

ELECTION REPORT ☆

# Analyzing Zambia's 2021 General Elections

Final Report

# ZAMBIA

THE  
CARTER CENTER





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# Contents

<b>Introduction</b> .....	4	Political Participation of Women, Youth, LGBT+, and People With Disabilities. ....	21
<b>Executive Summary</b> .....	6	Online Campaign .....	23
<b>Findings</b> .....	8	Online Advertising .....	25
Political Background .....	8	Social Media Restrictions .....	26
Legal Framework .....	9	Online Disinformation. ....	28
Overview of Legal Framework for Elections. ....	9	Election Management. ....	30
Enjoyment of Rights and Freedoms Under the Public Order Act .....	10	Mandate and Composition of the Electoral Commission of Zambia .....	30
Electoral System .....	11	Consultation and Information Sharing. ....	31
Demarcation of Constituency Boundaries. ....	12	Voter Registration .....	31
Legal Framework for Campaign Finance .....	13	Voter Education. ....	32
Legal Framework for Participation of Women .....	14	Accreditation of Observers .....	33
Legal Framework for Participation of Youth ..	16	Role of the Electoral Commission of Zambia in Enforcing the Code of Conduct vis-à-vis Electoral Violence .....	33
Legal Framework for Participation of People With Disabilities .....	16	Polling Procedures .....	35
Campaign Environment .....	17	Voting for People With Disabilities .....	36
Establishment of a Level Political Playing Field. ....	17	Election Procedures Concerning Secrecy of the Ballot. ....	36
Freedom of Assembly and Movement. ....	17	Results Management Procedures. ....	37
Political Impact of Election-Related Violence .....	18	Results. ....	37
Pro-government Bias in the State-Owned Media. ....	20	Presidential. ....	37
Use of State Resources. ....	21	Parliamentary. ....	38
		Performance of Women, Youth, and People With Disabilities as Candidates. ....	39

Electoral Dispute Resolution .....	39	To Political Parties.....	47
Overview of Electoral Dispute Resolutions Mechanisms.....	39	To Judiciary .....	47
Presidential Petitions .....	40	To Security Forces.....	48
Parliamentary Petitions.....	40	To Social Networks.....	48
<b>Conclusion</b> .....	42	<b>Appendix: Online Campaign Advertising in the 2021 Zambian General Elections</b> .....	49
<b>Recommendations</b> .....	44	<b>The Carter Center at a Glance</b> .....	76
To the National Assembly/Government.....	44		
To the Electoral Commission of Zambia .....	46		

# Introduction

The Carter Center deployed an election observation team to Lusaka July 23–Sept. 15, 2021, to assess the electoral process surrounding Zambia’s Aug. 12, 2021, general elections. Observers were accredited by the Electoral Commission of Zambia (ECZ) and worked in accordance with the 2005 Declaration of Principles for International Observation.<sup>1</sup> The team assessed the Zambian electoral process in light of the national legal framework and the principles and commitments on democratic elections enshrined in the regional and international instruments Zambia has ratified.

Carter Center observers—four international experts and a local analyst—initiated their work remotely in mid-July 2021. Because of the mission’s limited size and scope, the team was unable to assess the full electoral process and did not conduct a robust assessment of the voting, counting, and tabulation processes surrounding election day. Instead, observers focused on several key aspects of the Zambian electoral process, including the legal and electoral framework; the effectiveness and transparency of electoral preparations; the campaign environment, including freedom of the media; respect for core participatory rights; the use of social media; disinformation and misinformation trends; and the postelectoral environment, including electoral dispute resolution.

The observation team met with a wide range of stakeholders, including representatives from

the government, the judiciary, the Electoral Commission of Zambia, political parties, civil society organizations, women and youth groups, associations for people with disabilities, independent analysts, national observer groups, journalists, social media influencers, and development partners. In addition, the mission conducted a comprehensive analysis of Facebook campaign advertising and other aspects of the online campaign.

In its preliminary report<sup>2</sup> released on Aug. 23, 2021, Carter Center observers commended voters, polling officials, civil society and national observation organizations, and party agents for their democratic commitment during election day and throughout the postelection period. However, the team also noted that despite recurrent pledges of peaceful conduct by political parties and candidates, civil society organizations, police, and the Electoral Commission of Zambia, the electoral process was tainted by instances of violence that resulted in the loss of lives.

The Carter Center extended its congratulations to President Hakainde Hichilema and welcomed his strong call for peace and reconciliation. It also praised incumbent President Edgar C. Lungu for conceding defeat swiftly and handing over power peacefully on Aug. 24.

The Center noted with concern the very low number of elected women, in contravention with

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<sup>1</sup> <https://aceproject.org/electoral-advice/dop/the-declaration-of-principles/>.

<sup>2</sup> <https://www.cartercenter.org/news/pr/2021/zambia-082321.html>.

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the constitutional gender parity requirement. In its preliminary report, observers echoed the Aug. 17 statement by the Nongovernmental Gender Organizations' Coordinating Council urging the incoming president to enhance representation in the Parliament by appointing women for the parliamentary appointments (up to eight) envisioned in the constitution.<sup>3</sup>

To enhance women's representation in Parliament and recognizing that women constitute more than 50% of the population, the Center commends the pledge made by President Hakainde Hichilema in an interview on Sept. 1<sup>4</sup> to initiate constitutional reforms to guarantee women, youth, and people with disabilities representation both in the National Assembly and in the Cabinet.<sup>5</sup>

In the spirit of support to Zambian efforts to strengthen democracy and electoral procedures, this report includes comprehensive recommendations in the following areas: enjoyment of rights and freedoms under the Public Order Act;

participation of women, youth, and people with disabilities; demarcation of constituency boundaries; campaign and campaign finance; electoral violence; online campaigns; online disinformation; voter registration; election administration; polling procedures; results management procedures; and electoral dispute resolution.

The report also includes an appendix on online advertising during the electoral campaign. Facebook's main advertising transparency feature was extended to Zambia for the first time, offering unprecedented insight into the online campaigns. As a result, the appendix provides the first comprehensive analysis of online advertising in Zambia's electoral history. It provides a unique resource for understanding not only the 2021 elections but also the wider situation for campaign advertising in a country in which the online domain is rapidly becoming of key significance for the electoral process.

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<sup>3</sup> In accordance with Articles 68 and 69 of the Constitution of Zambia, the president may, at any time after a general election to the National Assembly and before the National Assembly is next dissolved, appoint such number of persons as he considers necessary to enhance the representation of the National Assembly as regards special interests or skills, to be nominated members of the National Assembly. Thus, there are not more than eight such members at any one time.

<sup>4</sup> See video link: <https://www.bbc.com/news/av/world-africa-58417008>.

<sup>5</sup> According to Article 116 (1) of the Constitution of Zambia, members of Parliament are appointed ministers.

# I Executive Summary

On the basis of its analysis, The Carter Center identified the following:

The campaign environment was marked by increasing polarization and an unlevel playing field that limited the United Party for National Development's (UPND) constitutionally guaranteed freedoms of movement and association, while the ruling Patriotic Front (PF) party's activities went largely unrestricted. There was clear pro-government bias in state-owned traditional media (print, television, radio).

The police enforced the Public Order Act and COVID-19 standard operating procedures unfairly, providing an undue advantage to the ruling party. The Electoral Commission of Zambia used its regulatory powers to suspend campaign activities in some provinces affected by electoral violence. Most stakeholders interviewed by Carter Center observers claimed that the unequal enforcement of the electoral code of conduct further advantaged the ruling party. The commission's conflict management committees at the national and district levels did not deal effectively with cases of electoral violence and other breaches of the code of conduct.

Despite constitutional provisions for gender equity in the National Assembly and local councils, women's participation as candidates in elections remains below international and regional standards. Women's political participation was restricted by gender-based violence and by prohibitive candidacy fees. In addition, gaps in the overall legal framework and the lack of compliance with

existing regulations, such as the Gender Equity and Equality Act and the People With Disabilities Act, on the part of the government and political parties, constrained full inclusion and participation by women, youth, and people with disabilities.

The online campaign was marred by significant obstacles to participation, which culminated in the imposition of blanket online communications restrictions starting on election day and continuing for more than 48 hours. Online freedom of expression was thereby subjected to historically unprecedented limits in Zambia, showing a flagrant disregard for Zambians' constitutional rights. This move compounded preexisting hurdles to participation, including the recently approved Cyber Security and Cyber Crimes Act and a hostile online environment for LGBT+ citizens.

The repeated broadcast of disinformation and political content by the online accounts of state-owned media exacerbated the uneven playing field in favor of incumbent president Lungu. Some civil society organizations undertook a degree of fact-checking; however, the reach of disinformation spread by accounts with hundreds of thousands of followers opened a verificatory vacuum within which disinformation thrived. This was compounded by the failure of Facebook to amplify civil society fact-checking and the absence of an access to information law.

The new legal framework that allows voting rights for prisoners is welcome. However, concerns remain about legal provisions restricting political space. Previous recommendations made by observer groups on legal changes that could strengthen





Zambians wait at a polling station in the capital city of Lusaka to vote on election day.

the electoral processes have not been enacted, including changes to the colonial-era 1955 Public Order Act and to the presidential appointment of the Electoral Commission of Zambia's members as well as enactment of campaign finance and gender equity regulations, provisions to enhance voter equality across constituencies, and removal of derogatory language targeting people with disabilities from key legislations.

A wide range of stakeholders raised concerns about the electoral commission's independence and level of preparedness during the electoral process and about the commission's insufficient communication and consultation regarding key stages of the process, such as accreditation of local monitors and the results-management process. The announcement of provisional results by the commissioners was communicated poorly and conducted

inconsistently, causing dismay and complaints by party agents. The creation of the new voter register within a short time frame of 34 days—in spite of a constitutional provision that allows for continuous registration—also undermined stakeholders' confidence in the electoral process.

Stakeholders expressed a lack of confidence in the independence and impartiality of the Constitutional Court to resolve electoral-related disputes, despite the introduction of new rules for presidential election petitions regarding affidavit-based evidence to facilitate proper case and time management. In the end, no presidential election petition was filed to test the applicability of the new rules. At the parliamentary level, the High Court received 62 petitions, mostly filed by UPND candidates.

# Findings

## Political Background

On Aug. 12, 2021, Zambia held elections for president, national assembly members, mayors and council chairpersons, and local councilors. Despite a large number of registered parties, the principal contest at all levels was between the incumbent Patriotic Front and the longtime opposition party, the United Party for National Development. As in 2015 and 2016, at the presidential level, the race was mainly between UPND leader Hakainde Hichilema and incumbent President Edgar C. Lungu of the PF. The 2021 elections took place in the context of a democratic decline prevailing since the contested 2016 elections, which The Carter Center had assessed as “a significant step backward for democracy in Zambia,” leading to further political polarization. The preelectoral environment was exacerbated by a severe economic contraction in 2020 caused by weak copper prices, the impact of COVID-19, a strongly depreciating currency, high inflation, and a worsening debt crisis.

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*Between 2016 and 2021, there were notable examples of democratic backsliding and narrowing of political space.*

Between 2016 and 2021, there were notable examples of democratic backsliding and narrowing of political space. These included a failed national

reconciliation initiative, police misuse of the Public Order Act and other provisions, threats and intimidation that dampened freedom of expression, closures of prominent independent media (The Post newspaper and Prime TV channel), more than 15 arrests of the UPND leader, and the restrictive use of COVID-19 standard operating procedures.

Issues of insecurity grew considerably, notably due to the activities of political party supporters or “cadres,” who were deployed to carry out acts of violence (including beating and destruction of property), which served to intimidate supporters of opponent parties and others and to prevent and disrupt peaceful assemblies. While PF and UPND cadres were especially active, other parties’ cadres also contributed to a violent preelectoral environment. During the electoral campaign, there was an unprecedented deployment of the army in the name of hindering political violence. However, the move also triggered concerns of potential voter intimidation.

Numerous election mission interlocutors expressed deep concern at the depth of the cleavage in Zambian society brought about by the PF administration. They highlighted the existence of polarization along regional, ethnic, and religious lines as well as among various traditional leaders. This split was also observed among civil society organizations, members of the media, academics, churches and political parties, and within public and state institutions. In the period after the election, there were near-daily reports in the media

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on the severity of corruption, cadre violence, and criminal activities undertaken by the previous regime or its supporters. There was also widespread agreement on the need for effective political and societal scrutiny of the incoming administration to prevent any future recurrence of such excesses.

## Legal Framework

### Overview of Legal Framework for Elections

A sound legal framework that includes the rules found in the domestic laws that regulate how all aspects of the electoral process should unfold is essential for effective administration of genuine democratic elections.<sup>6</sup>

Zambia's Constitution establishes principles of electoral systems and processes, such as freedom to exercise political rights, universal adult suffrage based on the equality of the vote, fair representation of various interest groups in society, and gender equity in the National Assembly and councils. The constitution protects the right to vote and be elected in all national and local government elections and referenda and to vote in secret. It also guarantees that anyone above the age of 18 years may vote in elections and that anyone above the age of 21 is eligible to become a member of Parliament. Further, the constitution guarantees independence, impartiality, and effectiveness of the judiciary and establishes independent service commissions and other independent offices.

The entire legal framework that was enacted and used for the 2016 general elections was applied

for the 2021 general elections, with a few amendments to the Electoral Commission of Zambia Act 2016 and the Electoral Process Act.<sup>7</sup> These amendments introduced new provisions concerning the dismissal of ECZ commissioners and auditing procedures.<sup>8</sup> Also, declaring results without lawful authority was typified as an electoral offense.<sup>9</sup> This new provision raised concerns among stakeholders, as it was perceived as potentially constraining efforts to conduct parallel voting tabulation. In a positive development, the amended Electoral Process Act allowed for voting rights for prisoners.<sup>10</sup> However, recommendations made by observer groups in previous elections on legal changes aimed at strengthening the electoral processes have not been enacted. These included amending the colonial-era 1955 Public Order Act, which grants police discretion to regulate public assemblies and processions, and the presidential appointment of ECZ commissioners as prescribed by the Electoral Commission of Zambia Act.<sup>11</sup>

Furthermore, stakeholders raised concerns regarding some provisions in the new laws that could have the effect of restricting political space, including the Electronic Communication and Transaction Act 2021; the Electronic Government Act 2021; the Data Protection Act 2021; and the Cyber Security and Cyber Crimes Act 2021. Two provisions in particular had the effect of stifling freedom of expression online. The Cyber Security and Cyber Crimes Act was passed less than two months prior to the campaign's onset in a rushed process that failed to adequately consult

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6 U.N., ICCPR Article 2(2) and UN HRC General Comment No. 25, paragraphs 4 and 8.

7 The legal framework comprises Act No. 2 of 2016, the Constitution of Zambia (Amendment), No. 25 of 2016, Electoral Commission of Zambia Act, No. 5 of 2019, Amendment to the Electoral Commission of Zambia Act, Electoral Process Act No. 35 of 2016, Electoral Process (Amendment) bill of 2021, and No. 8 of 2016, the Constitutional Court Act. There are also other relevant laws such as the Societies Act Cap 119, Referendum Act 2015, and Public Order Act, Cap 113.

8 See Election Management section of the report for detailed analysis of both amendments.

9 See the Electoral Process (Amendment) bill of 2021, Amendment of Section 89, The Electoral Process Act, 2016.

10 In cognizance of prisoners' rights to vote, in August 2017, The Prisons Care and Counselling Association (PRISCA) successfully filed a petition before the constitutional court challenging the unconstitutionality of Sections 9 (1) (e) and 47 of the Electoral Process Act 2016 that disqualified prisoners from registering and voting and sought a declaration that all remandees and convicts be allowed to register and vote in the general elections. (See Godfrey Malembeka Suing as Executive Director of Prisons Care and Counselling Association & Another vs. The Attorney General and another case No. 34 of 2017). It ordered the ECZ to put all administrative measures in place for prisoners (remandees and convicts) to register and vote in the 2021 general elections. The new amendments introduced in the Electoral Process Act allowed prisoners to register and vote, for the first time, in 2021.

11 Amendment to Section 5 of the Public Order Act was also recommended by an Amnesty International report titled "Ruling by Fear and Repression: The Restriction of Freedom of Expression, Association and Assembly in Zambia" (2021).

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civil society.<sup>12</sup> The act stipulates stiff penalties, including imprisonment, on the basis of vague and overly broad definitions of false information, harassment, emotional distress, and hate speech.<sup>13</sup> The Data Protection Act, passed just four months prior to the election, suffers from a similarly vague definition of “national security” that opens the door to the infringement of the right to privacy and violates regional standards.<sup>14</sup>

On May 9, the ECZ published standard operating procedures to implement preventive measures aimed at combating the spread of COVID-19 during the electoral process. The procedures were developed by the multistakeholder technical committee on COVID-19 in the electoral process. The enforcement of procedures and the Public Order Act by the police and the Electoral Commission of Zambia during the campaign period were unfairly applied to the benefit of the ruling party, curtailing opposition campaign activities.<sup>15</sup>

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The Carter Center notes that President Lungu’s decision on Aug. 1 to deploy the army was taken without constitutional basis, as it did not meet the constitutional threshold of being dictated by public

emergency or a national disaster. President Lungu cited increasing incidents of violence allegedly triggered by UPND supporters and the potential for increasing violence as election day approached. However, the opposition and civil society organizations considered the deployment of the army as providing a potential way to disenfranchise voters.

### **Enjoyment of Rights and Freedoms Under the Public Order Act**

Noting that the right of peaceful assembly is recognized as a fundamental right worldwide,<sup>16</sup> The Carter Center is concerned about the inequitable application of the Public Order Act during Zambian electoral processes.<sup>17</sup> The Public Order Act was consistently used to disrupt the ability of political parties and civil society organizations to organize meetings and engage in public political activities. Some requirements contained in the Public Order Act are consistent neither with constitutional guarantees on freedom of assembly nor international human rights standards. The law requires anyone to give police at least seven days’ notice to convene a public meeting or demonstration. The Carter Center emphasizes the importance of amending Section 5 of the Public Order Act to curtail once and for all the police’s discretion to decide when a meeting should take place.<sup>18</sup>

The Law Association of Zambia unsuccessfully argued in the High Court that Section 5 of the Public Order Act, as amended by Act No. 36 of 1996, violated Articles 20, 21, and 23 of the constitution, which provide for the protection of freedom of expression and the protection

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12 Joint Civil Society Organizations’ Press Statement on the Proposed Cyber Security and Cyber Crimes Bill, Feb. 16, 2021.

13 Contrary to U.N. (CCPR), Article 19.

14 Article 13 of the African Convention on Cyber Security and Personal Data Protection specifies the need for a “specific” and “explicit” purpose for data collection.

15 See Campaign Environment section.

16 Article 21 of the International Covenant on Civil and Political Rights (ICCPR) specifies that no restrictions may be placed on the right, except those that are “necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.” Further, Article 11 of the ACHPR provides that “Every individual shall have the right to assemble freely with others.” Under the ACHPR, the exercise of this right shall be subject only to necessary restrictions provided for by law, in particular those enacted in the interest of national security and safety, health, ethics, and rights and freedoms of others.

17 See the Carter Center’s reports on Zambian elections (2001 and 2016).

18 See also Amnesty International report titled “Ruling by Fear and Repression: The Restriction of Freedom of Expression, Association and Assembly in Zambia” (2021).

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of freedom of assembly and association.<sup>19</sup> The Supreme Court pronounced that Section 5(6) of the Public Order Act fell short of the constitutional threshold<sup>20</sup> because the section does not compel the police to suggest a “reasonable alternative date in the very near future” when a request for a peaceful assembly is denied. The court ruling indicated that the police had used this loophole to effectively deny people the right of peaceful assembly.

While interlocutors welcomed the court’s ruling on the need to provide a reasonable timeline, they raised apprehensions about the fact that the court did not pronounce itself on the lack of a provision in Section 5(6) compelling police to provide grounds for refusal when permission is denied. In this regard, it is worth noting that the constitution envisages that the enjoyment of rights and freedoms should be unlimited and not conditioned on the opinion of a police officer.<sup>21</sup>

### **Electoral System**

The electoral system is the mechanism by which the votes cast are translated into political mandate and which ensures that the electorate can hold elected officials accountable.

States are obligated under international law to ensure that their choice of electoral system allows for inclusiveness, transparency, and equal suffrage as well as the upholding of fundamental rights and freedoms.<sup>22</sup>

The constitution prescribes Zambia’s majoritarian electoral system for presidential elections.<sup>23</sup> The election of a president requires a winning presidential candidate to receive more than 50% of the valid votes cast during the election. If no

candidate reaches 50%, a runoff must be conducted within 37 days of the initial ballot between the top two candidates. The 156 members of the National Assembly are directly elected based on a simple majority vote under the first-past-the-post system.<sup>24</sup> Elections of ward councilors and mayoral/council chairpersons follow the same system.<sup>25</sup>

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*A mixed-member system would facilitate the constitutional requirement to enhance representation by women, youth, and people with disabilities, while maintaining the first-past-the-post system to elect members of Parliament at the constituency level.*

In 2019, a bill to amend the constitution (known as Bill 10 of 2019) proposed to change the electoral system for the National Assembly from a first-past-the-post system to a mixed-member electoral system.<sup>26</sup> Stakeholders told Carter Center observers that such a system would create an environment for inclusiveness, thereby providing a mechanism to implement constitutional safeguards that provide for increased representation of women, youth, and people with disabilities through the introduction of party list seats and reserved seats for people with disabilities and other marginalized groups as well as encouraging broader citizen engagement in public affairs and leadership. In consideration of options for reform, the National Assembly should give careful consideration to the possibility of adopting a mixed-member electoral

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<sup>19</sup> Section 5 of the Public Order Act outlines numerous conditions for the holding of an assembly (for instance, the applicants have to wait for police authorization before they can proceed to hold an assembly) gives the police the absolute power of determining whether or not an assembly, meeting, or procession should take place.

<sup>20</sup> The Supreme Court of Zambia Judgment in Law Association of Zambia v the Attorney General, Appeal No. 08/2014.

<sup>21</sup> Articles 20, 21, and 28 of the Constitution of Zambia.

<sup>22</sup> UN, ICCPR, Article 2(2); AU, AfCHPR, Article 1.

<sup>23</sup> Article 47 and Article 101 of the Constitution of Zambia.

<sup>24</sup> Article 68 of the Constitution of Zambia.

<sup>25</sup> Article 153 of the Constitution of Zambia.

<sup>26</sup> See Section 9 of Bill 10 of 2019 on Amendment of Article 47(2) of the Constitution of Zambia. Although the bill failed to gather the necessary two-thirds of the support of the National Assembly, the incoming government has indicated a wish to undertake electoral reform.

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system.<sup>27</sup> A mixed-member system would facilitate the constitutional requirement to enhance representation by women, youth, and people with disabilities, while maintaining the first-past-the-post system to elect members of Parliament at the constituency level. In the region, other countries such as Kenya and Zimbabwe have introduced similar reforms that have contributed to increased participation of underrepresented groups.

Nonetheless, the introduction of a major change in the electoral system would have significant impact on the way electoral politics is undertaken and, thereby, on a wide array of stakeholders. International experience suggests that it is important to ensure a broad-based dialogue among all election stakeholders during consideration of amendments to the system. Changes to the electoral system impact *inter alia* representation of marginalized groups, accountability, pluralism in the political party system, the likelihood of coalition governments, and regional representation.

One variation of a mixed-member system that could encourage greater political party plurality and reflect regional diversity but still meet the requirement for representation of women, youth, and people with disabilities would be to set the threshold for the proportional list at the provincial level, where some parties can perform better.<sup>28</sup> Setting a threshold of 3% at a provincial level would allow parties with relatively low levels of representation in the strongholds of larger parties the opportunity for representation in the National Assembly. International experience suggests that

in this case it would be important to invest in a comprehensive program of civic education across the spectrum of election stakeholders aimed at ensuring that they can both understand and utilize the new electoral system effectively. Such stakeholders would include, for example, voters, candidates, political parties, civil society, the ECZ, the media, and the judiciary.

### **Demarcation of Constituency Boundaries**

According to international standards, within the framework of the electoral system, the vote of one elector should be equal to the vote of another.<sup>29</sup> Equal suffrage requires that constituency boundaries be drawn so that voters are represented in the National Assembly on a roughly equal basis.

The constitution stipulates that the number of constituencies equals the number of seats of directly elected members in the National Assembly<sup>30</sup>, i.e., 156 uninominal seats.<sup>31</sup> The ECZ is responsible for reviewing the boundaries of constituencies at intervals of not more than 10 years.<sup>32</sup> In delimiting the boundaries, ECZ should seek to achieve an approximate equality for each constituency's population, subject to the need to ensure "adequate representation for urban and sparsely populated areas."<sup>33</sup> However, in practice, large variances persist in the numbers of voters allocated to each constituency.<sup>34</sup> For instance, the population of the most populated constituency in the country in the 2021 election, Kanyama Constituency in Lusaka, with 177,495 registered voters, was more than 15 times larger than the

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27 Typically a mixed-member electoral system involves each voter having two ballots to cast, the first for a constituency representative directly elected using a first-past-the-post system, and the second for a party. This vote would be used to determine representatives drawn from a closed list of candidates determined by each party. The party would qualify to have representatives drawn from the second ballot if it passed a minimum threshold, e.g., 5% of all votes cast for the party list on a national basis.

28 This report includes in the Results section further analysis of parliamentary results, including a table with aggregated percentage share of votes cast for the National Assembly.

29 U.N. (CCPR), General Comment 25, para.21.

30 See Article 58 (2) of the Constitution of Zambia.

31 See Article 68 2 (a) of the Constitution of Zambia.

32 See Article 58 (5) of the Constitution of Zambia.

33 See Article 50 of the Constitution of Zambia. Furthermore, a constitutional requirement that constrains the Electoral Commission of Zambia's scope in terms of redrawing boundaries is the fact that constituencies have to be "wholly within districts" (Article 59, d) despite some districts having much larger populations than others.

34 This issue was already stressed in the Carter Center's 2016 report.

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least populated constituency, Lufubu in Ngabwe district, with 11,411 voters.

In 2019, the ECZ carried out a delimitation exercise of constituencies, wards, and polling districts, including consultations with stakeholders. The electoral body submitted a delimitation report in 2020, recommending the creation of 90 additional constituencies. However, the government argued that it could not offer a bill to amend the constitution's Article 68(2) to increase the number of seats at the National Assembly, having already submitted the constitutional amendment, Bill No. 10 of 2019, which introduced the mixed-member electoral system. After Bill No. 10 was rejected by Parliament, the government claimed that there was not sufficient time before the general elections to pass a bill to increase the number of constituencies and seats of the National Assembly.<sup>35</sup>

### **Legal Framework for Campaign Finance**

According to the United Nations Convention Against Corruption, appropriate legislative and administrative measures should be enacted and implemented to enhance transparency in the funding of candidatures for elected public office.<sup>36</sup> In Zambia, the absence of a legal framework allowing transparent mechanisms and regulations on campaign finance disadvantages parties and candidates with fewer financial resources.

The 2016 amended constitution prescribes legal mechanisms for the establishment and management of a political parties fund, introduces the requirement of submission of audited accounts by political parties, identifies the source of funds for political parties, and establishes the maximum

amounts of money that can be used for political campaigning.<sup>37</sup>

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Despite the constitutional provisions, in 2016 Carter Center observers and other international election observation missions noted the absence of party and campaign finance regulatory requirements and recommended reforms in this area. A Political Parties Bill drafted in 2017 by the government was proposed at the national dialogue forum<sup>38</sup> in 2019 to implement the relevant constitutional provisions on campaign finance.<sup>39</sup> The bill was intended to regulate the registration and conduct of political parties, establish a board of political parties, establish a political parties fund, and set out the sources of funds for political parties. However, the bill was never presented before Parliament and the 2021 elections were held without campaign finance regulations, therefore failing to conform to Article 60 (4) of the constitution.<sup>40</sup> This lacuna makes the electoral process susceptible to the undue influence of money, which results in an uneven field among the political parties as there is no transparency or accountability concerning funds they inject in their campaigns.

In the 2021 electoral process, the ECZ published the list of those validly nominated to

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35 See government's response to a question posed by a member of Parliament opposition in minutes from Parliament's session held on Feb. 23, 2021: <https://www.parliament.gov.zm/node/8869>.

