

# Zambia | Freedom House

## Overview

In the absence of extralegal violence against internet users, internet freedom in Zambia improved during the coverage period. Nevertheless, persistent government pressure on free expression in recent years has resulted in self-censorship online.

Freedom of expression and other rights are also restricted offline. Members of the opposition are targeted for arrest and harassment, and freedom of assembly is not always respected. In December 2018, the Constitutional Court ruled that President Edgar Lungu can seek a third term in the 2021 presidential election, despite the constitutionally mandated two-term limit.

## Key Developments

### June 1, 2018 – May 31, 2019

- A proposed tax on web-based communications platforms such as Facebook Messenger, WhatsApp, Skype, and Viber, announced in August 2018, had not yet been operationalized by the end of the coverage period ([see A2](#)).
- Although no content was restricted during the coverage period, President Lungu and his ministers consistently warned the public against the misuse of social media platforms and stated that the government would punish social media abusers ([see B1](#)).
- The draft Cybersecurity and Cybercrimes Bill was introduced in April 2018 and approved for review in August 2018. Critics worry that the bill, which had not been passed by the end of the coverage period, may be used to curtail internet freedoms ([see C2](#)).
- A 2018 report by Citizen Lab identified Zambia as one of 45 countries worldwide using Pegasus, a targeted spyware software developed by the Israeli technology firm NSO. This revelation renewed concerns about surveillance ([see C5](#)).
- New reporting in 2019 revealed the close relationship between the Zambian government and Huawei, a Chinese tech company. Huawei apparently helps the Zambian government monitor communications, including online. In one case, Huawei helped identify and track the administrators of a Facebook page who were later arrested ([see C5](#)).

## A Obstacles to Access

*Access to the internet continued to grow incrementally during the coverage period, with no restrictions on connectivity, unlike in previous years. A tax on web-based communications platforms such as Facebook Messenger, WhatsApp, Skype, and Viber, announced in August 2018, has not yet been operationalized.*

## A1 0-6 pts

Do infrastructural limitations restrict access to the internet or the speed and quality of internet connections?	16
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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. In a ministerial statement delivered to the parliament in July 2018, the minister of transport and communications noted that there were 8 million internet users in the country by the first quarter of the year, a 47 percent penetration rate.<sup>1</sup> In addition, the minister reported that a household survey by the Zambia Information and Communications Technology Authority (ZICTA) shows that 14 percent of mobile phone users use smartphones and 71 percent of smartphone users access applications such as WhatsApp, Facebook, Twitter, and Messenger.<sup>2</sup>

Despite increasing access, internet connection speeds are still slow, with average download speeds at 2.5 Mbps as of 2018.<sup>3</sup> In April 2019, then minister of transport and communications Brian Mushimba announced that 5G networks would soon be introduced.<sup>4</sup>

The continual development of information and communications technology (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 project is a component of the Smart Zambia Project developed by the Chinese technology company Huawei, and the towers aim to increase mobile voice coverage to almost 100 percent and data service coverage from 5 to 40 percent.<sup>5</sup>

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 by 2017.<sup>6</sup> 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, LTE, 5G, and fiber to the premises (FTTP).

## 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?	13
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Access to the internet in Zambia is still prohibitively expensive for some, particularly among marginalized rural communities and lower-income individuals.

The 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.<sup>7</sup> In a positive step, the country's three mobile service providers—MTN Zambia, Airtel Zambia, and the state-owned Zambia Telecommunications Company Limited (Zamtel)—all reported reducing the cost of data bundles by 70 percent in response to growing competition in 2018.<sup>8</sup> Zamtel was the most affordable ISP, offering daily 1.5 GB internet bundles at approximately \$1 per day.<sup>9</sup> According to Cable, a UK-based

telecommunications company, Zambia ranked 46 out of 230 countries for the average price of 1 GB of data in 2018, at \$2.25.<sup>10</sup>

Despite the introduction of less expensive social bundles (data for social media) and free Facebook, affordability remains a concern for many Zambians. According to the World Bank, as of 2015, 59 percent of Zambia's population lived below the international poverty line of \$1.90 per day.<sup>11</sup> According to the Inclusive Internet Index 2019 report, Zambia ranks 83 out of 100 countries surveyed in affordability (cost of access relative to income and the level of competition in the internet marketplace) and 70 out of 100 in readiness, which includes various aspects of capacity to access the internet.<sup>12</sup>

Other mobile companies offered 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, Go Zambia Jobs, the Mobile Alliance for Maternal Action, and a women's rights group.<sup>13</sup> Zambia was the first African country where Facebook launched this free service in 2014. In 2017, MTN Zambia launched Facebook Flex, a service that allows subscribers on the MTN network to access the full version of Facebook for free.<sup>14</sup>

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 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 2015.<sup>15</sup> Consequently, there is a significant urban-rural divide in mobile network coverage and internet access.

