Manifestation of realpolitik in cyberspace: Analysis of the relationship between internet-based information controls and Elections in Zambia

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Abstract

The defining era in Zambia's current rise in online political and civic activism can be traced back to the period between 2011 and 2013. This is when the late President Sata embraced social media as part of his political and public diplomacy strategy. As the country now prepares for the August 2016 General Elections, government, its agencies, such as the Election Commission of Zambia (ECZ), the opposition and civil society are all immersed in social media. Rather than fully subverting the evolving cyberspace, Edgar Lungu's Government is increasingly relying on emerging generations of information controls.[1] It has covertly enlisted pro-government groups and consultants to project soft power through cyberspace. It is doing so by subverting the tools of social media to define and accomplish their political agenda to retain power.[2]

Given that Zambian civil society including the Zambian Bloggers' Network and Journalists, is so deeply immersed in social media, it is imperative that they, and the companies that service them, urgently adapt to and mitigate these new subtle, yet consequential threats."[3] In order to preserve the democratic gains of the past decade, Zambia civil society and the opposition need a long term plan to restrain this increasing use of political power in their cyberspace. This is important as social media will be key in maintaining the current democratic impetus.

However, this will not be an easy task. With a limited pool of funding, it may be hard for them to have the wherewithal to compete with the state's well-funded social media campaign, backed by a grand offline strategy.[4] For instance, government has recently increased its presence on social media to abet and encourage horizontal flows of information. This is in contrast to vertical flows, where information generated by societal actors is gathered by the government through usage of a range of methods, ranging from "responsiveness" on social media and media monitoring. It values vertical information flows and/or denial as part of its grand strategy to retain political power.

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[1] The first-generation controls or the so called Chinese-style filtering, involves the erection of digital firewalls that restrict citizens' access to information, filter political content, and stymie freedom of speech online. Third generation controls involve legal and normative pressures and regulations designed to inculcate an environment of self-censorship. Third-generation controls take a highly sophisticated, multidimensional approach to enhancing state control over national cyberspace and building capabilities for competing in informational space with potential adversaries and competitors. The key characteristic of third-generation controls is that the focus is less on denying access than successfully competing with potential threats through effective counter-information campaigns that overwhelm, discredit, or demoralize opponents.

[2] See similar trends in Citizens Lab Report: "Be Calm and (Don't) Enable Macros: Malware Sent to UK Journalist Exposes New Threat Actor Targeting UAE Dissidents," where the phraseology was borrowed from.

[3] Be Calm and (Don't) Enable Macros: Malware Sent to UK Journalist Exposes New Threat Actor Targeting UAE Dissidents.

[4] For example in July 2016, according to the MISA Statement on 23 June 2016 and other reports, Government shut down the Post Newspaper, one of the most critical outlets, on the ground of non-payment of taxes

In our view, this form of control is likely to increase and will be government's preferred weapon as the country goes to the August 2016 poll. As the three generations of controls are not mutually exclusive, and can exist concurrently, the Zambian government is likely to keep the infrastructure which enables the deliberate and static blocking of Internet content and services by state sanction, intact and well oiled, simply as a fall-back position, which it could activate, only if necessary. However, to maintain the veneer of liberal democracy, Zambia has been moving towards second- and third-generation strategies on the eve of a crucial election in August 2016.[5]

This article concludes that while the extreme cases of overt information controls and filtering appear to be vestiges of the late President Sata's legacy, Edgar Lungu's dismantling of such vestiges is a matter of political tactic and realpolitik. This requires him to balance the dictates of political survival and his reputation as a lawyer who has previously defended press freedoms. Our observations and conclusions are backed up through a documentation and analysis of recent past and current key political events that implicate the relationship between internet-based information controls and elections in Zambia, as observed during the life of the current Patriotic Front (PF) government.[6] By relying on our country knowledge and accumulated experience in this field, we also extrapolate[7] likely scenarios in the build up to the 2016 General Elections and Constitution Bill of Rights Referendum to be held on 11 August 2016.