36 UNCAC, Article 7 (4) 7, 18, 37; Convention Against Corruption (UNCAC) provides that state party must consider taking appropriate legislative and administrative measures to enhance transparency in the funding of candidatures for elected public office. See also AU, Convention on Corruption, Article 7. See also the SADC Principles 4.1.6. and Article 25 (b) ICCPR.

37 The Constitution of Zambia, Article 60 (4).

38 In 2019, the government established a national dialogue process through Bill No. 6, which was enacted by the National Assembly. The so-called National Dialogue Act was mandated to "vary, confirm, add or remove any provision of the draft amendments or repeals and replacements proposed to the Constitution of Zambia, the Electoral Process Act 2016, the Public Order Act, and the Political Parties Bill 2019."

39 The Political Parties Bill 2017. The bill sought to eliminate the use of state resources for campaign activities, which creates inequities among competing parties who may be clearly outcompeted even before the democratic processes such as elections.

40 Article 60 (4) provides for the establishment and management of a political parties fund that discloses the sources of funds for political parties, caps the maximum amount of money to be used during campaigns, and mandates political parties to submit audited accounts of funds utilized under the fund.

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contest the presidential, parliamentary, councilor, and mayoral/council chairperson elections but failed to comply with the constitutional requirement to release a notice disclosing the presidential and parliamentary candidates' assets and liabilities.<sup>41</sup>

Further, there is no legal framework or guideline for regulating online political advertising, despite

*The Center encourages the incoming Parliament to... enact legislation that fulfills the constitutional requirement to regulate political party financing.*

most political parties, candidates, and party supporters enhancing their online campaigns due to COVID-19 restrictions on physical rallies. The ruling party used state agencies' Facebook pages to amplify its campaign advertisements and messages.

The Carter Center noted concerns expressed by stakeholders regarding widespread allegations of use of public resources for party campaigns, despite provisions in the electoral code of conduct prohibiting the use of government or parastatal means of transportation or facilities for campaign purposes.<sup>42</sup> The Center encourages the incoming Parliament to discuss the bill and enact legislation that fulfills the constitutional requirement to regulate political party financing.

### **Legal Framework for Participation of Women**

According to international standards, women should enjoy equal rights to men.<sup>43</sup> Where

necessary, states should take temporary special measures to achieve *de facto* equality for women.<sup>44</sup>

Zambia has ratified various international and regional instruments relating to human rights and the conduct of elections.<sup>45</sup> Although there are constitutional and statutory provisions that ensure the political inclusion of women, they are neither comprehensive nor enforced.<sup>46</sup> For instance, despite the existing constitutional and statutory provisions for an electoral system that ensures gender equity in the National Assembly and local councils, women's political representation remains woefully inadequate in Zambia's democratic system of governance, due to lack of enabling regulations to achieve that.

Noting that women's participation in decision-making is critical for sustainable development and in all levels and institutions, in 2014, the Ministry of Gender and Child Development developed a comprehensive National Gender Policy aimed at ensuring the attainment of gender equality in the development process. The policy set out measures to redress the existing gender imbalances, but their implementation remains a serious challenge.<sup>47</sup>

On Dec. 23, 2015, the National Assembly passed the Gender Equality and Equity Act No. 22 of 2015, to provide legal mechanisms to eliminate women's discrimination in public and political life.<sup>48</sup> However, no regulations have been enacted to effect the spirit of the law. For example, the act established the Gender Equity and Equality Commission with the mandate to institute mechanisms for women's equal representation and participation and elimination of discrimination against women, in public and political life, but

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41 Articles 52 (3), 70 (1)(e), and 100 (h) of the Constitution of Zambia.

42 According to Section 15(k) of the code of conduct, exception is granted to the president and vice president in connection with their respective offices.

43 U.N., ICCPR, Article 3.

44 U.N., CEDAW, Article 3.

45 Including the 1966 International Covenant on Civil and Political Rights, the 1966 International Convention on Elimination of Racial Discrimination, the 1979 Convention on the Elimination of All Forms of Discrimination Against Women, the 2006 Convention on the Rights of Persons With Disabilities, and the 2003 Convention Against Corruption, the 1981 African Charter on Human and Peoples' Rights and 2003 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. Zambia is bound by the 1948 Universal Declaration of Human Rights; the 2007 African Charter on Democracy, Elections, and Governance; the 2015 Southern Africa Development Community (SADC) Principles and Guidelines Governing Democratic Elections; the 1997 SADC Declaration on Gender and Development; and the amended 2018 SADC Protocol on Gender and Development.

46 See Articles 45 and 47 of the Constitution of Zambia and Article 29 (1) of the Gender Equity and Equality Act, 2015.

47 See National Gender Policy (2014): [https://www.gender.gov.zm/?wpfb\\_dl=51](https://www.gender.gov.zm/?wpfb_dl=51).

48 See Section 29 of the Gender Equity and Equality Act No. 22 of 2015.



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this commission is yet to be operationalized.<sup>49</sup> Furthermore, interlocutors interviewed by Carter Center observers underscored that women continue to be exposed to gender-based violence while engaging in political and electoral activities, due to the lack of enforcement of the protective mechanisms contained in the Anti-Gender-Based Violence Act.

Women constitute more than 50.5% of the Zambian population<sup>50</sup> and were 53.4% of the electorate in the 2021 general elections. Despite being a demographic majority, active participation of women in decision-making and as candidates in electoral processes is very low. At the presidential level, only one of the 16 candidates was a woman. At the parliamentary level, out of the 857 candidates contesting National Assembly seats, 181 were women (21%). Of 437 candidates for mayoral and council chairpersons and 5,693 for councilor elections, 96 (22%) and 565 (10%) were women, respectively.<sup>51</sup>

Carter Center observers noted that women's participation as candidates in elections remains below international and regional standards.<sup>52</sup> Most interlocutors highlighted legal barriers that limited women's participation in elections as candidates, including constraints on eligibility caused by the educational Grade 12 requirement, the lack of a legal framework that regulates gender mainstreaming, and prohibitive financial and nomination fee requirements.<sup>53</sup>

In this context, it is notable that both the incumbent PF and opposition party UPND

nominated female vice presidential candidates who were very visible in the campaign period. The PF had also nominated a female vice presi-

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*Women continue to be exposed to gender-based violence while engaging in political and electoral activities, due to the lack of enforcement of the protective mechanisms contained in the Anti-Gender-Based Violence Act.*

dential candidate in 2016—Inonge Mutukwa Wina—who was elected and served as vice president.

In 2019, a bill to amend the constitution (known as Bill 10) was submitted at the National Assembly. Among other provisions, it proposed to change Zambia's electoral system for the National Assembly from the current first-past-the-post system to a "mixed-member electoral system."<sup>54</sup> After Bill 10 was rejected by Parliament, three human rights organizations formed a coalition to advocate for the adoption of a mixed-member electoral system to ensure better political inclusion and representation of youth, women, and people with disabilities.<sup>55</sup>

### **Legal Framework for Participation of Youth**

According to international standards, state parties shall promote participation of youth in the governance process.<sup>56</sup>

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49 The new government has dissolved Ministry of Gender but committed to operationalize the commission. The creation of the commission under the office of the president was announced on Sept. 24, 2021.

50 According to reports from the Ministry of Gender and the World Bank collection of development indicators.

51 Numbers announced by ECZ in a press briefing to international observers held at Mulungushi International Conference Center on Aug. 11, 2021.

52 Article 7 of the Convention on the Elimination of All Forms of Discrimination Against Women adopted by the United Nations General Assembly in 1979 stipulates that state parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country. Article 1 (e) of the 2003 U.N. General Assembly resolution on women's political participation (A/RES/58/142) calls states to promote the goal of gender balance in all public positions. The African Charter on Human and Peoples' Rights (ACHPR) on the Rights of Women in Africa (Maputo Protocol) adopted in 2003 calls on state parties to take affirmative action to promote equal participation of women in the political life. Furthermore, Article 12 of the Amended SADC Protocol on Gender and Development that entered into force in 2018 establishes that state parties shall endeavor to ensure equal and effective representation of women in decision-making positions in the political, public, and private sectors.

53 See also Political Participation section on further hurdles to women's participation in politics.

54 See Electoral System section for further analysis on reforms that could enhance representation of underrepresented groups.

55 The Center for Young Leaders in Africa, the Zambia National Women's Lobby, and the Zambia Federation of Disability Organizations. This strategy is gaining support from other women and youth-led organizations.

56 African Charter on Democracy, Elections, and Governance, Article 31 (1).

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Zambia has signed and ratified relevant international and regional conventions and declarations on the rights of young people.<sup>57</sup>

Notwithstanding the existing constitutional

*The Carter Center notes with satisfaction the very active engagement of youth in the 2021 electoral process, particularly using social media platforms and turning up in large numbers to cast the vote on election day.*

provisions that provide for an electoral system and process that guarantee participation of youth in the political sphere and public life,<sup>58</sup> political representation of youth remains inadequate in Zambia's democratic system of governance, due to lack of empowering legislation to achieve this. Although there are constitutional provisions<sup>59</sup> to ensure equitable representation<sup>60</sup> of the youth through nominations and appointment to public office, such requirements are neglected.

At the policy level, the government revised in 2015 the 2006 National Youth Policy to make it more responsive to the needs of the youth, by bringing it in tandem with new and emerging issues in youth development for youth

participation and involvement.<sup>61</sup> The policy aims to mainstream youth issues in all government and private sector institutions. Nonetheless, youth remain one of the most marginalized and excluded segments of Zambia's population.

Nonetheless, The Carter Center notes with satisfaction the very active engagement of youth in the 2021 electoral process, particularly using social media platforms and turning up in large numbers to cast the vote on election day.

### **Legal Framework for Participation of People With Disabilities**

According to the United Nations Convention on the Rights of Persons With Disabilities, states must ensure and promote human rights and fundamental freedoms without any discrimination on the basis of disability.<sup>62</sup>

Zambia has ratified various international and regional conventions for effective participation of people with disabilities in electoral processes.<sup>63</sup> In addition, Zambia is guided by broader regional treaties and conventions that also support participation and inclusion of people with disabilities in political life.<sup>64</sup>

The Constitution of Zambia recognizes people with disabilities in the Bill of Rights<sup>65</sup> and, legislatively, the Persons With Disabilities Act<sup>66</sup> promotes respect for the inherent dignity of people with disabilities and ensures their equal enjoyment

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57 The Convention on the Rights of the Child and the African Youth Charter, the African Youth Charter, SADC Declaration on Youth Development and Empowerment, and Agenda 2063.

58 See Articles 45 and 47 of the Constitution of Zambia.

59 Articles 45(1) (c) and 259 (1) (c) of the Constitution of Zambia.

60 The constitution states "that fifty percent of each gender is nominated or appointed from the total available positions, unless it is not practicable to do so." It does not provide a similar threshold for the participation of youth and people with disabilities.

61 The 2006 National Youth Policy was revised to the current 2015 National Youth Policy by the Ministry of Youth and Sport.

62 U.N., CRPD, Article 4.

63 The Protocol to the African Charter on People's and Human Rights of Persons With Disabilities' in Africa; International Convention on Civil and Political Rights; Convention on the Political Rights of Women; International Labour Organization Convention Concerning Discrimination in Respect of Employment and Occupation, 1958, (No. 111); International Labour Organization Convention Concerning Vocational Rehabilitation and Employment (Disabled Persons), 1983, (No. 159); and the United Nations Convention on the Rights of Persons With Disabilities (2006), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and Zambia is state party to the U.N. Convention on the Rights of Persons With Disabilities (UN CRPD) and is bound by the Universal Declaration on Human Rights.

64 The Protocol to the African Charter on Human and People's Rights (ACHPR), The Sustainable Development Goals and 2030 Agenda for Sustainable Development, the Treaty of the Southern African Development Community (SADC), the SADC Principles and Guidelines Governing Democratic Elections. The principle of participation is also reiterated in the SADC Parliamentary Forum Norms and Standards for Elections in the SADC Region.

65 See Article 23 (3) of the Constitution of Zambia.

66 The Persons With Disabilities Act (No. 6 of 2012).

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of human rights and freedoms.<sup>67</sup> Section 11 of the act established the Zambia Agency for Persons With Disabilities, which is mandated to perform various functions that promote and administer services for all categories of people with disabilities. Notwithstanding the progressive nature of the laws noted above, the agency and relevant stakeholders are lobbying to amend legislation that demeans and uses derogatory words to define people with disabilities. The Carter Center encourages the relevant authorities to take firm and prompt action to eliminate offensive language against people with disabilities in Zambian law.<sup>68</sup>

In supplementing the legal framework, Zambia has formulated the National Policy on Disability and the National Implementation Plan on Disability, but according to stakeholders its implementation remains inadequate and enhanced coordination among state institutions tasked with implementation is needed.

## Campaign Environment

### Establishment of a Level Political Playing Field

According to international standards, a level political playing field requires equitable treatment of candidates/parties as well as ensuring an open and tolerant campaign environment that facilitates the active role of a free press and civil society organizations.<sup>69</sup>

Interlocutors who spoke to Carter Center observers expressed significant concerns regarding the lack of a level political playing field: the most serious issues were interference with opposition campaign events and travel; intimidation of opposition candidates and voters through violence, often perpetrated by political cadres; inequitable

application of the Public Order Act and Covid-19 standard operating procedures; pro-government bias in the state-owned media; and use of official resources by the Patriotic Front.

### Freedom of Assembly and Movement

International and regional treaties recognize freedom of assembly as essential to democratic elections, especially for candidates and political

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parties. Individuals, parties, the free press, and other electoral actors' (including civil society) right to assemble peacefully<sup>70</sup> and their freedom of movement<sup>71</sup> are protected by international treaties.

The election campaign, held between May 14 and Aug. 11, 2021, was highly contentious. The prospects of electoral success were limited in practice to the two main political parties, PF and UPND, and their two presidential candidates. This was the third consecutive election in which the two candidates had competed against each other. The personal history of tension and ill will between the two candidates, Lungu and Hichilema, from the previous elections manifested itself again in negative personal accusations, particularly those directed against the UPND challenger, culminating in threats of arrest by the incumbent against the latter.

The overall political atmosphere was tense, and the parties used violence, hate speech, and

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<sup>67</sup> In 2011, a landmark High Court ruling urged the Electoral Commission of Zambia to put in place measures to address discrimination against people with disabilities. For further analysis on mechanisms to guarantee people with disabilities' right to vote, see the Election Management section of this report.

<sup>68</sup> Examples of such legislation include the Penal Code Act No. 87 (Section 139 on "defilement of imbeciles or person with mental illness"), the Criminal Procedure Code Act No. 88 ("procedure in case of insanity or other incapacity of an accused person"), and the Prisons Act No. 97 (Section 70 on "mentally disordered or defective prisoners"). See also the wording and interpretation of Sections 5, 19, and 23 of the Mental Disorders Act, Chapter 305 of the Laws of Zambia, with the use of derogatory words such as "idiots," "imbecile," and "lunatics" to describe people with disabilities.

<sup>69</sup> AfCDEG, Chapter 3, Article 3: "State parties shall...promote a system of government that is representative"; Article 11: "Strengthen political pluralism and recognize the role, rights and responsibilities of legally constituted political parties, including opposition parties".

<sup>70</sup> AU, AfCHPR, Article 11; UN, ICCPR, Article 21; IPU: Declaration on Criteria for Free and Fair Elections, Article 4(3).

<sup>71</sup> AfCHPR, Article 12(1); UN, ICCPR, Article 12.

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misinformation, which contributed to the negative overall atmosphere. This highly politically polarized environment was characterized by the opposition's lack of trust in governmental institutions. While both parties were able to conduct a campaign, there was a stark discrepancy between the Patriotic Front and the United Party for National Development regarding their ability to exercise constitutionally guaranteed freedoms of movement and association. The UPND's campaign faced significant restrictions by the police, which hindered their campaign events and limited the movement of the party's candidate, Hichilema, around the country.

COVID-19 standard operating procedures restricted the freedom to campaign, in principle limiting parties to door-to-door campaigning and small meetings. In practice, the PF held large-scale gatherings under the rubric of government inspec-

*The political playing field was specifically affected by the government's successful effort to curtail the campaign movements of opposition parties, particularly the United Party for National Development.*

tions of facilities or distribution of COVID-19 masks. The UPND eventually followed suit. However, the police also applied the COVID-19 standard operating procedures in an unequal way, in particular preventing or restricting the physical campaigning of the UPND, whereas PF campaign events were largely unrestricted. Further, as mentioned in previous sections of this report, the misapplication of the Public Order Act also restricted campaign space for opposition political parties.

The political playing field was specifically affected by the government's successful effort to curtail the campaign movements of opposition parties, particularly the United Party for National Development. Two of the principal methods

utilized were the Zambian Air Force's denial of flight clearances for opposition party aircraft and the overbroad interpretation and inequitable application of the Public Order Act by police to deny permission for the UPND to hold rallies. The act requires that groups notify the police prior to planning gatherings.<sup>72</sup> The police did not invoke the act equally to all political parties. Police routinely denied or canceled UPND rallies, while the PF held frequent rallies without police interference. Interlocutors reported to Carter Center observers that the government's justification was that when President Lungu was traveling to the same province—not the same town or city—his security might be compromised by the presence of an opposition rally.

The resulting constraints on the ability of opposition parties, particularly the UPND, to campaign and organize violated Zambia's international commitments to freedom of assembly and movement. Cumulatively, these actions limited opposition politicians' and parties' ability to exercise their right to freedom of assembly and the right to effective redress to remedy the unequal application of the law and regulations.

### **Political Impact of Election-Related Violence**

International and regional treaties protect the right to security of the person. The rights to freely associate, assemble, and express an opinion free from the threat of violence or intimidation are entitled to all political parties, their supporters, and prospective voters.<sup>73</sup>

The presence or threat of cadre violence had the impact of restricting fundamental rights to association, assembly, and movement. As such, it made campaigning—and indeed policing of campaign events—potentially very difficult. In such an environment, voters are also denied fundamental rights to participate in and be informed by political campaign events.

The campaign was marked by frequent accusations that both PF and UPND made use of party cadres (sometimes armed) to intimidate opponents

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<sup>72</sup> See the Legal Framework section of this report that analyzes enjoyment of rights and freedoms under the Public Order Act.

<sup>73</sup> AfCHPR, Article 11; SADC PF: Norms and Standards for Elections in the SADC Region, chapter 3, p. 6.

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and restrict campaign activities. According to local observers, violent acts during the campaign were perpetrated by both the PF and UPND at a ratio of approximately two-to-one.<sup>74</sup> The UPND was disproportionately the victim of campaign violence. The PF attributed the threat of violence to the UPND throughout the campaign, despite themselves being accused of perpetrating cadre violence. The combination of this negative campaigning and public uncertainty regarding actual and potential violence appeared to result in “quiet intimidation” of some citizens in some regions, diminishing fundamental political freedoms.

Repeating an issue that had been noted in the Carter Center’s 2016 report, the 2021 election also was marked by threats of violence and intimidation toward perceived party supporters, many shared through social media. This contributed to a climate of insecurity, heightened tension, and fear in the campaign period. Interlocutors told Carter Center observers that there was a very low level of trust in both public institutions—specifically the police—and in the parties’ ability to control their respective cadres.

The Carter Center analyzed instances of election violence reported by the Zambian media during the campaign period, election day, and the immediate postelection period.<sup>75</sup> While the Center had limited capacity to verify reported incidents of violence (due to the absence of field observers), data regarding disinformation and misinformation verified by the mission largely confirmed the trends reported by key interlocutors. Both PF and UPND cadres were involved in acts of violence, including loss of lives<sup>76</sup> and physical harm, destruction of public and private property, and damaging of campaign materials and party offices. There were media reports on clashes between UPND and PF

cadres during campaigns and instances of intra-party violence as well as violent confrontations between UPND cadres and the police.<sup>77</sup> Although election day was generally peaceful, a mob of voters regrettably killed the PF chairperson in North-Western province, Jackson Kungo. During the postelection period, celebrations by UPND supporters were largely calm. However, there were confirmed cases of looting and destruction of property, such as burning of shops in Kawama market in Ndola.

On Aug. 1, 2021, President Lungu deployed the army, citing increasing incidents of violence and the potential for future violence around election day and the announcement of results.

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*The presence or threat of cadre violence had the impact of restricting fundamental rights to association, assembly, and movement.*

Representatives of the ruling party assigned responsibility for the incidents of violence entirely to the UPND. Interlocutors from the opposition considered the presence of the military a direct means of intimidation, both to the parties and to the voters.

While many feared the army would be used by the governing party to prevent an opposition victory via a declaration of national emergency, or to quell public protests in the event of such a declaration, some interlocutors welcomed the army presence, especially in areas where cadre violence had been a significant factor in the campaign, as a mechanism for ensuring a degree of calm.

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74 CCMG Preliminary Statement on the 2021 General Elections, Aug. 13, 2021.

75 Monitoring of election-related violence covered incidents reported May 14–Sept. 10, 2021.

76 Only one case of politically motivated murders during the campaign period was verified, taking into account that the Center’s capacity to verify was limited: On July 30, two people were murdered in Kanyama compound in Lusaka. See press release by the Law Association of Zambia: <http://www.laz.org.zm/wp-content/uploads/2021/08/Laz-Statement-On-Killings-Of-Pf-Members.pdf>.

77 See also the Election Management section of this report concerning the role of the ECZ in enforcing the code of conduct vis-à-vis verified instances of electoral violence.

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## Pro-government Bias in the State-Owned Media

International and regional treaties protect freedom of opinion and expression.<sup>78</sup> Free communication of information and ideas by voters and candidates is essential to genuine elections. These treaties include the right for everyone, including political parties, candidates, and their supporters, to seek, receive, and impart ideas through any means of their choice, including but not limited to writing, speech, print, art,<sup>79</sup> or the internet.<sup>80</sup>

*Public media provided government points of view and neglected coverage of the opposition, though some private outlets carried sharp criticism of the government.*

A free, independent media plays an essential role in the electoral process. All citizens' access to public media should be equitable in keeping with the right to freedom of opinion and expression established in international and regional standards.

Freedom of the media is constitutionally guaranteed but restricted in practice. Self-censorship remains common. Public media provided government points of view and neglected coverage of the opposition, though some private outlets carried sharp criticism of the government. Outlets that were perceived as aligned with the opposition were subject to arbitrary closure by authorities, while critical journalists risked damage to equipment, frivolous lawsuits, arrest, and harassment by the government and political party supporters.<sup>81</sup>

The Post newspaper, the main outlet for opposition parties, was closed on charges of unpaid taxes in June 2016, two months before the

general election that year. Prime TV, which rose to prominence after the shutdown of The Post and became an alternative source of information to the national broadcaster, Zambia National Broadcasting Corporation, was closed in April 2020. The popular private television station had a history of tensions with the government. The country's media regulator, the Independent Broadcasting Authority, forced its closure, citing unpaid debts for previous state advertisements after the station's owner said it would not air government advertisements related to the COVID-19 pandemic for free.<sup>82</sup>

Interlocutors indicated to Carter Center election observers that the traditional media environment was highly polarized. State-owned media showed an overwhelmingly pro-government bias.<sup>83</sup> The Zambia National Broadcasting Corporation, the state-owned television broadcaster, gave massive positive coverage to the PF and President Lungu, manifestly failing to provide equitable coverage to opposition parties. Radio was utilized often by opposition and smaller parties, especially in rural areas. However, accessing the media proved expensive for all parties, which advantaged the incumbent party. Opposition parties complained that accessing both private and public radio was often difficult, given a clear pro-PF bias by its owners and program directors.

Furthermore, contrary to the law, the Zambia National Broadcasting Corporation failed to provide equitable coverage to opposition parties, demonstrating an overwhelming bias in favor of the incumbent. Private media coverage did not remedy the overall imbalance between the time allocated to the ruling party and other electoral contenders.<sup>84</sup>

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78 U.N., ICCPR, Article 19; AU, AfCHPR, Article 9(2); OAS, ACHR, Article 13; LAS, Arab Charter, Article 32; CoE, ECHR, Article 10; CIS, Convention on Human Rights, Article 11; U.N., UDHR, Article 19

79 U.N., ICCPR, Article 19

80 U.N. (CCPR), General Comment 34, para. 12

81 Freedom in the World 2021 - Zambia, Freedom House. <https://freedomhouse.org/country/zambia/freedom-world/2021>.

82 Ibid. "Prior to its license revocation, Prime TV was officially banned from receiving government advertising, its journalists were excluded from official events, and its signal was removed from a partly state-owned carrier. In 2019, the Independent Broadcasting Authority had temporarily suspended the station's license after the PF accused it of favoring the opposition."

83 European Union Election Observation Mission Preliminary Statement, Aug. 14, 2021.

84 Ibid.

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Interlocutors described an environment of media intimidation by governmental authorities and journalistic self-censorship. Opposition parties lacked equitable access to public media, and private media activity could not offer an adequate alternative. An independent media is fundamental to democracy and vital to the conduct of a credible electoral process. In this regard, the 2021 election fell short of international standards.

### **Use of State Resources**

International good practice highlights the need for a transparent accounting of campaign contributions and expenditures and the role of electoral actors, including a free media and civil society, in monitoring campaign financing. Public resources should not serve to create an advantage for one candidate or party.<sup>85</sup>

No details implementing legislation regulating campaign expenditures and reporting were enacted prior to the 2021 election. Interlocutors highlighted the extraordinary costs of campaigning and the massive influence of money in it. The absence of any effective means to regulate, limit, or account for campaign expenditures or sources of funding meant that this important part of the electoral process was unregulated, undermining transparency and accountability and leaving the process vulnerable to the undue influence of money.

The 2021 election continued a pattern whereby the Zambian governing party abused its position through the inappropriate use of state resources. The incumbent party enjoyed significant exposure and resources as a result of its public office, including but not limited to means of transportation, communication, material and logistical advantages, and the holding of state events where the governing party took credit for its program during the campaign.<sup>86</sup>

There was unanimity among interlocutors on the importance of effectively regulating campaign financing and the influence of money in politics.

However, views differed significantly regarding ways to implement such a policy. Possible options ranged from establishing a hard cap on political party and candidate expenditure, with formal audited reporting, to tax law amendments to encourage transparent and legitimate donations to parties. An alternative case was made to avoid recording donor funding, as this could disadvantage funders of opposition political parties who wished to remain anonymous. In addition, some interlocu-

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tors suggested mandatory state funding of political parties, including the possible introduction of minimum candidacy requirements for women, youth, and people with disabilities. All interlocutors acknowledged the complexity of the issue and the need for better enforcement. Civil society organizations and the media could play a key role in monitoring and reporting on these matters.

### **Political Participation of Women, Youth, LGBT+, and People With Disabilities**

International treaties establish the right to equality before the law while separately calling for freedom from discrimination in the exercise of human rights and fundamental freedoms. All are equal before the law and should enjoy the equal protection of the law.<sup>87</sup> Gender equality rights, in particular women's right to run for office and to participate in the electoral process, are protected by international conventions and protocols.<sup>88</sup> Furthermore, discrimination on the basis of physical or mental ability, sexual orientation, or

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85 SADC Parliamentary Forum, Norms and Standards for Elections in the SADC Region, C Part 2(3).

86 See, for example, Transparency International Zambia, The June 2021 Billboard Costing Report.

87 U.N., ICCPR, Article 26.

88 Zambia has committed to the Protocol to the African Charter on Human and Peoples' Rights Concerning the Rights of Women in Africa (May 2006) and the Convention on the Elimination of All Forms of Discrimination Against Women (June 1985).

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gender identity is prohibited under international and regional treaties.<sup>89</sup>

Out of the 155 members of Parliament elected on Aug. 12, only 20 are women.<sup>90</sup> In a positive development, one of the 16 candidates for president was female, as were the candidates for the position of vice president in both major parties. This resulted in a continuation of the position of the vice president of Zambia being held by a woman. Following the election, in an unprecedented step, the National Assembly elected women for the positions of both speaker and deputy speaker.

*Drawing on widespread anti-LGBT+ sentiment, pro-government pages spread disinformation seeking to associate opposition figures with the cause of LGBT+ rights.*

Participation generally was restricted by the imposition of significant candidacy fees,<sup>91</sup> gender-based violence, a minimum education requirement that disproportionately affected women, and the lack of a regulatory framework to ensure inclusion and participation by women, youth, and people with disabilities in line with regional standards.

