

*Restoring democratic governance in Zimbabwe: a critical investigation of the Internet as a possible means of creating new sites of struggle for positive democratic change by Zimbabwean media and activists in Zimbabwe.*

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## Abstract

This thesis is a reaction to the state of utter lawlessness and the abuse of human rights by those in power in Zimbabwe over the past two years and it investigates the possibility of restoring democratic governance in that country by increasing the freedom of expression and media freedom, which is considered to be one of the most valuable elements in advancing democratization. Its aim is to establish the Internet as the best means possible to increasing media freedom and creating new 'sites of struggle' for activists in a context where the substantive freedom of expression does not exist. This in turn is shown to advance levels of democracy.

To this end, the value of the freedom of expression to media freedom and the value of the latter to increasing levels of democracy is developed and the lack of democracy in Zimbabwe at all levels of society is considered. The Internet is seen to increase the freedoms of speech and association in new and interesting ways and it is discussed in various examples in which it has already been instrumental in evading the censorship of the media and increasing the ability of activists to express themselves freely and to organize more efficiently. Finally, the resources that Internet technology makes available to African journalists and activists are considered along with the lessons gleaned from international examples of successful Internet use and it is shown to already be of use to Zimbabwean journalists and activists as they create to new cyberspaces in which they can struggle for positive democratic change in Zimbabwe. The Internet is also shown to have tremendous potential for future use in that country.

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*No discussion of press freedom [...] can fail to applaud the advances, and above all the new opportunities, brought by the technological breakthrough of the Internet. An information flow, however policed and controlled, has been created in countries like Burma, China, Cuba, Iraq, Libya, North Korea, Sudan, Syria and Vietnam, where the press is totally muzzled, and one can only hope that free information providers will get better and better at outwitting the security authorities*

Timothy Balding,  
Director General,  
World Association of Newspapers

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## Introduction

### Logging On

#### *The Current Situation in Zimbabwe*

Zimbabwe has experienced the complete disintegration of any form of meaningful democracy. Since the year 2000, a questionable election and a controversial land-distribution programme in Zimbabwe has culminated in a violent struggle between the incumbents and their supporters and the political opposition and their followers. Many live in fear: white farmers, their families and their workers have been killed, raped or injured and the opposition and media have been constantly attacked and threatened: physically and verbally. The media in Zimbabwe can no longer present a story, regardless of how fair and accurate it is, that is not described as either pro-government or oppositional (Sarah Chiumba<sup>1</sup>, 2001) and the side that the state-owned media are on is clear as they act predominantly in the interests of government and could be said to be a 'government mouthpiece'. This editorial stance is not expected to change in the near future, especially since the country is in the throes of a presidential election campaign.

With many tortured, beaten, burnt, killed, raped or homeless, and regional economies and consciences finally feeling the pressure to act against Zimbabwe, the South African President, President Thabo Mbeki, and five other regional heads of state attended what was meant to be a two-day summit in Zimbabwe's capital, Harare. The aim of the September 2001 summit was to resolve the crisis (Independent Online, 4 September, 2001). By the 10<sup>th</sup> of September it appeared that progress had been made as it was alleged that Zimbabwean President Mugabe had agreed that he would seek a peaceful settlement to the land-distribution crisis. However, scarcely a day later, on the 11<sup>th</sup> of September 2001, the world looked away and the suffering of Zimbabwean citizens was overshadowed. A new, more vicious villain had reared its ugly head: terrorism had shook the world and, soon, after the World Trade Centre crashed to the ground, so too did any hope of Mugabe's cooperation toward a peaceful settlement.

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<sup>1</sup> In an e-mail interview, August 2001.

With world-leaders' attentions elsewhere, reports began to filter through that violence had again broken out on 'white', Zimbabwean farms.

#### *Fruitless Appeal to the Rule Of Law*

Although the opposition has said that Mugabe's days in office are numbered, the incumbents are confident that they will win the presidential election in 2002: not only have they constantly intimidated the electorate, the opposition and the media (both foreign and local), but the police have on occasion been instructed *not* to assist journalists or opposition members. The ruling party is also quite convinced of its ability to rig the upcoming elections since the supreme court has been filled with "partisan judges" judges, 'hand-picked' by the oppressive government (Michael Hartnack,2001:17). Evidently, this situation has resulted in the media in Zimbabwe not only being constrained, but being unable to make an appeal to the rule of law for protection as this rule has almost completely broken down.

Many Zimbabweans and interested parties have sought to bring the illegality of state actions and human rights abuses to light. The international community has also repeatedly warned Mugabe and threatened to impose sanctions if the gross human rights violations and other policies proving devastating to regional economies do not cease. In October 2001, the South African government further threatened to deport approximately two million Zimbabwean immigrants, mostly opposition supporters, before next April's scheduled presidential elections. To all these actions, the Mugabe government's reaction has been the predictable vowing to intensify white land-seizures and increasingly blaming the current political and economic crisis on white people in general (Hartnack,2001:17).

#### *Media and Democracy*

As recently as November 2001, Sanef issued a statement at its council meeting held in Johannesburg, condemning, "without reservation", the "latest round" of intimidation aimed at independent journalists in Zimbabwe, including the labelling of journalists as "terrorists" and exposing them to acts of physical intimidation and harm. It has been noted that at this point, it is impossible for the media to acceptably reflect, for

Zimbabweans and the rest of the world, how the aforementioned elections are to be properly conducted<sup>2</sup>.

A government controlled press is of no use to a democratic society (Ungar,1991:389), a free media is crucial to any truly democratic state if it is to succeed: *there cannot be a truly free society without a free press* (Marks,1995). The example of Russian democratisation is discussed in chapter one. It serves to illustrate that free media can extensively increase the amount of information available to citizens and, in so doing, increase the substantive freedom enjoyed by citizens. Free media contribute to the development and sustaining of democracies: the media therefore not only serve to guard democracy, but can also be instrumental in effecting democratic change (Ungar,1991:371-3).

#### Mounting an alternative struggle

In the case of Zimbabwe it is impossible to appeal to the rule of law to effect changes toward greater press freedom. This thesis contends that if the freedom of expression is not in place and the legal media is not able to fulfil the role desired of them, then the effectiveness of an illegal press should be explored. The impact of the Internet will be greater on the media than on politics (Ferdinand,2000:179) and it is the aim of this thesis to establish the Internet as a means to *increasing* media freedom and the general freedom to communicate. The importance of media freedom to democracy, which is established in Chapter One, comes to the fore here as the aim of this thesis is to establish the following connection between the *Internet* and robust *democracy*:

INTERNET → MEDIA FREEDOM → DEMOCRACY

The assertion is that an increase in the use of the Internet *in order to further media freedom* and the development and maintenance of free expression and debate, will allow the increased levels of media freedom to serve and protect democratic principles and practices. Internet technologies are presented as facilitating new opportunities for the formation of on-line communication spaces that are free from geographical and many other real-space confinements. This said, however, it is by no means the purpose of this thesis to establish the Internet as a space that is constraint-free. Cyberspace presents *alternative* ways, in virtual space, of overcoming

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<sup>2</sup> Sanef issued press statement, November 2001.

constraints to freedom of expression in real space, but already, to be discussed in Chapter Four, a beady regulatory eye is hungrily viewing the World Wide Web to curb its impact. On the other hand, there have been many innovations that will be able to curb even virtual censorship and there appears to be enough evidence to assume that, with ingenious Internet use, censorship has met its most formidable match. The relevance to a state like Zimbabwe, in particular, is that Internet use can distance media practitioners and activists from the line of fire: *if there is no printing press, there can be no printing press to be bombed!*

#### General Discussion of Chapters

The right to freely express oneself is for the most part championed above all others and the free media is regarded as one of the most important means for facilitating meaningful expression. In the case of Zimbabwe and numerous authoritarian regimes the world over, it would appear that the importance of a free press is superseded by other goals, such as sustainability and economic development: many arguing that a critical press will only serve to hamper such developments and should only be instituted once they are attained. However, this boils down to a mere excuse and a poor excuse at that. Very few of the countries that deny press freedom are stable or prosperous. Zimbabwe blames the press in particular for the country's lack of stability. However, Poland, Panama, and Chile have hardly enjoyed stability in their histories, although press restrictions (along with other repressive measures) were certainly given time to allow the governments to work their magic without a critical press (Ungar, 1991:391-2). Peter Dahlgren (2001) suggests "we would do well to consider the media themselves as key focal points for struggles to enhance democracy" (86). The aim of **Chapter One** is to establish a free media as crucial to increasing or maintaining general levels of democracy in a country. The chapter explores the varied roles of the free media and expression in democracies, including their role as the major sites of political discourse and interaction in modern society. The conclusion drawn is that the media are playing an integral role in terms of maintaining democratic principles and transforming authoritarian societies and argues for that increased media freedom is a contributory factor to increased democracy and development.