Progress on increasing access to ICTs was threatened by a government announcement in August 2018 that web-based communications platforms like Facebook Messenger, WhatsApp, Skype, and Viber would be taxed, following a model similar to Uganda's controversial social media tax in effect since July 2018.<sup>16</sup> If implemented, the tax would cost users 30 ngwee (\$0.03) daily.<sup>17</sup> Officials argued that the tax would help raise much-needed government revenues, while critics claimed that the move would stifle freedom of expression and innovation.<sup>18</sup> The announcement came a month after the government had publicly assured citizens that it would not introduce a tax on social media.<sup>19</sup> By the end of the coverage period, the tax had not yet been operationalized.

A3 0-6 pts

Does the government exercise technical or legal control over internet infrastructure for the purposes of restricting connectivity?	56
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There were no reported shutdowns or other restrictions on connectivity during the coverage period.

In 2018, a parliamentary committee on media, information, and communications

technologies submitted a report before the parliament stating that neither ZICTA nor the Independent Broadcasting Authority (IBA) have 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.” Critics have noted that if the report is adopted by the parliament, it would mean that the government cannot block platforms via ZICTA and the IBA, but authorities would still be able to block sites without the intervention of regulatory agencies.<sup>20</sup>

Network disruptions last 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, such as the Southern Province, a stronghold of the main opposition United Party for National Development (UPND), which led to strong suspicions of deliberate government interference.<sup>21</sup> The outage followed protests that erupted among opposition supporters who accused the electoral commission of voter fraud. Two mobile providers—MTN and Airtel—confirmed the disruptions but did not provide a reason, leaving it unclear whether the outage was ordered by the government.<sup>22</sup>

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.<sup>23</sup> As a landlocked country, Zambia’s national fiber backbone is provided by three operators: the state-owned Zamtel, the state-owned ZESCO,<sup>24</sup> and the privately owned CEC Liquid Telecom. Zamtel operates the fiber-optic connection to two international submarine cables: the West African Cable System (WACS) and the South Atlantic 3 (SAT-3).<sup>25</sup> MTN and Airtel lease access to the undersea cables from Zamtel, while MTN also connects directly to the Eastern Africa Submarine Cable System (EASSy).<sup>26</sup> There are three internet exchange points (IXPs) in the country, which are owned by the Hai Corporation, CEC Liquid Telecom, and ZESCO. According to a 2013 report from the *Zambian Watchdog*, an online investigative journalism outlet, the location of one of the IXPs, which is reportedly housed in the same building as Zamtel in Lusaka, may further enable government influence over domestic internet traffic.<sup>27</sup>

A4 0-6 pts

Are there legal, regulatory, or economic obstacles that restrict the diversity of service providers?	56
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For the most part, the diversity of service providers is not limited by significant legal or economic obstacles, although a new mobile service provider, Uzi, has stated that licensing issues have contributed to a delay in the launch of its operations. The subscriber base in the country continues to grow as service providers introduce new products in the market and the government grants licenses to new entrants.

Zambia’s 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 over 20 registered ISPs, three of which are also the country’s mobile service providers: MTN, Airtel, and Zamtel.<sup>28</sup> In March 2018, ZICTA granted a fourth mobile license to Uzi Mobile Zambia.<sup>29</sup> The company had not yet commenced operations by the end of the reporting period. It has postponed the launch of its services several times, citing licensing issues with the

government and continued infrastructure work. It is expected to launch in October or November 2019.<sup>30</sup> Vodafone also entered the internet data market in 2018.<sup>31</sup> In 2018, the company was granted a license by ZICTA to begin offering Voice over Long-Term Evolution (VoLTE), a voice over data service.<sup>32</sup> 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.<sup>33</sup>

All internet and mobile service providers are privately owned, with the exception of Zamtel, which was renationalized in 2012 under former president Michael Sata.<sup>34</sup> Sata's predecessor, former president Rupiah Banda, had privatized the company.<sup>35</sup> While Zamtel has the smallest share in the mobile market,<sup>36</sup> it has historically commanded a much larger share of internet subscriptions.<sup>37</sup> 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.<sup>38</sup>

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?	24
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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 2009<sup>39</sup> and the Postal Services Act of 2009.<sup>40</sup> ZICTA is nominally an independent and autonomous body.<sup>41</sup> However, both acts provide opportunities for the minister of transport and communications to interfere with its operations.