Establishing candidacy and conducting a campaign are prohibitively expensive in practice for all but the wealthiest within Zambian society. Voter expectations that politicians will provide “gifts” (cash, food, transport, items of clothing, etc.) and politicians’ willingness to engage competitively to meet these expectations result in significant informal campaign costs. Both women

and youth particularly struggled to overcome this barrier.

The online campaign was a particularly hostile arena for LGBT+ citizens. LGBT+ citizens suffer widespread discrimination in Zambia, including in law.<sup>92</sup> LGBT+ rights were used as a political tool by pro-government pages, including state-owned media. Drawing on widespread anti-LGBT+ sentiment, pro-government pages spread disinformation seeking to associate opposition figures with the cause of LGBT+ rights. Notably, the UPND leader was accused of intending to implement a policy, if elected, of legalizing same-sex marriages. In addition, Facebook published multiple ads, accumulating tens of thousands of views, from pages that promoted anti-LGBT+ discrimination, raising questions about the effectiveness of Facebook’s application of its community standards policy in its ad approval process.<sup>93</sup>

Interlocutors stressed that female candidates, and women wishing to become candidates, faced several challenges unique to them as a group. In particular, the role of patriarchy in Zambian society often manifests itself in cultural obstacles to participation. Traditional roles are expected of women in political events, usually in a supportive fashion. Despite women having the inherent skills, competencies, and community networks necessary to compete as candidates, it is something that many, especially rural, women consider only after being given the opportunity and support associated with training and mentoring. When women do put themselves forward as candidates, they face particular challenges of bullying, lack of access to funding required to run a competitive race, and, in some cases, sexual harassment.

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89 U.N., ICCPR, Article 25; U.N., CRPD, Article 2; AU, AfCHPR, Article 2.

90 The total seats of Parliament are 156. However, the election for the members of Parliament for the Kaumbwe constituency was postponed to Oct. 21, due to the death of one of the candidates. Therefore, on Aug 12, only 155 members of Parliament were elected. On Oct. 21, PF candidate Aaron Mwanza won the Kaumbwe constituency election.

91 See EU EOM Preliminary Statement: Fees vary from ZMK 95,000 (approximately US\$5,000) for male presidential candidates to as low as ZMK 500 for lower-level races. Overall fees range from 10% to 30% less for youth, women, and people with disabilities. Nonetheless, in the Zambian context, and with the large informal campaigning costs associated with first achieving a party candidacy and then contesting the election campaign against competitors, the overall impact is to discourage candidacy among marginalized groups.

92 Article 155 of the Zambian Penal Code stipulates imprisonment for sex between men.

93 As of Aug. 7, Facebook was continuing to run anti-UPND advertising from Zambia Special, a page that was concurrently broadcasting a discriminatory anti-LGBT+ video that had accumulated 17,000 views. As of Aug. 17, the video had still not been taken down.



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Interlocutors stressed to Carter Center election observers the need to activate existing legal structures intended to facilitate women's participation in political life and governance. In many cases, they explicitly noted that the framework for enhancing participation already exists but lacks input for implementation, i.e., budget, resources, etc. There were also clear calls for consideration of a political party law that would require mandatory minimum quotas for the representation of women,<sup>94</sup> youth, and people with disabilities. Requiring parties to allocate funding support for women candidates also should be considered.

The facility for the president to nominate eight members of the National Assembly was cited as an ideal opportunity to ensure representation of women both in Parliament and as Cabinet ministers, considering that Cabinet ministers are appointed only from members of Parliament.<sup>95</sup> Carter Center interlocutors stressed that the president should use his powers to appoint women in services, commissions, and other independent offices as a means to bridge the gender gap in positions of leadership.<sup>96</sup>

People with disabilities require particular assistance and support to participate in political life in Zambia. The prevailing social attitude toward them makes participation enormously difficult on a personal, social, and often physical level, especially as a candidate, where they are often discounted or subjected to verbal abuse. Carter Center

interlocutors stressed the extremely slow progress in ensuring that people with disabilities are able to realize their goal of meaningful participation in all facets of the election process and in governance structures.

## Online Campaign

According to international standards, the same rights citizens are entitled to offline must also be upheld online, including the rights to privacy, freedom of expression, and political participation.<sup>97</sup>

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*The imposition of blanket restrictions on access to social media showed flagrant disregard for Zambians' constitutional rights to freedom of expression and runs contrary to international standards.*

A lively online campaign<sup>98</sup> was tempered throughout by significant obstacles to participation and inequities that favored the incumbent. The imposition of blanket restrictions on access to social media showed flagrant disregard for Zambians' constitutional rights to freedom of expression and runs contrary to international standards.<sup>99</sup> Throughout the election, videos of offline campaign events constituted a high proportion of most-viewed content. Consequently, instead of compensating for the partisan application of COVID-19 restrictions offline, the online

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94 Women aspirants found it extremely difficult to obtain political party support during party candidate adoption processes. It is notable that the Socialist Party adopted a large number of women and youth candidates.

95 See Articles 113 and 116 of the Constitution of Zambia on cabinet ministers. Furthermore, in accordance with Article 117 of the Constitution of Zambia, the president shall appoint a provincial minister for each province from among members of Parliament. The president nominated two female members of Parliament through this mechanism, with one serving as minister of Community Development. As of the writing of the report, four elected female members of Parliament have been appointed to other minister positions.

96 Article 216 of the Constitution of Zambia provides for principles relating to commissions. Constitutional requirements relating to presidential appointees can be found in Articles 176, 177, 179, 180, 183, 184, 214, and 249 of the Constitution of Zambia. According to the Service Commissions Act 2016, the president is also mandated to appoint all members of the service commissions, including the Parliamentary Service Commission, the Judicial Service Commission, the Civil Service Commission, the Teaching Service Commission, the Zambian Correctional Service Commission, the Zambia Police Service Commission, the Local Government Service Commission, the Electoral Commission of Zambia, the Human Rights Commission, the Gender Equity and Equality Commission, the Emoluments Commission, the Lands Commission, the State Audit Commission, the Investigative Commission, the Judicial Complaints Commission and the Police Public Complaints Commission.

97 U.N. General Assembly Resolution 68/167, Dec. 18, 2013. U.N. (CCPR), General Comment 34, para. 12. U.N. Guiding Principles on Business and Human Rights.

98 Online activity was 14.74% higher across the week of the election compared with a pre-campaign baseline week, according to the mean average of hourly Cloudflare measurements of webpage requests.

99 A court order was issued on Aug. 13 ordering the restoration of access to social media. It was not until 3:30 p.m. on Aug. 14 that large numbers of internet users were reporting full restoration of access, more than 48 hours after the imposition of restrictions.

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environment amplified the unlevel playing field between incumbent and opposition.

Social media played a role in driving the political conversation offline, extending its impact far beyond the country's 2.25 million Facebook accounts. Online themes were transmitted offline through young people's conversations with their families<sup>100</sup> and through the newspapers and TV programs of traditional media with an online presence. The threat and subsequent implementation of a social media shutdown ensured that the online environment itself became a key issue of concern. In addition, social media amplified the offline campaign, with broadcasts of campaign rallies and other offline events being the most consistent theme of publications on a sample of campaign pages.

The rushed expansion of the legal framework in the lead-up to the election, most notably the Cyber Security and Cyber Crimes Act and the Data Protection Act, elicited significant advantages for the incumbent party online.<sup>101</sup> The broad provisions of these bills followed multiple investigations alleging that the Zambian authorities possessed controversial communications interception capabilities, including phone-hacking software that has been used elsewhere against opposition and civil society figures.<sup>102</sup> These developments, alongside the use of the penal code to arrest people exercising their rights to freedom of expression over the years preceding the campaign, caused many politicians, academics, and civil society

leaders to self-censor. While many nonetheless participated in a lively online campaign, they often perceived they were taking a risk by doing so.

While the constitution guarantees equal participatory rights to both women and men,<sup>103</sup> women faced particular hurdles, as demonstrated by a lower rate of social media use, lower participation in online discussion, lower viewership of political ads, and lower visibility as candidates compared with men.<sup>104</sup> In a sample of comments on the most widely viewed Facebook posts in the campaign, for every one comment left by a woman, men left four. Furthermore, the cost of smartphones and data posed economic barriers disproportionately impacting women in rural and peri-urban areas.

Social media was a key arena for political parties and influencers to mobilize the youth.<sup>105</sup> Youth leaders played an important role in posting messages of peace,<sup>106</sup> disseminating voter education, and exercising thought leadership as influencers. Civil society interlocutors reported that youth organizations are shifting toward an approach that uses social media to influence change. The age groups most targeted by Facebook ads were 25–34s, followed by under-24s. While only one-fifth of Zambians live in the capital, residents of Lusaka were the primary audience for more than 80% of all Facebook campaign ads. This reflects how economic hurdles to internet connectivity and unreliable internet access suppressed the participation of rural youth in the online campaign.

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100 Much of the impact of the online campaign and, therefore, online advertising, was felt in the offline environment. The Carter Center documented fluid linkages between the online and offline environments and in some ways social media set the tone for the themes of the offline campaign. For more details, see Appendix A, Online Campaign Advertising in the 2021 Zambian General Elections.

101 See the Legal Framework section for further analysis.

102 On Aug. 15, 2019, a Wall Street Journal investigation claimed that Zambian authorities had collaborated with Huawei to gain capabilities that have been used elsewhere to track opposition figures. December 2020 and September 2018 investigations by Citizen Lab, a group based at the University of Toronto, linked the authorities to two software packages, Pegasus and Circles, which help operators monitor private calls and messages.

103 Preamble of the Constitution of Zambia: "We the people of Zambia...confirm the equal worth of women and men and their right to freely participate in, determine and build a sustainable political, legal, economic and social order".

104 While 44% of Zambian Facebook users are women, a Carter Center analysis of 169 campaign ads found that among the 143 ads for which gender-disaggregated data was accessible, only 34.98% of viewers were women. Weekly analysis of a sample of the most-shared comments July 19–Aug. 15 on political posts found that women Facebook users were more likely to leave a "reaction" rather than to participate in discussion by leaving a comment. Women left 26.19% of reactions and 20.97% of comments on these posts.

105 75.8% of Facebook users in Zambia are age 34 or under.

106 In one example of many, on Aug.10 the New Hope MMD Youth League broadcast a Facebook ad stating, "Maintain your friendship with your neighbour no matter what party they are supporting in the 2021 elections."

In contrast to the prominence of youth, political parties failed to accord even minimal visibility to people with disabilities in the online campaign. While people with disabilities had access to online voter registration, interlocutors reported their ability to take advantage of this was often dependent on whether they had access to specialized support such as assistants and user-friendly devices. Interlocutors indicated that initiatives geared toward participatory rights for underrepresented groups often exclude people with disabilities.

The two largest parties both ran professionalized social media operations. Policy proposals were frequently less visible than a focus on the character of party leaders, attacks on the character of political opponents, and posts emphasizing candidates' religiosity.<sup>107</sup> Political critique was often framed in Biblical terms, with images of Bible quotes being used ironically to convey political critique. Many religious figures used social media to spread messages of peace in the lead-up to and aftermath of the vote, though the shutdown of social media and blanket Facebook advertising takedowns limited the spread of some of these messages.

## Online Advertising

The legal framework is ill-adapted for online advertising. The relevant provisions of the Electoral Process Act 2016 are directed at newspapers, creating ambiguities regarding its application online.<sup>108</sup> Facebook campaign ads received more than 7.6 million views; however, Zambians were provided with insufficient transparency. The Carter Center applauds Facebook's release of an ad library report consolidating data on political ads, which was a positive step leading to significantly greater

Social Platforms Active In Zambia	Political Ads Allowed?	
Facebook	Y	
Youtube	Y	
Instagram	Y	
Messenger	Y	
Twitter	N	
TikTok	N	
Pinterest	N	
LinkedIn	N	
Tumblr	N	only allows in the US
Signal	N	no advertising allowed
WhatsApp	N	no advertising allowed

transparency.<sup>109</sup> Regrettably, the ad library report was not in place until less than two weeks before election day and failed to retrospectively include some ads disseminated prior to June 30. Also, it did not include any mechanism to identify paid-for boosted posts disseminated by pages, and it often omitted key details such as the identity of the financier and the amount that had been paid.

Disappointingly, Google has yet to extend its political advertising report to a single African country, despite the tool offering transparency on campaign ads in countries that include every European Union member state, the United States, and the United Kingdom. This limited the ability of Zambians to check whether and how such services were being used to target them with campaign advertising.

Twitter does not allow paid-for political content, but this does not discount the potential financed use of bots<sup>110</sup> to influence the

<sup>107</sup> 37.5% of a sample of the most commented-on publications from campaign pages criticized an opponent while making no reference to any single policy.

<sup>108</sup> See Appendix A for a full analysis of the legal framework for online advertising in Zambia.

<sup>109</sup> Of the 663 Facebook ads marked about "political and social issues" disseminated in Zambia during the campaign, The Carter Center isolated and documented all 169 that were campaign ads seeking to influence the vote for or against a political actor. Four of these ads were only made visible in the ad library report after election day.

<sup>110</sup> Bots are accounts operated by a person or a computer program posing as legitimate social network users. These profiles act in a coordinated manner to distort political discourse by amplifying specific messages, praising or denouncing candidates, or disseminating false information during the campaign. This behavior is intended to create states of opinion and influence the vote artificially.

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conversation on Twitter. While increases in bot traffic can be due to a range of reasons, bots and hybrid bot/human accounts are frequently deployed by a range of actors around elections to give a false sense of prominence to particular content. Analysis indicates an increase in bot traffic during election week far exceeding typical variance in Zambia during 2021.<sup>111</sup>

Facebook data suggests that only U.S. \$6,390 was spent on the 169 campaign ads. This low expenditure reflects two factors. First, Facebook took down 100% of campaign ads disseminated during the campaign, suppressing both the influence of paid content and the volume of online campaign material. Second, this figure excludes ad spending from the first two weeks of the campaign and all spending on “boosted” content, a tool to increase content prominence that parties reported using throughout the campaign.

The takedowns are a function of Facebook’s restrictions that demand an identification process to be undertaken before one can display a disclaimer identifying an ad as political. The fact that no single advertiser in Zambia was able to comply with this process reflects a disjuncture between the procedure and local realities. All 169 campaign ads were disseminated for a period prior to being taken down, with some obtaining hundreds of thousands of views in the process. That supposedly noncompliant ads were allowed to accumulate such high numbers of views prior to being taken down—while some of the content taken down included voter education and messages promoting peace—calls into question the ability of the current ad approval process to provide effective oversight over online advertising.

In the last week of August, the administrators of the official page of President Lungu took their page down. While the ads disseminated remained visible, all posts created during and before the campaign were not. While The Carter Center had already fully analyzed this content prior to the page’s deletion, the impromptu deletion from an important public figure prevents researchers seeking to understand the 2021 election to access and research the posts made by the former incumbent’s team on his page. This now-inaccessible content could be of significant public interest to study democratic transitions, counter-disinformation, and other important areas.

The online environment included a limited quantity of political content financed by foreign state media. Chinese state media ran 32 Facebook ads about political or social issues that were visible in Zambia during the campaign. While these largely promoted the Chinese state’s worldview and general priorities rather than campaign content, they included ads such as a video promoting “Chinese-style democracy.” Chinese state media published content shortly before election day highlighting some of the major points of President Lungu’s campaign.<sup>112</sup> Furthermore, almost half of all Facebook ads run during the campaign were run by management partially or entirely located outside of Zambia.<sup>113</sup>

## Social Media Restrictions

The Zambian Constitution unequivocally rules out blanket restrictions on social media use.<sup>114</sup> Nonetheless, concerns regarding a potential blackout were fueled in the months preceding the vote, leading to the circulation of two petitions calling for retention of internet access.<sup>115</sup> These

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111 The Carter Center’s analysis of hour-by-hour Cloudflare data indicates that bots comprised roughly 28.62% of internet traffic in Zambia Aug. 5–11, the day before the vote. This is a 62.89% increase from the precampaign level. Weekly estimates of bot levels in 2021 have typically varied by only single digits.

112 [http://www.xinhuanet4.com/english/africa/2021-08/11/c\\_1310121437.htm](http://www.xinhuanet4.com/english/africa/2021-08/11/c_1310121437.htm).

113 Of 169 ads, 87 ran from accounts partly or fully administered from outside Zambia (principally South Africa, the United States, and the United Kingdom), 72 were run by accounts based entirely in Zambia, and 10 did not display this data.

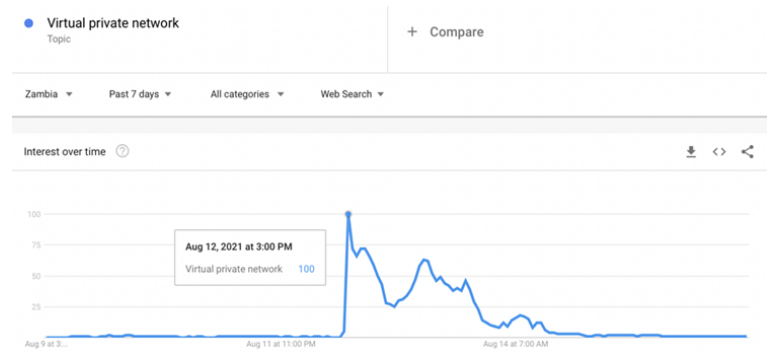
114 Article 20 of the Constitution of Zambia guarantees the freedom to impart and communicate ideas and information without interference. In addition, the 2017 Joint Declaration on Freedom of Expression and “Fake News,” Disinformation and Propaganda, led by the U.N. Special Rapporteur alongside inter-governmental experts, concluded that general prohibitions on the dissemination of information on the basis of ambiguous ideas are typically incompatible with human rights law and should be abolished.

115 Open Zambia launched the first petition in July. Access Now launched the second petition on Aug. 5, receiving the backing of 42 civil society organizations.

concerns were driven by the provisions of the Cyber Security and Cyber Crimes Act 2021; the lack of an access to information law that would have enabled citizens to scrutinize the licenses of telecommunications companies that have implemented shutdowns elsewhere in Africa; lack of confidence in the state to uphold constitutional rights; and the failure of the companies to rule out such a move. Consequently, despite the absence of any documented blanket internet restrictions in Zambian electoral history, opposition parties and civil society organizations devoted time and resources to purchasing expensive communications equipment, conducting voter education on how to retain connection in the event of a shutdown,<sup>116</sup> and planning alternative means of conducting parallel vote tabulation, diverting resources from their core preelectoral functions.

Blanket restrictions were imposed on social media from approximately 1:55 p.m. on election day, first to WhatsApp and then to Facebook, Twitter, Instagram, and Messenger. The Carter Center condemned these restrictions, which contradicted international standards, the constitution, and even the Ministry of Information’s own statement to the Zambian people ruling out such a move.<sup>117</sup> It reflected a concerning regional trend and triggered domestic and international uproar, intensifying the online discourse.

Tests showed these sites to be inaccessible on state-owned Zamtel, MTN Zambia, and Airtel Zambia, in contravention to these businesses’ obligations under the U.N. Guiding Principles on Business and Human Rights.<sup>118</sup> Many Zambians, including all main political actors, circumvented these restrictions by using a virtual private network (VPN). The value Zambians attribute to their constitutional rights to freedom of expression was quickly demonstrated, as within the hour the restrictions that were imposed on the term “VPN”



Google searches for virtual private networks rose sharply following the imposition of restrictions on election day as Zambians immediately sought a means to continue exercising their rights of freedom of expression. Source: Google Trends

trended on Twitter, and Google searches for “VPN” increased more than 100-fold.

The Carter Center applauds the move by some VPN providers to proactively offer Zambians free access to help safeguard continued enjoyment of fundamental rights. The Center also commends the work of at least one international cybersecurity organization in equipping civil society organizations with the tools to continue their operations during the anticipated shutdown. Despite the use of virtual private networks by those able to access such tools, the shutdown harmed the ability of political parties to refute ongoing disinformation and impeded numerous parallel vote tabulation efforts. There were also widespread reports of slow internet speeds, which can be indicative of throttling,<sup>119</sup> and at least one civil society organization reported that its website, which was used as a tool to submit the results of parallel vote tabulation, was down during this period.

While the authorities never stated a justification for limiting Zambians’ online freedom of expression to such a low level, the sentiment expressed online by the many Zambians who

<sup>116</sup> As early as June 30, almost six weeks before the vote, Bloggers of Zambia was disseminating preemptive voter education on how to retain access during a shutdown.

<sup>117</sup> On Aug. 6, the permanent secretary at the Ministry for Information issued a statement affirming that the government “remains committed to the free flow of information, even during the electoral period.”

<sup>118</sup> U.N. Guiding Principles on Business and Human Rights (2011), Article 11.

<sup>119</sup> Throttling is the act of limiting bandwidth in order to slow down online communications. It is a way of limiting communications in a way that is not so obviously shutting down sites, users, or the entire internet.

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circumvented the restrictions indicated that the move provoked considerable popular discontent.<sup>120</sup>

## Online Disinformation

According to international standards, voters have the right to form opinions independently, free of manipulative interference of any kind.<sup>121</sup>

Zambians have long reported that disinformation is the most frequent online harm they encounter.<sup>122</sup> A diverse array of disinformation was spread during the campaign, including patterns of low-integrity polls, professional-quality attack videos, doctored images, manipulated social media posts, and superimposed headlines. At least two foreign public relations organizations were involved, highlighting the lack of accountability for companies based in developed democracies that contribute to undermining democratic norms overseas.<sup>123</sup> The majority of disinformation observed favored the Patriotic Front.

While disinformation targeted a range of polit-

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*Zambians have long reported that disinformation is the most frequent online harm they encounter.*

ical actors, the abuse of state resources contributed to the heightened visibility of the coordinated campaigns of disinformation favoring the Patriotic Front.<sup>124</sup> Public broadcaster ZNBC exhibited bias to such a degree that it became an object of ridicule on social media. In violation of its legal

obligations to be “fair and balanced,”<sup>125</sup> it used its influence to repeatedly spread online disinformation targeting opposition parties.<sup>126</sup> This did not prevent ZNBC from gaining more than 82,000 new Facebook followers during the election campaign, an increase of over 35%. Nonetheless, by the end of the campaign, the volume of comments disparaging the institution suggested that its unbalanced reporting had stripped the organization of journalistic credibility for many of these followers. Research conducted by The Carter Center indicated that the Facebook page of the state-owned Zambia Daily Mail functioned as a mouthpiece for the Patriotic Front. Similar pro-government bias was observed from the state-owned Times of Zambia.

Some of the most damaging disinformation campaigns included claims that less well-financed opposition parties such as the Democratic Party and the Movement for Multiparty Democracy (MMD) had lent their support to the Patriotic Front; therefore, their supporters should vote for the Patriotic Front. The spread of these claims was facilitated by both state-owned media and Facebook pages with large followings that had showed consistent pro-government bias.<sup>127</sup> Parties had to divert resources away from campaigning toward countering these claims. The effectiveness of this rebuttal was limited by insufficient counter-disinformation expertise within political parties, inadequate online fact-checking, and the role of state media in amplifying pro-Patriotic Front content.

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120 Data confirms that the restrictions imposed on social media failed to suppress overall internet traffic. On the contrary, Carter Center analysis of hourly http requests provided by Cloudflare shows that traffic actually increased slightly during the shutdown, from an average of 11.17% above a pre-campaign baseline 13:00 Aug. 11–13:00 Aug. 12 to 16.01% above the precampaign baseline 14:00 Aug. 12–14:00 Aug. 13.

121 UN (ICCPR), HRC, General Comment 25 to Article 25, para. 19.

122 In a 2018 survey by telecommunications authority ZICTA, 59% of Zambian internet users reported that they have encountered “fake news” online, more than for any other online harm in the question.

123 For example, Faraline Public Relations, a U.K.-based company specializing in reputation management rather than polling. In a video shared on pro-government accounts, the founder introduced low-integrity poll results projecting a victory for Edgar C. Lungu.

124 In contravention of UN (ICCPR), HRC, General Comment 25 to Article 25, para. 19: “Voters should be able to form opinions independently, free of... manipulative interference of any kind.”

125 The Electoral Process Act (2016), Article 29 (2).

126 A Carter Center analysis of ZNBC’s Facebook content concluded that of the 408 publications related to politics July 26–Aug. 8, two were positive about the opposition UPND while 306 were positive about the ruling PF. The same study concluded that of 91 publications related to politics published by the Zambia Daily Mail on Facebook July 26–Aug. 8, 53 were positive about the PF and five were positive about the UPND.

127 In one of many examples, on Aug. 4, the Daily Nation shared a headline heralding the “MMD/PF alliance” with its more than 170,000 followers. The MMD candidate confirmed no such alliance exists.

Alongside important fact-checking efforts from iVerify, a civil society initiative, Zambian social media users themselves frequently rebutted false claims. The effectiveness of fact-checking was impeded by the Patriotic Front’s continued dissemination of already-refuted claims to its followers, insufficient amplification of fact-checkers’ work by social networks,<sup>128</sup> inadequate counter-disinformation expertise within political parties, and the absence of an access to information law that could have facilitated rebuttal. In addition, the online channels of pro-government media outlets facilitated a fluid dissemination of disinformation between the online and offline domain, where the audience would not benefit at all from online fact-checking. These factors resulted in verificatory vacuums in which disinformation thrived, incentivizing its dissemination.

The lack of use of social media verification processes presented a lost opportunity for increasing transparency and trust in the online campaign. Blue badge verification systems enable political figures to confirm the authenticity of their pages, helping users confirm the source of information they encounter while reducing the impact of duplicate imposter pages. While all 16 presidential candidates benefited from a Facebook page that promoted content in support of their campaign, only three took the steps to verify their pages, and just two verified their Twitter accounts.

The same lack of transparency applied to party pages. Among the 16 main parties proposing the candidates, only two had verified Twitter accounts, while the one that had verified its page, the UPND, primarily campaigned on another, nonverified page. There was no observed effort from any actor to encourage campaigns to verify their profiles nor to explain the importance of doing so. Paid political content was subject to little transparency as a consequence of this issue, with 86% of campaign ads disseminated by unverified accounts. While only a small number of Facebook campaign ads contained disinformation, all of these observed incidences occurred on ads run by

Presidential Candidate	Blue Badge Verification Status	
	Facebook	Twitter
Hakainde Hichilema	Yes	Yes
Edgar Lungu	Yes	Yes
Nevers Sekwila Mumba	Yes	No
Andyford Mayele Banda	No	No
Highvie Hamududu	No	No
Harry Kalaba	No	No
Tembo Sean	No	No
M’Membe Fred	No	No
Mwamba Musonda	Yes	No
Mwenda Kasonde	No	No
Nyirenda Steven	No	No
Tonga Enock	No	No
Silumbe Richard	No	No
Chanda Charles	No	No
Chisela Lazarus	No	No
Chishala Kateka	No	No

The majority of presidential candidates did not have verified social media profiles. This reduced the ability of candidates to effectively rebut disinformation.

accounts that had failed to undertake the blue tick verification process.

A significant tool to combat disinformation is the deployment of counter-disinformation strategies by high-profile accounts. The ECZ had the opportunity to fulfill this role, given its substantial social media presence. It was active on Facebook, Twitter, and YouTube. During the electoral period, it doubled its number of followers to 163,500, ensuring that more than 5% of all Zambian Facebook users would be exposed to its messages directly online, and many more through these followers’ networks.<sup>129</sup> Unfortunately, while the Electoral Commission of Zambia did use social media to interact directly with users, the campaign was a lost opportunity for it to play a leading role

<sup>128</sup> Facebook’s Zambia fact-checking partnership with AFP elicited only two fact-checks across the entirety of 2021.

<sup>129</sup> From the launch of the campaign on May 15 until Aug. 31, the election commission’s number of Facebook followers increased by 47.13%.

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in counter-disinformation. It consistently failed to take the opportunity to counter emerging disinformation, rumors, and uncertainty through timely statements of fact relevant to its role administering the election. This was particularly noticeable in the failure to effectively explain the vote results totaling process and to provide regular updates, the lack of which fueled intense speculation online and contributed to undermining confidence in the commission.