Introduction

In recent years, Zambia has witnessed an increased reliance on both second and third generation internet controls,[8] driven by diverse motives. Under the Second-generation controls, both the administrations of presidents Sata and Lungu have legalised content controls through the application of existent public order, secrecy and morality laws. This includes, for example, anti-pornography, slander and defamation, to the online environment, in an uneven and partial manner.[9] The country has also faced connectivity problems due to poor internet resources infrastructure. This may be deliberately increased towards or during the 2016 elections. Although the country has continued to block and filter "offensive" websites, it has since realised the futility of mass blockades, but instead is resorting to a number of third generation controls: First, it is creating an environment that promotes mass blogging- the intent of such information revolution or campaigns is to effect cognitive change rather than to completely deny access to online information or services. Although the ultimate source of these campaigns is difficult to attribute, this report attempts to shed light on how this is playing out in practice. Government has also delayed the passage of an access to information law, thus creating an environment where it can either allow or deny access to information at whim. In addition, government is using a range of methods, ranging from "responsiveness" on social media and media monitoring, as it values vertical information flows and/or denial as part of its grand strategy to retain political power.

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[5] See footnote 1 for the definitions
[6] The report is partly based on a fact finding mission we undertook in May 2016. Another mission will be conducted towards the end of July. A final report will be produced at the end of August, after the elections.
[7] Extend (a graph, curve, or range of values) by inferring unknown values from trends in the known data.
[8] Classifications based on those by Ronald Deibert and Rafal Rohozinski in their article "Control and Subversion in Russian Cyberspace"
[9] Arthur Gwagwa et al. Moral Code in Cyberspace in Zambia A Comparative Documentation of Internet-based information control systems, policies and practices in Zimbabwe, Zambia, and Swaziland. Strathmore University. 2016

Recent Past Elections and Information Controls

The previous general elections in 2011 resulted in a victory for the Patriotic Front (PF), whose candidate Michael Sata was elected President. Following Sata's death in October 2014, early presidential elections were held to elect a successor to complete the remainder of his five-year term, and PF candidate Edgar Lungu was elected. On 11 August 2016, the country will hold general elections to elect the President and National Assembly. At the same time, it will also hold a referendum for the constitutional amendment to the bill of rights.

The policies and practices of the PF government, especially under Michael Sata, did not contribute much to the growth of the internet, in particular, the exercise of free expression. This is in contrast to the policies passed by the predecessor presidents, in particular President Frederick Chiluba whose government introduced a basic normative and legal framework for internet governance infrastructure.[10] Therefore, despite being one of the first Southern African countries to adopt the internet, Zambia currently has only 3 million Internet users (19% of the population).[11] The country has just begun work to upgrade its infrastructure.[12]

In 2011, soon after his inauguration, in a draconian measure which defined his legacy, President Sata announced that "there were too many online newspapers [that] had been opened illegally, therefore had to be closed down". To this end, he ordered his Permanent Secretary in the Ministry of Justice to come up with a draft law to regulate these news publications, and by implication attempt to claw back an evolving Zambia cyberspace.[13] Most online publications that took a critical stance against the government were immediately targeted. Publications such as the Zambia Reports and Watchdog, critical of government, were blocked. Consequently, Zambians at home could not access alternative voices unless connected via Facebook or VPN and TOR routing. Since the Watchdog was not compatible with mobile phone technology, it could not be easily accessed by most Zambians who mostly access the internet via mobile phones.[14] The Zambian Eye, another prominent publication, had its two websites blocked and they were also inaccessible in Zambia.[15] According to internet rights activists, government descended on clamping down free expression on internet after realising its force: "We got to know of a number of publications being registered anonymously which the authorities tried to bring them down."[16]

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[10] Arthur Gwagwa et al. Moral Code in Cyberspace in Zambia. A Comparative Documentation of Internet-based information control systems, policies and practices in Zimbabwe, Zambia, and Swaziland. Strathmore University. 2016

[11] According to the International Telecommunication Union (ITU), http://www.internetlivestats.com/internet-users/zambia/

[12] For instance, project to improve connectivity through the deployment of fibre optic by Liquid Telecoms.

[13] Interview with Owen Miyanza, Founder of Zambian Eye, on 17 May 2016, at the MISA Offices, in Lusaka.

[14] Interview with Sipho Kapumba, formerly with MISA but now an independent journalist, on 18 May 2016. He currently collects news, package and disseminates through mobile phones- on the ZamTel and Airtel platforms. Government has left them to do their work, no complaints from ISPs that either government or the regular is pressuring them.

[15] This is despite the fact that Zambian Eye adheres to professional standards. The Zambia Eye project has been in existence since 11/11/11, founded on elections in 2011 to alert people of what was happening around the elections. It had three segments; news updates, opinion and 'Know Your Leader' segments- "We realised the importance of internet use. We set up a Facebook page: Zambia Voice 2011, for people to express their views and vote on Facebook. After elections, we set up an online media- Zambia Eye, as a registered news website, taking advantage of the presence of the internet."