The minister of transport and communications oversees ZICTA's activities and appoints the members and chairperson of the ZICTA board.<sup>42</sup> The minister is also entitled to issue general directives, which the regulator is obligated to carry out.<sup>43</sup>

Some internet content is also regulated by the IBA, which oversees the enforcement of regulations in broadcast programming, including content that TV and radio stations make available online.<sup>44</sup>

## B Limits on Content

*No content was blocked during the coverage period, but members of the government, including President Lungu, have warned against "misuse" of social media and threatened people for their behavior on social media platforms. The government intends to regulate social media in the future via the Cybersecurity and Cybercrimes Bill and the Data Protection Bill, neither of which have yet been introduced in the parliament.*

B1 0-6 pts

Does the state block or filter, or compel service providers to block or filter, internet content?	66
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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.

Although online content was not restricted, in March 2019, the IBA suspended the popular independent television station Prime TV for one month for “unbalanced coverage and opinionated news.” During the reporting period, the licenses for Prime Radio and Valley FM were also suspended, while the licenses for the Ngoma and Kafue radio stations were revoked.[45](#)

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.[46](#) The sites affected included a forum on drugs, a pornography hub, and a dating website for LGBT+ individuals, which may have been linked to the prohibition of homosexuality under Zambia’s Penal Code.[47](#)

Zambia was the first country in sub-Saharan Africa to censor online content in 1996,[48](#) 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.[49](#) 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 ruling Patriotic Front (PF) under former president Sata.[50](#)

B2 0-4 pts

Do state or nonstate actors employ legal, administrative, or other means to force publishers, content hosts, or digital platforms to delete content?	24
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The government has been known to censor content by directing online media editors to remove material considered problematic or offensive upon request.

For example, in April 2019, a popular Facebook news page called Koswe was deleted from that platform after their administrators were arrested ([see C3](#)).[51](#)

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.[52](#) Zambia does not feature in the transparency reports produced by Facebook and Twitter.

To address the proliferation of fake Facebook accounts ([see B5](#)) that had been created under the president’s name and those of senior officials, in July 2018 the government directed ZICTA to contact Facebook and seek the removal of dozens of the fraudulent pages.[53](#) Amos Chanda, then special assistant to the president for press and public relations, claimed in February 2019 that fake news, such as social media attacks on Zambia’s GDP and exchange rate, has cost the government millions by damaging the image of the country to potential investors.[54](#)

In December 2018, Zambia Police Service Commission chairperson Peter Chingaipe warned police and immigration officers spreading falsehoods on social media and urged immediate disciplinary action against officers who do so.[55](#)

In February 2019, the Zambia Police Command directed all police officers who are administrators of any social media groups to immediately delete them.[56](#) 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. The then Home Affairs Minister Stephen Kampyongo claimed that police officers are using social media to incite the public to rise against the government.[57](#)

B3 0-4 pts

Do restrictions on the internet and digital content lack transparency, proportionality to the stated aims, or an independent appeals process?	34
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For the most part, restrictions on internet and digital content are transparent and proportional. The government has drafted 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.

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.[58](#) Critics saw the new rules as part of the Zambian government's efforts to control online speech.[59](#) There has not yet been evidence of enforcement of the new rules.

Intermediaries are not held liable for content under the 2009 Electronic Communications and Transactions Act.[60](#)

B4 0-4 pts

Do online journalists, commentators, and ordinary users practice self-censorship?	24
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Growing government pressure on the media in recent years has led to increased self-censorship among journalists, both online and offline. Online journalists and bloggers increasingly write anonymously to avoid harassment or the threat of legal action,[61](#) 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. Most independent online news sites do not publicly share 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 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.[62](#) The survey also found that only one in three Zambians

feels 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?	24
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Both the government and the opposition heavily rely on online resources, particularly social media, to advance their political agendas. There is a proliferation of progovernment and pro-opposition websites and social media pages, as well as WhatsApp groups.