## Election Management

*While the Electoral Commission of Zambia did use social media to interact directly with users, the campaign was a lost opportunity for it to play a leading role in counter-disinformation.*

### Mandate and Composition of the Electoral Commission of Zambia

An independent electoral authority should supervise the electoral process to ensure that it is conducted fairly, impartially, and in accordance with established laws.<sup>130</sup>

The Electoral Commission of Zambia is mandated “to direct, supervise, and control elections in a fair and impartial manner” and *inter alia* apply the Electoral Process Act; conduct and maintain a register of voters; determine the boundaries of constituencies and wards; resolve disputes of an administrative nature; and conduct voter education.<sup>131</sup> The ECZ is composed of five commissioners, including the chairperson and

the vice chairperson. They all serve a seven-year term, renewable once.<sup>132</sup> All the commissioners are appointed by the president and ratified by the National Assembly.<sup>133</sup> Since 2019, the ECZ chairperson or vice chairperson no longer needs to be qualified as a judge of the Superior Court or to have held the position of judge of a Superior Court.<sup>134</sup>

Justice Esau Elliot Chulu, the chairperson of the commission, was appointed in 2015 after serving as a commissioner since 2009. After the tight outcome of the 2016 presidential election, political parties, especially the UPND, expressed concerns about the impartiality of some commissioners and staff. The concerns resurfaced during the current electoral process.

According to international standards, bodies appointing members of electoral commissions should be unable to dismiss them at will in order to deter corruption.<sup>135</sup> In Zambia, the president’s power to suspend and remove a member of the commission affects the independence of the institution, notwithstanding a procedure introduced in 2019 whereby the president shall refer the matter to the chief justice, who is to appoint a tribunal that determines the question of removal within 30 days.<sup>136</sup> The commission’s funds remain subject to the approval of the president, albeit the manner in which the commission uses such funds is no longer subject to the president’s approval.<sup>137</sup> Furthermore, the commission has been given a legal mandate to appoint an external auditor to increase financial transparency in the institution.<sup>138</sup>

A wide range of stakeholders reported concerns regarding the ECZ’s independence at different levels of its structure. The commissioners’ appointment system is inconsistent with best practices

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130 U.N. (CCPR), General Comment 25, para. 20.

131 See Act No. 5 of 2019, Amendment of Section 4 of the Electoral Commission of Zambia Act No. 25 of 2016.

132 *Ibid.*

133 See Section 5 (1), the Electoral Commission of Zambia Act No. 25 of 2016.

134 See Act No. 5 of 2019, Amendment of Section 5, the Electoral Commission of Zambia, Act, 2016.

135 UNHRC, General Comment 25, para. 23. AU, Convention on Corruption, Article 7(4); UN, UNCAC, Article 7.1.a.

136 See Act No. 5 of 2019, Amendment of Section 5, the Electoral Commission of Zambia, Act, 2016.

137 See Act No. 5 of 2019, Amendment of Section 14, the Electoral Commission of Zambia, Act, 2016.

138 See Act No. 5 of 2019, Amendment of Section 16, the Electoral Commission of Zambia, Act, 2016.



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for transparency, efficiency, and equity to recruit election officials.<sup>139</sup> While the constitution stipulates that the ECZ shall have offices in provinces and progressively in districts, the commission continues to rely on town clerks and council secretaries to serve as district electoral officers with responsibility for administering the polls at the district level.<sup>140</sup> The establishment of a permanent, decentralized presence of ECZ officials is critical to ensure that the commission successfully fulfills all its functions—such as conducting civic and voter education, maintaining a register of voters, or liaising with political parties—throughout the electoral cycle.<sup>141</sup>

### Consultation and Information Sharing

International and regional treaties establish that everyone has the right to seek and receive information.<sup>142</sup> While an important right itself, access to information is also a critical means of ensuring transparency and accountability throughout the electoral process. The right to access information and electoral documents should be respected throughout the electoral process.<sup>143</sup>

Local monitors and civil society organizations expressed frustration at the lack of consultation and information sharing by the ECZ at different stages of the electoral process, including voter registration and accreditation of monitors. Carter Center election monitors noted with concern that the commission did not publish the amended laws and statutory instruments regulating the 2021 process on its website.<sup>144</sup> This impacted negatively on the planning of election-related activities by local observers and stakeholders.

### Voter Registration

States must take effective measures to ensure that all people entitled to vote are able to do so and where registration of voters is required, it should be facilitated.<sup>145</sup>

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*The commissioners' appointment system is inconsistent with best practices for transparency, efficiency, and equity to recruit election officials.*

The Constitution of Zambia prescribes that a citizen who has attained 18 years of age is entitled to be registered as a voter,<sup>146</sup> while the Electoral Process Act provides that “the Commission shall conduct a continuous registration of voters.”<sup>147</sup> The act also enables the commission to prescribe cutoff dates. The commission shall not register a Zambian national as a voter unless they are in possession of a national registration card.<sup>148</sup> Despite the legal provision concerning continuous registration, all eligible citizens were required to register in the 2020 voter registration exercise Nov. 9–Dec. 20, 2020.

Stakeholders, including domestic observer groups, civil society organizations, and political parties, expressed concern in relation to disparities in the rate of national registration cards being issued by the Ministry of Home Affairs, which differed considerably by province. Despite local monitors' concerns on this matter, the ministry did not provide any clarification. Similarly, stakeholders raised concerns about different voter registration rates across the country's provinces.<sup>149</sup> A wide range of interlocutors viewed the four-day

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139 U.N., UNCAC, Article 7(1)(a); AU, Convention on Corruption, Article 7(4). See also TCC EOM Report Zambia 2016.

140 See the Constitution of Zambia, Article 229 (1).

141 See Act No. 5 of 2019, Amendment of Section 4, the Electoral Commission of Zambia, Act, 2016.

142 U.N., ICCPR, art. 19(2); AU, AfCHPR, art. 9(1); OAS, ACHR, art. 13(1); LAS, Arab Charter, art. 32; CoE, ECHR, art. 10(1); CIS, Convention on Human Rights, art. 11(1).

143 U.N., ICCPR, Article 19(2); AU, Convention on Corruption, Article 9; ACHR, Article 13(1).

144 The ECZ also failed to publish candidates' assets and liabilities as described in the Legal Framework section.

145 U.N. (CCPR), General Comment 25, para. 11.

146 See the Constitution of Zambia, Article 46.

147 See Section 7, the Electoral Process Act.

148 See the Electoral Process (Amendment) bill of 2021, Amendment of Section 9, The Electoral Process Act, 2016.

149 See, for instance, the CCMG statement on analysis of the voter register issued on April 14, 2021.

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extension (Dec. 17–20) that was granted by the ECZ as insufficient to complete voter registration.<sup>150</sup> Likewise, the commission’s decision not to audit the new voter register—despite stakeholders’ demands to do so—eroded public confidence in the integrity of the registration process and the register.<sup>151</sup> Domestic observers also questioned the decision by the Ministry of Home Affairs not to allow monitoring of the mobile national registration exercise for issuance of national registration cards.<sup>152</sup>

*The commission’s decision not to audit the new voter register—despite stakeholders’ demands to do so—eroded public confidence in the integrity of the registration process and the register.*

In February 2021, the Christian Churches Monitoring Group informed the ECZ that it would conduct a people-to-list test voter register audit. The test consisted of asking questions about the registration experience to a representative sample of 2,400 Zambians of voting age and recording information from their voter identification and national registration cards. The purpose of the exercise was to verify if the sample appeared in the register with correct details.<sup>153</sup> On March 22, the ECZ notified the group that the audit contravened Regulation 39 (1) of SI 80 (2000) that stipulates that a person shall not ask someone else for the production of his/her voter card. As a result, the group canceled the audit, while regretting that the

commission had not shared the statutory instrument with observers until the commencement of the audit.<sup>154</sup> The instrument did not appear on the ECZ website and was only published in an online resource for posting of commercial, legal, and government public notices,<sup>155</sup> despite being gazetted on Sept. 25.<sup>156</sup>

The number of Zambians included in the final voter register was 7,023,499. This represents a 4.6% increase in relation to the number of registered voters for the 2016 elections. Based on the Zambia Statistics Agency (ZamStats) projections, that was 16.5% less than the 2021 voting population.<sup>157</sup> However, it is also worth noting that ZamStats has not conducted a national census since 2010, which renders it difficult to make an accurate quantitative assessment of registration rates. Out of the registered voters, 3,751,040 were female (53.4%) and 3,272,459 male (46.6%).

The Constitutional Court did not hold hearings prior to the election concerning a petition filed in 2020 by the Chapter One Foundation challenging the electoral commission’s decision to reregister all eligible voters during 30 days and the implementation of the issuance of national registration cards. The foundation withdrew the petition on July 18, 2021.

### **Voter Education**

Voter education empowers the electorate to be able to effectively exercise their right to vote.<sup>158</sup>

The ECZ is mandated to conduct voter education<sup>159</sup> and play a coordinating, supervisory role

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150 See also CCMG 2020 voter registration report phases 1–4.

151 <https://www.elections.org.zm/2021/01/25/responses-to-various-stakeholders-views/>.

152 See GEARS Initiative Interim Statement on the just-ended Aug. 12, 2021, general elections.

153 See press statement by CCMG announcing people-to-list test of voters register, March 19, 2021.

154 See CCMG statement on cancellation of the people-to-list test (March 24, 2021).

155 See <https://www.enotices.co.zm/categories/statutory-instruments-2020/>.

156 See Republic of Zambia, Government Gazette, No. 6908 dated Sept. 25, 2020. Despite the SI, 80 was included in the table of contents; the actual text was not included in the published document. See: <https://gazettes.africa/archive/zm/2020/zm-government-gazette-dated-2020-09-25-no-6908.pdf>.

157 The Zambia Statistics Agency projected that voting population in 2020 was 8,414,839.

158 U.N. (CCPR), General Comment 25, para. 11.

159 See Act No. 5 of 2019, Amendment of Section 4, the Electoral Commission of Zambia, Act, 2016.

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for the purpose of harmonizing all voter education activities across the country.<sup>160</sup>

A wide range of stakeholders shared concerns with the Carter Center's team regarding the inadequate provision of voter education during the electoral process, particularly considering the high number of first-time voters. The shortcomings in voter education are tied in with the high number of rejected ballots.<sup>161</sup> COVID-19 standard operating procedures constrained civil society organizations' ability to reach out to voters and use traditional voter education methods such as road shows or public gatherings in markets. In addition, civil society organizations argued that training of trainers conducted by the ECZ to empower civil society actors to conduct voter education also was insufficient. Local monitors also reported that inadequate sensitization to visually impaired voters led to limited use of the tactile ballot jackets on election day.<sup>162</sup> Further, local nongovernmental organizations pointed out that funding from development partners was not received in time to plan and execute voter education activities during the campaign period.

Although all 90 prisons in the country were gazetted for the first time as polling stations, including 14,963 registered inmates as voters, The Carter Center regrets the ECZ's failure to partner with essential stakeholders in designing civic and voter education programs for prisoners.

### Accreditation of Observers

Regional treaties underline that the participation of observers may enhance all aspects of the electoral process.<sup>163</sup>

The guidelines for accreditation of domestic observers were unclear and published 12 days

after the official start date of the accreditation process, on July 1. Local observer groups asked the ECZ to publish amended guidelines to clarify the number of observers who could be accredited in each constituency and simplify the bureaucratic procedures.<sup>164</sup> While in the end the ECZ secretariat reduced the administrative hurdles that hampered the issuance of accreditations, it did not release written amended guidelines. In addition, at the district level there was inconsistent implementation of the guidelines for accreditation, resulting in some local monitors not receiving accreditation cards at the district level. A number of accreditation officers refused to accredit monitors unless they showed up in person for accreditation at the civic centers. Observer groups lacked the means to transport all applicants, particularly from remote rural areas, to the civic centers and, as a result, monitors from urban areas had to be accredited to cover some wards.<sup>165</sup>

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### Role of the Electoral Commission of Zambia in Enforcing the Code of Conduct vis-à-vis Electoral Violence

According to international standards, an electoral management body should be impartial in the performance of its public function. This encourages public confidence in the body.<sup>166</sup>

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<sup>160</sup> See Statutory Instrument No. 40 of The Electoral Process Act (Act No. 35 of 2016). The Electoral Process (Voter Education) Regulations, 2021: <https://www.enotices.co.zm/download/statutory-instrument-no-004-of-2021-the-electoral-process-voter-education-pdf/>.

<sup>161</sup> For instance, there were 126,569 rejected votes in the 2021 presidential election; that is, 2.5% of the total number of ballots cast. This percentage represents an increase in comparison with the number of rejected votes reported in the previous two presidential elections (2.2% in 2016 and 1.4% in 2011).

<sup>162</sup> See GEARS Initiative Interim Statement on the just-ended Aug. 12, 2021, General Elections. See also ZAFOD Preliminary Statement – Aug. 12, 2021, Election Day Observation for Accessibility for Persons With Disabilities.

<sup>163</sup> AU, ACDEG, Articles 19 to 22.

<sup>164</sup> Each monitor was initially required to submit a certified copy of a national registration card and three copies of the declaration of compliance.

<sup>165</sup> See GEARS Initiative Interim Statement on the just-ended Aug. 12, 2021, general elections.

<sup>166</sup> AU, ACDEG, Article 17 (1).

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The Zambian Constitution stipulates that candidates and political parties shall comply with the electoral code of conduct.<sup>167</sup> The commission is mandated to enforce the code and may disqualify a political party or candidate in breach of the code.<sup>168</sup> The Electoral Commission of Zambia has used its regulatory powers to suspend campaign activities in some provinces affected by electoral violence. However, The Carter Center heard concerns about the commission unequally enforcing the code and favoring the ruling party. The commission should have played a more active role to ensure that police treated equally all contestants who breached the code of conduct or COVID-19 standard operating procedures.

*The commission should have played a more active role to ensure that police treated equally all contestants who breached the code of conduct or COVID-19 standard operating procedures.*

On June 15, 2021, the ECZ suspended with immediate effect all forms of political campaign for the PF and UPND in Lusaka, Mpulungu, Namwala, and Nakonde districts due to escalating violence.<sup>169</sup> The commission lifted those suspensions in Mpulungu, Namwala, and Nakonde after two weeks, and in Lusaka on July 20. On June 30, the commission suspended indefinitely Chishimba Kambwili, former PF minister of Information and Broadcasting, from participating in campaign activities for holding campaign rallies not complying with COVID-19 standard operating procedures and using hate speech. The ECZ's ban came

shortly after the Law Association of Zambia issued a press release condemning “the tribal remarks against Tonga speaking people”<sup>170</sup> by the politician. However, his suspension was lifted eight days later after he rendered an apology to the commission. Notably, Kambwili continued to use hate speech since his suspension was lifted.<sup>171</sup> On July 28, the ECZ suspended indefinitely campaigning by UPND in Ikelenge district and Albert Amukena Mundia as an independent candidate in Sioma district due to escalating levels of violence.<sup>172</sup>

On July 31, 2021, the electoral commission issued a press release announcing an investigation to take action against those responsible for the deaths of two PF supporters in Kanyama, Lusaka.<sup>173</sup> Following that incident, on Aug. 2, the commission suspended indefinitely all UPND campaign activities in the Kanyama constituency, allegedly linking the perpetrators to the opposition party.<sup>174</sup> Stakeholders raised concerns about the ECZ's decision while its investigation of the incident was still ongoing.<sup>175</sup> The ECZ lacks the capacity to investigate cases of election violence while at the same time exert the sanctioning power. The commission could transfer to an independent body the capacity to investigate breaches of the code of conduct so that it can make decisions based on sufficient evidence.

The Electoral Commission of Zambia established conflict management committees at national and district levels.<sup>176</sup> Committees were composed of a chairperson appointed by ECZ, a vice chairperson elected by commission members from among themselves, a representative of each registered political party, a civil society representative, and representatives from various governmental

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167 According to Articles 54 and 60 (2c) of the Constitution of Zambia.

168 Section 110 of the Electoral Process Act.

169 Pursuant Article 229, Sub-article 2 (e) of the Constitution of Zambia and Subparagraphs 4 (1) (c) (d) (i) and 11 (d) of the Electoral Code of Conduct.

170 Press release by the Law Association of Zambia (condemning tribal remarks by politicians), June 30, 2021.

171 See <https://www.facebook.com/DrKambwili>.

172 See ECZ press release: <https://www.facebook.com/electoralcommissionofzambia/photos/pcb.4206802546054606/4206802449387949>.

173 See ECZ press release: <https://www.facebook.com/electoralcommissionofzambia/photos/a.1023000194434873/4216003355134525>.

174 See ECZ press release: <https://www.facebook.com/electoralcommissionofzambia/photos/a.1023000194434873/4221919291209598/>.

175 The ECZ lifted the campaign suspensions in Ikelenge, Sioma, and Kanyama from Aug. 10. See <https://www.facebook.com/electoralcommissionofzambia/photos/a.1023000194434873/4243160422418818/>.

176 Pursuant to Section 113 (No. 35 of 2016) of the Electoral Process Act.

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institutions nominated to represent their respective departments. While the committees have broad powers and responsibilities to mediate electoral conflicts, they cannot undertake judicial functions. These functions are reserved for the ECZ and the judiciary.

Conflict management committees are mandated to mediate electoral conflicts and encourage amicable settlement of disputes, taking into account the provisions of the electoral code of conduct. Voters, political parties, and candidates may lodge a complaint before a committee at the place where the incident happened.<sup>177</sup> If the matter is not resolved at the district level, it is referred to the national conflict management committee that can make recommendations to the ECZ for further action to enforce the code of conduct.<sup>178</sup>

Despite new regulations that were enacted to enforce the code of conduct through the action of the conflict management committees, stakeholders noted with concern that the committees at national and district levels did not deal effectively with instances of electoral violence reported across the country. In addition, committees did not publish minutes of their disciplinary proceedings and decisions.

While the committees require adequate resources to fulfill their tasks successfully, mechanisms should also be streamlined so that the information compiled by the early warning and early response system feeds promptly into the work of the conflict management committees in a consistent manner across all districts.<sup>179</sup> The warning and response system was established to complement existing conflict management systems in Zambia by strengthening the capacity to collect and verify information around incidents of electoral violence and facilitate a coordinated response to prevent and deescalate conflicts. It was hosted by the Human Rights Commission at both provincial and national levels, with support from various

development partners. The conflict management committees also failed to inform stakeholders on the selection criteria applied to decide which civil society organizations were allowed to sit at the sessions of the committees.

### **Polling Procedures**

States and election management bodies should take steps to ensure that there are enough polling places to accommodate the number of registered voters.<sup>180</sup>

Although The Carter Center deployed two roaming teams on election day to poll witnesses and observe counting and tallying procedures in some polling centers of Lusaka, the mission's limited size and scope made a thorough, nationwide assessment of the voting, counting, and tabulation processes impossible. Due to these limitations, the analysis in this report regarding election day is based largely on the findings of the local monitors and the larger international observer missions.

Observers reported that election day was characterized by long queues of voters who waited from early morning to exercise their right to vote as well as by a large presence of national observers and party agents in the polling stations. COVID-19 guidelines on social distancing were generally not implemented.

Observers noted that the electoral commission's preparations to ensure that all voters were able to cast their vote within the legal time frame of 12 hours were insufficient, resulting in lengthy queues of voters throughout the day and long waiting times. This led to a number of polling stations closing late, delaying the process of counting and tallying of results at all levels. In some cases, election officials' fatigue led to human errors at totaling centers, resulting in misunderstandings and tension between election officials and party agents. Observers reported that the ECZ's

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<sup>177</sup> See Section 12 of the Electoral Code of Conduct.

<sup>178</sup> Statutory Instrument, No. 35 of 2020, The Electoral Process Act, 2016 (Act No. 35 of 2016) The Electoral Process (Code of Conduct) (Enforcement) (Amendment) Regulations, 2020.

<sup>179</sup> In this election, the early warning and early response system run by the Human Rights Commission was authorised by the electoral commission to send reports to the conflict management committees.

<sup>180</sup> EISA and ECF of SADC Countries, PEMMO, p. 24.

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distribution and receipt of sensitive materials to and from polling stations was marred by limited resources, particularly vehicles. As recommended by various observer groups in previous Zambian elections, the registered number of voters per polling station in urban areas should be reduced and polling staff increased to ensure that procedures can be conducted within the 12-hour polling time frame established by the law.<sup>181</sup>

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### **Voting for People With Disabilities**

Treaty sources obligate the state to accommodate people with disabilities so that they can vote and polling stations are accessible.<sup>182</sup>

Organizations representing people with disabilities expressed serious concern regarding the lack of progress by the electoral commission to ensure the participation of people with disabilities in the electoral process, 10 years after a High Court ruling urged the ECZ to put in place measures to address discrimination against people with disabilities.<sup>183</sup> While the commission made progress in the inclusion of people with disabilities as polling officials, civil society organizations reported that their participation as polling staff was not consistent in all districts. The Zambia Federation of Disability

Organizations' observers reported problems of accessibility in 62% of the 74 polling stations its mission observed, while tactile braille jackets for blind voters and sign language instructions were only available at 43% and 34% of the polling stations observed, respectively.<sup>184</sup> Local observers stressed as a positive development that commission staff gave preference to people with disabilities, pregnant women, and the elderly. Observer groups, including the Carter Center's team, noted the absence of polling booths that were not user-friendly to people with disabilities.<sup>185</sup>

The Carter Center regrets that the commission did not publicly release disaggregated data captured during the registration exercise on the presence of people with disabilities in polling stations across the country. Stakeholders stress that disaggregated data could be used to ensure that the needs of all people with disabilities are catered to across the country while cutting costs.

### **Election Procedures Concerning Secrecy of the Ballot**

International and regional treaties state that elections must be held by secret ballot<sup>186</sup> and that ballots should not be linked with voters who cast them.<sup>187</sup> In addition, interpretive sources underline "the importance of secrecy of the ballot through the entire voting process."<sup>188</sup>

Although Zambian law prescribes the secrecy of the ballot,<sup>189</sup> Carter Center observers and other international observation missions noted that on election day polling assistants recorded the voter's card number on the ballot papers' counterfoil before issuing the ballot to the voter, following

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181 In previous elections, the ECZ used polling streams as a subdivision of a polling station, with more than 950 registered voters. In 2021, the commission turned all polling streams into polling stations to simplify the results management process. The total number of polling stations (12,152) increased by 12.3% with respect to the number of polling stations, including streams established by ECZ in 2016. As already stressed in the Carter Center's 2016 report, the ratio of voters per polling station across the country is still highly uneven, and several polling stations in urban areas continue to have more than 900 registered voters, delaying voting procedures.

182 U.N., CRPD, Article 29.

183 Brotherton N.O. v Electoral Commission of Zambia (2011/HP/0818) [2011] ZMHC 32 (18 September 2011).

184 ZAFOD Preliminary Statement–Aug. 12, 2021 Election Day Observation for Accessibility for Persons With Disabilities.

185 See report by the Global Pan-Africanism Network, GPAN/IDSR/FC/3, 24 August 2021.

186 U.N., ICCPR, Article 25, ACHR, Article 23; U.N., UDHR, Article 23.

187 U.N., ICCPR, Article 25 (b).

188 UNHRC, General Comment 25, para. 20.

189 The Constitution of Zambia (Amendment), No 2. of 2016, Sec. 46 as well as the Electoral Process Act, No. 35 of 2016, Sec. 46(2).

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guidelines in the Electoral Commission of Zambia handbook.<sup>190</sup> As the serial number of the ballot was printed on both the ballot paper and its counterfoil, one could connect a voter with the ballot he or she cast.<sup>191</sup> In addition to compromising the secrecy of the vote, the practice is inconsistent with the voting procedure outlined in Section 60(5) of the 2016 Electoral Process Act.<sup>192</sup>

### Results Management Procedures

According to international standards, access to information should be guaranteed throughout the electoral process, including during the tabulation process.<sup>193</sup>

Prior to election day, stakeholders shared concerns about the lack of transparency of the results management procedures, specifically regarding the electoral commission's process to collate and verify presidential results at the national level. The lack of clear procedures led to confusion at the national results center and heightened tension between party agents and members of the commission, particularly on the way results transmitted from the constituency tallying centers were to be verified at the national level and by whom, i.e., commission officials and/or party agents. Carter Center observers did not have access to the verification room at the national results center.<sup>194</sup>

The process for commissioners to announce provisional results was communicated poorly and conducted on and off, causing dismay and complaints by party agents. Nonetheless, the ECZ was able to announce the official results in the early hours of Monday, Aug. 16, within 72 hours after the closing of the last polling station,

as planned. It is regrettable that a sign language interpreter was not assigned to communicate the provisional results to those with hearing impairments who were accredited to observe procedures at the national results center.

## Results

### Presidential

Hakainde Hichilema of the UPND was elected president of Zambia with a count of 57.5% of the vote. His nearest challenger, incumbent Edgar C. Lungu of the Patriotic Front, received 37.7%. The 14 other candidates for president received a combined total of 2.2%, less than the percentage of votes rejected (invalid ballots). Turnout in the presidential election was 70.61%.<sup>195</sup>

In comparison, the ruling Patriotic Front won the 2016 presidential election by a count of 50.4% to 47.6% for the opposition UPND. The same two leading candidates were then separated by 100,000 votes. Hichilema's 2021 margin of victory of almost 1 million votes emphasized the decisiveness of the result.

The other notable observation regarding the results is the weakness of the performance by the 14 other presidential candidates. Prior to the election, some interlocutors believed that some of the minor parties would play a decisive role in taking votes from the main opposition party, perhaps leading to neither major party achieving victory on the first ballot and leading to an unprecedented second round between the top two vote-getters. In fact, the public moved decisively to the two major parties, continuing a trend noted in previous election observation reports.<sup>196</sup>

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190 See pages 47 and 49 of the Election Officers Handbook (May 2021).

191 This issue was already raised in the Carter Center's 2016 report.

192 Ibid.

193 The Carter Center election obligations and standards manual, page 168.

194 At the same time, it is worth noting that ZNBC provided sign language interpretation throughout the results announcement process.

195 All figures taken from the ECZ website: <https://zambiaelections2021.org.zm/>.

196 The Carter Center Election Observation Mission Zambia 2016, Final report, see Results section.

Candidate <sup>197</sup>	Party	Votes	%
Hichilema, Hakainde	UPND	2,852,348	57.5
Lungu, Edgar	PF	1,870,780	37.7
All Other 14 Candidates	Various	109,635	2.2
Votes Rejected (Invalid)	n.a.	126,569	2.6
<b>Totals</b>		<b>4,959,332</b>	<b>100.0</b>

### Parliamentary

The United Party for National Development, UPND, secured 82 parliamentary seats, while Patriotic Front, PF, won 59.<sup>198</sup> There were 13 independent members elected to the National Assembly in 2021. However, smaller parties fared badly in the election. Only the Party of National Unity and Progress won a seat other than UPND or PF, in Nalolo constituency, in Western province, a UPND stronghold. It is notable that UPND did not run a candidate in that constituency.

The two main parties together received 80% of the vote, with strong regional patterns. All independent candidates together received 14% of the vote, whereas all the 19 remaining parties together gained only 4% of the vote. In many constituencies, the total number of votes for all parties other than PF and UPND was less than the number of votes rejected (invalid ballots). The aggregate percentage share of votes cast for the National Assembly were as follows.<sup>199</sup>

Province	UPND %	PF %	IND (all) %	Other Parties (All) %	Votes Rejected %
Central	52	34	9	2	2
Copperbelt	39	41	16	3	2
Eastern	20	39	33	5	3
Luapula	20	51	19	7	3
Lusaka	46	42	7	3	2
Muchinga	25	56	13	3	3
Northern	33	48	12	5	3
Northwest	68	15	12	2	2
Southern	81	7	8	2	2
Western	61	19	13	5	2
<b>National Totals</b>	<b>44</b>	<b>36</b>	<b>14</b>	<b>4</b>	<b>2</b>

197 See a graphic representation of the distribution of votes between the major parties in the presidential race in this map provided on the ECZ website titled "2021 Presidential Election Results by Constituency." <https://zambiaelections2021.org.zm/>.