[16] Owen Miyanza. Interview. 17.05.2016

The rise of Online political and Civic Activism

The PF Government realised that it could not control websites registered elsewhere, unlike within Zambia, where it could just instruct the ISPs to take them down.[17] Government also had a challenge controlling online news. After realising it could not control online news, government came up with its own publications and Facebook pages-"As they couldn't beat us, they had to join us."[18]

Online censorship which had peaked 1-2 years ago when Sata was in power, started easing in January 2015 after his death. Although not a radical reformist, Edgar Lungu's position and attitude towards the press, generally appears to have been influenced by his background as a lawyer. He represented the Post newspaper in a case in which the late president Sata had sued it in **1995** before he was president.[19] The case set precedence on the issue of press freedom: the judge held that public officials could not be protected from impersonal attacks and that "in order to give effect to article 20 of the Constitution, which guaranteed the freedom of press, the law of defamation precluded impersonal attacks on government officials from being treated as libels as this is contrary to public interest." Coming from the background where he defended press freedom, he has not been heavy handed.[20] However, this does not by any chance mean his government has not been controlling information online, but as a ''more democratic'' leader he tends to favour more subtle second- and third-generation strategies, which are less noticeable, as shall be demonstrated below.

Lungu's leadership has seen a growth of pro-government publications, which had started during Sata's era. Although some of the online publications are not very explicit in their support for government, one can tell that "these online news publications are pro-government, and are funded by government to grow their numbers"[21] Those who form pro-government groups simply configure individual Facebook accounts and re-organise content according to political agendas. The online publication, Mwebandu, owned by Chilambe Katuta, is one key online publication which emerged recently, and which appears to be driving the government agenda. Its following and appeal to the Zambians has even overtaken the Zambia Watchdog. It started during the political succession battle between Guy Scott and Edgar Lungu. It does not face access challenges. It has a website whose content is also shared on a Facebook page. For the past two years, it has been gaining traction. Its Facebook page has 13 million visitors per month. It has more visible impact on Facebook. Most people access it via Facebook due to its push technology.[22] However, Kapumba feels that it appears to be currently facing operational problems, as it is not as good as it used to be.

There is currently a huge number of publications, which were set up to fight back online news publications which are critical of the government. To strengthen its information hegemony, Sata's government instructed traditional print pro-government publications to go online too: they sell print versions in the morning and update in the afternoon, because they felt that "these people", - the Zambian Eye, Watchdog and other critical publications, were "misinforming the nation". These online publications create their agenda, and are likely to grow towards the elections.

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[17] Owen Miyanza. Interview. 17.05.2016.
[18] Ibid
[19] The case of SATA v Post Newspapers Ltd and Another [1995] ZMHC 1 (13 February 1995)
[20] Sipo Kapumba. Interview. 18 May 2016
[21] Owen Miyanza, ibid.
[22] Sipo Kapumba. Interview. 18 May 2016

However, all attempts at control actually had the opposite effect of emboldening them. For instance, in response, independent online media has also continued to grow its following. As an example, Zambia Eye has 3-4 thousand unique visitors per week, 500 000 hits per day.

There is a shared sentiment among those we interviewed that, "No-one will be able to stop online publishing, and it is even harder on Facebook". For instance, the Zambia Eye set up Zambia Eye Facebook Group page, with various administrators, a code of conduct. This group facilitates citizens' discussions on critical national issues: "We use our platform to contribute to improved governance. We come up with topics, we get decision makers, opinion leaders to come online. We invite them online and announce to our followers to come online. There are coordinated and well moderated online discussions."[23]

However, critical independent journalists like Kapumba do not think that proliferated publications add anything to the political, human rights and governance discourse. He quips that, "there are no other online publications worth mentioning. There are a dozen others, worth not looking at. Lusaka Times' content is thin, and copies ZNBC published news. This is despite the fact that it was the earliest online publication to have an impact- from 2006-2008".[24]

Zambians are also using platforms such as WhatsApp for activism. They set up private groups where they can discuss issues with some measure of anonymity- as there is no name against a post. Secure usability has also been enhanced by WhatsApp's recent policy to adopt encryption. There are a number of online projects taking shape or emerging, such as, the OSISA Situation Room, iFace situation room at provincial level and Zambia Election Information Centre, launched on 19 May 2016 at Pamodzi Hotel, facilitating citizens' engagement in real-time using smartphones. Projects such as Tripple V, are also "busy with election content short codes, and sharing video clips".