*Chapter Two* considers the current state of democracy and the right to the freedom of expression in Zimbabwe and the discussion contemplates all levels of government, civil society and democratic society, including the electoral process and the media. The Chapter concludes that there has been a complete breakdown of the rule of law and that the situation that currently prevails in Zimbabwe is one to secure *basic* freedoms and not just the freedom of speech: levels of democracy and respect for human rights in that state are mournfully low. The levels of media freedom are abysmal. Printing presses have been bombed, media practitioners are under constant threat of attack or arrest and even vendors have been beaten for buying and selling copies of newspapers (thousands of which have been destroyed) from the private media houses. However, as noted in Chapter one, this thesis considers the media, as mediators of expression, as instrumental in the battle for increased democracy in Zimbabwe as *any other important human right could be struggled for and realised with the right to freedom of expression in place* (Van der Westhuizen,1994:269;70).

The usual reaction of authoritarian political leaders to the press is to regard any comment that does not toe the party line as subversive. If a government is more concerned with staying in power than with addressing the needs and criticisms of its people, then a free press stands little chance of survival (Ungar,1991:390). The Internet presents the most “formidable challenge” to any censor, since, it is everywhere, but nowhere: it has no single hub or nerve centre and *no government can as yet control a message as it originates in another country* (Sussman,2001:23).

*Chapter Three* seeks to consider the Internet as a site of struggle for media freedom and contends that the Internet presents the most effective and growing alternative instrument for communication in the face of increasingly censored media and means of expression. There is little doubt that new media have facilitated various new means of communication and, in so doing, new forms of political communication, including e-mails and web-based bulletin boards to name a few (Axford et al,2001:15). With Internet technology, the audience becomes more powerful: every one can, in theory, have their own independent voice and the Internet allows people to post their own ideas and to seek out the ideas of others on subjects that they would like to know about. Chapter three considers *how* the Internet works, *what* about the Internet makes it a difficult medium to regulate, what services does it provide, and what about it enables it to be used to easily avoid censorship? The discussion moves to barriers to

Internet use in the pursuit of increased levels of media freedom as well as ways around these obstacles. The chapter concludes with predictions for what the Internet can become and how it can be used in the future.

Part of what could thwart the Internet's use for the purposes of furthering democracy (by means of increasing media freedom) is what the Internet could become: another space to be colonised. *Chapter Four*'s concern is regulation. The veritable explosion of information, news, 'contact' and discussion in Cyberspace is tempting governments, "developed and developing, politically free and not free", to attempt to curb the Internet's revolutionary influence by restricting its content. According to a French monitoring organisation's estimates, 45 countries now restrict Internet access under the banner of 'protecting the public from subversion' and, some 20 countries heavily restrict their citizens' access to the Internet. In China, for example, the official Internet Service Provider severely limits access and content, Internet sites have been shut down and e-mail has been censored (Sussman,2001:22-3), however, as has been suggested, such systems-based constraints may be overcome with ingenious (and not-so-ingenious) use of the Internet.

The Internet has been used to overcome censorship in many instances: many lewd subjects have found a home in virtual space after being condemned in real space, but perchance the most defiant use of the Internet has occurred in countries without a free press in which the Web is used as a "surrogate for censored media" (Sussman,2001:22). *Chapter Five* discusses examples from all over the world in which the Internet has been instrumentally used in overcoming censorship and, thereby, guarding or increasing levels of press and media freedom.

Not every person in Zimbabwe can access the Internet, particularly at levels on the bread line and below and, even if some had the money, they would perhaps not have the skills to use it. However, as stated, it is not the concern of *Chapter Six* (and, indeed this thesis) to consider the establishment of a *digital polity* in Zimbabwe: the question is not one of the influences of the Internet on democracy *directly* (although much work has been done in this area), the question is one of how the Internet can influence increasing media freedom in Zimbabwe and how this increased media-freedom could allow for increased levels of democracy in that country as it has in

others. The intention is not to establish that the Internet will become the prime or soul site of politics: politics must and will undeniably continue to take place in other settings, but this thesis proposes the Internet as an alternative site of struggle for political goals and, including, political freedom, in the absence of the freedom to pursue oppositional political objectives. It is also not the aim of this thesis to propose that engaging on-line is a perfect substitute for real-world, face-to-face meetings. However, in the absence of the opportunity to engage others publicly and safely in the press or through free associations, the Internet becomes, as Beamish (in Kitchen,1998) suggests, a “third space” (90).

The Internet’s consequences for democracy appear quite mixed as it is increasingly being utilised for economic transactions, rendering the majority of new web sites commercial in nature. However, the Internet has been proven to be instrumental in overcoming censorship and, thereby, guarding or increasing levels of freedom and, as such, the Net’s current reach is still of much relevance to *democracy*. In principle, anyone can set up a website or use e-mail or post a message to a newsgroup and, although the majority of Internet users do not use the medium to achieve political goals, it does not render it impossible to use the Internet for these ends. (Peter Dahlgren,2001:74). 74-5;84). Quite a number of users do use the Internet for political ends. It must be emphasised again that it is not the business of this thesis to explore the establishment of a digital polity in Zimbabwe. The project is one of ascertaining how the Internet can serve to increase media freedom and how increased media freedom, in turn, serves to strengthen democracy. To this end, attention is drawn to how the Internet is *already* being used and, in conclusion, makes predictions of how the Internet could be used further still in Zimbabwe so that censored views can be freely expressed in the interest of advancing democracy for the people of that state.

## Chapter One

### Free Media and Democracy

*Establishing the Role of Media Freedom in furthering Democracy.*

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*Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers*

Article 19,  
Universal Declaration of Human Rights

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Both the urge to say something and the need to be heard (and, unfortunately, the urge not to listen to others) are unavoidably human traits and to ensure that these needs are met, the freedom of expression<sup>1</sup> becomes “essential” if there is to be any significant attempt to “build a democratic social and political order” (Van der Westhuizen, 1994:264).

Analysts often concentrate on the existence or installation of elections as a measure of democracy and, thereby, a degree of freedom in other countries. In tending to be preoccupied with elections, however, analysts often ignore more substantial indices of free expression. The state of the news and communications media is one such indicator. Whether or not the media in a country are permitted to provide people with full and truthful information is, perhaps one of the most reliable gauges of the level of democracy in a particular country (Ungar, 1991:368) and encouraging and establishing free and capable media is perhaps more important, in the long run, to democracy than instituting elections with universal franchise.

This chapter, and indeed this thesis in its entirety, points to the correlation between increased levels of media freedom and increased levels of democracy. To this end, the discussion in this chapter will consider the importance of the freedom of expression to the functioning of a democracy and, in doing so will examine examples of how the media, in

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<sup>1</sup> The term ‘expression’ embodies non-verbal and verbal acts.

its various forms, facilitates communication and dialogue in society at large and can serve not only to enhance democracy and its principles, but to effect social and political change.

