

# Zimbabwe

	2014	2015		
<b>Internet Freedom Status</b>	Partly Free	Partly Free	<b>Population:</b>	14.7 million
Obstacles to Access (0-25)	15	15	<b>Internet Penetration 2014:</b>	20 percent
Limits on Content (0-35)	15	16	<b>Social Media/ICT Apps Blocked:</b>	No
Violations of User Rights (0-40)	25	25	<b>Political/Social Content Blocked:</b>	No
<b>TOTAL* (0-100)</b>	<b>55</b>	<b>56</b>	<b>Bloggers/ICT Users Arrested:</b>	Yes
			<b>Press Freedom 2015 Status:</b>	Not Free

\* 0=most free, 100=least free

## Key Developments: June 2014 – May 2015

- Frequent power outages disrupted ICT networks, resulting in cutoffs of both mobile networks and internet connections for hours at a time (see **Availability and Ease of Access**).
- The Facebook page of the anonymous whistleblower “Baba Jukwa” was deleted in July 2014, though the manner in which it was taken down remains shrouded in mystery (see **Content Removal**).
- In July 2014, criminal defamation was declared unconstitutional under the old constitution but left valid under the new 2013 constitution (see **Legal Environment**).
- Police arrested and charged two individuals with plotting to overthrow the government for their alleged association with Baba Jukwa (see **Prosecutions and Detentions for Online Activities**).
- The leader of the “Occupy Africa Unity Square” movement initiated on Facebook was abducted in March 2015 and remained missing as of June 2015 (see **Intimidation and Violence**).

## Introduction

Zimbabwe's socioeconomic and political challenges deepened this past year, owing to continued infighting over who will succeed President Robert Mugabe when he decides to step down. In response to the growing instability, the ruling party Zimbabwe African National Union—Patriotic Front (ZANU-PF) took steps to crack down on criticism in general, and frequently targeted communications disseminated via information and communications technologies (ICTs) in particular. Most notably, the government succeeded in taking down the popular Facebook page of the anonymous whistleblower, “Baba Jukwa,” and arrested two individuals suspected of administering the page in July 2014. A university student was also arrested for a Facebook post on the Baba Jukwa page that allegedly undermined state security. Online journalists and ordinary users also faced more harassment, threats, and violence for criticizing the ruling party, especially President Mugabe, this past year. The opposition party, Zimbabwe African People's Union—Federal Party (ZAPU-FP), reported experiencing a cyberattack in early 2015, in advance of various party congresses.

## Obstacles to Access

*New taxes on ICT gadgets and mobile airtime levied in 2014 made costs of access more expensive, disproportionately impacting the poor. Prolonged power blackouts disrupted ICT networks, resulting in cutoffs of both mobile networks and internet connections for hours at a time. The independence of the regulator POTRAZ was called into question following the cancellation of Telecel's license over a politically charged shareholding dispute.*

## Availability and Ease of Access

Zimbabwe's internet access is expanding incrementally, growing from a penetration rate of 19 percent in 2013 to 20 percent in 2014, according to estimates by the International Telecommunication Union (ITU).<sup>1</sup> By contrast, official government statistics report an internet penetration rate of 50 percent as of December 2014,<sup>2</sup> up from 42 percent in 2013,<sup>3</sup> which includes both fixed-line and mobile internet subscriptions. Approximately 99 percent of internet access is via mobile telephony, while access via fixed-line internet remains low at less than 1 percent. The mobile phone penetration rate, which is over 100 percent, includes users with multiple SIM cards, thus belying the actual number of Zimbabweans who have access to mobile services—estimated at only 60 percent.<sup>4</sup>

Increasing investments in the country's telecommunications infrastructure in recent years have made service prices more affordable for consumers. In 2014, the leading internet service provider (ISP), Liquid, launched its Fiber-to-Home (FTH) service after laying fiber-optic cables in nearly all major towns and now offers a start-up price for homes of US\$39 per month for up to 15GB per month.<sup>5</sup> State-owned ISP TelOne also worked to extend ADSL broadband services across the country throughout 2014, reaching almost all small towns to provide broadband to its clients through a

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1 International Telecommunication Union, “Percentage of Individuals Using the Internet,” 2000-2014, <http://bit.ly/1cblxxY>.

2 “Potraz defends mobile data tariffs,” *Daily News*, April 30, 2015, <http://bit.ly/1GKKn2s>.

3 Postal and Telecommunications Regulatory Authority of Zimbabwe (POTRAZ), “Postal and Telecommunications Sector Performance Report – Fourth Quarter 2013,” accessed August 20, 2014, <http://bit.ly/1VWOC1Y>.