Progovernment and pro-opposition social media accounts have been known to publish false news. False news disguised to look like real reports and fraudulent "official" statements have become a more prominent feature of the online information landscape in the past few years. One such example was a statement purported to be written by an opposition politician, the late Mike Mulongoti, denouncing an alliance of opposition parties, which was circulated in early 2019.<sup>63</sup> At the time the letter was written, Mulongoti was in an intensive care unit in South Africa. The statement was published on Smart Eagles, a progovernment Facebook page, and ultimately deleted after a public outcry.<sup>64</sup> In March 2019, a letter purportedly written by ZESCO, authorizing payment to the PF's secretary general, went viral. It was later confirmed to be fraudulent.<sup>65</sup>

In a positive step toward combating fake news, the Alliance for Community Action, a local nongovernmental organization (NGO), launched a fact-checking project in 2017.<sup>66</sup>

B6 0-3 pts

Are there economic or regulatory constraints that negatively affect users' ability to publish content online?	23
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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. A former minister allegedly threatened to stop advertising in the the Post due to its reporting. Some government agencies are unreliable in paying their advertising bills, potentially starving outlets of necessary revenue.<sup>67</sup>

Moreover, 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.<sup>68</sup> These trends are likely mirrored online, though in general, online news platforms are much

less developed than print and broadcast media. Some online news outlets are hosted abroad and receive advertising revenue from international sources.

B7 0-4 pts

Does the online information landscape lack diversity?	34
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The online information landscape lacks diverse content from rural populations and marginalized groups such as the LGBT+ community, 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. As a result, social media platforms and citizen journalists have emerged as important sources of information, and Zambians have become increasingly aware of 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. Zambian Bloggers Network and Bloggers of Zambia are currently the main civil society groups pushing for digital and bloggers' rights. Facebook is one of the most popular platforms among Zambians, with over two million users as of September 2018, which accounted for 11.1 percent of the country's population. The majority of Facebook users, 58.5 percent, are men.[69](#)

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+ community. According to the Inclusive Internet Index 2019 report, Zambia ranks 96 out of 100 countries in relevance, which considers the availability of content in the local language and relevant content [70](#)

B8 0-6 pts

Do conditions impede users' ability to mobilize, form communities, and campaign, particularly on political and social issues?	46
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Mobilization platforms are freely available to users, and social media continued to play an important role in facilitating political and social debates and discussions. However, pressure from the government and political parties can sometimes stifle online activism.

In February 2019, activists questioned the decision by then minister of transport and communications Brian Mushimba to seek medical attention in South Africa rather than Zambia, and suspected that the government may have paid his medical bills. The controversy went viral, and the minister blocked a number of Twitter users who demanded answers.[71](#) Mushimba later apologized and unblocked them.

In April 2019, the PF national chairperson, Samuel Mukupa, directed all social media groups bearing the name "Patriotic Front" to be registered with the party secretariat.[72](#) The directive came after party youths took to social media to call for the resignation of PF Secretary General Davies Mwila. Mwila then issued a statement saying that the party has made progress in forming a team to monitor its members on social media.[73](#)

## C Violations of User Rights

*The draft Cybersecurity and Cybercrimes Bill was introduced in April 2018 and approved for review in August 2018. Critics worry that the bill may be used to undermine internet freedom. Several citizens were arrested for defaming the president online during the coverage period, with one individual sentenced to two years in prison. In a departure from the previous coverage period, there were no reports of violence against internet users. Pegasus infections were found in Zambia, increasing concerns about surveillance.*

C1 0-6 pts

Do the constitution or other laws fail to protect rights such as freedom of expression, access to information, and press freedom, including on the internet, and are they enforced by a judiciary that lacks independence?	26
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The constitution and a number of laws threaten freedom of expression and other key rights online. The Constitution of Zambia (Amendment) Act of 2016<sup>74</sup> contained amendments that lacked many of the provisions sought by citizens, including the protection of fundamental rights and freedoms.<sup>75</sup>

A constitutional referendum was held in 2016, alongside the 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 over or interfering with media activities.<sup>76</sup> Though approved by 71 percent of voters, the referendum failed to reach the threshold of 50 percent turnout required to validate the results.<sup>77</sup>

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 2018 that the newly adopted constitution was "a mess" while civil society organizations have filed requests with the Ministry of Justice asking for it to be abolished. In April and May 2019, the National Dialogue Forum, which was established under the National Dialogue Act of 2019, met and produced proposals to amend the constitution, electoral laws, the Political Parties Bill, and the Public Order Bill.<sup>78</sup> However, many opposition parties, including the UPND, as well as religious institutions such as the Zambia Conference for Catholic Bishops, the Evangelical Fellowship of Zambia, and the Council of Churches in Zambia, boycotted the forum, citing the government's alleged intention to control the national dialogue and reconciliation process.<sup>79</sup>

In March 2019, Dora Siliya, the information and broadcasting services minister and chief government spokesperson, announced that the cabinet approved the Access to Information Bill, which had been pending since 2002.<sup>80</sup> The bill had not yet been introduced to the parliament by the end of the reporting period.