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### 1.1. The Freedom to Express Oneself

Freedom of expression is recognised as a fundamental right in many international human rights mechanisms, including Article 19 of the Universal Declaration of Human Rights and Article 19 of the International Covenant on Civil and Political Rights. It is so widely acknowledged, even if only in theory, because, firstly, speech is regarded as an expression of self and, therefore, each person is seen to have the right to speak his or her *own* truth. In view of this, to prevent the expression of a view or belief is to deny a person their “basic dignity, freedom, and individual autonomy”.

Secondly, freedom of expression is considered to be *essential* to the attainment of truth and even to the achievement of progress. It is believed that without freedom of expression, progress in any sphere is impossible (Van der Westhuizen, 1994:267;9). John Stuart Mill (1998) most successfully championed this view in his essay, “*On Liberty*”. In Mill’s view, to silence any opinion is to rob all of mankind. He claims that this is because no human being can ever be sure that any opinion they are endeavouring to stifle is false. Not the best government has title to prescribing to others what they may and may not hear. He further holds that even if one could be sure that an opinion is false, still no one is entitled to smother it: there is no such thing as absolute certainty in Mill’s view and no one is infallible and, therefore, *no one* can deny the truth of statement outright with certainty. However, Mill by no means holds that the fact that we cannot prove any truth with absolute certainty should render us unable to institute rules or beliefs to govern ourselves. Indeed, we must cling to some beliefs for our own safety. This is not a contradiction in terms. It is accepted that rules are necessary to govern society rationally and we adopt laws *to the best of our knowledge* for this purpose. However, we should *always* allow for any policy, rule or law be open to question. In so doing, the rule or law will either be disproved or, on the other hand, strengthened by clashing with a wrongful criticism or observation:

“If even the Newtonian philosophy were not permitted to be questioned, mankind could not feel as complete assurance of its truth as they do now” (20-6).

Lastly, freedom of expression is *vital* to the concept and ideal of democracy. The Canadian Supreme Court declared “Representative democracy, as we know it today, [...] is in great part the product of free expression and discussion of varying ideas”. Democracy depends upon the maintenance and protection of this freedom because, it is an “indispensable tool in pointing out the illnesses and injustices of a society to the world: *any other important human right could be struggled for and realised with the right to freedom of expression in place*”<sup>2</sup> (Van der Westhuizen, 1994:269;70).

#### 1.2.1. Furthering Democracy: The Political Role of the Free Media.

Freedom of expression has often been granted pride of place in the ‘rights hierarchy’ due to its aforesaid necessity to self-realisation, personal autonomy and the attainment of truth. The free media are seen to be *facilitators* of this expression in modern democracies and, as such, press and, for our purposes, media freedom<sup>3</sup> in general, has always been considered a necessary safeguard in a democratic society.

Traditionally the press and media have been considered as ideally neutral observers of the political arena: not part of the political process, but standing outside it as the proverbial ‘watchdog’: keeping watch over government, able to protect the right to free expression should anyone be seen to be posing a threat to it. However, although keeping a beady eye on politics, the press has also always played an important *role* in political processes and Judith Lichtenberg (1991) claims that this role has never been as critical as it is at present. The importance of the media to the political process becomes more widely recognised with “each election year”: “The press today – the mass media in particular – is one of the primary actors on the political scene, capable of making or breaking political careers and issues” (1;8). The media have become *agents* in the political process, as opposed to mere

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<sup>2</sup> If the right to free expression is secure, people can campaign for, among others, better education, housing and health policies.

<sup>3</sup> Press and media will be used interchangeably, unless explicitly stated, as much literature refers to press

observers, although, this latter role is still important, the media further provides the oil to make the machinery of democracy run properly<sup>4</sup>.

### 1.2.2. Public Debate and the Communication Function

Owen Fiss (In Lichtenberg,1991) emphasises the need for strong public debate in a democratic society to enable citizens to make intelligent decisions about public policy. Fiss holds that *this* is the most important value in freedom of expression and that it overrides all other values related to free speech, including the interest in personal autonomy (15). How does the media fit into the role of facilitating debate? In the preoccupation with the notion of expression and protecting its freedom, many overlook the *communicative* function of the media. It is a key element of the functioning of the media. The freedom to express oneself is important as a principle on which to build a free media, however, it is the business of the media to *communicate* something: this implies a dialogue or, at the very least, a receiver or audience, and not just 'expressing into a vacuum' as was evidenced by the discussion of the human need to be heard.

Onora O'Neill (In Lichtenberg,1991) states that the media in a democracy is important mainly because they are *organs of communication*. This shifts the focus of freedom of expression to encompass not solely the interests of the speakers, but the interests of those who hear them. Consider the function of communication. People would not have fought and died for the freedom to express themselves or the freedom of the media to merely hear themselves talk! The fundamental interest in freedom of expression is an interest not only in freedom to think, but also an interest in communicating those thoughts to others<sup>5</sup>. As a result, for many, media freedom should therefore not be taken to be a good in and of

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freedom, but intends the term to refer to broadcasting as well.

<sup>4</sup> South African television news journalist, Freek Robinson, said this of the media in a television interview with the Afrikaans variety programme, *Pasella*. 19 November 2001.

<sup>5</sup> It is necessary to differentiate between freedom of expression and freedom of speech: "We want to protect a person when she criticises another but not when she punches him in the nose...Freedom of speech protects expression that is essentially symbolic...Punching someone in the nose, however, while expressive, is not essentially symbolic" (Lichtenberg,1991:109).

If this were not the case, the physical threats and attacks occurring in Zimbabwe could be argued for as acts of expression. This is not the freedom we seek.

itself: it is an instrumental good in so much as it is able to establish *meaningful* freedom of expression (16-7;105).

### 1.2.3. The Right to 'Media-ated' Information

Van der Westhuizen (1994) emphasises that “the public has a right to information” and that this right is also widely recognised in free and open societies. Many people may never express their view via the media in their lifetimes, but these people still have an interest in the free functioning media. The audience has a right to information.

Gurevitch and Blumler (1991) state that the media should act to diversify opinions *and* opinion sources, serving the public’s “right to know” by providing numerous options for significant political choices and participation (269;275). To this Van der Westhuizen adds that for a democracy to function *as a democracy*, people need to be able to access not only a number of policies and party platforms (so that there is the possibility of their arriving at true representation), but people need to have access to a number of views in order to better enable them to make socio-political (and, increasingly, economic) choices (Van der Westhuizen,1994:269-70).

The media in any democracy must be able to investigate and disclose possible malpractices and abuses of power in an administration and must also be able to investigate *relevant* aspects of the professional and private conduct of those putting themselves forward as leaders (269-70), the ‘watchdog’ function. Kelly and Donway (In Lichtenberg,1991) distinguish this function<sup>6</sup> of the media from its other political functions and argue that it is historically and philosophically crucial for the media (15). Considering the examples cited below from Central India and Malaysia, cited in 1.3.2, it would probably serve the discussion more to refer to this function of the media as a *guard dog* function. Linking this to the communication and debate function of the media that is crucial to democratic political processes, a guard dog implies that something or someone is being *protected* and not just watched. Governments, by a Hobbesian reading, are

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<sup>6</sup> It would seem more fitting to rather regard the said Watchdog function as that of a guard dog function,

instituted to govern and protect people. A government would be short sighted if it did not allow for the media to function freely.

### 1.3.1. The Contribution of Media Freedom to Democracy: The Russian Example

Sanford J. Ungar (1991) holds that, contrary to popular belief, the most easily transferable or exportable institution of American democracy is, in fact, the notion of the freedom of the press or the media and, perhaps, no leader in relatively recent times “has appreciated this fact more fully” than the former President or the former USSR, Mikhail Gorbachev.