Zambians feel the urge to express themselves. Multi-party democracy has widened the political space and room for choice and like any other fledgling democracy, there are those who feel strongly for or against government without inducement: There are several blogs which are for or against the opposition or incumbent.[25]

In the January 2015 presidential by-elections, there were a number of Facebook groups. For example, Hakainde, the Zambian Watchdog, and "Reloaded" pages were a strong phenomenon during these elections. In 2015, freedom of expression online was a managed process, controlled by certain individuals rather than a spontaneous one. Kapumba opined that Zambia might see the revival of these groups in the run to the 2016 elections.[26]

Censorship and the 2016 Elections: Current and projected scenarios

Despite this relatively healthy competition between pro-government and independent online media, government continues to censor online publications and as shall be discussed later; the proliferation of pro-government publications is a form of information control in its own right. For instance, by allowing online blogs and discussions that do not lead to collective action to

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[23] Owen Miyanza. Interview. 17 May 2016
[24] Interview. 18 May 2016
[25] Anonymous Respondent 2. Interview. 19 May 2016
[26] Interview, ibid

flourish and by funding a number of key blogs and enticing critical bloggers to its camp, the government has created a faux pas democratic environment of civic participation. Characteristically, its focus here "is less on denying access than successfully competing with potential threats through effective counter information campaigns that overwhelm, discredit, or demoralize opponents."[27]

 Government has since realised the potential of technologies such as mobile phones and instant messaging and how these can be used to organize and mobilize collective action, and as important, technologies such as social media spread knowledge of collective behaviour, inspiring others to join or to organize, therefore it is encouraging and even abetting horizontal flows of information, as opposed to   vertical flows of information, where information generated by societal actors is gathered by the government.[28]

Despite a major sentiment among those whom we interviewed that they don't foresee dramatic or drastic measures towards the control the internet in the run up to the elections, Edgar Lungu's government hasn't taken decisive steps to reverse his predecessor's "draconian" legacy characterised by a miscellany of measures and reckless pronouncements aimed at stifling online freedoms. Therefore, Edgar Lungu's government has carried on running compromised institutions that preside the intersection of the internet, democracy and human rights, in particular, the free flow of information, including online information. One such institution relevant for this discussion is the Electoral Commission of Zambia (ECZ), whose impartiality has been questioned, especially during its first 2016 Elections All Stakeholders' Conference in May 2016, as discussed below under "Access to Information".

However we could defend Edgar Lungu on the ground that he did not have adequate time to institute reforms since he only assumed presidency in January 2015. Nevertheless, a pronouncement of policy positions in both government and parliament would have sufficed. To the contrary, and if recent events aimed at stifling journalistic independence and freedom are anything to go by, it appears Edgar Lungu's government would not have instituted press freedom reforms even if it was given time. The administration is on record for threatening the editor-in-chief of the leading newspaper, The Post, with death.[29] The newspaper's offices in Lusaka, the capital city, were shot at with live bullets and computers were seized over alleged tax evasion led by Security and Intelligence officers.[30]

As regards the forthcoming elections, there have been pronouncements both at government and political party levels which are indicative that stakeholders will be going "full steam" in embracing the digital space in its varied forms. The minister for Local Government and PF party Youth Chair, announced that different party Social Media administrators should meet at the secretariat to marshal support. However, and as stated above, there are mixed views on whether such moves may give rise to dramatic and drastic information controls. Some of the journalists we interviewed feel the election won't have dramatic developments relating to information controls: "We do not expect anything dramatic now and during the elections."[31]

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[27] Ronald Deibert and Rafal Rohozinski, "Control and Subversion in Russian Cyberspace," in Ronald Deibert et al., eds., Access Controlled: The Shaping of Power, Rights, and Rule in Cyberspace
[28] For a full discussion of this strategy, see: Arthur Gwagwa. Internet Capture in Zimbabwe. A Comparative Documentation of Internet-based information control systems, policies and practices in Zimbabwe, Zambia, and Swaziland. Strathmore University, Nairobi 2016.
[29] http://www.postzambia.com/news.php?id=11571
[30] https://tumfweko.com/2015/12/11/its-not-tax-they-are-after-zulu/comment-page-1/
[31] Sipo Kapumba. Interview. 18 May 2016.