198 See ECZ map titled "2021 National Assembly Constituency Results." <https://zambiaelections2021.org.zm/>.

199 Note that this represents official results from all 155 constituencies, including the Kaumbwe constituency by-election held on Oct. 22, 2021.



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## Performance of Women, Youth, and People With Disabilities as Candidates

In total, 20 female candidates were elected to the National Assembly, a decrease of six from 2016. The percentage of women parliamentarians fell from 17% in 2016 to 13% in 2021. Of the 20 elected, 10 were from the UPND, nine from the PF, and one as an independent.

Female candidates appeared on the ballot in 119 constituencies, representing 76% of the total. In 26 cases, 17% of all National Assembly races, female candidates were the runners-up. It should be noted that many of the female candidates were provided by the smaller parties, in particular the Socialist Party, followed at some distance by the Democratic Party. As a result of the very poor performance of these parties, women had little overall impact on the races in many of the seats in which they appeared on the ballot. Where prominent female candidates represented a major party, there were several incidences of the competing parties providing female candidates as well. In Chiengwe constituency in Luapula province, female candidates held the position of first, second, and third following the announcement of results.

The electoral commission does not provide disaggregated data on candidates for or members of the National Assembly by age. Therefore, it is difficult to determine exactly the extent to which political parties provided more youth candidates and to what extent the National Assembly membership has shifted in its profile.

Carter Center observers noted that four people with disabilities had stood as candidates for the National Assembly, with a single PF candidate being elected.

## Electoral Dispute Resolution

### Overview of Electoral Dispute Resolution Mechanisms

Disputes invariably arise before, during, or after an election. Voters and other electoral stakeholders must be provided an opportunity to participate freely and fairly in the electoral process, including the right to have their grievances regarding the process and outcome heard.<sup>200</sup> Notably, international best practices require that electoral disputes should be heard and determined by a competent judicial body in a timely and effective manner.<sup>201</sup>

The legal framework in Zambia relating to electoral dispute resolution largely provides the jurisdictional and procedural rules for the operation of the electoral dispute resolution bodies created in the constitution and the Electoral Process Act.<sup>202</sup>

The constitution sets out circumstances under which the Constitutional Court may hear and determine election disputes relating to a presidential candidate as well as appeals from High Court decisions regarding challenges to parliamentary elections. The Constitutional Court's decisions are final, without possibility of further appeal.<sup>203</sup>

The Electoral Processes Act<sup>204</sup> sets out the framework for resolving election petitions for an elected member of Parliament, nominated member of Parliament, mayor, council chairperson, or councilor. Parliamentary petitions are filed at the High Court, while ad hoc tribunals are appointed by the chief justice to hear petitions concerning mayoral or council elections in the 10 provinces. Appeals are dealt with by the Constitutional Court.

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200 U.N., ICCPR, Article 14; AU, AfCHPR, Article 7.

201 ICCPR Articles 2 (3), 25 and 41 (1), and UNHRC General Comment 31 para. 15, and AfCDEG, Article 17(2). See also Part III of the African Charter on the Principles Governing Democratic Elections in Africa. Regional standards such as the 2003 SADC Principles for Election Management, Monitoring, and Observation are also applicable.

202 Constitutional Court Act, No. 8 of 2016 and Rules, Electoral Process (Code of Conduct) Regulations, SI No. 62 of 2016, High Court Act and Rules-Chapter 27 of the Laws of Zambia, Local Government Act (No. 2 of 2019), and Local Government Election Tribunal Rules, SI No. 60 of 2016).

203 See Articles 73 (3), 101, 103, and 128 of the Constitution of Zambia.

204 Part 1X (Election Petitions) of the Electoral Process Act that includes Sections 96–109 lays elaborate procedures for the conduct of election petition generally: presentation, withdrawals, trial, and conclusion of trials.

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## Presidential Petitions

The Constitutional Court's failure to hear the 2016 presidential petition on its merits delegitimized the electoral dispute resolution process and underscored the need to develop a coherent articulation of the evidential threshold. A broader concern expressed by interlocutors was in regard to the president's prerogative to appoint the court's judges.<sup>205</sup> In addition, they stressed that the court's integrity was compromised by the presidential appointment of five unqualified judges who did not meet the requirement to have at least 15 years of experience with specialized trainings or experience in human rights or constitutional law as specified in Article 141 of the constitution.

Public confidence in the independence and impartiality of the Constitutional Court was further undermined by the manner in which it dealt with the constitutional petition challenging the validity of the nomination of President Edgar Lungu under Article 52 (4) of the constitution.<sup>206</sup> Interlocutors raised concerns that the court dismissed the petition through a narrow interpretation of the law,<sup>207</sup> without considering the significance of a constitutional amendment (Section 7 (1) Act No.1 of 2016) that provided for the president to continue holding office in accordance with the repealed constitutional provision under which the term of office began.<sup>208</sup>

In light of the challenges<sup>209</sup> faced by the court when considering the 2016 petition, the late Chief Justice Irene Chirwa Mambilima gazetted the Constitutional Court (Amendment) Rules, 2021, through statutory instrument. The Carter Center mission welcomed the fact that the new rules eliminated the petitioner's obligation to call witnesses and adopted the reliance on affidavit-based

evidence. This was meant to facilitate proper case and time management.<sup>210</sup> In addition, in an unprecedented progressive move, the rules set a period for hearing and determination of 60 days from the last day of the hearing.

In the end, no presidential petition was filed to test the applicability of the new rules concerning presidential petitions introduced by the chief justice.

## Parliamentary Petitions

An aggrieved candidate may file an election petition at the High Court to challenge the election of a member of Parliament within 14 days from the declaration of results by the electoral commission. Article 73 (2) of Zambia's Constitution provides that a hearing on a petition challenging the election of a member of Parliament must be heard by the High Court within 90 days, but no timeline is indicated to issue its verdict. In contrast with the constitution, Section 106 (1) (b) of the Electoral Process Act provides for the petition to be determined within 90 days from the date of filing. However, the constitution is authoritative, and any written law that is inconsistent with the constitution is null and invalid.<sup>211</sup> Therefore, there is a need to harmonize the conflicting provisions while guaranteeing effective remedy to aggrieved parties.

According to Section 97 (2) (a, ii) of the Electoral Processes Act, a petitioner must show that the effect or misconduct was to prevent the majority of voters from electing a person of their choice for the High Court to invalidate the election outcome. This section sets a very high legal evidentiary threshold to invalidate an election, and its application contributed to the dismissal of all 86 parliamentary petitions in 2016. Such a high

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205 Under Articles 140 and 141 of the Constitution of Zambia.

206 The Legal Resource Foundation Limited, Sishuwa Sishuwa and Chapter One Foundation Limited Legal Resources versus Edgar Lungu & another (Constitutional Case No 2021/CC/0025 & 2021/CC/0027).

207 The court interpreted Articles 106 (3) to allow Edgar Lungu to run for a third term.

208 His term of office was to continue being governed by Article 35 of the Constitution of Zambia as amended in 1996, despite Article 35 being repealed by Article 106.

209 During the 2016 presidential election petition hearing, the Constitutional Court suspended the hearing of the presidential petition due to technicalities associated with the limited 14-day timeline provided for by the Constitution of Zambia.

210 Standard Instrument No. 29 of 2021 introduced the procedures for implementation of new rules in the disposal of presidential election petitions.

211 See Article 1 of the Constitution of Zambia.

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evidential requirement undermines and is inconsistent with the rights to free and fair elections prescribed by international and regional standards on dispute resolution mechanisms.

In 2021, the High Court received 62 petitions<sup>212</sup> regarding parliamentary elections, 24 fewer than it received in 2016.<sup>213</sup> The United Party for National Development candidates filed 41 petitions, whereas six, seven, and eight petitions, respectively, were submitted by the Democratic Party, the Patriotic Front, and independent candidates. Fifty-five petitions sought nullification of election results on allegations of various electoral malpractices allegedly committed by winning candidates, such as distribution of meals/foodstuff, household goods, money, facemasks, mattresses, bicycles, and fertilizers. Other claims touched on voter bribery, voter buying, undue influence by party agents and supporters, denial of election monitors from accessing polling stations, confiscation of voter cards from voters by party agents, and distribution of party regalia to influence voters to vote for certain candidates and political parties.

Two petitions challenged the validity of the elections on claims that vote counting in most polling stations was not carried out according to the law. Claims were made that the forms

of announcement of the result of the poll for members of Parliament, mayor, council chairperson, and councilors (form GEN-20) produced by the polling staff did not have details of the polling stations, nor were they signed by party agents. Furthermore, petitioners claim that candidates were not given a copy of the GEN-20 forms.

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*Such a high evidential requirement undermines and is inconsistent with the rights to free and fair elections prescribed by international and regional standards on dispute resolution mechanisms.*

A petitioner challenged the election of Robert Chabinga (PF) with contentions that the candidate presented a forged Grade 12 certificate to the ECZ during the nomination process and, consequently, was not duly nominated as per Article 70 of the constitution.<sup>214</sup>

The Carter Center mission was unable to analyze the extent to which the judiciary dealt with election petitions according to legal procedures because petitions were only resolved after the mission's departure from Zambia.

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212 Mafinga, Chimbamilonga, Lubansenshi, Msanzala, Shiwang'andu, Nakonde, Isoka, Matero, Chipangali, Sinda, Kwacha, Lunte, Chama, Malole, Feira, Luangeni, Kawambwa Central, Mporokoso, Mansa Central, Chipata Central, Nalolo, Chadiza, Petauke Central, Lubanseshi, Kanchibiya, Mpika, Chifunabuli, Lumezi, Mandevu, Kasenegwa, Mfuwe, Munali, Solwezi Central, Kaputa, Bahati, Mpulungu, Mwansabombwe, Vubwi, Mwenze and Lumezi constituencies. While two petitions were filed in each of the following constituencies: Chiengi, Kapoche, Mandevu, Serenje Central, Milanzi, Chawama, Mkaika, Chinsali, and Chembe.

213 In 2016, a total of 86 petitions were filed, 55 were withdrawn by petitioners, and 29 dismissed by the high court, while two were successfully nullified at the High Court but later dismissed on appeal by the Constitutional Court. Subsequently, no by-election was held for any of the parliamentary seats in 2016. See: <https://www.elections.org.zm/2016/11/24/complete-list-of-election-petitions-on-the-11th-august-2016-general-elections/>.

214 The petition against John Sichinga was filed by UPND candidate Robert Chabinga (John Sichinga vs. Robert Chabinga & ECZ-2021/EP006). Article 70 (1) (d) of the Constitution of Zambia makes it mandatory as a qualification for nomination for a member of Parliament to have a minimum academic qualification and a grade 12 certificate or its equivalent as a condition.

# Conclusion

The Carter Center deployed election observers to Lusaka July 23–Sept. 15, 2021, who conducted an assessment of critical aspects of the electoral process, including the legal framework, particularly concerning women, youth, and people with disabilities; the campaign environment; social media; election management; and dispute resolution. The team provides several recommendations with a view to inform a reform process to consolidate democracy and strengthen Zambian institutions and human rights. The promotion of political participation of women, youth, and people with disabilities remains a core challenge that The Carter Center believes needs to be addressed in coming years through legal and institutional reforms as well as enhanced political will.

The main findings of the Carter Center’s 2021 mission are remarkably similar to those from the Carter Center’s 2016 findings. Many weaknesses in the overall electoral process noted in the 2016 final report appeared to have been unmitigated by the relatively few changes made in the intervening period in legal and electoral structure. Interlocutors noted that many examples of issues related to the campaign period—electoral violence; role of the police; freedom of the media; participation of women, youth, and people with disabilities; the judiciary; and the administration of elections—had not improved in the intervening period.

The Carter Center noted an unlevel playing field that advantaged the ruling party and a legal framework containing provisions that were applied selectively to narrow political space. Campaign

activities by opposition parties were restricted by the enforcement of the Electoral Commission of Zambia’s standard operating procedures to limit COVID-19 spread as well as the Public Order Act. In the meantime, the ruling party’s political activities remained mostly unrestricted. Nonetheless, on Aug. 12, 2021, Zambians turned out in large numbers and stood in line for long periods to exercise their constitutional democratic rights in an election that was deemed credible by local and international monitors.

While social media provided unprecedented opportunities for online political participation, the closing down of social media on election day also ensured this election saw fundamental freedoms online cut to an unprecedented minimum. The shutdown was the last step on a road passing through onerous legislation—measures that imposed censorship and encouraged self-censorship—and the coordinated dissemination of disinformation by state media in favor of the incumbent. With internet connectivity increasing rapidly in Zambia, these measures highlighted the importance of ensuring rights are upheld online well in advance of future electoral contests.

Despite constitutional provisions for gender equity in the National Assembly and local councils, women’s participation as candidates in elections remains below international and regional standards. There were only 20 women who successfully won seats out of 156 seats. The Carter Center applauds Zambia for appointing the first female speaker of the National Assembly, Nelly Mutti.

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The ECZ carried out key aspects of the electoral process, including voter registration, accreditation of monitors, and the results management process without proper involvement and collaboration with stakeholders. The commission exhibited lack of transparency throughout the entire electoral cycle, as illustrated by the fact that key legislation such as amended laws and relevant statutory instruments were not published on the commission's website or timely shared with stakeholders. Despite these challenges, polling staff, election officials, voters, Zambian national citizen monitors, and party agents ensured that voting, counting, and tallying processes were carried out according to the law and in a generally peaceful environment.

The 2021 contest was marred with instances of violence, mistrust toward key institutions in the

electoral process, and an uneven playing field that was narrowed further by the eschewed application of the Public Order Act and COVID-19 regulations. Political will and sustained efforts over time will be required to reverse the erosion of rights and regain trust in the Electoral Commission of Zambia, the judiciary, and the police. Further, traditional and social media should be allowed to flourish and carry out their respective mandates uninhibited. The Carter Center encourages all key stakeholders to take prompt action to carry out reforms to strengthen the rule of law and independence of democratic institutions such as the electoral commission, promote human rights, and foster an enabling environment for conduct of democratic elections in Zambia

# I Recommendations

The Carter Center commends the Zambian citizens, polling officials, civil society and national observation organizations, and party agents for their democratic commitment throughout the electoral process. In the spirit of collaboration and support for Zambia's democracy, The Carter Center offers the following recommendations for consideration for reform of both the legislative structure for holding elections and of the state bodies required to implement and enforce the relevant regulations.

## To the National Assembly/ Government

1. Amend Section 5 (6) of the Public Order Act to introduce proper guidelines and standards that compel the police to justify the postponement of a peaceful assembly and provide an alternative date in the very near future to hold the postponed meeting.
2. Ensure an equitable distribution of voters per constituency. To this end, the National Assembly should consider passing a bill amending the constitution in order to increase the number of seats in the National Assembly. An increase in the number of constituencies in densely populated urban areas such as Lusaka should be considered.
3. Consider amending Article 47 (2) of the constitution—to comply with the constitutional principles of gender equity in the National Assembly and councils—to adopt an electoral system such as mixed-member or any

other more favorable to the achievement of gender equity, inclusive of specific affirmative action measures to achieve 50/50 gender parity in elected offices as articulated in Article 259.

4. Enact special measures to fully implement the requirements under Article 259 of the constitution concerning equitable representation of youth and people with disabilities for appointment to public office, including allocating special seats for these underrepresented constituencies.
5. Undertake comprehensive information and education campaigns to ensure that any changes to the electoral system are fully understood by voters, candidates, political parties, civil society, the media, the Electoral Commission of Zambia, and the judiciary.
6. Incentivize political parties to institute integration mechanisms for women, youth, and people with disabilities that progressively increase their meaningful participation in decision-making and leadership roles within the party structures as a mechanism for building women, youth, and people with disabilities as candidates for the National Assembly and other elected offices.
7. Establish the Gender Equity and Equality Commission by the president appointing the seven board members and providing sufficient funds to operationalize the commission in 2022.

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8. Ensure the development of an effective implementation of policies on youth development and empowerment from executive to district levels, designed through a participatory process that engages youth in urban, peri-urban, and rural areas. Among other measures: a) review the National Youth Policy and revise as required to increase the meaningful political participation of youth; b) review the mandate of the National Youth Development Council as required to increase the meaningful political participation of youth; c) ensure the youth council is sufficiently funded to carry out its functions.
  9. Review various pieces of legislation to expunge derogatory language against people with disabilities such as the Mental Disorders Act, Wills and Administration of Testate Estates, the Criminal Procedure Code, and the Prisons Act.
  10. Consider, in compliance with Article 60 (4) of the constitution, that the National Assembly enact a Political Parties Act to regulate political parties' functioning, including establishment of a board of political parties and establishment and management of a political parties fund as well as setting out acceptable sources of funds for political parties and a maximum amount to be used by political parties for campaign during elections. A political parties fund with conditions linked to adoption of women, youth, and people with disabilities as candidates could incentivize parties to proactively recruit and support these party members.
  11. Introduce a regulatory framework governing campaign finance, upon passage of the Political Parties Act. This should reflect best international practice. The model should enhance transparency and include an enforcement mechanism to sanction those who violate campaign finance regulations. Effective implementation will require a broad consensus among stakeholders.
  12. Consider enacting a legal framework to specifically prohibit the use and/or training of political cadres in any or all paramilitary or police activities.
  13. Consider establishing a broad-based truth and reconciliation commission with the aim of healing postelectoral tensions and establishing a foundational consensus in Zambian society.
  14. Protect and promote the human rights of sexual minorities.
  15. Ensure and protect the independence of both public and private media. Media houses should not be subject to arbitrary suspensions of licenses or undue influence.
  16. Consider ensuring that Zambia National Broadcasting Corporation be brought fully under the control of the Independent Broadcasting Authority. The Independent Broadcasting Authority also should administer the state-owned Zambia Daily Mail and Times of Zambia under the same framework of political impartiality and public service. To facilitate this, the independence of the authority as a regulatory body should be strengthened.
  17. Implement an open consultation engaging civil society groups, political parties, and subject-matter specialists on amending the Cyber Security and Cyber Crimes Act 2021. This process should ensure the legislation conforms with Article 11(b) of the constitution and international standards.
  18. Implement an open consultation engaging civil society groups, political parties, and subject-matter specialists on amending the Data Protection Act 2021. This process should ensure the legislation conforms with Article 17 of the constitution and international standards.
  19. Present the access to information bill in Parliament. Provide sufficient opportunity for civil society, political parties, and other concerned actors to inform debate.
  20. Put mechanisms in place through the Ministry of Home Affairs of the government of Zambia to ensure that Zambians above age 16 can apply for and obtain a national registration card at any given time.

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21. Amend the National Registration Act to include clear guidelines on mobile registration exercises to be conducted ahead of voter registration drives. The law should grant observers access to mobile registration procedures for issuance of national registration cards.
  22. Remove the president's power to appoint and dismiss election commissioners because it undermines the Electoral Commission of Zambia's independence from the executive branch.
  23. Implement the constitutional provision to gradually establish the Electoral Commission of Zambia's permanent structures at the provincial and district levels to support the tasks of the electoral body in pursuance of its mandate throughout the electoral cycle.
  24. Amend Section 106 (1) (b) of the Electoral Process Act to ensure compliance with Article 73 (2) of the constitution requiring parliamentary petitions to be heard and determined within 90 days.
- urban areas continue to have more than 900 registered voters, delaying voting procedures.
  4. Put in place adequate mechanisms at national and district levels to fulfill the commission's constitutional mandate to ensure continuous voter registration.
  5. Facilitate auditing procedures to enhance transparency and confidence-building among citizens by ensuring the government of Zambia and the commission enact a regulatory framework that enables external groups to conduct an audit of the permanent voter register at any given time.
  6. Publish a notice disclosing the presidential and National Assembly candidates' assets and liabilities in compliance with Articles 52 (3), 70 (1)(e), and 100 (h) of the constitution.
  7. Carry out a staff audit that recognizes competency and professionalism as the basis to assess staff performance and inform recruitment policies.
  8. Enact a legal framework that provides for the establishment of a disability fund within the commission's budget to pave the way for people with disabilities to participate in electoral activities.
  9. Publish disaggregated data on women, youth, and people with disabilities' participation in the electoral process as candidates, recruited election officials, and voters at all levels.
  10. Conduct a comprehensive review to assess the commission's gender responsiveness and put into place mechanisms to address findings as warranted, such as convening women, youth, and people with disabilities expert advisory committees.
  11. Amend the electoral code of conduct in the Electoral Process Act to include provisions specifically targeting gender-based violence and lay out appropriate channels for victims of gender-based violence to be able to report so that perpetrators can be duly sanctioned in line with the requirements under the Anti-Gender-Based Violence Act.

### **To the Electoral Commission of Zambia**

1. Publish through its official channels and make available to stakeholders in due time all the laws and statutory instruments enacted to regulate the electoral process. The Electoral Commission of Zambia website should be maintained regularly to include the latest legal updates and relevant news.
2. Engage technical experts to ensure the Electoral Commission of Zambia gains an understanding of how social media and the online environment affect its functions. This should equip the commission to exercise an effective real-time counter-disinformation function during future elections.
3. Increase the number of polling stations in order to decrease the maximum number of registered voters in polling stations. The ratio of voters per polling station across the country is still highly uneven, and several polling stations in



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12. Amend Section 12 of the electoral code of conduct to enable third parties, such as local monitors implementing an early warning system, to lodge a complaint to conflict management committees at national and district levels concerning instances of violence or any other breach of the code of conduct.
  13. Strengthen confidence-building among stakeholders taking part in conflict management by streamlining channels of communication and engagement among the conflict management committees, the early warning system, and civil society organizations at national and district levels. In addition, the committees at national and district levels should release to the public information about their findings and disciplinary actions taken.
  14. Enhance capacity to conduct, support, and coordinate civic and voter education activities across the country throughout the electoral cycle with a particular emphasis on youth, women, and people with disabilities. Attention should be paid to sensitize youth on the importance of using only nonviolent means to pursue political activism.
  15. Revise the commission's handbook, in line with Zambian law and international standards on secrecy of the vote, to instruct polling assistants not to record the voter's card number on the ballot paper's counterfoil.
  16. Design and implement an action plan for disability inclusion with a detailed budget. The commission should ensure that all polling stations are fully accessible to people with disabilities, including the use of ramps or handrails where needed. At the polling stations, sign language procedures should be adequately displayed for voters with hearing impairments and ballot booth boxes accessible to wheelchair-using voters.
  17. Amend the Electoral Process Act to introduce and share with stakeholders clear verification procedures to be carried out at the national results center with a view to enhancing

transparency, clarifying the role of party agents in the process, and granting full access to observers to all stages of the verification process. Furthermore, sign language interpretation should be provided in the announcement of results at the national results center.

18. Publish polling station-level results on the commission's website. These results should be easy to download in one file according to open election data principles.

## **To Political Parties**

1. Take concrete steps early in the next electoral cycle to identify, train, support, and mentor women, youth, and people with disabilities candidates with the aim of placing them in winnable contests.
2. Take concrete steps to ensure that 50% of elected representatives are women, including, for example, ensuring gender equity on adoption selection committees at all levels in addition to appointing youth and people with disabilities committee members.
3. Take concrete steps to enhance the leadership skills of newly elected women, youth, and people with disabilities officials.
4. Allocate an internal political party fund to provide support to women, youth, and people with disabilities candidates.

## **To Judiciary**

1. Consider designing and implementing judicial performance improvement programs that enhance performance within the judiciary and foster trust among stakeholders.
2. Design and implement education and training programs for judges on integrity and accountability.
3. Consider conducting reviews, public outreach, and civic education programs targeting court users and relevant stakeholders of systematic issues, when appropriate.

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## To Security Forces

1. Hold accountable through existing legal channels individuals responsible for inciting or committing acts of violence during the electoral process.
2. Ensure the Zambia police force provides protection against intimidation and violence during campaign periods and exercises neutrality in its application of the law.
3. Ensure the Zambia Air Force and Zambia police force grant reasonable and equitable approval for travel and rally plans and introduce clear and reasonable guidelines regarding time and space to avoid conflict without inhibiting freedoms of movement and assembly.

## To Social Networks

1. Ensure that Facebook makes certain the ad library fulfills its potential as a tool for online electoral transparency. It should proactively engage political parties before the election to ensure they have a readily understood and feasible pathway to verification as an advertiser, which prevents their advertisements from being taken down automatically.
2. Urge Facebook to ensure that by election day, voters have full and verified information on how much has been spent by whom to target whom on their platform during the campaign period.

Appendix

# Online Campaign Advertising in the 2021 Zambian General Elections

Methodology .....	50	Context for the Online Campaign: Internet Use in Zambia .....	57
Analysis of Zambian Political Advertising Regulations .....	51	Analysis of Observational Data on Online Advertising .....	59
Analysis of Online Ads Transparency In Zambia .....	53		

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## Why The Carter Center Is Analyzing Social Media Political Advertising

The right to advertise political ideas during an electoral process is enshrined in the right to freedom of expression. However, political advertising may be subject to reasonable limitations through regulations imposed by domestic law: who can run political advertisements, when and where advertisements may be run, restrictions on advertising expenditure levels, and reporting and disclosure requirements. These kinds of regulations are important to ensuring transparency, accountability, and a level playing field.

In accordance with United Nations Guidelines and Principles on Business and Human Rights,<sup>1</sup> countries are responsible for devising and enforcing laws requiring social media platforms to respect human rights. They must periodically assess the adequacy of these laws to address any gaps as well. The guidelines and principles also oblige social media companies to comply with regulations in countries in which they operate and prevent harms that may arise from their business practices. In short, countries have the obligation to close regulatory loopholes, and social media companies are obligated to comply.

Given the challenges of novelty, opacity, and extraterritoriality of social media platforms, countries grapple with how to devise appropriate and enforceable regulations. Social media companies are required to ensure compliance with relevant and applicable regulations in countries in which they operate. However, they have adopted blanket self-regulatory policies that acknowledge domestic political advertising regulations where they exist but place the onus on advertisers to comply with them.

The accessibility of social media political advertising data enables The Carter Center to scrutinize advertising activity under existing domestic regulations. The Center 1) analyzes domestic regulations that apply to social media political advertising; 2) analyzes social media companies' advertising

policies to assess the degree to which they facilitate—or inhibit evaluation of—compliance with domestic regulations and international standards; and 3) collects and analyzes social media political advertisements under domestic regulations and international standards.

Based on its findings and analysis, The Carter Center offers specific recommendations aimed at domestic lawmakers that should be taken into consideration to devise appropriate and enforceable regulations on social media political advertising. The Center also offers specific recommendations to social media platforms regarding policy reforms that should be implemented to comply with domestic regulations to ensure transparency, accountability, and a level playing field. The Carter Center hopes these recommendations can help to bridge the gap between domestic lawmakers and social media companies to promote electoral integrity.

## Methodology

The analysis of online political advertising during the 2021 Zambian general elections was managed by Ben Graham Jones, social media expert on the Carter Center's election observation team and independent election analyst, under the supervision of Andrea Nelli Feroci, associate director of the Carter Center's Democracy Program. The analysis is based on the input of Martha Chilongoshi, local social media analyst; Bernardo Pinto, Democracy Program intern; and Michael Scholtens, data analyst on the Center's Digital Threats team. The analysis was informed by the methodology outlined in the Center's 2021 report on monitoring online political advertising.<sup>2</sup> It benefited from the expert insights of Michael Baldassaro, senior advisor on Digital Threats at The Carter Center, and it received generous pro bono input from Cloudflare.

The rights enjoyed by citizens offline also extend to the digital realm. Accordingly, election observation missions are increasingly expected

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<sup>1</sup> [https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf).

<sup>2</sup> Monitoring Online Political Advertising: A Toolkit. Carter Center report by Barbara Jouan Stonestreet and Michael Baldassaro, November 2021. [https://www.cartercenter.org/resources/pdfs/news/peace\\_publications/democracy/political-advertising-monitoring-toolkit.pdf](https://www.cartercenter.org/resources/pdfs/news/peace_publications/democracy/political-advertising-monitoring-toolkit.pdf).

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to incorporate analysis of the online campaign, particularly social media activity, in their election observation methodology to assess whether key principles underpinning democratic elections are complied with in the online space. While the observation of certain elements of online campaigns, such as the legal framework, is feasible, an exhaustive monitoring of social media is practically impossible due to the speed, reach, and volume of the content produced, along with the unlimited number of existing pages, accounts, and websites.