After coming to power, this Communist leader instituted two seemingly (and oddly) strong policies of *demokratizatsiya*, democratisation, *Glasnost* (openness) and *Perestroika* (restructuring) to both of which greater freedom (and this includes the press) is a key element (370). Structural reforms included, among others, the approving of a mixed economy, a multi-party system, and the rule of law (although, these were synonymous with most democracies around the world). However, it is held that it was the policy of *glasnost*, openness, which made the most significant contribution to Russian democratisation. Although this openness was *not exactly the same* as press freedom, it served to increase awareness of and commitment to the restructuring (‘democratisation’) process, but it also, importantly, served to increase awareness of past atrocities of the state toward its people. With the reform of the mass media and increased freedoms of expression and conscience, censorship was outlawed and new religious freedoms were instituted (White,1997:422-8). The impact of these reforms upon newspapers and magazines, instituted in a stringently censored environment, was immediate: journals that tested the limits of new legislation attracted many new subscribers, while the sales of the more conservative government publications plummeted (Ungar,1991:370).

Gorbachev’s reign has often been described in two phases: in a wave (to use Samuel Huntington’s terms) towards democratisation with his policies of *glasnost* and *perestroika* and then with a reverse wave (in which he experienced what Ungar refers to

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which implies that the media also sets up some form of a deterrent to corruption.

as “second thoughts”) and tried to tighten the reigns of control again. During the reverse wave, when *Argumenty I Fakty*, the Soviet Union’s best-selling newspaper, became too aggressive, Gorbachev pressured the editor for his resignation (Ungar,1991:370). Gorbachev attempted to revert to pre-*glasnost* and *perestroika* understandings of Russian governance and, indeed, censorship, but was not successful. The final fall of the Soviet Union has been attributed, in part, to this first wave of democratic policy making in which people were given a taste of freedom (and in which freedoms were entrenched in their constitution) and would not revert back to ‘un-freedom’ (White,1997:435).

Although in most democracies it may often appear as though all that the news media tend to report on is politics and that they do a hack job of it by presenting it in an endless stream of political disagreement and conflict (Gurevitch et al,1991:272), the existence of the press that presents these conflicts enshrines the single most important aspect of free media in that they are not controlled by a single, centralised political power. Gurevitch and Blumler (1991) note that it also serves the democratic concept of political accountability of those in power to the ordinary citizens and, in presenting disagreement and conflict, even without opinion or debate, can be said to further the notion of citizen autonomy: the audience is not dictated to, but is offered information from which it is assumed that they can make up their own minds (272-3). In the Russian example, it would appear that having finally been given the opportunity to decide for themselves where things were going wrong in their society, the Russian people chose not to let go of their newly found freedom.

### 1.3.2. Cases of Famine and Development

It would appear that the free media not only serve to further democracy, but to generally increase standards of living altogether. According to Amartya Sen (1995), the existence and the exercise of various liberties and political rights, including the liberty of free expression, aids in the aversion of serious economic disasters. This includes famine. In the history of famine, no substantial famine has *ever* occurred in a country with a

democratic form of government and a free press (this is also true of countries where the press and media are only *relatively* free)<sup>7</sup>.

“Famines have never afflicted any country that is independent, that goes to elections regularly... *that permits criticisms, that permits newspapers to report freely*” (emphasis added) (148-9).

The available evidence shows that the free flow of information promotes development. Dana Bullen (2001) notes that obvious comparisons would be between East Germany and West Germany or the Soviet Union and the United States, but she also notes that there are exceptions and in defence of her thesis she cites studies conducted by Freedom House of more than 165 countries which show that freedom, a free press, more successful economic development and a better life tend to occur together. Governments in almost 75% of the nations of the world virtually dominate the content of media and in a great many of these same countries there is a serious need for development. The correlation between a free flow of information and development is attributed to the opportunity to fully debate alternatives throughout society and not just behind closed government doors. As noted in the discussion of JS Mill above, nobody possesses all wisdom and it is thought that an independent media helps to bring as many ideas and facts as possible to the fore so that they may be considered and may even be found to be better than government proposals. Probably, most importantly, the presence of independent media allows for the monitoring of development programmes in the public interest: if problems with these programmes are exposed in a free media, such programmes will be more effective than if the problems are covered up. Bullen discusses an example in central India in which asbestos mines employ large numbers of local labourers. Dust control used to be very poor and, as a result, many labourers contracted chest diseases. Fortunately, the local press was able to expose the situation, moving regional and national media to action and those responsible soon remedied the situation. Bullen also notes that the Malaysian government had earmarked a National Park for a government planned hydropower

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<sup>7</sup> Famine is also not the result of modernity as famine has occurred in ancient kingdoms and primitive tribal communities *as well as* in contemporary authoritarian societies and modern technocratic dictatorships.

scheme. Journalists and environmentalists are credited as having saved that park from imminent destruction.

“One wonders what other human suffering, waste of resources, or destruction to the environment might have been avoided if the press had been even more active in such places – or permitted to be active at all in others” ([www.wpfc.org/Bulletin-A/Free/Press/Means/Better/Development](http://www.wpfc.org/Bulletin-A/Free/Press/Means/Better/Development)).

Press freedom is not a luxury, it a necessity, and “what you don’t know *can* hurt you”<sup>8</sup>: where people do not have access to information, corruption is rampant and standards of living are generally lower. On this bases it has been argued that government should steer completely clear of the press in terms of intervention *of any kind*. Although the state may be called upon to regulate and investigate a multitude of other activities, speech and the media have “a special place” and are protected from government intrusions that may be appropriate or legitimate in other areas (Stepp in Lichtenberg,1991:15).

However, there are cases in which it can be argued that expression and the media can defensibly be *limited*, although the preferred term is *regulated*.

#### 1.4.1. Limitations to the Freedom of Expression

Some people oppose regulation of the media on the grounds that “liberty-in-general should be extensive”. In such a perspective, freedom of the press enjoys no special privileges, but is protected because the state is hoped to be minimal: “limited to the narrow functions of protection against force, theft, fraud, enforcement of contracts, and so on...” (Nozick in Lichtenberg,1991:14). However, Bollinger (In Lichtenberg,1991) and others argue that state ‘involvement’ can be legitimate. The belief is that people can express values through the state that would otherwise not get aired in the much-lauded ‘marketplace’ (14).

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<sup>8</sup> A World Association of Newspapers advertisement in FreePress May 2001. Media Institute of Southern Africa, Windhoek.

No right is absolute. Rights can be limited and the extent to which this occurs depends on the historical context of the country concerned. But, when limitations do occur, they should occur *only* if they are “reasonable and justifiable [and, arguably above all, *necessary*] in an open and democratic society” based on the democratic principles of freedom and equality. If any country wishes to be seen as upholding or strengthening democratic pillars within its borders, limitations to any freedom should only be considered under these aforementioned terms. For example, South Africa’s constitution provides that “all media financed by or under control of the state shall be regulated in a manner which ensures impartiality and expression of a diversity of opinion” (Van der Westhuizen, 1994:265). In post-Apartheid South Africa, it has become imperative to guard state-owned media as ‘*public service* broadcasters’, first and foremost, to ensure that the *possibility* for all voices and opinions to be aired exists. This is a case in which it is deemed not only reasonable and justifiable to regulate and curtail what a state-owned service can and cannot publish, but South Africa believes it to be absolutely *necessary* to institute regulations to ensure that all groups views are given equal time and consideration<sup>9</sup>. These regulations invariably limit the broadcasters themselves as their remaining time to choose what they would have broadcast is lessened, but this is seen as a necessary ‘evil’ and means for ensuring other important rights that are emphasised in the South African context such as *dignity* and *equality* in addition to expression and is, thereby, justifiable.