"In May 2016, Lungu said he expects the media to operate freely. Besides, he has a coterie of media houses on his side, including the Times, Daily Mail, Zambia National Broadcasting Corporation and the national radio. He has enough media to project him and his message, therefore he doesn't need to muzzle critical media."[32]

However, some remain sceptical and believe that government might increase controls, especially given that this has become a regional trend, for example in Ghana, were the police service chief recently said "At one stage I said that if it becomes critical on the eve and also on the election day, we shall block all social media as other countries have done. We're thinking about it... police were following the example set by other countries.[33] In the following section, we shall briefly analyse the various genres of information controls."[34]

Arbitrary Blocking and Filtering, ISPs intermediary liability to take down content on social media

As of May 2016, Zambia had not passed laws or taken steps to allow access to or combat illegal blocking and filtering. For example, the Zambian Watchdog, which over the years had provided both critical and humorous content in a country where views are polarised, remains inaccessible within Zambia. The most common justifications used by the Zambian Government and their agencies, such as the police, to control online access and a wide range of online activities include: cybercrime, and assaults on morality, including the safeguarding of individual reputations. Despite the case of Michael Sata V the Post[35], which upheld the right of the press to criticise public officials, in practice, there is still reliance on an "Expanded use of defamation, slander, and ''veracity'' laws, to deter bloggers and independent media from posting material critical of the government or specific government officials, however benignly (including humour)."

Similar to neighbouring SADC countries, efforts at proportionate regulation of the internet are being hindered by a lack of transparency and secrecy around the adoption and domestication of model cybercrime and social media 'model' laws sponsored by the International Telecommunications Union (ITU).[36] Stakeholders on both sides of the security/freedom debate hold polarised views in the adoption process, for instance, internet rights activists are accusing governments of watering down the model laws, by obsessing on security at the expense of freedom of expression.

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[32] Sipo Kapumba. Interview. 18 May 2016
[33] See Article: Police consider shutdown of social media on Election Day. Accessible at http://citifmonline.com/2016/05/26/ppolice-to-shut-down-social-media-on-election-day/. Accessed on 27 May 2016
[34] According to Citizens Lab, it is a broad term that is used to define as actions that governments, the private sector and other actors take through the Internet and other information communications technologies to deny (e.g, Internet filtering), disrupt (e.g., network shutdowns), monitor (e.g, network surveillance), or secure (e.g., encryption) information for political ends. Information controls can also be non-technical and can be implemented through legal and regulatory frameworks, including informal pressures placed on private companies.
[35] SATA v Post Newspapers Ltd and Another [1995] ZMHC 1 (13 February 1995)
[36] Arthur Gwagwa et al. Moral Code in Cyberspace in Zambia A Comparative Documentation of Internet-based information control systems, policies and practices in Zimbabwe, Zambia, and Swaziland. Strathmore University. 2016

With specific reference to the practice of internet blocking and filtering, there has not been any changes since our last network measurements in February 2016,[37] during which we identified two URLs which we strongly suspect to be blocked as a result of deliberate filtering. These URLs were both blocked via RST packet injection. There were many other instances in which URLs timed out during the GET request. In such a situation, it was difficult to distinguish deliberate filtering from slow or congested network conditions, and thus it was difficult to offer definitive declarations. However, some government officials had already admitted that they were being assisted by the Chinese to block certain sites such as the Watchdog.[38]

With specific regard to social media, although most of the respondents felt that: "No one will stop social media- as it has become a formidable growing space, even for politicians both in government and the opposition," one anonymous respondent expressed the view that the blocking of social media which happened before in Zambia, might recur, although the telecommunications governing body - ZICTA -has previously denied blocking such sites, which present openness and accountability questions.

Citizens' vigilant groups have also been complicity in the arbitrary "take down" of content they deem objectionable, especially on morality grounds. On 28 October 2014, the Zambian Eye page was brought down because "'certain people' who did not want particular content to come online "ganged up" and reported to Facebook, which in turn, brought it down."[39] This prompted the owners of Zambian Eye to set up a new page-Zambia Eye Original, which now has 70 000 followers.