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 Zambia's justice system. Notably, the Service Commissions Act, which establishes a Judicial Service Commission to advise the president on judicial appointments, provides the executive 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 2017, President Lungu warned Constitutional Court judges against disqualifying him from running for a third term in 2021, despite the constitutionally mandated two-term limit.<sup>81</sup> The Constitutional Court ultimately ruled in Lungu's favor in 2017.<sup>82</sup>

Constitutional protections have been seriously undermined in the past, such as when President Lungu declared a state of emergency on July 5, 2017, following the 2016 election.<sup>83</sup> The 90-day period of emergency rule prohibited public meetings, closed roads, imposed curfews, and restricted movements.<sup>84</sup> Though no specific limits were placed on online activities, critics believe the move was an effort by the president to tighten his grip on power. 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?	24
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Without constitutional protections, freedom of expression and the media are limited by clauses in the penal code that criminalize defamation of the president<sup>85</sup> and give the president “absolute discretion” to ban publications regarded as “contrary to the public interest.”<sup>86</sup>

In August 2018, the cabinet approved for review the draft Cybersecurity and Cybercrimes Bill.<sup>87</sup> Civil society organizations expressed immediate concern about the bill's potential to impinge on internet freedoms.<sup>88</sup> 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.” Analysts have expressed concern that such provisions could be used to crack down on legitimate online expression.<sup>89</sup> The legislation has not been made available for public scrutiny and has not been debated in the parliament.

C3 0-6 pts

Are individuals penalized for online activities?	26
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Several individuals were arrested, detained, and imprisoned for their online activities during the coverage period, including for defamation against the president. The then minister of home affairs, Stephen Kampyongo, said in December 2018 that the police and ZICTA have stepped up their collaboration to make sure that those who “abuse” social media are punished.<sup>90</sup>

In April 2019, the *Daily Nation*, a progovernment newspaper, reported that Liswaniso Songiso, Patrick Mweetwa, Derrick Munshya, and Emmanuel Kamoshia, administrators of the popular Facebook page Koswe, were arrested for allegedly publishing false and malicious articles and insulting the ruling party.<sup>91</sup> The government also said the Facebook page was a threat to national security because it published sensitive government information. The page was deleted from Facebook.<sup>92</sup> Controversially, ZICTA and Huawei assisted law enforcement in identifying and tracking the suspects.<sup>93</sup> The case was ongoing at the end of the reporting period.

A number of individuals were arrested and prosecuted for defaming the president. In March 2019, Sean Tembo, the leader of the opposition Patriotic for Economic Progress party, was arrested and denied bond for an alleged defamatory statement he made on social media, in which he questioned President Lungu's mental state.<sup>94</sup> After spending a weekend in jail, Tembo was granted bond and released.<sup>95</sup> His case was ongoing at the end of the coverage period. In July 2018, police arrested a man from Luapula Province for allegedly defaming the president on Facebook through derogatory posts across four different accounts, as well as possession of pornographic material. In March 2019, he pled guilty to three counts of defamation and was sentenced to two years in prison. He was also fined for possession of pornographic material.<sup>96</sup>

After the coverage period, in August 2019, Chishimba Kambwili, the leader of the National Democratic Congress, which has since been de-registered, was arrested on charges of defamation after a video went viral in which he allegedly insulted the president.<sup>97</sup>

C4 0-4 pts

Does the government place restrictions on anonymous communication or encryption?	34
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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.

According to the 2009 Electronic Communications and Transactions Act, individuals may use encryption, “regardless of the algorithm, encryption key length, or implementation technique or medium,” provided that they do so in accordance with the act. Section 87 of the act prohibits the unauthorized release of a decryption key and the unauthorized release of data.<sup>98</sup>

Sections 22 and 23 of the 2009 Electronic Communications and Transactions Act establish a register of all cryptography providers. Unless they are registered with ZICTA, a person cannot provide cryptograph services or products. Provision of cryptograph services without registration is a criminal offense, punishable by imprisonment of up to seven years, a fine of up to 210,000 kwacha (\$17,500), or both.<sup>99</sup>

However, anonymous communication through digital media is compromised by SIM card registration requirements instituted in 2012.<sup>100</sup> Registration requires an original and valid identity card, such as a national registration card, to be presented in person to the mobile service provider.<sup>101</sup> While the government stated that the registration requirements were instituted to combat crime,<sup>102</sup> 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.<sup>103</sup> 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.