#### 1.4.2. No Right to Publish

It should *not* be understood that every person has a ‘*right to be published*’. There is a right to speak, think, or write freely without interference, but there is no *right to publish*, on the part of the citizen, in the same sense as the aforementioned rights. One’s success in publishing depends on the choices that the publisher is quite entitled to make and other factors (political, economic and cultural)<sup>10</sup> that come to bear on the publisher. Similarly, there is no fundamental ‘*right to editorial autonomy*’ to be “violated by regulation

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<sup>9</sup> See the discussion of cultural constraints and pressures below.

<sup>10</sup> See discussion on these areas below.

designed to enhance the multiplicity of voices”, such as Section 315(a) of the Communications Act in the American example above.

For the most part, arguments for editorial autonomy revolve around the right to be free from interference and to express what one wishes. However, that issue is one of property rights and not solely about the freedom of the newspaper or broadcaster to express what they want to. Other businesses, also the private property of others, are not immune from regulation and, therefore, the independent press would appear to be open to regulation as well. In fact, hardly any person can do with their property exactly as they please. The example of new anti-smoking legislation in restaurants is a prime example. Property rights are thus not sufficient grounds to guarantee the holder of the right the ability to override a person’s freedom to speak and possibly be heard in their media. A commitment to free speech such as that embodied in the US First Amendment, for example, results in a situation whereby if free speech comes to loggerheads with any other interests, “the former has a pressing claim *not* automatically defeated by competing claims with property rights” (emphasis added). Otherwise the principle of free speech would be a very frail one indeed. It is, therefore, not sufficient to appeal to the property rights of publishers and editors against all claims to regulate the press (Lichtenberg,1991:108;115;120). However, the fact remains that no one has an inherent right to publish, but that an appeal to property rights *is not sufficient to sidestep regulation to encourage equal access to the media.*

From the discussion so far we can glean that the freedom of speech should allow for two things to occur broadly. Firstly, people should be able to communicate without the fear or threat of interference, what Lichtenberg (1991) refers to this as the *non-interference principle*, and, secondly, freedom of speech should provide that there be many people communicating in order to facilitate the communication and propagation of many different points of view and ideas, the *multiplicity of voices principle*<sup>11</sup> (107).

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<sup>11</sup> Although both principles are important, they can clash as government intervention has been shown to intrude on the first principle, but it has also been suggested that it may advance the second. In this second instance, a newspaper may very well not be allowed or able to interfere with a person’s right to speak or

### 1.4.3. Constraints on the Roles of the Media

Thus far the functions of the media, which concern the perpetuation and protection of democracy, are

- Holding officials accountable for how they use their power. The media are expected to survey the socio-political environment and to report on developments that may affect citizens' welfare, positively or negatively.
- The media are relied upon to create platforms for informed and instructive advocacy *and debate*: communication, by and between interests groups from all levels of society. It is hoped that in facilitating this dialogue, views will be drawn from across a *diverse* range of office holders and publics.
- The media is expected to engage in "a principled resistance" to forces who attempt to subvert the media's "independence, integrity, and ability to serve the audience" (Gurevitch et al,1991:269-70).

However, it is not only reasonable and justifiable means that can limit private media. Peter Dahlgren cautions that it should be born in mind that "the media are social institutions [...] and that their activities are made possible or halted by the political *economy* and social environment within which they operate" (65). Mainstream opinion currents are bound politically (by the government system), economically (by private enterprise capitalism), and culturally (by the values of consumer society) and these "built-in constraints tend to thwart the realisation of democratic values (269;275). The result is that modern media seem to be as remote from the people they 'represent' as they can possibly be.

#### 1.4.3.1. Economic Constraints and Pressures

Dahlgren (2001) notes that the media "have been instrumental in globalising the normative vision of democracy" and that virtually every person will support the

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write – to express himself or herself – but the newspaper may be able to prevent that individual from having the same views expressed in the pages of that newspaper by simply exercising the newspaper's autonomy, which also fits in with the first principle (Lichenberg,1991:107).

importance of communications and news media in shaping the democratic character of society. However, regrettably fewer will pay homage to the importance of democratising the media (65).

Even if the government does not seek to drive the media's messages, that does not mean that the press in such an instance is 'free' or independent of any external pressures. In fact, it has been asserted by many thinkers that contemporary journalism is most severely compromised by the economic pressures on it. Holmes (in Lichtenberg, 1991) argues that the early liberal theorists held that *private power* presents as much of a threat to the liberty of the press and freedom in general as public power often does.

"It would be naïve to think that the economic and political interests of these institutions do not get reflected in their informational 'products'. To the extent that they do get reflected, less powerful interests and perspectives get less than a fair hearing in the political forum" (10;14;123).

The media's 'democratic goals' are inextricably shaped by their overriding economic concerns. It is one of the lauded functions of the media that it brings developments in the distant and complex realm of politics to within reach of the average person in language and concepts that he or she can understand. However, there are notably few indications that practising media personnel make a concerted effort to quantify or qualify for themselves how much information and insight their audiences get out of news reports, which they write daily and there seems even less of an indication that media practitioners change their reportage with a view to increasing their reach in terms of public understanding and knowledge. Media across the board, due to the financial concerns of the 'product' they sell, seem more concerned with presenting what is considered "sexy" rather than necessarily attempting to represent a broad spectrum of ideas or to inculcate understanding in the minds of their audience. The aim of the public service that the media is supposed to provide conflicts with the fact that the media tend to cater to the interest and tastes of the public, rather than providing "what the public *needs* to know" (Gurevitch et al, 1991:269;271-3). Media practitioners can hardly be blamed. Particularly

in Africa, salaries for media practitioners are hardly exorbitant and many institutions are understaffed and do not pay overtime. It can hardly be expected of these journalists to always go the extra proverbial extra mile at their own cost, although some often do.

Gurevitch and Blumler echo the sentiments expressed by Holmes' (1991):

“Although they are the major channels of political communication, the mass media dance to other tunes than those of democratic communication alone. Through their acceptance of the imperatives of competition, and in their adherence to a self-generated and self-imposed set of professional standards, they shape their contributions to the political process in ways that may well fall short of the democratic ideals they claim to serve” (Gurevitch et al,1991:283).

#### 1.4.3.2. Cultural Constraints and Pressures

As discussed, in South Africa, structural regulations have been imposed on the media in order to secure the opportunity for a broad base of opinions to be aired. It has also been noted that this invariably limits the private (or public) broadcasters remaining time to choose what they would have broadcast, but it is seen as a necessary and justifiable means for ensuring that other rights, such as dignity and equality, are upheld. Evidently, South Africa's historical context informs this opinion. Historically, the massive suppression of freedom of speech and association, and assembly under the state security in South Africa, meant that the government could and did execute blanket banning – in the press – of banned peoples' and organisations' names and even banned the printing of white spaces in the press<sup>12</sup>. Although strongly opposed to censorship, the majority of South Africans, now post-Apartheid, are particularly opposed to hate speech and the need to prevent incitement of racial hatred. Hate speech is another form of expression that is limited in the South African constitution<sup>13</sup> and the need for its limitation is also recognised in international human rights law.

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<sup>12</sup> These were used to denote where stories had been censored by the powers that be and that is why the blank spaces themselves were banned.

<sup>13</sup> Although John Stuart Mill and others hold that there is no justification for curtailing speech whatsoever, some limitations are in place for reasons demonstrated. However, people are easily offended and South

However, 'hate speech' or offensive expression is allowed to a degree in the United States. In one instance in the US town of Stokie, in a suburb largely populated by Jewish concentration camp survivors, the court ruled to affirm the right of Nazi groups to march on a public street in this suburb. The general belief and hope of the Stokie ruling is that in not banning racist speech or expression, there will be no 'slippery slope' in banning all currently unpopular speech. The American stance is that if one instance of speech is banned, further exceptions may be demanded. The US experience is somewhat different from the South African situation and can possibly also be attributed to that country's history.