Indications that online information controls may arise towards elections are backed up by the increased incidents of hate speech, "as [Zambia] is seeing a lot of hate speech, slander, insults and false accusations on all sides of the political divides. This trend will continue and [may prompt government to justify controls], although the Uganda example of information control may not happen".[40]

"Previously, government has attempted to justify clamping down on online publications by associating all online publications with the Watchdog.[41] Given that the Watchdog has been in a serious attack mode since January 2016,[42] it would not be too far-fetched to conclude that government might use this as a justification to suppress online media. They may continue to rely on "veracity" practice, as they well know that critical publications such as the Watchdog rely on "guerrilla" single source journalism, which may make it hard for them to verify their sources as this would expose their editors, who moonlight on their behalf"[43]

Connectivity, Disconnections and Infrastructural issues

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[37] Ibid, Zambia Section.
[38] Arthur Gwagwa et al. Moral Code in Cyberspace in Zambia A Comparative Documentation of Internet-based information control systems, policies and practices in Zimbabwe, Zambia, and Swaziland. Strathmore University. 2016
[39] Owen Miyanza. Interview. 17 May 2016.
[40] Anonymous responder. Interview. 19 May 2016
[41] Arthur Gwagwa et al. Moral Code in Cyberspace in Zambia A Comparative Documentation of Internet-based information control systems, policies and practices in Zimbabwe, Zambia, and Swaziland. Strathmore University. 2016
[42] Sipo Kapumba. Interview. 18 May 2016
[43] Sipo Kapumba. Ibid

Generally, Zambians are struggling to connect to internet especially in the evenings. There have been sporadic problems accessing Facebook, for example, in the morning of 18 May 2016. There is, however, no evidence of deliberate tempering. Given the regional trend, such as the blocking of social media during the Uganda elections, it is not surprising that a few voices believe that this might still happen in Zambia too. Indications of restrictions are already there since people will not be allowed to use their smartphones and post results during the August 2016 voting process.[44]

Connectivity issues have also been exacerbated by constant power cuts. Commenting on this issue, one respondent stated that, "Zambia is currently experiencing load shedding. Government might temper with power supplies, for example, if they know the opposition might be holding a rally. Since the opposition has to notify the police, this might give government enough time to disconnect power. This will impact on online information-adding to the current skewed media terrain whereby state media hasn't been covering opposition rallies."[45] This may be calibrated to effect ''just-in-time'' or event-based denial of internet infrastructure and consequently to content and services that would give the opposition an equal footing. Should this happen, it will be difficult to verify, as this may simply be justified as routine power supply problems.

Also in relation to power cuts, the network measurements we undertook were interrupted by constant power cuts, thus interfering with the accuracy of the results, as some websites timed out.

The next Generation of Controls: Managed Access to Information and Partial Responsiveness by State Agencies

According to Deibert and Rohinski, "the overt track of second generation controls aims to legalize content controls by specifying the conditions under which access can be denied. Instruments here include the doctrine of information security as well as the application of existent laws to the online environment."[46]

As a fairly democratic country, Zambia has been steadily moving towards second and third generation controls, whilst applying limited first generation controls.

Through the usage of both online and offline technical and normative capabilities, the current government has used laws to enable a selective access and denial to essential information that may affect the outcome of the forthcoming elections. This includes the establishment of procedures and technical capabilities by the country's electoral body to rely on social media to entice the youths by low level routine online information, while at the same time relying on the doctrine of information security, a self-serving interpretation of court rulings and laws to withhold sharing valuable information thereby tilting the electoral outcome in favour of the current government. This has created an environment that allows content controls to be applied ''just in time,'' when the information being targeted has the highest value (e.g., during elections or public demonstrations), and to be applied in ways that assure plausible deniability.[47]

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[44] Owen Miyanza. Interview. 18 May 2016
[45] Anonymous respondent. Interview. 19 May 2016
[46] Ronald Deibert and Rafal Rohozinski, "Control and Subversion in Russian Cyberspace," in Ronald Deibert et al., eds., Access Controlled: The Shaping of Power, Rights, and Rule in Cyberspace
[47] For a full discussion of this concept, see Deibert and Rohinski' paper, op.cit

Government is using a range of methods, ranging from "responsiveness" on social media and media monitoring, as it values vertical information flows and/or denial as part of its grand strategy to retain political power.