4 Ndakaziva Majaka, “Zim mobile penetration rate misleading: Potraz,” *Daily News*, December 21, 2014, <http://bit.ly/1ZJnKHv>.

5 For 5Mbps download and up to 1Mbps upload.

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prepaid service of 10GB for US\$25.<sup>6</sup> Despite improvements, effective broadband for home and individual users has not been fully realized due to poor infrastructure and a lack of reliable electricity. In 2014, fixed-broadband subscriptions remained low at a penetration rate of merely 1 percent.<sup>7</sup>

While Zimbabweans have benefitted from low-cost, internet-enabled imitation mobile phones imported from Asia, new taxes on ICTs levied in 2014 increased the cost of access, which disproportionately impacted the poor. In September 2014, Finance Minister Patrick Chinamasa introduced a 25 percent import tax on all ICT gadgets on top of an already existing 15 percent value-added tax (VAT) to increase state revenues.<sup>8</sup> He also implemented a 5 percent excise tax on mobile airtime.<sup>9</sup> To help offset the new price increases, the regulator in January 2015 forced mobile phone companies to reduce the cost of voice calls from a peak period charge of 23 cents per minute to 15 cents, and those for SMS from 9-10 cents to 5 cents.<sup>10</sup>

While most Zimbabweans access the internet via mobile phones, cybercafes are still playing a key role as internet access points. A combination of web surfing, gaming, and music and video downloads is attracting mostly urban youth back to internet cafes, which are increasingly found in nearly every rural district center.<sup>11</sup> Nonetheless, there remains a significant urban-rural divide in access to both internet and mobile technologies, particularly as a result of major infrastructural limitations in rural areas, such as poor roads and electricity distribution. Even in urban areas, electricity is regularly rationed for six to seven hours a day, leading to uneven access to internet and mobile phone services. In 2014-2015, frequent power outages affected both households and business entities such as cybercafes, resulting in cutoffs of both mobile networks and internet connections for hours at a time.

### Restrictions on Connectivity

No cases of deliberate disruptions in connectivity were recorded during the coverage period, compared to the previous period, when the independent community radio station, Radio Dialogue, reported frequent internet disconnections in its office in the lead-up to the July 2013 general elections, and internet cafe owners reported slow internet connectivity.<sup>12</sup> While the government's hand in the disruptions could not be confirmed, state control over two of the country's five international gateways, as well as the state's ability to issue directives to private telecom providers, increase the likelihood of deliberate government interference.

Two of Zimbabwe's five international gateways for internet and voice traffic are operated by the state-owned fixed network, TelOne, and mobile network, NetOne. The private mobile operators—Econet, TeleCel, and Africom—operate the other three international gateways.<sup>13</sup> In mid-2014, government officials expressed discontent with the country's "sporadic international gateways" and stat-

6 "TelOne Improves Performance," *News Day*, January 10, 2014, <http://bit.ly/1kaQnx>.

7 International Telecommunication Union, "Fixed (wired)-broadband subscriptions," 2000-2014, <http://bit.ly/1cblxxY>.

8 L.S.M. Kabweza, "Zim government introduces 5% tax on mobile airtime," *Techzim*, September 11, 2014, <http://bit.ly/1RN6YC3>.

9 Ministry of Finance and Economic Development, Zimbabwe National Budget Statement. See <file:///C:/Users/user/Downloads/2015%20National%20Budget.pdf>.

10 "Potraz slashes mobile tariffs," *The Herald*, January 1, 2015, accessed January 26, 2015, <http://bit.ly/1jH5Yw>.

11 From research via calls to relatives and friends who live near rural business centers as well as personal visits to some rural centers.

12 George Mpofu and Nicolette Zulu, "FFZE: Zim Internet, Phones 'Jammed' Day Ahead of Vote," Free & Fair Zimbabwe Election, July 30, 2013, <http://zimbabweelection.com/2013/07/30/ffze-zim-internet-phones-jammed-day-ahead-of-vote/>.

13 Op Cit, POTRAZ, "Postal and Telecommunications Sector Performance Report – Fourth Quarter 2013."

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ed intentions to intervene with a national policy,<sup>14</sup> leading to concerns that the government is trying to increase its control over the operations of Zimbabwe's internet gateways.