“The very freedom to express one's opinion on almost everything an everyone in the strongest terms often seems to play an important role in holding together the many diverse components of US society” (Van der Westhuizen,1994:273-6;278-80).

Although, on the face of it, vehemently opposed to content regulation, America, had their Congress enact the “equal time rules” (Section 315(a) of the Communications Act), which require that all candidates for public office, if they are equally qualified, must be afforded equal opportunities for broadcast time (Lichtenberg,1991:2). This is similar to South Africa's structural regulations. In addition, in the US speech can be restricted if it is proven to present a “clear and present danger”. For example, it is illegal to cry “fire” in a crowded cinema when there is no such threat as the resultant panic *could* lead to injury or loss of life. Most of the world recognises this need for “controlled and reasonable security and emergency measures”. (Van der Westhuizen,1994:273-6;278-80). Even in contexts where people seem most vehemently opposed to any limitations of speech, the recognition of the importance of some forms of regulation exists.

#### 1.4.3.3. Political Constraints and Pressures

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African law requires that, generally, some demonstration of likely *harm* to the plaintiff must be available if the curtailment of speech is to be justified (Van der Westhuizen,1994:273).

In addition to regulation to allow for a diverse range of views to be aired, the press and electronic media are subject to numerous legal or even ethical restrictions such as registration, licensing and content directives (such as in the South African context where the importance of securing impartiality and diversity is emphasised). Van der Westhuizen (1994) notes that broadcasting regulation *inter alia* by the issuing of licenses does not in itself violate free expression. One reason offered for this is that it is accepted that airwaves are scarce. Naturally, radio and television spectrums are limited. As a result, the right of state authorities to regulate and allocate the broadcast spectrum is recognised. In South Africa it is thought that a moderate amount of regulation is not only not unreasonable<sup>14</sup>, but considered even favourable, particularly if it is instituted to safeguard diversity of opinion and impartiality (289). Structural regulations can enhance the multiplicity of voices being heard by building constraints into the structure of media organisations as a whole (Lichtenberg,1991:127). It does not follow from this that content should be regulated<sup>15</sup>.

Even though there are clear benefits in some societies for state intervention in the media, most still fear “the state’s inherent conflict of interest in regulating the press and the likelihood that it will suppress points of view contrary to its interests and promote those sympathetic to it” (Lichtenberg,1991:18). This is not an idle threat. In the year 2000, the Media Institute of Southern Africa (MISA) recorded no fewer than 182 action alerts in the Southern African Development Community (SADC) region alone. These alerts include approximately 120 media freedom violations such as media practitioners being killed, detained, arrested, censored or imprisoned (Kandjii,2001:9). It follows that the more power is centralised, the greater its influence and impact. If the press’ power were centralised, if it is controlled by the state, the potential influence of this publicly controlled press upon its public would be almost limitless. It is conceivable why dictators and authoritarian leaders should often seek to confine the media to a few sturdy sectors

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<sup>14</sup> See discussion on hate speech below and discussion on limitation of rights above.

<sup>15</sup> Content regulation demands that media institutions cover certain kinds of issues *in a certain way* or may call for the media institution to provide access for a certain point of view alone. This is clearly not democratic.

only so that they can wield the media for propaganda purposes<sup>16</sup>(De Tocqueville,1980:185). It has already been stated in this chapter that in 75% of all nations the government has a strong hold on the media and what it can do. In many of these cases content regulation or, more accurately, content *restriction*, intimidation of journalists and blanket censorship are the order of the day<sup>17</sup>.

This extreme form of constraining the media is of great importance to this thesis as it seeks to explore alternative measures to overcome censorship of the media and the freedom of expression as it is found in its possibly its most extreme form: under President Robert Mugabe of Zimbabwe. The contention is that a regime like this one that does not pretend to be accountable to its people, will never tolerate a free press and is what Ungar describes as “brutally repressive” (1991:373).

“A free press may, in fact, be more effective than an opposition party in achieving change in an oppressive system [...] Any country with a genuinely free [media], for example, will have a hard time holding a large number of political prisoners without having to explain itself to the public” (Ungar,1991:371).

Limiting the media because they reveal truths about the government and say things that the government may not like is neither a reasonable nor a justifiable cause for restricting the media. The media is *often* unpopular with governments and the media can sometimes get things very wrong, but so can governments and, on this point, Thomas Jefferson, one of the founding fathers of ‘the land of the free’, was noted as saying that given the choice between a government and the press, he would choose the latter. There cannot be a truly free society without a free press (Marks,1995).

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<sup>16</sup> It is specifically for this reason that the American media system is such that it has a comparatively lesser influence upon the public. This is attributed to the almost excessive dissemination of its power: by multiplying the number of public bulletins in that country, their effect has been neutralised. In America there are so many different journals and opinions that it seems almost impossible to generate those ‘great currents of opinion which sweep away the strongest dikes’” (De Tocqueville,1980:185-6).

<sup>17</sup> In Namibia, the Sam Njoma regime has stated that government offices are not allowed to advertise in any newspapers that do not agree with ruling party policy. This has the only independent newspaper, The Namibian, in a near stranglehold.

The media can also be instrumental in effecting democratic change. As became clear in the example of Russian democratisation and the media's role in this, a free press inevitably reinforces democratic ideals: it places the power to participate in the decision-making process in the hands of the people and the resultant redistribution of power has been shown to, in the long run, result in a change in the form of government (Ungar,1991:371-3). ).

The discussion of the economic, cultural and political constraints that come to bear on the media's ability to fulfil a democratic role have painted a rather bleak picture of the changes that the media is able to effect in practice, but, although these constraints must be born in mind, one should be cautious in placing too much significance on them. The Russian, Indian and Malaysian examples illustrate that the media, even under constraints, are able to significantly increase the amount of information available to and substantive freedom enjoyed by citizens. Free media contribute to the development and sustaining of democracies. These examples are not isolated<sup>18</sup>. Political, economic and cultural constraints impact on the media in varying degrees in even more varied contexts. Lawrence Lessig (1999) also cautions against concluding that political (structural), economic and cultural constraints are an indication that the media in a country is impotent and is of no use in the pursuit of democracy:

*“The right to free speech is not the right to speak for free. It is not the right to free access to television, or the right that people not hate you for what you have to say...the right to free speech...means the right to be free from punishment by government retaliation for at least some speech”* (emphasis added) (164).

Whatever the pressures that come to bear on the media, it is still in the interests of the public that the media is allowed to operate as free from political intervention as possible: without intimidation, physical attacks or government control of content.

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<sup>18</sup> Chapter Five is devoted to examples of communications media being utilised to increase levels of democracy and freedom or even overthrow an authoritarian government. These examples in Chapter Five are ones in which the Internet was specifically utilised.

Lichtenberg notes that if the press was not regarded as a powerful force and shown to be so, one would not think twice about *curbing* or *protecting* its freedom (1991:1;8). It is true that not only is this the freedom of expression necessary for self-expression and for the right of information or playing 'guard dog', but 'any other right, such as dignity, equality, education and health care, could be struggled for and realised with the right to freedom of expression in place' (Van der Westhuizen,1994:269;70). Nonetheless, if the freedom of expression is not in place and the legal media is not able to fulfil the role desired of them, what about the effectiveness of an illegal press? Ungar observes:

“[Authoritarian] Leaders who are intolerant of press freedom may soon find themselves powerless to prevent it, as new technologies are making it much easier to launch and sustain independent media. Governments that reject the notion of a legal opposition press will find an illegal one increasingly difficult to control” (Ungar,1991:372).

It is the aim of subsequent chapters to explore means, particularly non-mandated means, for the media, legal or not, to operate under the pressure of extreme censorship and physical threat. Mugabe has even labelled journalists who do not toe the party line, “terrorists”. These are the pressures and interference currently experienced by mostly *unfree* journalists and citizens in the military dictatorship that Zimbabwe has become. New means of communicating information will be applied to Zimbabwe. Some will be shown to be in place already, while others will be discussed as possible means of avoiding censorship and harm to journalists, opposition, and activists in the future. The following chapter considers the state of democracy in Zimbabwe.