Specifically, the country has not passed Access to Information law. This is despite the sustained campaigns by civic organisations such as Media Institute of Southern Africa (MISA), which resulted in the model access to information bill, produced in 2011. Also, it is public record that the Patriotic Front (PF) government promised immediate enactment of the Access to Information (ATI) legislation as one of its flagship activities for further liberalisation of the media environment once elected into office in 2011.[48] Stalling the passage of the ATI appears to be a tactic government is using to control what it can give access to and what it can deny. It has also achieved this by maintaining and relying on existing laws and other pieces of legislation like the 1931 Penal Code Cap 169 of the laws of Zambia, the Official Secrets Act and the Printed Publications Act Cap 161 of the laws, among others which prohibit free access to information, freedom of expression and media freedom. There is no political will to implement and enforce these important freedoms. Instead, the government continues to tactically control the media, through maintaining past repressive laws that contravene people's rights to information access and freedom of expression.'[49]

Access to information has always been critical in the previous elections but has become more so now as opposition parties were unable to independently audit the voters' register because they were refused access to a soft copy of it. During the 19th of March ZEC Stakeholders' Meeting, the opposition leader Hakainde Hichilema, addressing the Chair of ZEC said, "You have refused us to access the soft copy of the voters' roll for tabulation purposes. We do not trust you." Despite the fact that this call was supported by most stakeholders present, ECZ has not yielded to this request but has remained intransigent. The Forum for Democracy and Development leader Edith Nawakwi, also unearthed and presented concerning evidence in the same meeting that the voters' roll was being tempered with. As an example, that despite the fact that she hadn't applied for her details to be changed on the voters' roll, she discovered her details at the University of Zambia Polling Station had been altered.

During the 2015 elections, ECZ failed to meet public demands for information, therefore the Commission is making efforts in trying to grapple with online social media. This has seen them launch an initiative to engage youths- a critical constituency- online. They do so by responding to their questions. This has seen an increase in content on ECZ social media sites. In order to achieve these goals, on 1 March, the Commission hired some of the two prominent bloggers in Zambia who respectively monitor everything that is being said about it, and sharing among team members, who in turn take appropriate measures. Another blogger renders technical advice as well as running the Facebook page of the ECZ, by responding to all questions and requests for information.[50]

As mentioned elsewhere above, the usage of social media by government is not new; President Sata was the first one to introduce Facebook briefings. In contrast, President

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[48] Ifex. Zambian government must move ahead with access to information bill
https://www.ifex.org/zambia/2015/05/21/access_information/. Accessed on 29 May 2016
[49] Friedrich-Ebert Stiftung. (2011). *African Media Barometer- the first home grown analysis of the media landscape in Africa: Zambia 2011*. Windhoek: Friedrich-Ebert Stiftung media africa.
[50] Anonymous respondent 1. Interview. 19 May 2016.

Lungu's Facebook account is not fully utilised. Now, most critical government institutions are on Facebook. There is also a new phenomenon whereby mainstream media directly quotes from Facebook posts. Therefore, one cannot separate themselves from their Facebook page.

The rise in Facebook usage in the political discourse seemed to be a reaction of the President Sata being online- responding to public demands: President and his MPs- e.g Margaret Mwanakate, Minister Harry Kalaba and Ambassador Mwambwa engaging in partisan politics on Facebook. In the case of Ambassador Mwambwa, our respondents felt that he is trading a thin line since a diplomat is not supposed to be partisan.[51]

ECZ's increased social media uptake is part of its responsiveness strategy, achieved by giving out information to the public to counter public assumptions and perceptions of ECZ, based on the belief that the institution does not give out information, therefore does not respond. However, the responsiveness is insufficient. For example, first, it is only targeted towards the youths; second, the public are unaware of certain content. This feeds into public perception of government institutions as opaque. For instance, one thorny issue is on the choice of where the ECZ will print the election ballot papers. The institution was not adequately explaining its positions until the 19 May Stakeholders' Meeting, where it also failed to justify its decision and choice to contract a Dubai based company to print ballot papers. Although their responses may be genuine, they are not sufficiently meeting the demands of new technology, which the public is using to castigate the same institutions.[52]

On 18 May 2016, we attended the Commission First Stakeholders Meeting referred to above, in order to test the issue of whether government is using partial responsiveness online as a form of information control. The meeting brought together stakeholders from civil society and political parties, including President of the opposition United Party for National Development, Hakainde Hichilema. In the meeting we were attentive to the debates to assess whether the Commission's responsiveness to public demands was just insufficient but genuine, or both. This line of inquiry was modelled on Jennifer Pan's recent work,[53] where she writes on how China is engaging in censorship to prevent the spread of real-world collective action and promotes responsiveness to prevent discontent from fomenting real world action. During the ECZ meeting, several questions were raised which tested whether the Commission's responsiveness is genuine, for instance all stakeholders had common grievances.[54]

Faced with an opaque and unresponsive state, journalists and private corporations are now relying on unethical methods to obtain information, although this often borders on illegality

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[51] Anonymous respondent 1. Ibid.