### ICT Market

Zimbabwe currently has 28 ISPs,<sup>15</sup> representing a competitive market for internet service provision. As set by the regulator, the license fees for ISPs range from US\$2-4 million, depending on the type of service to be provided, and must be vetted and approved by the regulator prior to installation.<sup>16</sup> Providers must also pay 3.5 percent of their annual gross income to the regulator. By contrast, mobile services are provided by three operators, two of which are privately owned—Econet Wireless and Telecel. The government has complete ownership of the third operator, NetOne, but is reportedly seeking to privatize up to 60 percent of company.<sup>17</sup>

### Regulatory Bodies

ISPs and mobile phone companies are regulated by the Postal and Telecommunications Regulatory Authority of Zimbabwe (POTRAZ), whose leaders are appointed by the president in consultation with the minister of transport and communication.<sup>18</sup> While POTRAZ handles the official licensing process for telecoms, insider reports have revealed a growing interest of the military intelligence in the operations of telecoms companies. The military intelligence and the Central Intelligence Organization are known to screen and approve license applications, demonstrating how the state regards ICTs as a security matter.

POTRAZ has been widely accused of partisanship and politicized decision-making, as evidenced in early 2015 when the regulator revoked of the license of the country's third largest mobile phone operator, Telecel.<sup>19</sup> At the time, Telecel was embroiled in a shareholding dispute that pit President Mugabe's nephews Patrick Zhuwao and Leo Mugabe against other shareholders. The intervention was seen as part of a political move to protect and advance the interests of those close to the Mugabe family.<sup>20</sup> On May 7, 2015, the High Court ordered POTRAZ to reinstate the Telecel license.

## Limits on Content

*Civil society organizations reported having trouble disseminating bulk SMS text messages throughout 2014 and 2015, particularly messages perceived as political by the state. In response, organized civic activism is finding space through WhatsApp groups made up of citizen journalists and ordinary users.*

14 Technomag, "Potraz spearheads Broadband policy," *News Day*, June 4, 2014, <http://bit.ly/1MIxdcN>.

15 Zimbabwe Internet Service Providers Association (ZISPA), "Current ZISPA members," updated August 9, 2007, <http://bit.ly/1OjLz7>.

16 L.S.M Kabweza, "Zimbabwe raises telecoms licence fees, migrates to converged licensing," *TechZim*, March 12, 2013, <http://bit.ly/1PniwOb>.

17 NetOne, "About NetOne," <http://bit.ly/1LeJH9O>; Henry Lancaster, *Zimbabwe- Telecoms, Mobile and Broadband – Statistics and Analyses*, <http://bit.ly/1GKLDCJ>.

18 L.S.M. Kabweza, "POTRAZ now under Office of President & Cabinet. To improve regulatory independence," *TechZim*, October 15, 2013, <http://bit.ly/1Ga8Wv8>.

19 Op Cit, see L.S.M. Kabweza, "Zim ICT Minister 'cancels' Telecel's license. Accuses Vimpelcom of speculation," *TechZim*, February 22, 2015, <http://bit.ly/1LSNGfN>.

20 L.S.M. Kabweza, "We interview with Supa Mandiwanzira on TeleCel license cancellation," *TechZim*, February 24, 2015, <http://bit.ly/1AFADpk>.

The Facebook page of the anonymous whistleblower “Baba Jukwa” was deleted in July 2014, though the manner in which it was taken down remains unclear.

## Blocking and Filtering

No websites were blocked or filtered in Zimbabwe during the coverage period. Access to social media platforms such as Facebook, Twitter, and YouTube and international blog-hosting platforms are all freely available, though the government regards Facebook and other communications platforms as sources of political subversion and has indicated intentions to block the websites over the past few years.<sup>21</sup>

By contrast, civil society organizations reported having trouble disseminating bulk SMS text messages throughout 2014 and 2015, particularly messages perceived as political by the state. A ban on bulk SMS services was originally implemented in the lead-up to the 2013 elections.<sup>22</sup> The ban, which was not made known to the public, effectively obstructed the ability of civil society groups to send SMS messages with election-related information, and there were no mechanisms in place for appeal.<sup>23</sup> Meanwhile, ZANU-PF members routinely sent bulk SMS messages via all networks on behalf of President Robert Mugabe’s campaign and other ruling party candidates.

## Content Removal

Zimbabwean government authorities and opposition leaders frequently pressured users and content producers to delete content from social media platforms during the coverage period, reflecting a growing trend compared to previous years.