## Chapter Two

### The Current State of Democracy in Zimbabwe *And Obstacles to Freedom of Expression and Freedom in General.*

In February 2000, after 20 years of independence and in excess of 14 amendments to the Constitution, Zimbabwe went to the polls to vote on a highly controversial proposal for a *new* Constitution, which was set to exponentially increase the executive powers of the President, Robert Mugabe, and enable the expropriation of farms for redistribution to landless blacks without compensating the current owners. The result, though unexpected, was significant: “the ‘no’ vote prevailed, in what many interpreted as a vote of no confidence for President Robert Mugabe and his ZANU-PF party” (Hanekom,2000:25). However, a few months later, headlines read, “*Zimbabwe ‘ready to explode’*” (*Eastern Province Herald*, 11 April 2000).

More recently, the run up to the 2002 presidential elections has also been punctuated with increasing acts of violence and intimidation, including increased arrests and violence in seizing white-owned land, increasing violence toward the media<sup>1</sup>, including the expulsion of foreign journalists, and attacks on opposition to Mugabe. Morgan Tsvangirai, the leader of the party to provide the most serious challenge to Mugabe since he came to power, has already been charged with sedition in the high court for remarks made about the country’s future (Thiel,2001) and, in October 2001, Tsvangirai was attacked while he was on his way to address a presidential election campaign rally (*Independent Online*, October 12, 2001). With Mugabe’s popularity on a decline, government is moving against its critics, closing down private radio stations, hauling the independent media over the coals, defending arrests of opposition officials and forcing the resignation of Supreme Court justices (*Independent Online*, March 1,2001).

#### 2.1.1. Background: Drafting the Constitution and the 2000 Referendum

Prior to the referendum and the ensuing ‘explosive situation’ in 2000, the National Constitutional Assembly (NCA) had launched a campaign for a “more democratic and home-grown constitution” in May 1997. The NCA had started in earnest in 1996, but

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<sup>1</sup> See section below on the news media in Zimbabwe and the measures that have been introduced to curtail them in view of the 2002 election campaign.

only had its first formal meeting a year later, which was attended by officials from the Zimbabwe Council of Churches, ZimRights, Zimbabwe Congress of Trade Unions, Zimbabwe Lawyers for Human Rights and Zimbabwe Union of Journalists and the Media Institute of Southern Africa (MISA), among other groups. The chief point on the agenda of the NCA was to pressure government to accept the need for an overhaul of the Lancaster Constitution that was established at Independence and to set up “an all-inclusive, non-partisan and transparent process of constitutional review and supporting structures” (Matshe,2000:20-1). However, according to the NCA, after the government ‘hijacked’ the process by establishing the Constitutional Commission (CC) for which President Mugabe had handpicked the Commissioners himself, the Assembly wanted no part of the process<sup>2</sup>. In fact, more than 25 of the 400 ‘hand-picked’ 400 CC commissioners ended up denouncing the final draft document as “not being a true reflection of what the people had said”:

- Firstly, the clause on the compulsory acquisition of land for the resettlement of landless blacks was met with great dissatisfaction all over Zimbabwe, and,
- Secondly, gender activists threatened to reject the draft at the polls if sections dealing with equality were not amended<sup>3</sup>.

This resulted in the NCA going on a nation wide campaign against the ‘Presidency’s draft’ constitution (*Zimbabwe Election Update* (1),2000:7).

ZANU-PF responded by saying that if people rejected the new draft constitution, that that would be taken to mean that they were satisfied with the then standing Lancaster House constitution. From the above noted exceptions to the draft, whilst clearly not taking cognisance of true public opinion, white people have continually been labelled ‘racist’ in an attempt to invalidate their every criticism against government. However, outspoken Zimbabweans noted dissatisfaction with many parts of the government-draft constitution and expressed dissatisfaction with the entire drafting process, yet no one had intimated that they were opposed to the notion of legitimately drafting a new

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<sup>2</sup> The President appointed 400 members, including all 150 members of parliament of which only three were opposition members.

<sup>3</sup> Of 30 cabinet ministers, only 6 are women. Of 14 deputy ministers only 3 are women. It had been hoped to change this situation where women, who comprise 52% of the population, are less than 10% of the country’s electoral candidates. However, the violent climate that characterised the 2000 elections “overshadowed many issues including the role of women in politics once again”. It hindered meaningful participation of women in terms of voting and campaigning (*Zimbabwe Election Update* (2),2000:13).

*satisfactory* constitution (Matshe,2000:23). Dr Denis Venter (2000) notes that white commercial farmers in Zimbabwe never disputed the need to redistribute land (to the landless poor rather than to presidential loyalists as has thus far been the case). They have, however, tirelessly argued that the means by which this is to be achieved (via present government policy) would not only be *undemocratic* but “economic suicide”<sup>4</sup>. Land has been seized and is continually being seized from experienced farmers and ceded to people with no farming experience and, it would appear, no intention of gaining farming experience<sup>5</sup> (www.eisa.org.za).

A referendum went ahead and the NCA and opposition parties took the ruling party “to the cleaners” making enormous political mileage and claiming that rejection of the draft was a clear vote of *no confidence* in the government<sup>6</sup>. For a time, President Mugabe accepted the referendum result, but stated that the result was not based on an analysis of the constitution on the part of the voters, but rather on a reaction to the harsh economic climate in Zimbabwe<sup>7</sup>. Not long after the referendum, the CC blatantly ignored “the expressed will of the people” and still took the draft constitution to parliament to have it endorsed through the legislature. The government pushed on with its policy of land ‘redistribution’ *against the will of an electorate that voted ‘no’ to the government policy in the referendum* (Matshe,2000:23) and, within the same month, the invasion of white-owned farms by so-called “war veterans” began and more than 30 people died (*Zimbabwe Election Update* (1),2000:8).

### 2.1.2. Breakdown of the Rule of Law

The downward spiral of the government’s devotion to uphold the rule of law started with the highly publicised (in international media) abduction and torture of journalists

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<sup>4</sup> Some black-owned farmland lies idle. This is said to be a criteria for confiscation, yet some very productive white-farms have been targeted. Other criteria cited, farms next to peasant areas to make for easy resettlement and yet 2 successful vegetable producers on the list do not meet any criteria (*Saturday Dispatch*, 9 September 2000:9).

<sup>5</sup> Agriculture accounts for 18% of Zimbabwe’s GDP and 40% of its annual income. After the first land invasions last year, yearly tobacco auctions saw only 30% of the normal amount of stock available on the first day of auctions in late April 2000.

<sup>6</sup> For a detailed account, see Matshe, Thoko. 2000. “Zimbabwe: on the Edge of the Precipice?” In *Africa Insight*. May 2000.

<sup>7</sup> Innumerable articles in newspapers have outlined the Mugabe regimes lack of accountability the electorate, headlining Mugabe’s ‘passing the buck’ to Britain and other factors as in the *Mail and Guardian*, 28 April - 4 May 2000:4-6.

and editors and has deteriorated into the more recent refusal to uphold the rule of law<sup>8</sup>.