[52] Anonymous Respondent 2. Interview. 19 May 2016.

[53] *Jennifer Pan. Online Censorship and Responsiveness in China.* Published by NED. October 2015

[54] For example, the decision by the ECZ to award the contract for the printing of ballot papers to a Dubai-based firm-Al Ghurair Printing & Publishing Company, on the basis that it won the tender in accordance with Zambia's procurement laws, despite the fact that all stakeholders had their own suspicions. Other examples are: Opposition parties were unable to independently audit the voters' register as they were refused access to a soft copy; The verification process of the qualifications of potential MPs was shambolic and did not strictly adhere to the ruling by the High Court, which placed verification onus on the ECZ, and not the individual, that they held the required qualifications; Objections to the holding of the referendum on the bill of rights amendment together with the general elections; and in addition, the ECZ announced the ban in the use of smartphones during the elections, and this is a blow to projects such as ZEIC, as citizens will rely on cellphones to collect information, such as: what time they are opening; how many people are voting, etc.

and breach of personal privacy. For instance, there has been an increase in the incidents of wiretapping of ministers' phones by private newspapers, such as the Post. This raises issues around legality and ethics around the obtaining accessing of private information.[55] These practices are and will increase towards the elections. These incidents are reminiscent of the unethical practice by the UK based News of the World where journalists obtained stories by illegal and unethical bugging of private information, including voicemail message. In the aftermath of the Leveson Inquiry[56], which found the journalists' conduct untenable, the paper ending up folding up. Zambia could learn its lessons from the UK inquiry as journalistic ethics are universal and transcend geographical and national boundaries.

On the basis of the big issues, which remained unresolved both online and offline, it would appear the online responsiveness through social media related to low level questions but ignored bigger political questions, which would determine whether Zambia held a credible election. One could argue that this is a lip service aimed at averting the possibility of collective action/protests by the youths. The tactful exclusion of other sections of the population amounts to divide and rule, while ignoring big issues makes the process a pseudo democratic managed process. This is in itself a form of third generation information control being employed by President Lungu, his government acting by proxy through institutions such as ECZ.

As pointed out by Citizen Lab in its recent report,[57] albeit in a different context, "[governments] are now routinely finding ways to project their power through cyberspace by subverting the tools of social media to accomplish their sinister aims. Given that civil society is so deeply immersed in social media, it is imperative that they, and the companies that service them, urgently adapt to and mitigate these new threats."

In our view, this form of control is likely to increase and will be the preferred weapon by government, as the country goes to the August 2016 poll. However, Deibert and Rohinski's observations that, "The three generations of controls are not mutually exclusive, and several can exist concurrently," are equally applicable to Zambia. "Taken together, they form a pattern of control that is both unique to [Zambia] and generalizable to the [SADC] region as a whole. However, the degree to which a country is more or less authoritarian does seem to influence the choice of ''generational mix'' applied."

As an electoral democracy, Zambia is moving towards second and third-generation control strategies. The extreme cases of overt blocking appear to be vestiges of Sata's legacy. Whether Edgar Lungu dismantles such vestiges is a matter of political tactic and realpolitik which requires him to balance the dictates of political survival and his reputation as a lawyer who has previously defended press freedoms. Given the recent trends on the continent, for example, the 2016 elections in Uganda, Chad and Congo Brazzaville and protests in Zimbabwe where an increase in information controls were reported to have increased during

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[55] A good example is the so called "Bashi Nono" video clip in which Minister of Commerce, Robert Sichinga, was recorded as having a conversation with his girlfriend, intimating that the President was not well.

[56] The Leveson Inquiry is a judicial public inquiry into the culture, practices and ethics of the British press following the News International phone hacking scandal, chaired by Lord Justice Leveson, who was appointed in July 2011. A series of public hearings were held throughout 2011 and 2012. The Inquiry published the Leveson Report in November 2012, which reviewed the general culture and ethics of the British media, and made recommendations for a new, independent, body to replace the existing Press Complaints Commission, which would have to be recognised by the state through new laws.

[57] Be Calm and (Don't) Enable Macros: Malware Sent to UK Journalist Exposes New Threat Actor Targeting UAE Dissidents.

elections, including the shutdown of social media; in the worst case scenario, Zambia may also evoke national security concerns, as the justification for blocking specific Internet content and services, such as power supply during the forthcoming elections. The closure of the Post Newspaper provides initial evidence of such a likelihood.