Most notably, the Facebook page of the anonymous whistleblower Baba Jukwa was deleted in July 2014, though the manner in which it was removed remains shrouded in mystery. Most accuse the Zimbabwean government, which had reportedly sent senior police officials to the United States in late 2014 to liaise directly with Facebook and convince the company to delete the page, which was followed by nearly half a million users.<sup>24</sup> The president had also reportedly sought Chinese technical assistance in censoring the page and identifying its owner in previous years.<sup>25</sup> Some believe the authorities had managed to hack into and take control of the Baba Jukwa page to delete the profile. Either way, the page was ultimately taken down in July 2014,<sup>26</sup> after an editor at the *Sunday Mail* state newspaper, Edmund Kudzayi, was arrested in June on accusations of running the Baba Jukwa account (see “Prosecutions and Detentions for Online Activities”).<sup>27</sup>

21 “Zimbabwe Gvt Set to Block Facebook, Twitter – Report,” *ZimEye*, November 27, 2013, <http://bit.ly/1kaSCjG>.

22 Ephraim Batambuze III, “Bulk Text Messaging Service banded in Zimbabwe,” *PC Tech Magazine*, July 29, 2013, <http://bit.ly/1jISrvx>; Gareth van Zyl, “Zimbabwean regulator ‘blocks’ bulk SMS as election nears,” *IT Web Africa*, July 29, 2013, <http://bit.ly/1RN8UdN>; Kubatana, “POTRAZ bans bulk SMS,” July 26, 2013, <http://bit.ly/1QBgwzb>.

23 One such ICT based Civic network Kubatana.net issued a statement stating that, “...in the run-up to Zimbabwe’s 2013 election, our ability to send bulk text messages has been blocked. We have been informed by Econet that their regulator, Potraz, has issued a directive blocking the delivery of bulk messages from international gateways. “Potraz Bans Bulk SMSs,” *News Day*, July 26, 2013, <http://bit.ly/1Ga9G3k>.

24 Tendai Rupapa, “Baba Jukwa investigators in US,” *Chronicle*, September 2, 2014, <http://bit.ly/1QBh73O>.

25 Jane Flanagan, “Mugabe hunts for internet mole ‘Baba Jukwa’ revealing his secrets,” *The Telegraph*, July 4, 2013, <http://bit.ly/1QBhb3L>.

26 Adam Taylor, “Has Baba Jukwa, Zimbabwe’s infamous anonymous whistleblower, really been caught?” *Washington Post*, June 25, 2014, <http://wapo.st/1KetzRG>.

27 Charles Laiton, “Sunday Mail Editor ‘is Baba Jukwa,’” *The Standard*, June 22, 2014, <http://bit.ly/1Lyv02G>.

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Social networking pages and chat groups were also targeted for removal by opposition leader Morgan Tsvangirai, who in May 2015 ordered all WhatsApp and Facebook groups administered by any members of the Movement for Democratic Change (MDC) opposition party to shut down or face suspension.<sup>28</sup> Tsvangirai, who heads the MDC, was allegedly irked by public debates held on social media platforms between the party's senior officials. Following the ban, the party reportedly suspended five of its officials based in the city of Bulawayo on May 10, 2015 for "allegedly abusing social media platforms to attack the party's top leadership."<sup>29</sup>

A mobile money account belonging to the ZAPU-FP opposition party was shut down in early 2015, which some observers believe was politically motivated. Created for fundraising purposes, ZAPU-FP's account with Econet's mobile money service Ecocash was shut down with no explanation from the provider, leading ZAPU-FP party members to suspect Econet of acting on instructions from the security sector.

### Media, Diversity, and Content Manipulation

Media surveys indicate a continuing decline in newspaper readership coinciding with the rising use of ICT-based platforms for news and other information.<sup>30</sup> This trend has prompted newspapers to work on integrating online platforms. The popular Mobi News service for mobile devices launched by Alpha Media Holdings—the group publisher of *The Standard*, *Newsday*, *Southern Times*, and *Zimbabwe Independent*—now attracts more subscription revenue than the firm's print publications.

Independent news websites and other digital media outlets based outside Zimbabwe provide critical sources of information for Zimbabwean citizens, especially on taboo subjects that local media groups are afraid of covering due to fears of government reprisal. These diaspora-based outlets, such as [New.zimbabwe.com](http://New.zimbabwe.com) and [Nehanda-radio.com](http://Nehanda-radio.com), post reports on sensitive issues by local journalists and citizens who write under pseudonyms, a practice employed by many journalists to avoid harassment. Few independent news outlets are based in the country.

Ordinary citizens are also increasingly using pseudonyms online to discuss political topics,<sup>31</sup> and following the arrest of the suspected owner of the anonymous Baba Jukwa account in July 2014 (see "Prosecutions and Detentions for Online Activities"), users have increasingly opted to self-censor out of concerns over the state's capacity to seek out the identities of pseudonymous individuals.<sup>32</sup> Suspicions of pervasive state surveillance have also led to increasing self-censorship, particularly on issues that involve the military, the intelligence, President Robert Mugabe, and the first family.

