport and communications had not yet issued implementing regulations or appointed a data protection commissioner by the end of the coverage period.

The CSCCA (see C2), passed in March 2021, establishes new authorities under which the government can compel telecommunications companies to intercept data, hand over stored communications, and install monitoring systems. Companies may be compelled to do so with a court order, a warrant, or both, depending on the type of monitoring, though the law also permits broad exceptions to those safeguards.¹⁷⁹ Separately, the law requires telecommunications companies to collect the full names, addresses, and identity numbers of all subscribers, limiting online anonymity (see C4).¹⁸⁰

The CSCCA also mandates data localization of “critical information,” which is not designated in the law as written. The act empowers the minister of transport and communications to declare information that is of “importance to the protection of national security, economic or social wellbeing of the Republic” as critical information. In addition to localization, the minster can impose additional oversight and requirements on infrastructure related to critical information.¹⁸¹

In its May 2021 analysis of the CSCCA, the Collaboration on International ICT Policy for East and Southern Africa (CIPEA) noted that the provisions for communications interception do not adequately impose safeguards for privacy. For instance, the law does not limit the period of validity for interception orders, opening the door to long-term surveillance, nor does it adequately protect collected data from abuse by officials who have access.¹⁸²

The ECT Act 2021 (see B2 and C4) replaced a 2009 law, which had afforded the government sweeping surveillance powers with little to no oversight.¹⁸³

Investigative reporting has revealed close collaboration between the Zambian government and Huawei to monitor electronic communications. An August 2019 article published by the *Wall Street Journal* disclosed that Huawei technicians embedded with ZICTA helped the government access phones and Facebook pages belonging to opposition bloggers. Other Huawei technicians are apparently housed in the Cybercrime Crack Squad, which monitors and intercepts the communications of criminal suspects, opposition supporters, activists, and journalists. A spokesperson for the PF said, “Whenever we want to track down perpetrators of fake news, we ask ZICTA. They work with Huawei to ensure that people don’t use our telecommunications space to spread fake news.” The spokesperson also said that Huawei was helping the government to neutralize opposition news sites. ¹⁸⁴

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?

3
/
5

Score Change: The score declined from 4 to 3 because an online journalist was physically attacked in May 2021, the first such incident reported in recent years.

An online journalist was physically attacked in the course of reporting, the first case reported in recent years. Internet users faced harassment and intimidation for their online activities, and Zambian government officials have repeatedly warned against the “misuse” of social media.

In May 2021, supporters of the PF attacked two journalists who reported on an intraparty dispute. One of the journalists attacked was Francis Mwiinga Maingaila, a reporter with news site Zambia 24. Maingaila, who was left with face and eye injuries, says that the attackers seized his camera, phone, and wallet after he identified himself as a journalist because they did not want Maingaila to report on the clash between PF factions. Nancy Malwele, a reporter at the *New Vision* newspaper, received a minor leg injury in the incident, but escaped.¹⁸⁵

Zambians may face retaliation for their online activities, particularly those who criticize the government. Sishuwa Sishuwa, a prominent academic and commentator, faced a targeted campaign after he published a March 2021 article in online outlet News Diggers about the threat of public unrest after the then-forthcoming August elections. Government officials criticized Sishuwa for his analysis on social media and in online articles, including by requesting his arrest for sedition.¹⁸⁶

In May 2021, Inspector General of Police Kakoma Kanganja threatened to arrest Brian Sampa, the head of a doctors’ association who was purportedly suspended from practicing medicine, after he attended a Zoom meeting of the association. Kanganja stated that the Zoom meetings were illegal under the CSCCA (see C2).¹⁸⁷ Civil society organizations sharply criticized the comments, characterizing them as an attempt to intimidate Zambians and curtail their rights to freedom of association and expression.¹⁸⁸

Despite the lack of censorship during the reporting period, government officials threatened to crack down on freedom of expression online. Lungu and his ministers have consistently warned the public against the misuse of social media platforms and stated that the government will punish social media abusers (see B5 and B7).

Following then-minister of transport and communications Brian Mushimba’s threat to ban social media platforms in 2018, civil society organizations such as the Panos Media Institute of Southern Africa strongly condemned his remarks. The minister later clarified his statement, saying that the government would not ban social media, but would regulate its use through the Cybersecurity and Cybercrimes Bill and the Data Protection Bill.¹⁸⁹

Women regularly face harassment and bullying in online spaces. LGBT+ people are also targeted online, though few people openly identify as such because same-sex conduct is criminalized in Zambia.

C8 0-3 pts

Are websites, governmental and private entities, service providers, or individual users subject to widespread hacking and other forms of cyberattack? **3 / 3**

Technical attacks against opposition activists, internet users, and journalists are uncommon in Zambia. Media organizations have reported difficulty in accessing their social media accounts, sometimes attributing the difficulty to a cyberattack.

In April 2019, the online news site *Zambian Eye* reported that its Facebook page had been hacked and that they had no administrative access. That same month, *Radio Mano*, a community radio station, reported that its Facebook page was hacked, though the station managed to restore control of the page. Some other cases have been documented in the past: the *Zambian Watchdog* suffered a distributed denial-of-service (DDoS) attack in 2012 that brought the site down for about eight hours. Attacks on institutions have also been reported in the past. In 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.

In March 2021, the government passed the CSCCA (see C2), which seeks to strengthen Zambia’s capacity to defend against cyberattacks. The law empowers several authorities, including ZICTA, to coordinate and buttress cybersecurity in the country.¹⁹⁰

Footnotes

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ecoi.net summary:
Report on digital media
and internet freedom
(reporting period June 2020 -
May 2021)



Country:
Zambia

Source:
[Freedom House](#)

Original link:
[https://freedomhouse.org/cou
ntry/zambia/freedom-net/2021](https://freedomhouse.org/country/zambia/freedom-net/2021)

Document type:
Periodical Report

Language:
English

Published:
21 September 2021

Document ID:
2060951

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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.