The first methodological task facing a social media analysis unit is a decision on prioritization. For the brunt of its analysis on the 2021 Zambian general elections, The Carter Center undertook a number of methodological decisions to narrow its focus. First, the Center focused its analysis on Facebook content, given that the platform is by far the most-used social network in Zambia. Second, rather than applying preordained categories to its analysis, the Center focused on the loci of the online political conversation. This involved drafting a sample based on the input of a Zambian social media expert, searches on Crowdtangle to identify where key political terms were used in political conversation, and subsequent analysis of the proportion of a page's content that addressed the election. The resulting sample included state media, local media, candidate pages, and political party pages, ensuring a sample driven by places the electoral conversation was happening. The analytic methodology focused not only on these pages' output but on the discussion taking place in the comments sections on the page. Third, the Center focused on most prominent content, examining in detail the most prominent posts from pages within the sample while also compiling detailed subjective observations on every post made by these pages over the course of the campaign.

This approach helped contextualize online advertising by giving the Center an understanding of the wider conversation online. In terms of Facebook advertising, the Center conducted its analysis in the first instance independent of

Facebook's ad library report to ensure that the Center would observe any ads missed by the report. The Center later verified its observations with the full report and, in doing so, established that the Center had included all observable campaign advertising. This approach avoided relying on third-party approaches with uncertain reliability. The Carter Center conducted analysis on more than 30 indicators.

Finally, the Carter Center's approach also looked at a range of factors impacting access to the online campaign. This included analysis of a range of indicators of impending or current internet restrictions, an examination of the nature of internet penetration in Zambia, and an analysis of 15,000 Twitter accounts for signs of automated bot activity. These methodologies helped ensure a relatively comprehensive approach, given the nature of the task.

This report highlights the most noteworthy of the findings and constitutes the first comprehensive analysis of online political advertising during a Zambian election by a Carter Center election observation team.

## **Analysis of Zambian Political Advertising Regulations**

### **Does Zambia have a legal framework specifically pertaining to online advertising?**

Owing to the lack of a legal framework specifically referring to online advertising, the relevant laws are geared toward offline advertising. Nonetheless, all rights enjoyed offline are applicable online. This also applies to rights of freedom of information and transparency. For this reason, while the wording of the Electoral Process Act, specifically Section 93,<sup>3</sup> is geared toward newspapers, its references can be understood as relevant to the online environment.

### **What must electoral advertising include?**

Electoral advertising must display the name and address of the printer and publisher on the face of

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<sup>3</sup> Electoral Process Act Section 93 Offenses by Printers and Publishers.

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the advertisement and the word “advertisement” in the headline.<sup>4</sup>

### **What must electoral advertising not include?**

Electoral advertising must not “incite people to violence or rebellion” (Section 93, 4/1(a)).<sup>5</sup> The latter is not defined, leaving it open to broad interpretation in contravention with ICCPR Article 20.2. Electoral advertising must also not “use language which incites hatred or violence in any form against any person” (93/2(a)).<sup>5</sup> There are also stipulations against promotion of phenomena such as hate speech and disinformation in broadly worded legislation contained within the Cyber Security and Cyber Crimes Act,<sup>6</sup> which may be considered to apply to online electoral advertising. However, as noted in this report, the wording of these prohibitions is incompatible with the Zambian Constitution and both international and regional standards.

### **Did electoral advertising comply with these stipulations during the election campaign?**

Online electoral advertising observed by the mission complied with the letter of the law, demanding identification as an advertisement by displaying the word “advertisement,” though it is important to note that the ambiguities raised by the outdated wording of Article 93 do not make legal obligations clear to advertisers. The Carter Center mission’s interpretation of the applicability of this to the online environment is rooted in international standards that stipulate that citizens are guaranteed the same rights online that they enjoy offline.<sup>7</sup>

It should be noted that all Facebook advertising that ran through the platform’s own mechanism complied with the spirit of the requirement to display the word “advertisement” in displaying “sponsored” next to the paid content.

### **Are there limits on online campaign advertising expenditure?**

No. Zambian law does not currently limit campaign advertising expenditure.

### **Is there a body that exercises oversight over online advertising?**

No body exercised oversight over online advertising during the election. This task, therefore, fell to civil society, which had to rely on the transparency features voluntarily implemented by the social networks themselves. Broadcast media is regulated by the Independent Broadcasting Authority. The authority has regularly been subject to criticism on the grounds of political bias, most notably with the closure of Prime TV, which was rescinded following the election. While there is no stipulation as to whether the authority’s mandate extends to the online presence of broadcast media, no practical steps were implemented to regulate this domain by the Zambian authorities.

No data requests were submitted to Facebook by the Zambian authorities in the six months prior to December 2020, the most recent period for which data was available during the time covered by this analysis, reflecting the essential disengagement of the authorities with the online environment. Online advertising was itself subject to no oversight or attempted oversight, notwithstanding Zambians’ rights to transparency online.

### **How does the new Cyber Security and Cyber Crimes Act affect online electoral advertising?**

Shortly before the blanket restrictions were imposed on social media on election day, the Ministry of Information and Broadcasting Services released a statement reminding citizens of their obligations under the act. While the government gave no justification for the blanket restrictions, it is possible that the Cyber Security Act might have been willfully misinterpreted to permit such restrictions.

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4 Electoral Process Act Section 93 (1).

5 Electoral Process Act Section 93 (4)/ 2(a, b).

6 The Cyber Security and Cyber Crimes Act, 2021 Section 65 Hate Speech.

7 U.N. General Assembly Resolution 68/167.

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The Cyber Security Act's sweeping provisions stifled online expression, including online advertising, through its overly broad definitions of false information, harassment, emotional distress, and hate speech, contrary to obligations in the ICCPR.<sup>8</sup> The 2021 campaign demonstrated that even in the absence of direct enforcement of such measures, this type of legislation has an impact on online freedom of expression. It is more difficult to communicate anonymously through advertising compared with nonfinanced online speech. As a result, online electoral advertising is likely to be particularly muffled by the self-censorship resulting from the provisions of the act.

Notwithstanding its unconstitutional character, the wording of the Cyber Security Act also opens the door for politicized regulation of online political ads. This is because decisions made under the act are subject to high-level oversight by the as-yet unconstituted National Cyber Security Advisory Coordinating Council, which is appointed by and supervised by a government minister.

## Analysis of Online Ads Transparency In Zambia

### How does Facebook define political advertising?

Facebook does not have a stand-alone definition of political advertising but instead includes it as a subset of a broader category of “ads about social issues, elections, or politics.” According to Facebook, these ads are:

- Made by, on behalf of, or about a candidate for public office, a political figure, or a political party or advocates for the outcome of an election to public office; or
- About any election, referendum, or ballot initiative, including “go out and vote” or election campaigns; or

- About social issues in any place where the ad is being placed; or
- Regulated by national authorities as political advertising.<sup>9</sup>

Facebook's policy on ads regarding candidates, parties, elections, get out the vote, and campaigns, etc., is much broader than the definition of political advertising articulated in Zambian political advertising regulations, which are focused on “a bill, placard, poster, pamphlet, circular, or other printed matter having reference to an election.”<sup>10</sup>

Facebook allows candidates and noncandidates to run “ads about social issues, elections, or politics” provided they complete the authorization process stipulated by the platform. Effective Aug. 5, 2020, Facebook issued a revised policy stipulating that all election candidates must obtain authorization: “Identified political parties and candidates campaigning in upcoming elections will be required to complete ad authorizations and place ‘paid for by’ disclaimers on all of their ads.”<sup>11</sup>

### Who can run political advertisements on Facebook and when can they run them?

To obtain authorization, the advertiser must be the Facebook page administrator or someone planning to run ads on it. His or her identity must be confirmed with documentation Facebook deems legally acceptable. Thus, while a Facebook page may have multiple administrators located in multiple countries, documents submitted for proof of an administrator's identity must be issued by the country in which the ads will be targeted.

Facebook does not proactively restrict the time frame during which campaigns can run “ads about social issues, elections, or politics.” Provided an advertiser obtains authorization, the onus of complying with domestic regulations is placed on the advertiser, regardless of whether he or she is permitted to run political advertisements: “Advertisers can run ads about social issues,

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8 Contrary to U.N. (CCPR), Article 19.

9 <https://www.facebook.com/business/help/167836590566506?id=288762101909005>.

10 Electoral Process Act 2016, Article 93.

11 Ad transparency policies vary from country to country, with some countries' policies being more stringent than others. This revised policy applied to Zambia at the time of the election. [https://www.facebook.com/business/help/208949576550051?country\\_select=ZM](https://www.facebook.com/business/help/208949576550051?country_select=ZM).

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elections, or politics, provided that the advertiser complies with all applicable laws.”<sup>12</sup>

“Ads about social issues, elections, or politics” run by authorized advertisers are automatically added to the Facebook ad library, stored and archived for seven years, and annotated with information about who sponsored the ad, a range of how much they spent, and the reach of the ad across demographic audiences.

If an advertiser wishes to run “ads about social issues, elections, or politics” but does not obtain authorization, there is nothing that prevents them from running the ads. However, Facebook reserves the right to take “enforcement action,” which may include removing ads run by the advertiser or restricting the advertiser’s ability to run ads in the future.

This reflects how Facebook undertakes primarily a content-based approach to takedowns rather than an actor-based approach. While political actors may decide to run nonpolitical content during the campaign period, such content is likely to be political and, in any case, will link through to the page itself where campaign content will be found. While a content-based approach reduces the administrative burden for Facebook—they need not take time to identify the official accounts of political parties and candidates—it results in ads being displayed on some occasions to hundreds of thousands of viewers prior to being taken down for violating the rules, typically failing to show a disclaimer.

Facebook also runs a process of verification through which accounts can secure a blue badge. Separate from the advertiser authentication process, this involves provision of identification documents that give a page the capability to add a blue badge demonstrating its authenticity. The Carter Center mission noted several takedowns from verified blue-badge accounts, which had already gone some way to demonstrating their nature as a political party but nonetheless lacked the authorization to display a disclaimer.

### **Was all paid electoral content on Facebook visible in the ad library report?**

For most of the campaign, Facebook’s ad library report feature was not available in Zambia. Two weeks prior to election day, in the first week of August 2021, the feature was launched. At this stage, it retrospectively displayed advertisements dating from June 1 but did not claim to display all ads shown from the start of the campaign period on May 15 until June 1.

By election day, Aug. 12, 2021, 165 of 169 campaign ads run during the campaign were visible. The ad library report was often several days late in logging online ads disseminated. Shortly after election day, the remaining ads were made accessible.

The Carter Center mission received reports of page administrators receiving money to broadcast paid content. This content did not show a disclaimer and would not, therefore, have complied with Section 93 (3) of the Electoral Process Act.

In addition, the broadcasting of low-integrity “polls” clearly geared to influence the vote such as that produced by British company Faraline failed to comply with Section 93 (3) of the Electoral Process Act by not displaying a disclaimer indicating its paid-for character.

Campaign managers reported having used Facebook’s “boost” feature to increase the visibility of content. Boosted posts amplify the reach of content to appear to a wider range of people beyond those who already follow a Facebook page. The ad library does not presently include details of boosted content nor of its financing.

### **Is online electoral advertising the only example of paid online content intended to influence the vote?**

No. Other potentially paid online content includes but is not limited to boosted content, influencers who are paid to publish content, purchasing of fake visibility such as likes and shares, the utilization of professional services firms to deploy botnets and other techniques to artificially generate traction and a perception of popularity (“astroturfing”), and

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<sup>12</sup> [https://www.facebook.com/policies/ads/restricted\\_content/political](https://www.facebook.com/policies/ads/restricted_content/political).



the hiring of advisers and consultants on online communications.<sup>13</sup> Payment for none of these would appear in an “ad library.”

In the absence of a comprehensive legal framework governing campaign finance transparency, there is no centralized record of all online expenditures undertaken by political actors. A major theme of the Carter Center’s final report is a gap between legislation and practice, indicating that even if there were such a legal framework in place, there is then a question of the degree to which it is implemented in practice.



**Did all social networks provide adequate transparency features?**

No. While Facebook rolled out its ad library early in the campaign, a move The Carter Center

commended in its preliminary report, the Google ad transparency report does not include Zambia. This ensures that any advertising that ran on Google or YouTube was not readily observable. Political ads are prohibited on Twitter, LinkedIn, TikTok, Pinterest, and Tumblr.

It is of note that while many of the key international standards relevant to the online campaign have been acceded to or otherwise obligate most of the world’s countries, there are substantial discrepancies in the degree to which countries implement transparency features. These discrepancies bifurcate more economically developed countries and less economically developed countries, as shown.

**Rollout of Transparency Features by Facebook in Zambia’s 2021 General Elections Compared With the 2020 U.S.A. Presidential Election**

Comparator U.S. 2020 Presidential Election Versus Zambia 2021 General Elections		
	 2020 US Presidential Election	 2021 Zambia General Elections
Voting Information Centre	YES	NO
Factchecking with warning labels	YES	NO
Ad Library rolled out by the start of the campaign	YES	YES
Ad Library Report rolled out by start of the campaign	YES	NO
Effective ad authorization process	YES	NO
Encouragement to celebrate participation in process through post/frame	YES	NO
Voter information content given higher prominence	YES	NO
Data on detections of Internet restrictions periodically published <sup>1</sup>	YES	YES
Third-party factchecking partner	YES	YES
State-owned media labelled as such	YES	PARTIALLY*

*\*Some foreign state media was flagged, but Zambian state-owned media was not.*

<sup>13</sup> The Carter Center received numerous reports of bot activity and imposter pages. Data does not suggest that the degree of bot activity was substantially higher around the election, and the Center did not directly observe the utilization of botnets to influence the election online.

### How did the internet restrictions imposed on election day affect the dissemination of online advertising?

The internet restrictions affected online advertising in three main ways: limiting access to online advertising, limiting the dissemination of pro-peace messaging from civil society organizations and youth movements, and forcing opposition political forces that anticipated a shutdown to divert resources of their digital teams away from campaigning and toward preparing contingency plans for conducting parallel vote tabulation.

### How many political ads were allowed to run during the Zambian 2021 election?

In practice, all 169 campaign ads run during the election were taken down for not running a disclaimer. Facebook clarified to The Carter Center that, in addition, several were taken down without ever being seen by anyone, as the ad library only includes ads with at least one view. The reason was that Facebook’s process of advertiser verification requires provision of proof of address and contact details, which Facebook indicated had not been fully undertaken by any Zambian advertiser. This is necessary in order to show a disclaimer. The fact that according to Facebook’s data every single actor who ran an advertisement about the election had all their ads taken down for omitting a disclaimer suggests that the system is presently not providing adequate opportunities for political parties to verify themselves as advertisers. Carter Center meetings with

parties indicated a lack of awareness about the reasons for the takedowns.

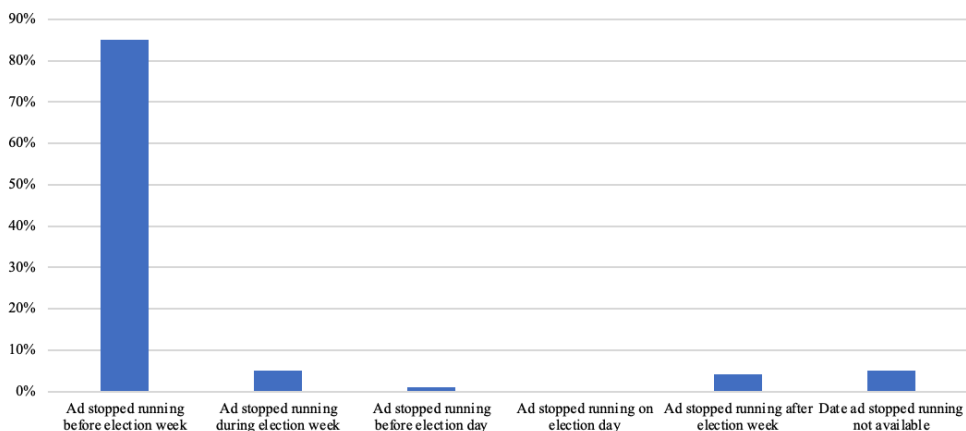
### Do social networks enable Zambian voters to see how much is being spent to target them online?

Notwithstanding the lack of legal obligations for Facebook to display how much money is received for political ads, it displayed the cumulative total of expenditure in its ad library, which includes content run on Messenger and Instagram. However, this figure may not have included expenditures made prior to the full rollout of the ad library report and does not include expenditures on boosted content. It will also not include expenditures for exposure on Facebook made off the platform, such as payments that were made to administrators of prominent pages to run supportive content. No such visibility was provided by Google and YouTube.

### Were all the ads marked as about social issues, political issues, or elections campaign ads?

No. Among the 663 ads about politics, social issues, or elections that ran June 3–Aug. 12, the Carter Center mission found that only 169 aimed to increase or decrease support for a political actor and could, therefore, be termed “campaign ads.” There were also 32 ads run by Chinese state media that largely affirmed China’s general political priorities and worldview. Carter Center observers also identified messages of peace run by civil society and religious figures that were taken down by Facebook.

**Date Facebook ads stopped running**



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Facebook did not restrict who could run political advertisements, taking a content-based rather than actor-based approach to regulation. The burden of responsibility for regulatory compliance is typically vested in candidates and noncandidates who complete the authorization process stipulated by the platform. Facebook policy states that “ads about social issues, elections, or politics” run by authorized advertisers must include a “paid for by” disclaimer with the name and entity that purchased the ads. Typically, even if an advertiser does not obtain authorization, they are still permitted to run advertisements but may be subject to “enforcement action” (ad removal and prevention of running ads in the future) if they violate Facebook policy. This is, in fact, what happened to all the campaign ads, although some were not taken down until after the election.

#### **Does Facebook require political advertisements to include a disclaimer?**

Yes, and as noted, such disclaimers must be displayed directly on the advertisement and accurately represent the name of the entity responsible for the content. If an ad is run by an authorized advertiser but does not include a disclaimer, Facebook policy stipulates that it will be paused and disapproved. However, it will be added to the Facebook ad library until the advertiser completes the authorization process. If Facebook determines that the disclaimer provides false or misleading information about the advertiser, it reserves the right to disable the page. Facebook also can eliminate existing ads as well as restrict further advertising.

#### **Were state bodies active in deploying online advertising?**

No. The use of state resources for campaign purposes is prohibited under Zambian law.<sup>14</sup> However, the online channels of state-owned and public media were used extensively to promote messages supporting the candidacy of the incumbent president, Edgar C. Lungu.

### **Context for the Online Campaign: Internet Use in Zambia**

Zambian internet users are disproportionately urban, wealthier, young, and male. The lack of opportunities to access the internet poses one of the most significant barriers to accessing the online campaign in Zambia. Many households and individuals have multiple barriers to access internet services. These barriers include:

- The cost of data, equipment, and internet
- The cost of mobile devices and services
- The lack of confidence, knowledge, and skill to use the internet
- The lack of connectivity in rural and peri-urban areas

The reach of campaign advertising is partly limited by regulations imposed by domestic law. These laws include who can run political advertisements, when and where advertisements may be run, restrictions on advertising expenditure levels, and reporting and disclosure requirements.

The analysis of the online campaign should also note the scale of the barriers to access. For example, while video content was the most-viewed content type, data from 2018 suggests that only 1.3% of rural residents use video calling. Indeed, only 13.2% of Zambians actually own a smartphone.<sup>15</sup> The direct impact of online advertising in an election in which more than 70% of Zambians turned out to vote should, therefore, be put into perspective.


Much of the impact of the online campaign and, therefore, online advertising, was felt in the offline environment. The Center’s mission documented fluid linkages between the online and offline environments, and in some ways social media set the tone for the themes of the offline campaign. The Center observed the following connections between the online and offline environments:

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<sup>14</sup> Electoral Process Act 2016 Schedule 107 article 3 (b) stipulates that political parties must not “use State resources to campaign for the benefit of any political party or candidate.”

<sup>15</sup> ZICTA ICT Survey 2018.

KEY MOBILE INDICATORS FROM THE ZICTA ICT SURVEY OF 2018

		Zambians Age 10 and Older					
		That used a mobile phone in the past three months	That own a mobile phone	That own a smartphone	Use of over the top applications		
					Messaging	Video calling	Voice calling
<b>ZAMBIA</b>		53.5	44.6	13.2	11.5	5.9	9.7
<b>PROVINCE</b>	Central	50.6	40.7	9.7	8.7	2.9	8.6
	Copperbelt	69.1	56.0	19.2	16.5	8.8	14.2
	Eastern	43.9	35.2	5.2	4.3	1.9	3.6
	Luapula	44.0	32.0	8.8	8.0	3.6	5.5
	Lusaka	72.7	66.7	28.3	24.7	15.6	22.0
	Muchinga	40.9	34.8	7.3	6.6	3.6	5.7
	Northern	34.4	28.7	4.0	3.0	1.0	2.4
	North Western	36.7	32.1	7.9	6.1	2.3	4.6
	Southern	60.6	52.4	16.8	15.2	6.2	10.9
	Western	45.1	30.3	3.9	3.5	1.1	2.6
<b>REGION</b>	Rural	42.1	33.0	4.7	3.9	1.3	3.0
	Urban	71.0	62.5	26.3	23.2	12.9	19.9
<b>SEX</b>	Male	56.9	49.2	14.3	12.8	6.3	10.5
	Female	50.9	41.1	12.4	10.6	5.6	9.0

Source: ZICTA 2018.

- The offline channels of traditional media tended to amplify disinformation campaigns that had often already taken root online.
- Young internet users would often bring the discussions and themes of the online domain into the offline environment.
- The sharing of downloaded content through private messaging services helped ensure that the online campaign could be shown to the friends of a smartphone owner or could be viewed at a time when internet access was unavailable.
- TV media broadcast themes often were continuous with the themes of the online debate.
- On election day, discontent about restrictions imposed on the online environment swiftly penetrated the offline environment through conversations in queues outside polling stations and in homes.
- The offline environment drove much of the most prominent online content, with footage of offline campaign events setting the agenda online.

Owing to these factors, it is likely that the impact of online advertising extended far beyond Zambia’s regular internet users.

## Analysis of Observational Data on Online Advertising

### Platforms for Campaign Advertising in Zambia

Despite the use of a range of social media platforms during the campaign, Facebook was overwhelmingly the key locus for online political advertising. Even where ads were shown on other Facebook-owned platforms, 100% of these ads were simultaneously shown on Facebook itself.

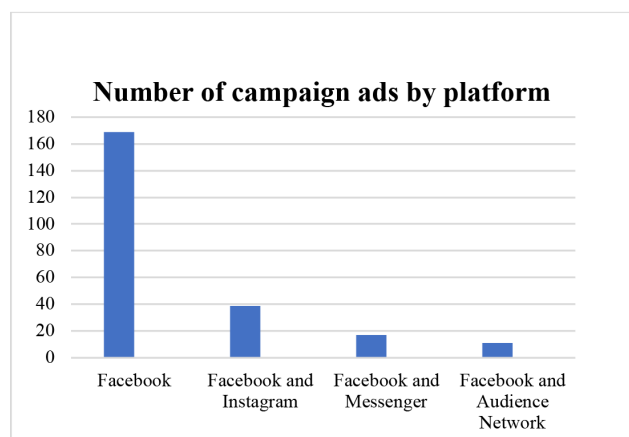
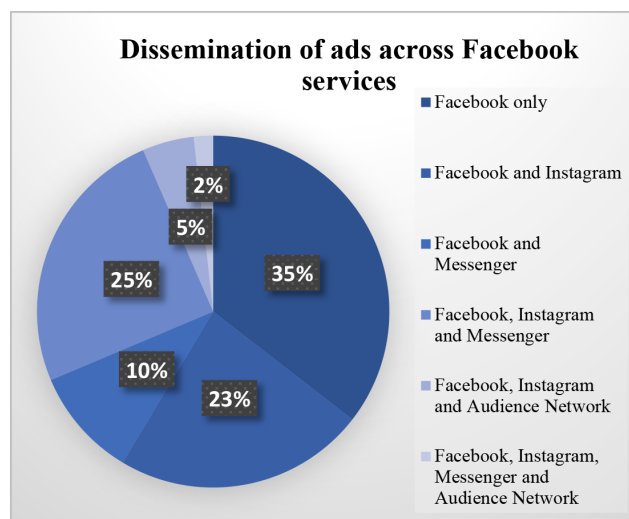
The Carter Center’s social media expert and local analyst focused his approach to assessing online advertising in line with the distribution of social network use in Zambia. The majority of the analysis conducted was undertaken on Facebook.

The data on campaign ads by platform shows that zero ads were run exclusively on Instagram, Messenger, or via Facebook’s audience network feature. All ads that ran through these channels were simultaneously disseminated on Facebook. This indicates that future efforts to combat online harms such as disinformation, or efforts to effectively document and analyze online advertising, will be ineffective if they focus exclusively on these services.

This observation also indicates that advertising paid for via the platforms followed similar trends on Instagram and Messenger as on Facebook. This is demonstrated by the lack of ads distributed exclusively through those services.

WhatsApp was heavily used in Zambia, and if a decision were to be taken to open up WhatsApp—a company owned by Facebook—to advertising, this is likely to have a significant impact on the flow of advertising for future campaigns. The encrypted and private nature of the service also means that without adequate transparency features, this would pose issues for observers, civil society organizations, journalists, and others to monitor online advertising. Plans touted for the rollout of ads on WhatsApp appear to have been put on hold, but there is no guarantee it will remain in place by 2026, reaffirming the importance of cross-platform transparency measures in online advertising.

Social platforms active in Zambia	Political ads allowed?	
Facebook	Y	
Youtube	Y	
Instagram	Y	
Messenger	Y	
Twitter	N	
TikTok	N	
Pinterest	N	
LinkedIn	N	
Tumblr	N	only allows in the US
Signal	N	no advertising allowed
WhatsApp	N	no advertising allowed



## Facebook Advertising: Analysis by Regional Targeting

Three maps in this section show the distribution of the 169 campaign ads favoring particular parties by the location of the primary and secondary audience for those ads. Another map shows the overall viewership of ads across the country. On Facebook, ad viewership is in large part determined by the areas the advertiser chooses to target.

Ads of all political affiliations were primarily targeted to Lusaka and the Copperbelt. This indicates the extent to which internet connectivity is concentrated in these provinces. Nonetheless, the extremely limited degree of targeting to other provinces is disproportionate to the differential levels of internet access. This reflects a lack of localism in the online campaign, despite many hundreds of candidates standing from across Zambia. It indicates that candidates standing in the wealthier parts of the country were far more willing and/or able to participate in the online campaign. The lack of geographic differences between party outreach, notwithstanding a slightly higher emphasis on targeting Eastern province

by the Patriotic Front (PF) and Central province by the United Party for National Development (UPND), indicates similar patterns in online advertising strategy and a similar exclusion of rural citizens from pro-PF, pro-UPND, and pro-other political campaign content.

The primary audiences for campaign ads are reflected in the most connected provinces reflected in the Zambia Information and Communications Technology Authority data for mobile phone use and ownership of a smartphone. However, provinces that had higher-than-average scores for internet use, such as Southern and Central provinces, are wholly underrepresented in the campaign data.

This shows that the concentration of the online campaign was in the capital and the Copperbelt, to the exclusion of provinces in which citizens had the technical opportunities to participate but found themselves primarily exposed to content targeted toward other areas of the country. This reflects a degree of centralization in both main parties' conduct of the main campaign.