28 Gift Chirauro, "Is banning social media good for MDC," *Techno Mag*, February 10, 2015, <http://bit.ly/1NNa6PT>.

29 Luyanduhlobo Makwati, "MDC-T Suspends officials for abusing social media," *Southern Eye*, May 10, 2015, <http://bit.ly/1LSORfd>.

30 See Zimbabwe Advertising Research Foundation (ZARF), "Zimbabwe All Media and Products' Survey," 2012, <http://bit.ly/1Lpi4IV>.

31 Tendai Chari, "Consumption and Networking," in *Online Journalism in Africa*, ed. Hayes Mawindi Mabweazara, et al., (New York: Routledge, 2014) 192; Tendai Chari, "Ethical Challenges Facing Zimbabwean Media in the Context of the Internet," *Global Media Journal - Africa Edition*, 3, no.1 (2009) <http://bit.ly/1ZJt0L8>; Committee to Protect Journalists, "Sweeping Surveillance Law to Target 'Imperialist-Sponsored Journalists,'" press release, *All Africa*, August 9, 2007, <http://bit.ly/1Pxrjfv>; Barbara Borst, "African Journalists Struggle to Find their Role in Building Democracies," *Perspectives on Global Issues* 2, no. 2 (Spring 2008).

32 "After the Baba Jukwa story broke a reader wrote on our NewsDay-Zimbabwe Facebook page: What if they hack into my account like they did with BJ? I am not sure if it is worth the risk to send in pictures of a failed service delivery system and they discover who I am." John Mokwetsi, "Cyber freedom: Have we started to censor ourselves?" *The Standard*, July 13, 2014, <http://bit.ly/1jiMmPE>.

## Digital Activism

Despite fears of being identified, organized civic activism is finding space through WhatsApp groups made up of citizen journalists and ordinary users sharing community information and seeking to influence local government decisions. Social media is increasingly used to engage with local authorities on service delivery and to mobilize communities around various issues. Nevertheless, various mobilization efforts have yet to manifest in any meaningful social, political, or economic change in Zimbabwe.

In late 2014, the Facebook group “Occupy Africa Unity Square” was launched, demanding President Mugabe admit failure and step down from power. The group, which has garnered hundreds of thousands of followers, organized a series of peaceful protests in October and November, which were met with heavy-handed resistance by riot police who used violence to disburse the protests.<sup>33</sup> The leader of the “Occupy Africa Unity Square” movement was later abducted for his activism in March 2015; he remained missing as of June 2015 (see “Intimidation and Violence”).

## Violations of User Rights

*The Zimbabwean Constitutional Court declared criminal defamation unconstitutional under the old constitution but left it valid under the new 2013 constitution. Numerous individuals were targeted for their alleged association with Baba Jukwa, leading to several arrests. Online journalists and ordinary users faced more harassment, threats, and violence for criticizing the government online in the past year. The opposition party, ZAPU-FP, reported experiencing a hacking attack in early 2015, in advance of various party congresses.*

## Legal Environment

The 2013 Zimbabwe constitution outlines rights for media, free expression, and access to information and broadcasting for citizens, though numerous other pieces of legislation violate these constitutional rights. Chief among such laws is the Access to Information and Protection of Privacy Act (AIPPA), under which all journalists are accredited and media houses registered. Among its limiting provisions, the AIPPA provides for a Media Commission that has powers to ban journalists and media organizations and places restrictions on reporting on a broad range of government information.<sup>34</sup> Bloggers, however, are not eligible for accreditation as journalists under the AIPPA.

Restrictions on certain types of speech under the Criminal Law Codification and Reform Act (CODE) remain on the books and apply equally to reporters in traditional media and online. The CODE criminalizes defamation, punishing anyone who publicly undermines the authority of the president or insults him in any printed or electronic medium with a sentence of up to 20 years in prison.<sup>35</sup> In an apparent sleight of hand, the Zimbabwean Constitutional Court struck down criminal defamation

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33 “61 Days: Police doing nothing about Dzamara,” *Nehanda Radio*, May 9, 2015, <http://bit.ly/1LpiMWA>.