Registration for the .zm country code top-level domain (ccTLD) is managed by ZICTA as provided for under the 2009 Electronic Communications and Transactions Act,

which may compromise the anonymity of .zm website owners, given the questionable independence of the regulatory authority.<sup>104</sup> Almost all independent online news sites use the .com domain, which may stem from distrust of ZICTA. The act also provides a government minister with the authority to create statutory agreements governing domain name registration and “the circumstances and manner in which registrations may be assigned, registered, renewed, refused, or revoked.”<sup>105</sup> 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?	36
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Zambia currently lacks an effective data protection framework, and little is known about the Zambian government’s surveillance practices and capabilities. However, there is evidence that authorities are working to build their surveillance capabilities. A data protection bill has been drafted but has not yet been introduced in the parliament.

New reporting has revealed close collaboration between the Zambian government and Huawei to surveil electronic communications. In an August 2019 article published by the *Wall Street Journal*, the 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. Among the opposition voices monitored online with the help of Huawei was the Facebook page Koswe (see C3). Some Huawei technicians are apparently housed in ZICTA and the Cybercrime Crack Squad, which monitors and intercepts the communications of criminal suspects, opposition supporters, activists, and journalists.<sup>106</sup> In February 2018, the Zambian Watchdog reported that Huawei had begun connecting government buildings in Lusaka under the Smart Zambia project,<sup>107</sup> raising concerns about potential digital surveillance, given the company’s close ties to the Chinese government.<sup>108</sup> 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.<sup>109</sup>

In a 2018 report by Citizen Lab, a Canadian internet watchdog, Zambia is listed as one of 45 countries worldwide using Pegasus, a targeted spyware software developed by Israeli technology firm NSO. Pegasus is known to be used by governments to spy on journalists, human rights defenders, and the opposition.<sup>110</sup>

Email leaks from the Italian surveillance firm Hacking Team in 2015 revealed that the company may have sold sophisticated spyware known as Remote Control System (RCS) to Zambian authorities.<sup>111</sup> While the leaked emails did not confirm that a sale took place, they point to the government’s intent to acquire technologies that can monitor and intercept user communications.

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,<sup>112</sup> though evidence of its purported capabilities is lacking.

C6 0-6 pts

Are service providers and other technology companies required to aid the government in monitoring the communications of their users?	26
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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.

The 2009 Electronic Communications and Transaction Act provides for the protection of personal information and details conditions for the lawful interception of communications,[113](#) 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 a court order. Service providers are also required to transmit all intercepted communications to a central monitoring and coordination center managed by the Communications Ministry.[114](#) Service providers that fail to comply with the requirements could be punished with a fine, imprisonment of up to five years, or both.

In 2017, Thomas Allan Zgambo and Clayson Hamasaka, Lusaka-based journalists affiliated with the *Zambian Watchdog* and the opposition UPND, respectively, sued the mobile provider Airtel for intercepting a total of 225 phone conversations between 2013 and 2014 and diverting the calls to a number belonging to state intelligence.[115](#) The case was ongoing at the end of the coverage period.

C7 0-5 pts

Are individuals subject to extralegal intimidation or physical violence by state authorities or any other actor in retribution for their online activities?	35
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Although no physical attacks in retaliation for online activities were reported during the coverage period, online journalists and internet users have faced violence in the past. A number of individuals faced harassment and intimidation for their online activities, and Zambian government officials have repeatedly warned against the “misuse” of social media.

Despite the lack of censorship during the reporting period, government officials threatened to crack down on freedom of expression online. President Edgar 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. For instance, while addressing the parliament in March 2019, President Lungu cautioned the public to be aware of “vices” on social media.[116](#)

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.[117](#)

The British high commissioner to Zambia, Fergus Cochrane-Dyett, had been subjected to intimidation in response to his tweets, which often criticized the government. In June 2018, the government threatened to deport the British envoy for his critical remarks, posting their threats on social media.[118](#)

C8 0-3 pts

Are websites, governmental and private entities, service providers, or individual users subject to widespread hacking and other forms of cyberattack?	33
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Technical attacks against opposition activists, internet users, and journalists are uncommon in Zambia. In April 2019, the online news website *Zambian Eye* reported that its Facebook page had been hacked and that they had no administrative access.[119](#) 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.[120](#) 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.[121](#)