Overall viewership

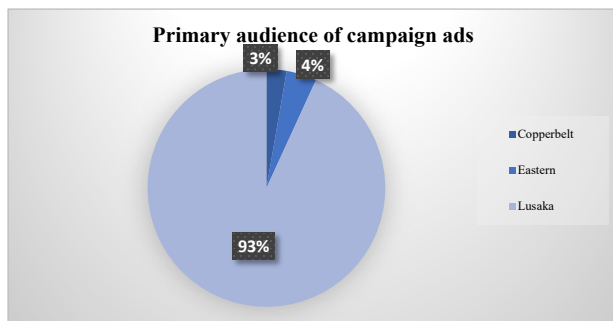
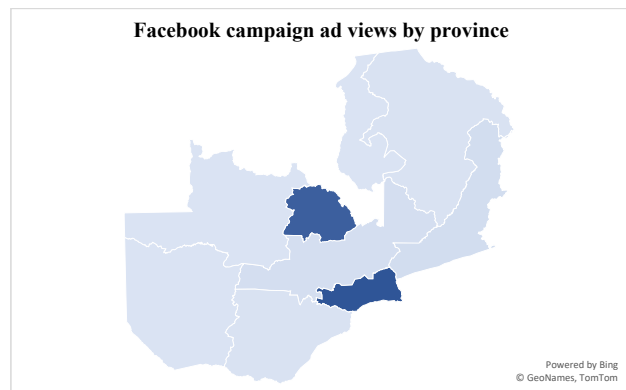
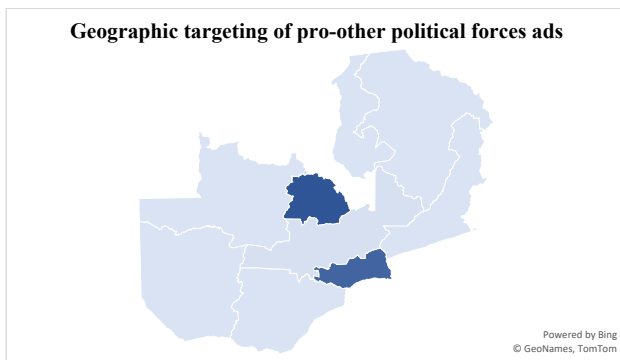
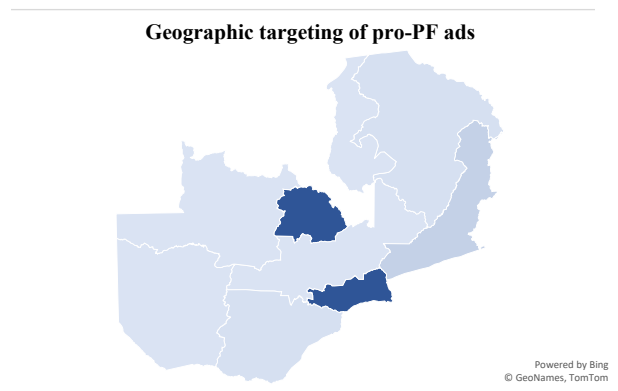
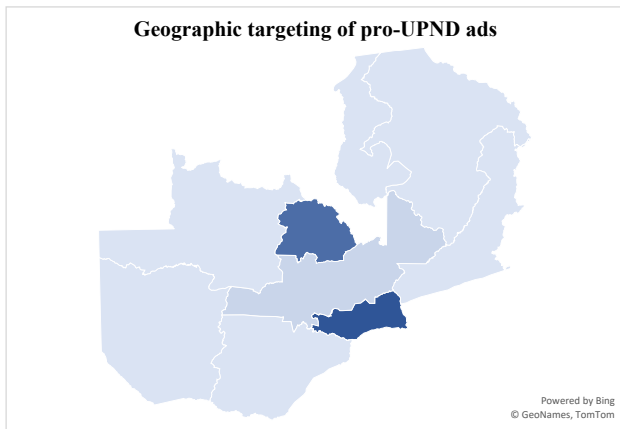


By MellonDor - Own work, CC BY-SA 4.0, <https://commons.wikimedia.org/w/index.php?curid=81095956>

While individual candidates and local party branches did run paid Facebook ads (the page Siphon Hlazo—Chilanga 2021 ran 12 separate ads, for example), this was the exception rather than the rule. Such localized campaigns rarely saw their content bolstered by national pages and largely operated in isolation, reflecting a lack of integration between local online campaign infrastructure and national party efforts. Facebook’s eventual takedowns of all online paid ads did little to encourage local branches to take further initiative to participate in the online campaign, even if the time delay between posting and takedown meant

that they might nonetheless receive substantial numbers of views for their efforts.

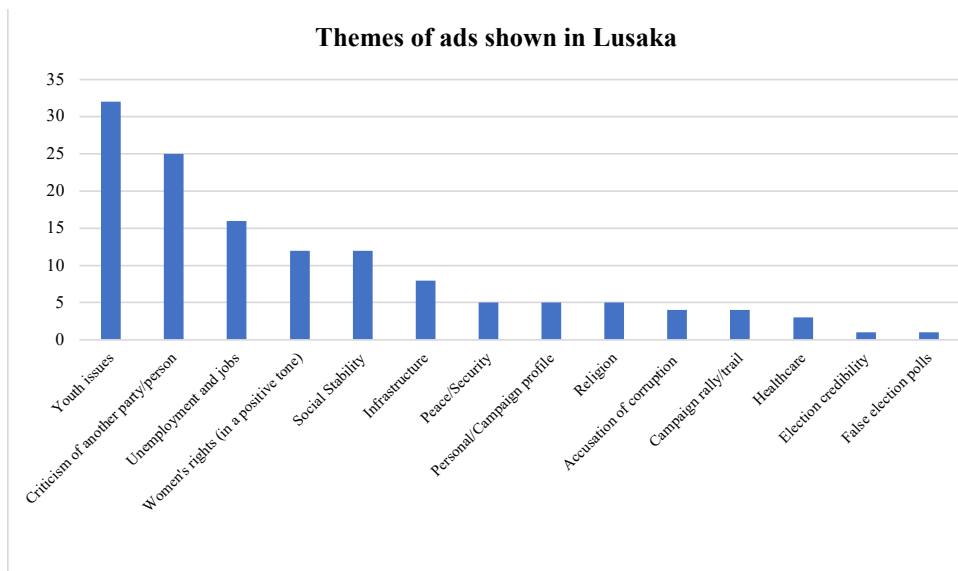
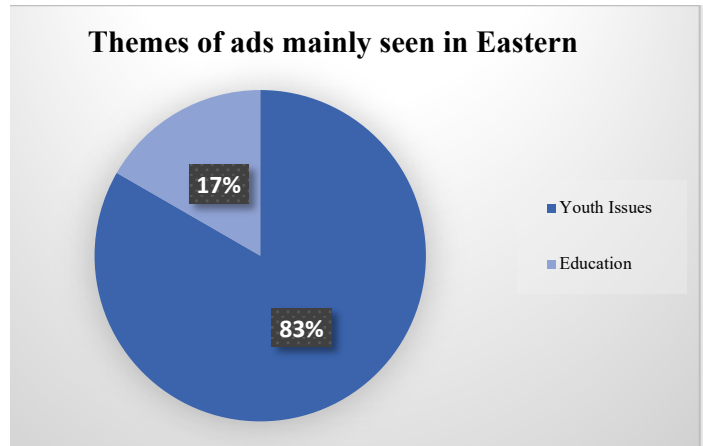
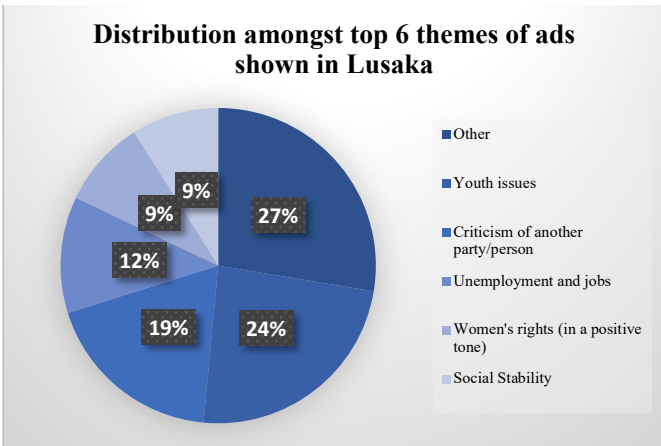
This data shows that there is more to participation in the online campaign than simply access to the internet. Relatively high connectivity compared with other provinces did not lead to significant localized ad viewership and targeting in Southern and Central provinces. The Carter Center’s August 2021 preliminary statement outlined a full range of factors that diminished opportunities to participate in the online campaign.



### Themes of Campaign Ads by Region: Lusaka

While youth issues were dominant in the online campaign across Zambia, data from those ads targeted to the largely rural Eastern province shows that this is not a function of the urban bias in the participants of the online campaign. Youth issues were overwhelmingly the main theme of ads

exhibited in the province, eclipsing even Lusaka. While this needs to be understood in the context of far fewer ads disseminated within Eastern province, it does reflect how young people were the focus of the online campaign across the whole nation.





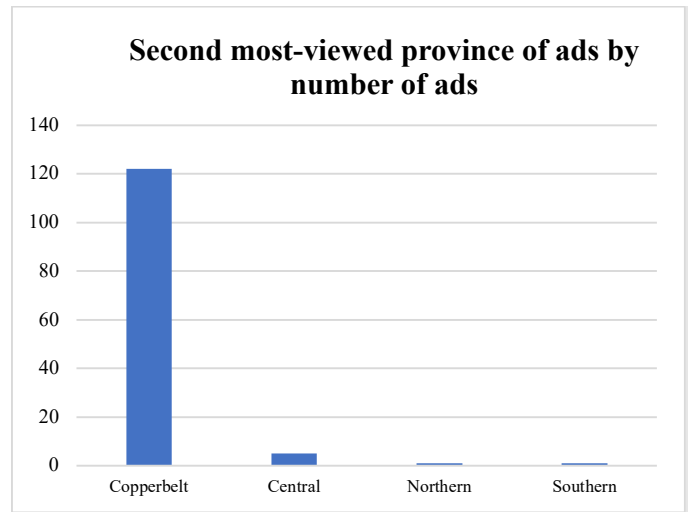
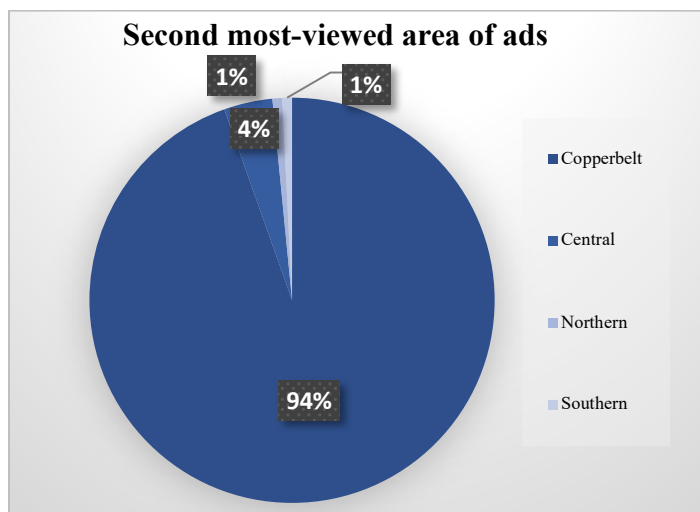
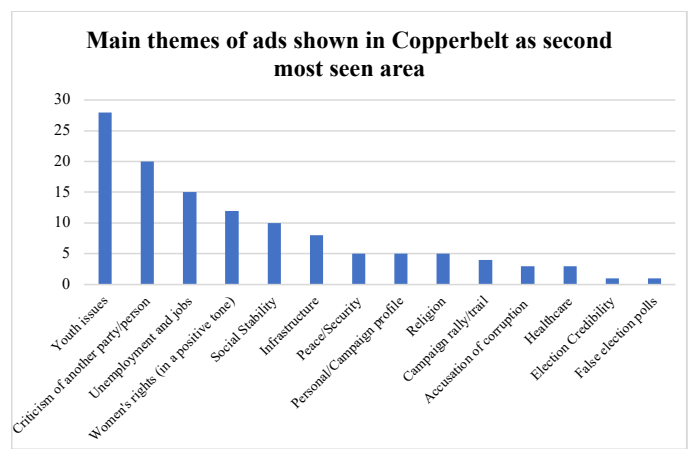
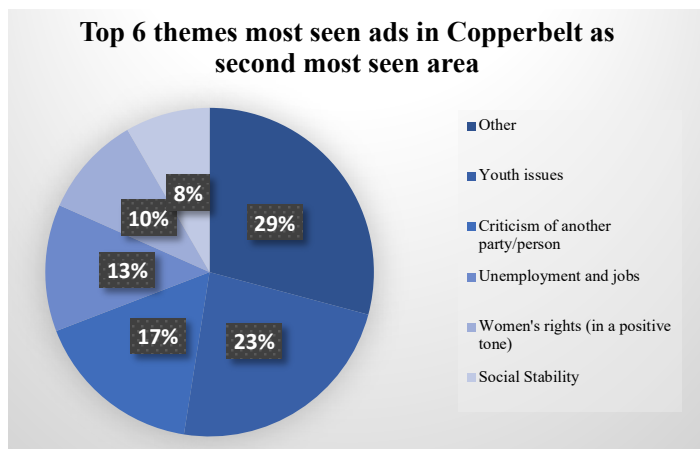
**Themes of Campaign Ads by Region: Copperbelt**

The Copperbelt provided the secondary regional audience for the majority of ads distributed in the campaign. Of ads for which this data was available, only seven were targeted to a secondary audience based in a province that was not the Copperbelt.

The Copperbelt was largely exposed to content already being distributed to Lusaka, reflecting

how campaign advertising was truly national in its themes rather than addressing primarily regional and local themes. This was borne out by qualitative analysis.

A broad range of themes were addressed in the Copperbelt, with youth issues being the most prominent campaign theme online, followed by criticism of another party/list/person.



## Ads by Verification Status

Facebook’s blue badge of verification is an important tool to demonstrate the authenticity of the administrators of a page. However, it was not exercised to its full potential over the course of the campaign.

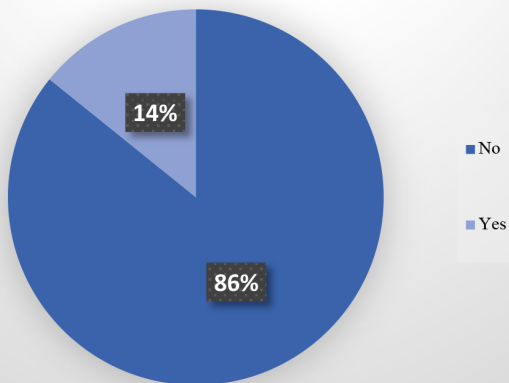
Ads on which the dominant theme was criticism of another political force rather than addressing a policy area were far more likely to be disseminated by an unverified page than a verified page.

There was a noticeable difference in the themes present in ads from pages presenting a blue badge compared to those without. Substantive policy areas were more prevalent in ads from pages with blue badges, with personal political attacks being

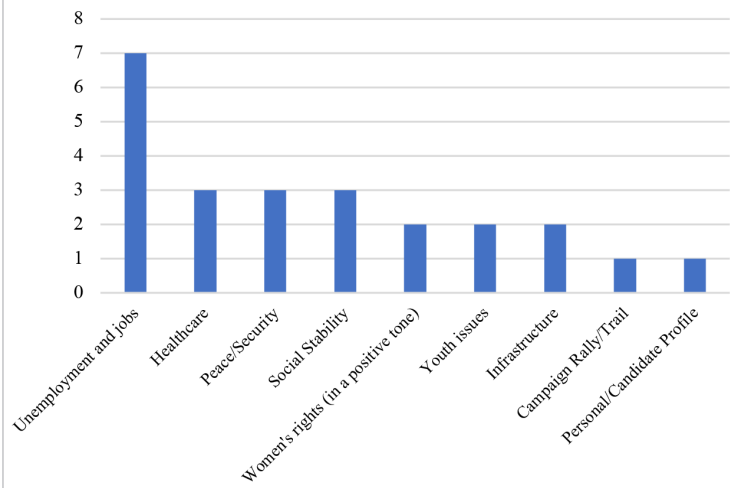
less visible. The use of religion for campaign purposes was also more visible on pages that failed to display a blue badge.

The fact that there is a substantive difference in the themes present between ads run by blue-badge verified pages compared with those without does not by itself prove a causal link for the impact of the blue badge on the type of campaign content disseminated. However, it provides evidence that it does have an impact. In combination with the role of the blue badge in increasing campaign transparency, this analysis suggests that serious consideration should be given to the role of Facebook page verification in increasing the integrity of the online campaign.

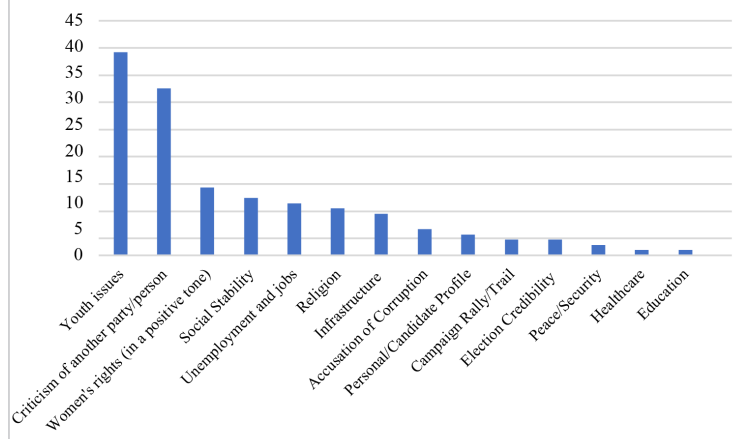
**Is the ad run by a page that has a blue badge of verification?**



**Theme of ads with a blue badge verification**



**Theme of ads without a blue badge verification**



## Facebook Advertising: Gender-Disaggregated Analysis

Overall, women were the majority audience for just 13% of ads. Analysis of the distribution of the ads for which men were the majority audience indicates that this was largely similar across political parties, indicating that women’s exclusion from ad audiences was not due to factors pertaining to one particular political force. Targeting of political ads is typically reflected in its audience, so this also indicates that all parties made inadequate efforts to engage women through their online advertising.

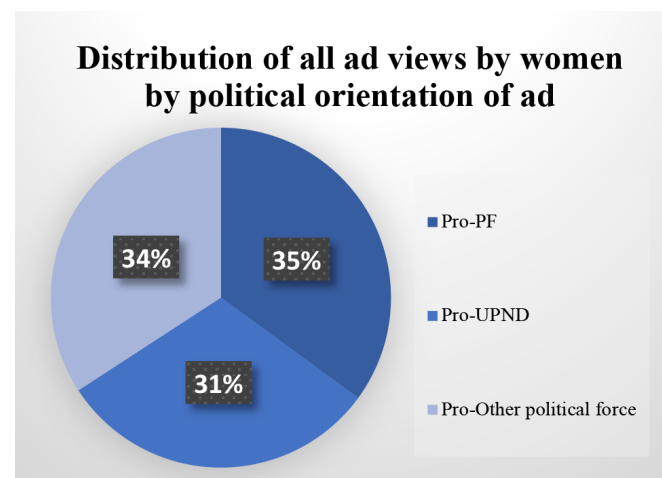
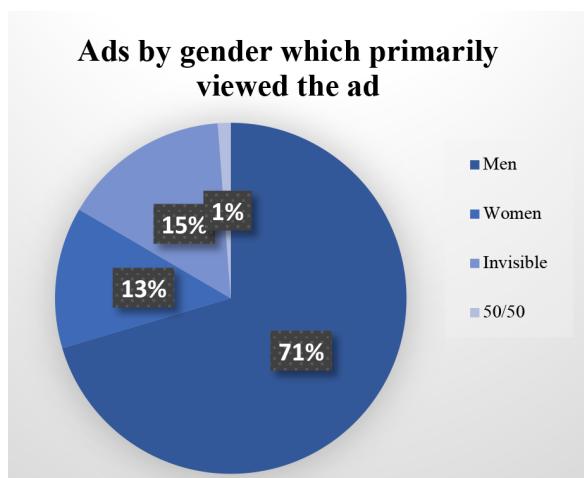
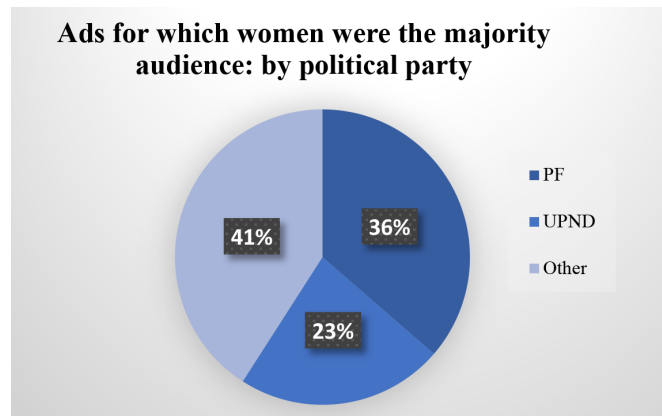
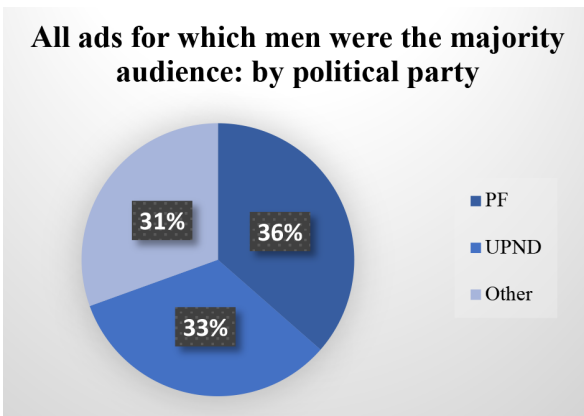
However, of those ads for which women were the majority audience, the ad was one-third more likely to be aligned to the PF than the UPND. This may reflect less a PF-specific factor and more a lack of outreach from the UPND. This is because when compared with ads that received majority male viewership, other ad affiliations are more represented, while PF representation is exactly

the same. Decreased prevalence of UPND ads has come as other party-oriented ads were more represented in majority female viewership.

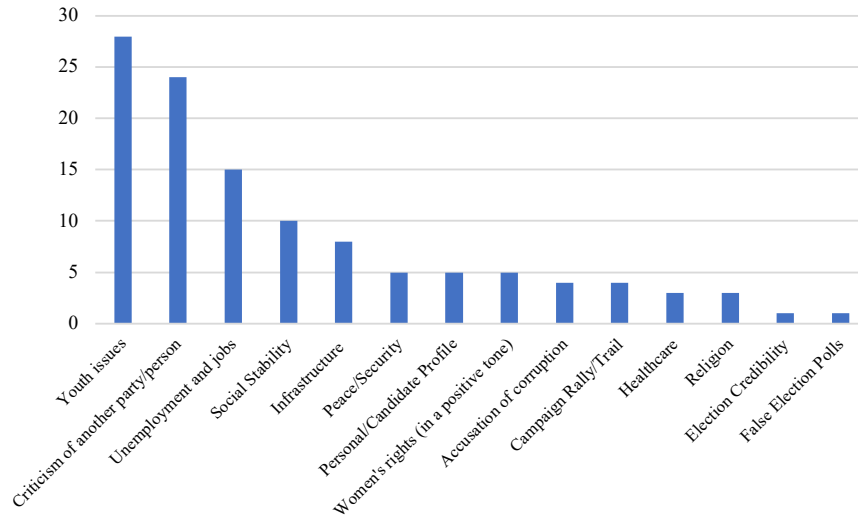
Youth issues were the most prominent theme of ads viewed by both men and women. This often constituted content calling for youth opportunities, celebrating youth outreach, or highlighting the role of youth in the campaign and in society as a whole.

Differences emerged along multiple axes. Women were far more likely to view ads about women’s rights than men were. Women were also far more likely to view ads in which religion was the most prominent theme.

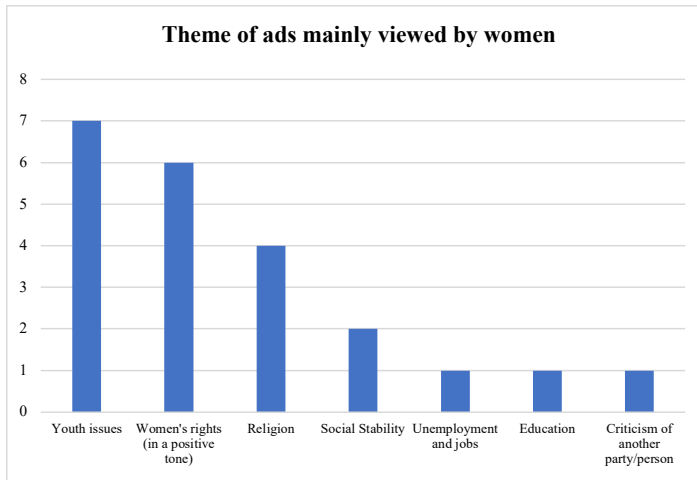
Religious messaging was a major theme throughout the online campaign from both pro-PF and pro-UPND accounts. The data shows that women had a higher tendency to view ads in which religion was the main theme compared to men.



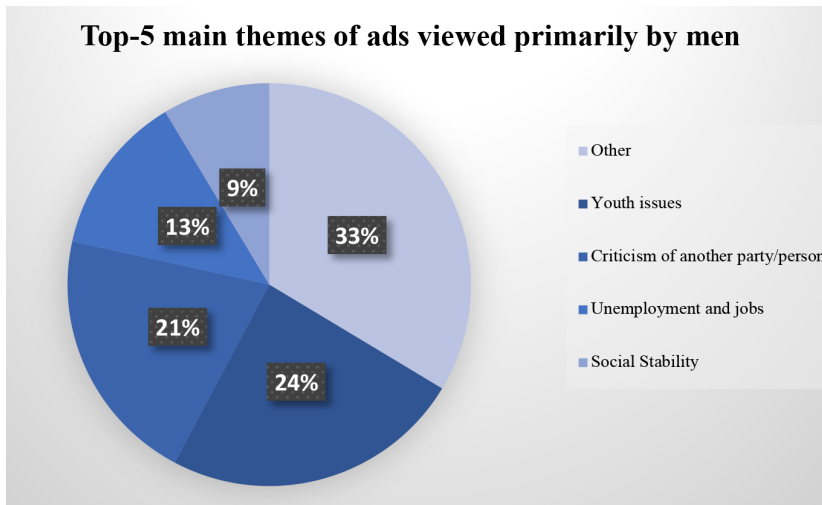
### Theme of ads viewed mainly by men



### Theme of ads mainly viewed by women



### Top-5 main themes of ads viewed primarily by men

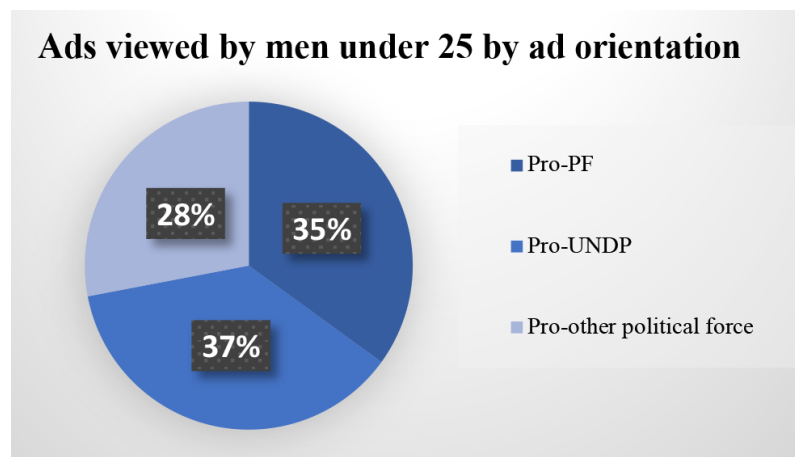
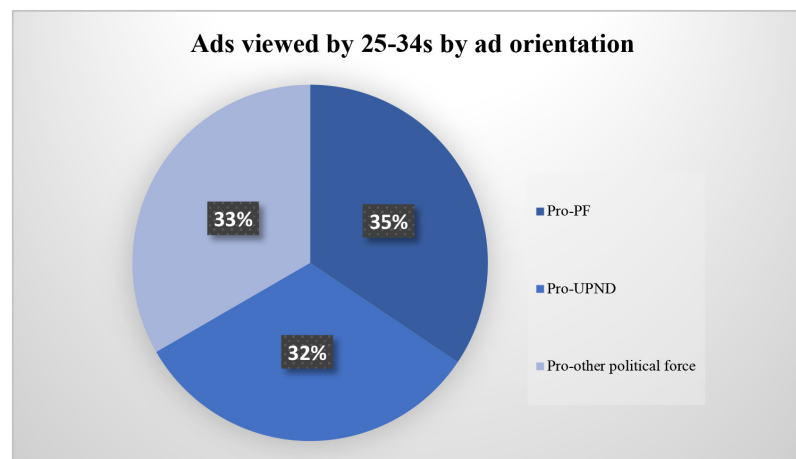
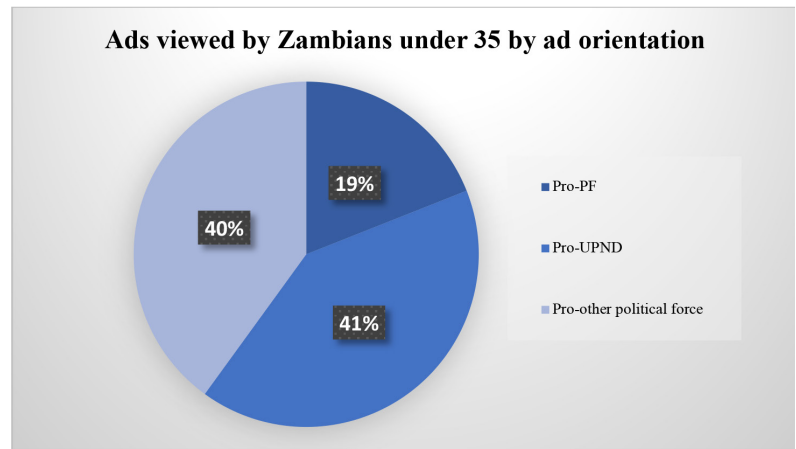


### Facebook Advertising: Role Of Youth

A great deal of reporting around the election focused on the role of the youth in mobilizing for a UPND victory. Youth ad views were largely similar for pro-UPND compared with pro-PF ads, with the former commanding only two percentage points more of the youth ad viewership.