34 Access to Information and Protection of Privacy Act, Acts 5/2002, 5/20013, <http://bit.ly/1LyAdYu>.

35 Criminal Law (Codification and Reform) Act [Chapter 9:23], Act 23/2004, Government Gazette, June 3, 2005, <http://bit.ly/1kaUWqQ>.

under the CODE in July 2014,<sup>36</sup> declaring it unconstitutional under the old constitution, but left it valid under the new 2013 constitution.<sup>37</sup>

In April 2015, the government announced plans to draft the Cyber Crime and Data Protection Bill,<sup>38</sup> which purportedly aims to curb criminal activities.<sup>39</sup> Given the state's tendency to include civic and political activism as part of its broad definition of what is considered "criminal," human rights defenders fear the law will be abused to crack down on social media activities.<sup>40</sup>

The state's legal restrictions are sometimes balanced by the judiciary, which has demonstrated a degree of autonomy through several rulings that have not been favorable to the state, including some freedom of expression cases. Nevertheless, an appointment process that allows for high levels of executive interference compromises judicial independence.

## Prosecutions and Detentions for Online Activities

In 2014, the Zimbabwean authorities ramped up their efforts to silence the anonymous Baba Jukwa whistleblower, whose Facebook page posted frequent allegations of corruption against ruling party members and had nearly a half a million followers before it was shut down in July 2014 (see "Content Removal"). Numerous individuals were targeted for their alleged association with Baba Jukwa, including South Africa-based journalist Mxolisi Ncube, who was questioned by police at the Zimbabwean embassy in Pretoria, South Africa in June 2014 for his suspected connection to the Facebook profile.<sup>41</sup> Police also questioned senior government ministers—including Information Minister Jonathan Moyo, Environment Minister Savior Kasukuwere, and former ruling party spokesperson Rugare Gumbo—over the Baba Jukwa case.<sup>42</sup>

On June 19, 2014, the authorities arrested the former editor of the state-owned *The Sunday Mail* newspaper, Edmund Kudzayi, on accusations of running the Baba Jukwa Facebook page.<sup>43</sup> Five days later, police also arrested Kudzayi's brother Phillip on allegations of being a co-administrator and charged both with plotting to overthrow the government.<sup>44</sup> The government's crackdown on Baba Jukwa continued with the arrest of University of Zimbabwe student Romeo Musemburi in late June 2014 for a Facebook post on the Baba Jukwa page that allegedly undermined state security.<sup>45</sup> Charges against the Kudzayi brothers were eventually withdrawn in May 2015 for lack of evidence,<sup>46</sup> as well as those against Musemburi in June 2015.<sup>47</sup>

36 Thulani Ndlovu, "Zimbabwe court strikes down criminal defamation, implementation to be seen," Committee to Protect Journalists (blog), July 28, 2014, <https://cpj.org/x/5c35>.

37 Alex T. Magaisa, "The (Confused) State of Criminal Defamation Law in Zimbabwe," *Nehanda Radio*, February 26, 2015, <http://bit.ly/1Lpj3sC>; Media Institute of Southern Africa (MISA), "Zimbabwe Update: Criminal defamation law still operative," <http://bit.ly/1LSQpFS>.

38 Simiso Mlevu, "Potraz Seeks to curb cyber Crimes," *The Herald*, April 15, 2015, accessed May 24 2015, <http://bit.ly/1LywQAT>.

39 Zimbabwe National Chamber of Commerce (ZNCC), "Parliament to focus on realignment of law, economy – President Mugabe," October 2014, <http://bit.ly/1qewLV4>.

40 Interview with Human Rights Defender in Harare on February 27, 2015.

41 See "Journalists Grilled Over Baba Jukwa," *Zim Now Daily* (blog), July 2, 2014, <http://bit.ly/1LpjL9x>.

42 "Police quiz Kasukuwere over Baba Jukwa," *Nehanda Radio*, July 27, 2014, accessed January 24, 2015, <http://bit.ly/1kaW0Lr>.

43 Faith Zaba, "Events leading to Kudzayis arrest," *The Zimbabwe Independent*, July 4 2014, accessed February 27, 2015, <http://bit.ly/1GidTlu>.

44 "Baba Jukwa Suspect's brother Arrested on appointment," *Bulawayo 24*, June 25, 2014, <http://bit.ly/1LSZkBO>.

45 "Two more arrested over Baba Jukwa Blob," *News Day*, July 1 2014, accessed February 25, 2015, <http://bit.ly/1LeNrlg>.

46 "Zim journo cleared of being Mugabe detractor," *ENCA*, May 31, 2015, <http://bit.ly/1NNdURe>.

47 Tarisai Machakaire, "UZ student freed in Baba Jukwa saga," *Nehanda Radio*, June 28, 2015, <http://bit.ly/1LSZHvf>.



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Meanwhile, the long running case against Shantel Rusike, who was arrested on December 24, 2012 and accused of distributing a nude picture of President Mugabe on WhatsApp,<sup>48</sup> was finally heard by the Constitutional Court in January 2015. Rusike faces charges of “causing hatred, contempt or ridicule of the president,” as delineated in the CODE.<sup>49</sup> Court justices indicated that the case may be dismissed, with one justice stating that a WhatsApp message does not constitute public dissemination.<sup>50</sup> The Constitutional Court’s judgment had not been released as of mid-2015.

### Surveillance, Privacy, and Anonymity

There were numerous reports of surveillance abuse during the coverage period, beginning with the arrest of Phillip Kudzayi in July 2014 on suspicions of his connection to the Baba Jukwa Facebook whistleblower. Police claimed they tracked communications linked to Baba Jukwa to a mobile phone line registered under Kudzayi’s name. Meanwhile, state media employees and senior government officials were reportedly under constant surveillance throughout the year, as tensions remained high over post-Mugabe succession politics. Observers believe surveillance has allowed President Mugabe to expel several disloyal government officials who he accused of plotting his downfall.

Such surveillance abuse is enabled by the government’s ability to monitor and intercept user data and communications without adequate oversight. Several laws provide the authorities with a legal mechanism to conduct surveillance of citizens’ activities online, including the Post and Telecommunications Act of 2000, which allows the government to intercept suspicious communications and requires a telecommunications licensee, such as an ISP, to supply information to government officials upon request.<sup>51</sup> The act also obligates telecoms to report any communications with “offensive” or “threatening” content.

Under the Interception of Communications Act of 2007, the Monitoring of Interception of Communications Center has the power to oversee traffic in all telecommunications services and to intercept phone calls, emails, and faxes under the pretext of national security.<sup>52</sup> The Act further requires telecommunications operators and ISPs to install necessary surveillance technology at their own expense and to intercept information on the state’s behalf.<sup>53</sup> Failure to comply is punishable with a fine and sentence of up to three years in prison. Warrants allowing the monitoring and interception of communications are issued by the minister of information at his discretion; consequently, there is no adequate judicial oversight or other independent safeguard against abuse,<sup>54</sup> and the extent and frequency of monitoring remains unknown.

Anonymous communication and the privacy of user data are compromised by SIM card registration regulations implemented in 2011, which require mobile phone users to submit personal identity details to mobile operators, ostensibly to combat crime and curtail threatening or obscene communications.<sup>55</sup> Encrypted communication applications such as Skype are accessible, though since

48 Silas Nkala, “‘Naked Mugabe’ case drags on,” *Southern Eye*, June 18, 2013, <http://bit.ly/1NgtCBe>.

49 Section 33(2) (a) (ii) of the Criminal Law (Codification and Reform) Act/CODE Chapter 9:23.

50 Section 33(2) (a) (ii) of the Criminal Law (Codification and Reform) Act/CODE Chapter 9:23.

51 Postal and Telecommunications Act 2000, Part XII, Section 98, “Interception of communications.”

52 Reporters Without Borders, “All Communications Can Now be Intercepted Under New Law Signed by Mugabe,” August 6, 2007, <http://bit.ly/1MutsDf>. The law is available, Interception of Communications Bill, 2006 Memorandum, <http://bit.ly/1Pxsp19>.

53 Nqobizitha Khumalo, “Zim Internet Service Providers Struggle to Buy Spying Equipment,” *ZimOnline* via Kubatana, August 10, 2007, <http://bit.ly/1LyfHq>.

54 Interception of Communications Act, No. 6/2007, Section 6, “Issue of warrant,” <http://bit.ly/R5gPZO>.

55 “POTRAZ Issues Mobile Phone Registration Reminder,” *TechZim*, January 31, 2011, <http://bit.ly/1MutN9g>.

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September 2011, POTRAZ has maintained a ban—reportedly for security reasons—on the use of the BlackBerry messenger service that enables users to send free encrypted messages.<sup>56</sup>

The scope of subscriber registration requirements expanded under the 2013 Postal and Telecommunications (Subscriber Registration) Regulations (Statutory Instrument 142/2013) to include subscriptions with any “...telecommunication licensees or designated agents who provides telecommunication services,” including internet subscriptions.<sup>57</sup> Registration details require a full name, permanent residential address, nationality, gender, subscriber ID number, and national ID or passport number to be submitted to network operators, who are then required to retain such personal information for five years *after* either the subscriber or operator has discontinued service. In addition, the regulations require ISPs to provide POTRAZ with copies of their subscriber records to be stored in a Central Subscriber Information Database to enable POTRAZ to “assist law enforcement agencies on safeguarding national security,” among other aims.<sup>58</sup> Officials could petition POTRAZ for access to the subscriber database without a court order.