It is also notable that other parties and candidates also featured heavily in ads targeted to young people despite those actors' often limited resources. This partly reflects the particular role played by the Socialist Party in reaching out to young people.

The data for under-25-year-olds was consistent with the pattern for 25–34 years, suggesting that the category of “youth” may be best understood as under 35 rather than under 25 in the context of Zambian electoral advertising.

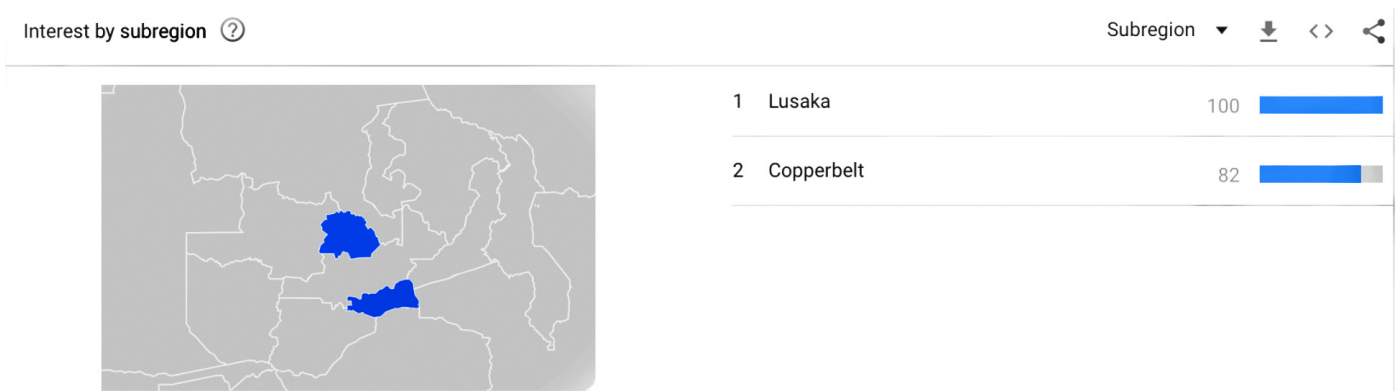


## Impact of Shutdown on the Online Campaign

While use of social media is significantly higher among Zambia’s urban population, city residents were also more likely to retain access to digital information during the blanket restrictions on social media, even when controlling for their higher rates of use. This is clear in search result analysis for popular virtual private network provider NordVPN. People in Lusaka conducted at least 100 times more searches for the provider than people anywhere else in Zambia, with the exception of the second most-urbanized province, the Copperbelt, where citizens conducted more than 82 times more searches for the provider than in more rural provinces. This shows how—for the afternoon of election day—rural citizens were

dealt a disproportionately greater blow to their access to information online, including to electoral advertising.

Political ads continued to run throughout the hours of the restrictions over the second half of election day. By this time, however, many of the 169 campaign ads had already been taken down by Facebook. Nonetheless, the restrictions deprived many Zambians of the capacity of continued exposure to the online campaign, alongside the capacity to discuss, debate, and participate in the online electoral environment across the period in which the limitations were imposed. Advertisements in the days immediately following the election, which promoted peace and calm, were not visible to those without access to a virtual private network.



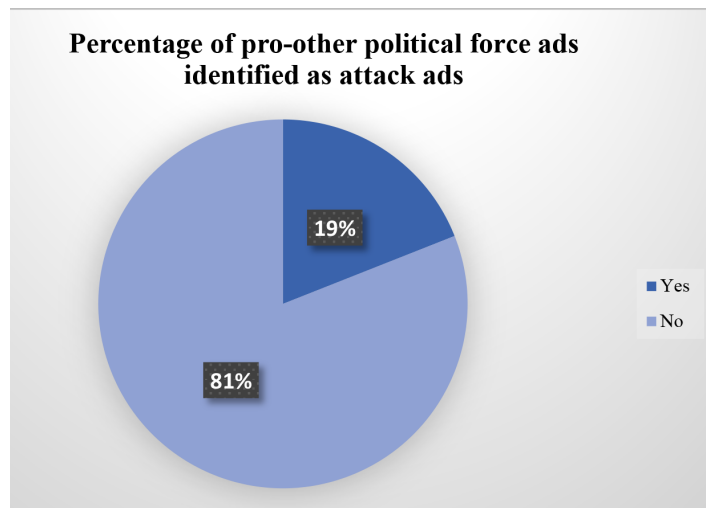
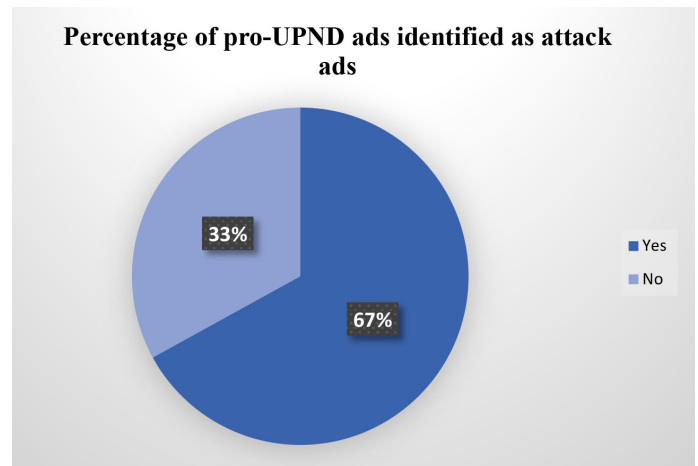
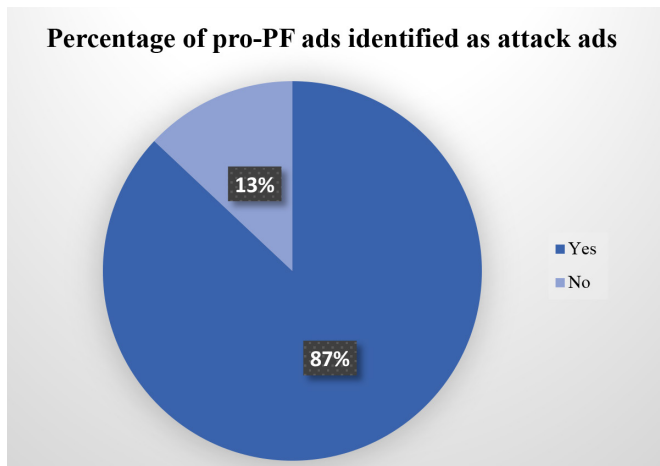
### Proportion of Attack Ads by Party

The Carter Center mission defined an “attack ad” as an advertisement that criticizes another political force without proposing a substantive policy. Significant differences were identified in the distribution of attack ads over the course of the campaign.

While 39.5% of most prominent, nonpaid-for content analyzed could be deemed “attack content,” this rose to 67% for pro-UPND ads and 87% for pro-PF ads. Given the majority of the sample from which content observations were taken were from pages with pro-PF or pro-UPND allegiances, this shows that attack content was

far more likely to be present in sponsored content supporting the two main parties compared with nonsponsored content.

The data indicates that ads distributed in favor of political forces other than the main two parties tended to be more policy-based in nature. This suggests that prominence accorded to minor parties helps bolster the role of policy in the electoral debate. It also suggests that factors pertaining specifically to the two main political forces—potentially their intense rivalry—led to a relatively higher proportion of attack ads in their favor.



### Campaign Themes in Facebook Advertising

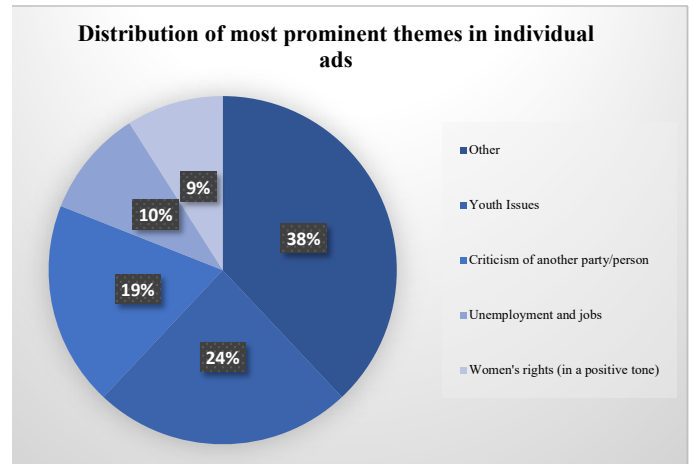
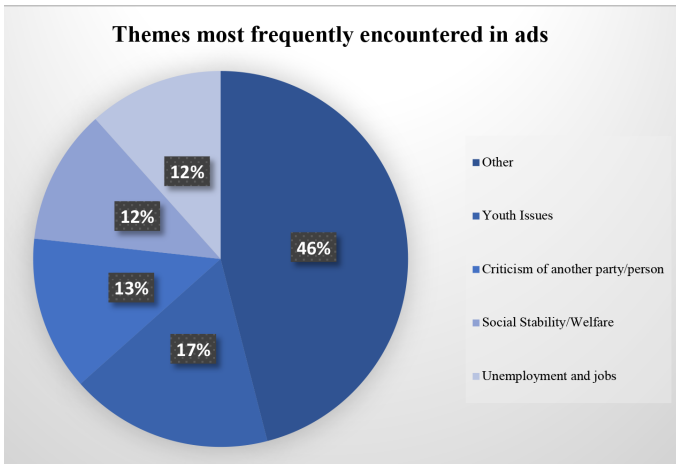
The Center’s mission monitored all themes present in ads, including the most prominent theme of that ad. Data on the former illustrates that a wide range of themes were present in the campaign, and that this was not a one-theme election.

While the chart here lists the top four specific themes, the “other” category includes a broad array of other issues—all scoring below 12%—reflecting the diverse array of issues upon which the online campaign was fought.

Nonetheless, it is noteworthy that whereas a wide variety of themes were present, a smaller

subsection of themes constituted the most prominent of the campaign. The significantly smaller size of the “other” category within most prominent themes—24% compared with 46% for all themes—suggests a degree of focus around a small number of key issues.

Youth issues were the most prominent individual theme and the most recurrent theme across ads. This reflects the audience of the online campaign. The economy was also a major theme, as was criticism of another political force.





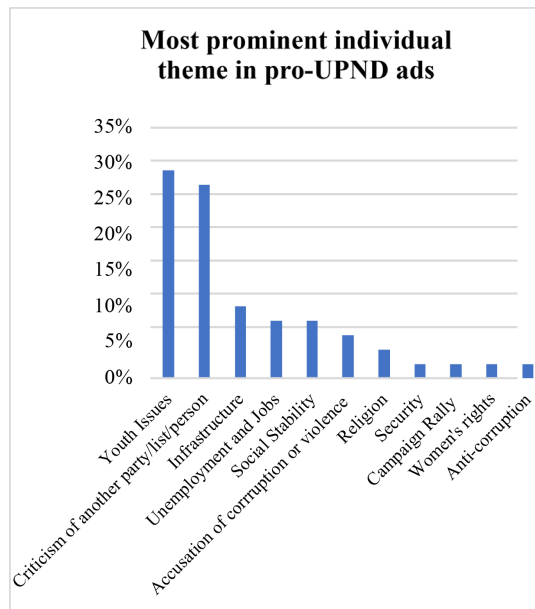
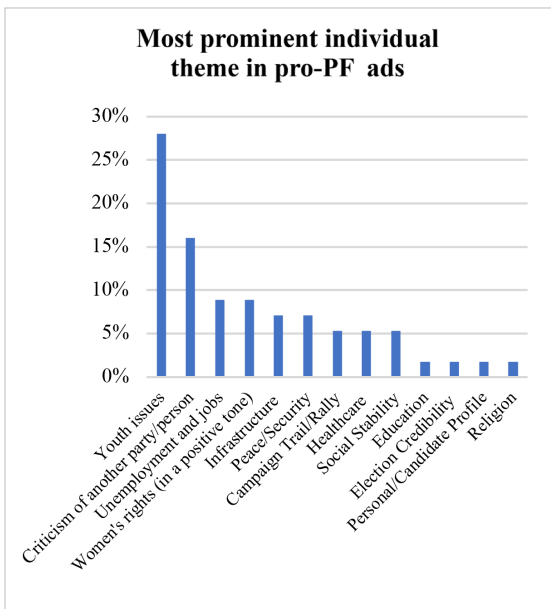
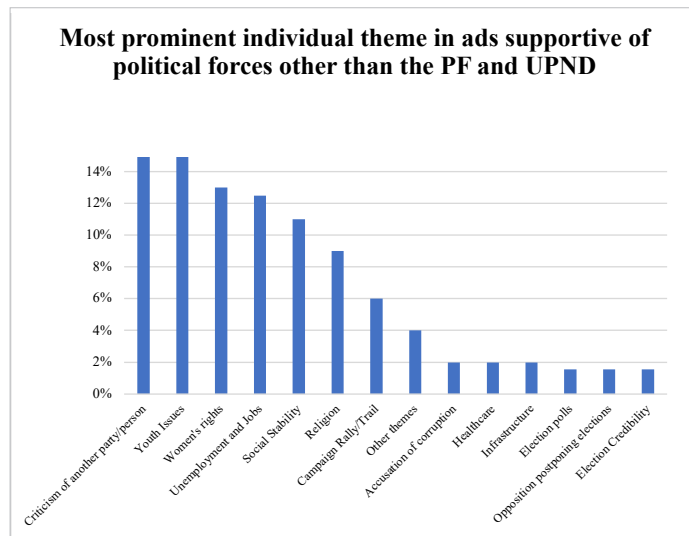
**Most Prominent Theme of Individual Ads: Comparison by Political Orientation of Ads.**

The dominant themes across differing parties' ads shows a significant degree of similarity. Youth issues and criticism of another political force constituted the most prominent themes for all three political orientations monitored.

There is a noticeable difference in the presence of women's rights in ads. The Carter Center's team included only incidences in which women's rights were mentioned in a positive tone. It is noticeable that women's rights were far more prominent in

political advertising for political forces that were not the two main blocs, while the theme was only minor within pro-PF ads and almost nonexistent within pro-UPND ads.

This is despite both parties having put forward female vice presidential candidates. It suggests that women's rights failed to be incorporated within major party ads as a significant political theme and that there may be a correlation between the low visibility of minor parties and the low visibility of women's rights as a campaign issue.



Note: Unclassifiable ads are excluded from each category, so category totals are <100%.

## Functionality of the Facebook Ad Library

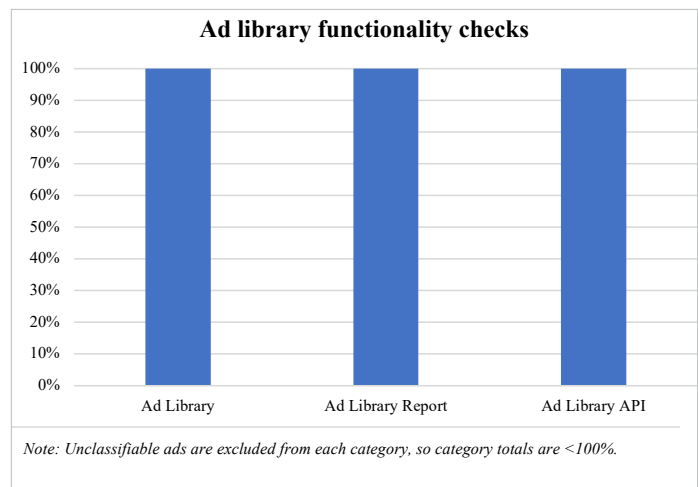
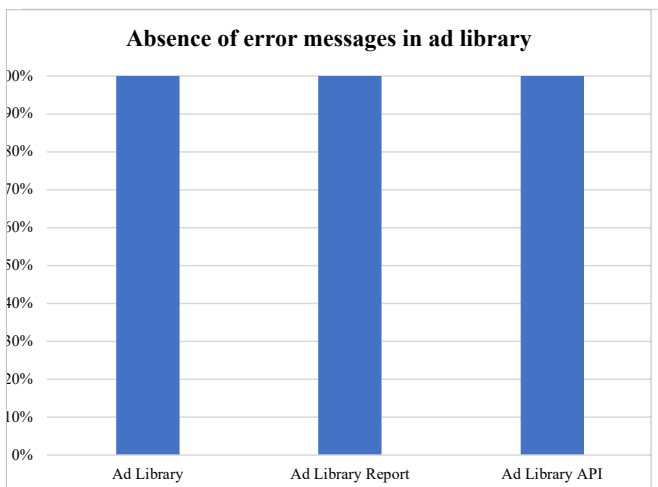
The Center undertook more than 500 separate checks on the functionality of Facebook’s ad library in order to establish its effectiveness as a new tool for electoral accountability in Zambia.

On measures determined by Facebook itself, such as the display of error messages and the “green tick” indicator of functionality, all iterations of the ad library were functional on every single occasion.

These observations reiterate the importance of cross-checking Facebook data. The Center’s team documented a number of ways in which the ad library did not offer the transparency it aspired to:

- The absence of paid-for “boosted” content
- The absence of ads from the first weeks of the campaign
- The absence of visible data on ads currently disseminating
- The absence of critical information on who was financing the ads in question
- The absence of an ad library report until two weeks before election day

Nonetheless, the rollout of the ad library helped bolster the transparency of the online campaign to unprecedented levels.



### Location of Accounts Administering Pages Disseminating Facebook Campaign Ads

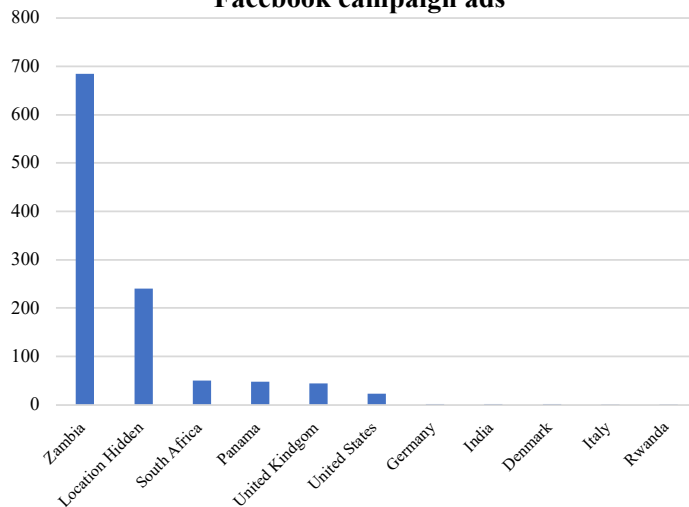
The majority of ads run during the campaign were run by pages administered entirely by people located in Zambia. Just under half of all ads were run by accounts in which at least one administrator was located overseas—primarily South Africa and the United States. These may well have been Zambians. However, Facebook did not provide enough information to know who was disseminating a particular ad.

A second barrier to transparency is in the appearance of “location hidden” for the locations of a number of ad administrators. Facebook does

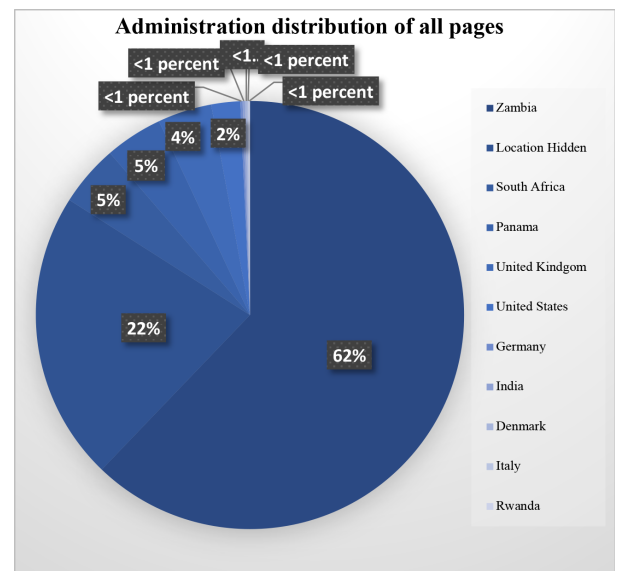
not present reasons why this information is not available where this label is shown. The presence of ads with overseas and location-hidden administrators does not necessarily indicate international nor undue interfering involvement in the process. However, the existence of such markers reflects the need for greater transparency in order for the Zambian public to know who is paying for political ads.

Note that these charts count the administrators of all campaign ads and do not eliminate duplicate administrators. Thereby, it shows particular country locations involved in the online campaign.

**Geographic distribution: administrators of all Facebook campaign ads**



**Administration distribution of all pages**



## Automated Activity in the Online Campaign

On Twitter, bots are often used during elections to retweet some candidates' messages to give the false impression of widespread support for a candidate or opposition to a rival. It is not possible to know with certainty who operates these accounts. They constitute an issue within the domain of the analysis of financed activity in the online campaign, and their deployment may indicate the use of professionals to manipulate the campaign.

Some tools allow us to detect bot activity with a degree of probability. It is also possible to analyze the discourse and how it works to know the objective pursued with that behavior as well as the politicians and parties that benefit from it. It must be noted that while no software can guarantee that any particular account is bot-operated, it can provide an estimate based on known indicators of bot activity.

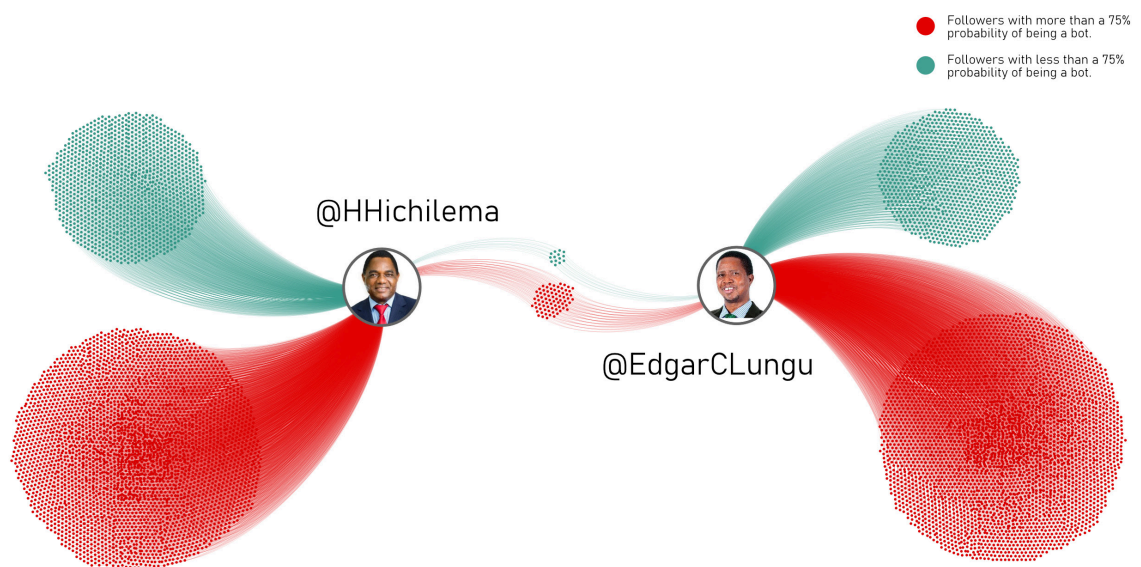
The Carter Center analyzed 15,000 Twitter profiles that followed the verified accounts of the two main presidential candidates. The Center sent these accounts to the Botometer system of the Observatory of Social Media at Indiana University, which uses an algorithm to detect whether they exhibit indicators of automation or not. For each

account sent, Botometer returns a score in the form of a percentage representing the probability of that profile being a bot.

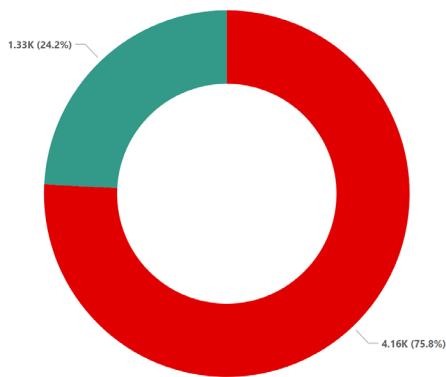
This study includes only those accounts with a probability equal to or greater than 75% of exhibiting high levels of bot-like behavior. According to this measure, at least half of all profiles that followed one of the two main candidates exhibited multiple overlapping indicators of being fully or partially automated.

This figure is higher than comparable figures for other electoral analysis undertaken via this software from other contexts and warrants further exploration. It must be contextualized with an understanding that Twitter played a secondary role in the online campaign in Zambia compared with Facebook. It suggests, however, that the reasons behind the high estimates of automated activity should be analyzed and understood in advance of future elections. A high rate of automated activity can have numerous consequences for the nature of online discourse, including amplifying the popularity and prominence of candidates in a misleading way.

It is noteworthy that the proportion of accounts with a high probability of being a bot are similar across the two accounts analyzed, albeit slightly

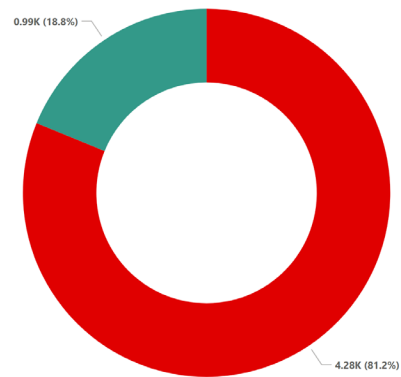


@HHichilema Followers



@EdgarCLungu Followers

● Bot  
● Not a Bot



● Bot  
● Not a Bot

higher for President Edgar C Lungu—81.2% to Hakainde Hichilema’s 75.8%. The degree of similarity in the figures suggests that the elevated level of estimated bot activity reflects a general trend that may be present across the Zambian social media landscape. It may be impacted by low levels of popular use of Twitter, which may lead to a higher proportion of bot activity compared to other electoral contests.

What is clear from this analysis is that the threat of automated activity on Twitter may present a risk for the integrity of the online campaign in a more digitized Zambia. This is an issue that should be taken into serious consideration by policymakers and organizations seeking to increase the integrity of the online campaign.

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# | The Carter Center at a Glance

The Carter Center was founded in 1982 by former U.S. President Jimmy Carter and his wife, Rosalynn, in partnership with Emory University, to advance peace and health worldwide. A not-for-profit, nongovernmental organization, the Center has helped to improve life for people in more than

80 countries by resolving conflicts; advancing democracy, human rights, and economic opportunity; preventing diseases; and improving mental health care. Please visit [www.cartercenter.org](http://www.cartercenter.org) to learn more about The Carter Center.





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