In a positive step in June 2014, the government repealed the legal provision in the 2013 Subscriber Registration Regulations that allowed security agents to access user information from a central database without a court-issued warrant, after the Parliamentary Legal Committee (PLC) found provisions of the new regulations unconstitutional.<sup>59</sup> An amended version of the regulations—the Statutory Instrument 95/2014—was subsequently enacted in July 2014, which requires law enforcement agents to obtain a court order to request information from the central database.<sup>60</sup> Analysis by the Zimbabwean legal watchdog Veritas, however, found this amendment to fall short of judicial oversight, since it requires either a court order or a warrant, the latter of which “can be issued by police officers who have been designated as justices of the peace.”<sup>61</sup>

## Intimidation and Violence

Online journalists and ordinary users faced more harassment, threats, and violence for criticizing the ruling party, especially President Mugabe, online in the past year. Incidents during the coverage period included:

- University of Zimbabwe student Romeo Musemburi, who was arrested in June 2014 for a Facebook post on the Baba Jukwa page, reported being beaten while in police custody.
- In late 2014, residents of Mbare, a high-density neighborhood in the capital Harare, were

56 The ban went into effect in response to unfounded fears that the service had facilitated the 2011 Arab uprisings as well as the violent protests that took place in England in August of the same year. In mid-2011, POTRAZ director general Charles Manzi Sibanda announced that the regulator was examining the compliance of BlackBerry’s encryption technology with the Interception of Communications Act, which requires that all telecommunication services allow official interception. The POTRAZ decision was still outstanding as of December 2013. BlackBerry formerly operated as Research in Motion. See, “BlackBerry Messenger a dream,” *The Zimbabwean*, June 5, 2012, <http://bit.ly/1PxsZ2i>.

57 Garikai Dzoma, “Zimbabwe’s new online ‘Spying law,’” *Techzim*, October 9, 2013, <http://bit.ly/1ZJxaTv>; Postal and Telecommunications (Subscriber Registration) Regulations, 2013, <http://bit.ly/1Ngu8zd>.

58 Postal and Telecommunications (Subscriber Registration) Regulations, 2013, Section 8 (1) and (2).

59 Paidamoyo Muzulu, “No more snooping into phone conversations,” *News Day*, June 25, 2014, <http://bit.ly/1PnpOBs>; Veritas, “PLC-Adverse Report on Telecommunications Subscriber Registration Regulations- SI 142-2013,” <http://www.veritaszim.net/node/1029>.

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

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

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reportedly harassed by ZANU-PF youths who forcibly searched the residents' WhatsApp messages for anti-Mugabe texts.

- In February 2015, photojournalists were forced to delete photos and videos from their devices that had captured Mugabe falling to the ground at the airport.<sup>62</sup>
- In March 2015, political activist Itai Dzamara was abducted near his Harare home,<sup>63</sup> spawning an online wave of protests calling for his return and decrying the government's inaction on the matter. Dzamara was known for his leadership of the "Occupy Africa Unity Square" protest group organized on Facebook and had received numerous threats from state security agents for his activism prior to his disappearance.<sup>64</sup> He remained missing as of mid-2015.<sup>65</sup>

## Technical Attacks

Technical attacks against critical websites and social media pages have increased in recent years. The Facebook page of anonymous whistleblower Baba Jukwa reportedly faced frequent hacking attempts to take the page down throughout 2014, which may have succeeded in removing the page altogether in July 2014 (see "Content Removal").<sup>66</sup> The opposition party, ZAPU-FP, also reported experiencing a cyberattack in early 2015. Its timing in advance of the party's preparations for its youth and women congresses in April 2015 and the main congress in August led party members to suspect the hack was politically motivated.<sup>67</sup>

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62 "Mugabe falls," *News Day*, February 5, 2015, <http://bit.ly/1PnqnuX>.

63 "61 Days: Police doing nothing about Dzamara."

64 See Occupy Africa Unity Square, Facebook Page, <http://on.fb.me/1OznpUe>.

65 See Bring Back Itai Dzamara Now, Facebook Page, <http://on.fb.me/1Lpm503>.

66 "Julian Assange, Baba Jukwa and Cyberpunks," ICT Africa, May 4, 2013, <http://ictafrica.info/FullNews.php?id=9002>.

67 "ZAPU to sue Econet over closed Ecocash Biller account," *New Zimbabwe*, February 27, 2015, <http://bit.ly/1VWWiBs>.