The much-publicised farm invasions in Zimbabwe led to many deaths and many farmers evacuating their farms for fear of violence and going to live in the cities or emigrating. As soon as farm invasions started, farmers were also unable to report to the police for protection against the occupations. Most of them members of the Commercial Farmers Union (CFU), the farmers petitioned the High Court on March 17, to have the war veterans removed from their properties. The police appealed against the order, citing “limited resources, lack of staff and equipment and inadequate political clout to handle the issue”. Zimbabwe has experienced a complete breakdown in the rule of law as the Attorney-General, Patrick Chinamasa, in the face of at least 30 violent deaths, last year requested that the High Court free the police from any obligation to evict those occupying farms. There were claims that the police had stood by and watched as the war veterans beat people. More petitions were made with similar responses and added resistance from the likes of Chinamasa, who opposed CFU petitions to the High Court on the basis that “farm occupations by liberation war veterans and ZANU-PF supporters was an extension of the 1970s liberation war”. Eventually the High Court ruled that the invasions were illegal and that the *police had sufficient resources to commence with evictions and that government should meet any additional needs to restore order on the commercial farms*. The order was ignored. The President noted that it was the right of “war veterans” (most of whom are too young to have fought in the liberation war) to invade ‘white’ farmland and “claim their heritage” (Zimbabwean Election Update (2),2000:5-6).

Mugabe has continually promised that the Zimbabwean courts would not get in the way of his plans to seize more than half of the white-owned farmland for blacks to redress what he terms the imbalances caused by Zimbabwe’s colonial past (Reuters,2001. In CNN.com, February 10, 2001). Now the country’s courts are being flushed out as the government tries to select judges who will support its confiscation of white-owned farms for redistribution to landless blacks. Chief Justice Anthony Gubbay was the first forced to resign, in February 2001, after he had approached the

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<sup>8</sup> Interview with David Willoughby Hasluck of the CFU.

Vice President, Simon Muzenda, to express concern over incidents where 'war veterans' were invading courtrooms and disrupting proceedings. Muzenda used the opportunity to launch an attack on the judiciary and Zanu PF MP Philip Chiyangwa was noted as saying, "The struggle will only be over when the entire supreme-court bench goes" (*Business Day Online*, February 5,2001). Jonathan Moyo, the Zimbabwean Minister of State for Information and Publicity, stated that the members of parliament had passed a vote of no confidence in the Supreme Court and he publicly 'urged' Justices Nicholas McNally and Ahmed Ebrahim to resign. "Moyo said the judges had usurped parliament's powers by recently overturning a government ban on election result challenges" (Reuters,2001. In CNN.com, February 10, 2001).

### 2.1.3. Corruption, the Floundering Economy and Threats to Security

Prior to parliamentary elections last year, the government expanded the budget allowances for government salaries by 182% and spent on average R182 million a month in its military effort in the Democratic Republic of Congo (10 times more than the government had previously admitted to spending, 66% more than was budgeted for), the second highest budget item after education (*Saturday Dispatch*, 9 September 2000:9). Not only has military involvement meant an obvious drain on the already ebbing economy, but, during devastating floods in the south of Zimbabwe in 2000, the armed forces were unable to offer much assistance as nearly a quarter of Zimbabwe's 35 000-strong army was deployed, along with most of their helicopters, in the DRC. Meanwhile widespread corruption and mismanagement also posed a security threat in military terms. HIV/AIDS was deemed the number one threat to security in the world last year by the Institute for Security studies in Pretoria and in Zimbabwe an HIV/AIDS pandemic affects as much as 45% of the population of some 12 million people at present<sup>9</sup>. This is exacerbated by the fact that high-level corruption has meant that state-services seem to be collapsing. For example, last year doctors at the Parirenyatwa Hospital, the biggest in Zimbabwe, declared that they would have to stop admitting patients if the government did not deliver funds soon. This does not bode well for economic growth, strains on the health care system and security and dissatisfaction in general ([www.eisa.org.za](http://www.eisa.org.za)). Presently, more than 75% of the

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<sup>9</sup> According to the American Central Intelligence Agency (CIA), Zimbabwe has the highest rate of

country's citizens live below the bread line and 65% of Zimbabweans are unemployed (Thiel, 2001 In *Cape Times* online). 300 000 people have lost their jobs in the past two years and hundreds of thousands more have turned informal traders (*Cape Times* online, 30 September, 2001).

The flames of racial tension were fanned by overt government xenophobia towards Britons, white people in general, their "black allies" and any critical media, as Mugabe threatened that his enemies (those opposing 'land reform' i.e. illegal land invasions) would pay for their sins "with their lives". Dismissing all criticism, Mugabe claimed that people were turning a blind eye to all the "good work" his government had done and that they would die (*Saturday Argus*, 18-9 March 2000:19).

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## 2.2. The Measure of Democracy

This chapter seeks to ascertain the current state of democracy in Zimbabwe. Establishing whether or not a state is democratic becomes problematic due to the various definitions of democracy that may be employed. For example, the procedural approach has emerged as being quite popular: if certain institutions are in place, a state is considered to be democratic. However, even if certain procedures are in place, it does not say much about their effectiveness. For example, Zimbabwe had elections last year, but they cannot be said to have been fair. Due to this difficulty, this Chapter will employ an approach outlined by Bruce Baker (1999) in his article, *The Quality of African Democracy: Why and How it Should be Measured*. This approach<sup>10</sup> does not seek a simple 'yes' or 'no' answer as to whether or not a state is democratic on the whole, but is concerned with *how* democratic the various components of the state are: "Procedures are only the means to democracy, not the end; they *do not guarantee that democracy is fully experienced by citizens*" (emphasis added). People often do not get the representation and policies they want because of manipulation and corruption of the electoral process (273-4). Therefore, the audit is interested in the *present* and

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infection in the world ([www.odci.gov/cia/publications/factbook/geos/zi.html](http://www.odci.gov/cia/publications/factbook/geos/zi.html)).

<sup>10</sup> Baker applies the approach, first pioneered by David Beetham in his democratic audit of the United Kingdom, to Africa. He asserts that the democratic audit is "value specific" and has no inherent definition of democracy: if there are specific standards of African Democracy, then these will be taken into account.

makes no future predictions: it is interested in *present outcomes*, which describe the *reality of democracy* experienced in a state (Baker,1999:275).

### 2.2.1. Standards for Establishing Levels of Democracy

Baker notes that democratic procedures should uphold the universal principles of

- popular control over collective decision-making and decision-makers, and
- political equality: an equal right to share in such control.

These principles may be upheld by democratic procedures such as

- equality in law,
- freedom of expression and association,
- universal suffrage,
- majority rule with maximum debate and consensus on decisions,
- open contestation for office and wide representation,
- sovereign government, free of internal or external constraints,
- accountability, responsiveness and accessibility of decision-makers and
- impartiality in appointments, decisions and treatment.

In accordance with Beetham's assessment of democracy in a given state (as furthered by Baker,1999), this chapter will examine the level of democracy in Zimbabwe according to the a number necessary components of political democracy within which democratic principles should be upheld, namely,

- Civil and Political Rights, including the Electoral Process,
- Openness and Accountability of Government, and,
- Democratic Society.

### 2.2.2. Civil and Political Rights

The most important and blatantly undermined democratic principles are Civil and Political rights: a democratic state should allow for its citizens to associate freely with others, express divergent and unpopular views, create an informed public opinion and to find their own solutions to collective problems (Baker,1999). According to the Electoral Institute of Southern Africa (EISA), "The electoral conditions fail to meet requirements contained in the Declaration of Rights of the Constitution of Zimbabwe and...the Universal Declaration of Human Rights (UDHR) and the African Charter on Human Rights, which are applicable to Zimbabwe" (*Zimbabwe Election Update* (1),2000:10). David Willoughby Hasluck, the Chief Executive Officer of the

Commercial Farmer's Union, in an interview has maintained that rights and liberties are defined by law, but that the effectiveness of rights being upheld in Zimbabwe has not enjoyed a good record in the last two to three years (and he referred to liberties extending beyond the electoral process as well).

### 2.2.3. Intimidation and Constraint

Violence has substantially restricted the exercise of freedoms of opinion, expression, association, assembly and movement, in addition to the right to be safeguarded from physical harm due to political affiliation (Zimbabwe Election Update (1),2000: 9-10). Many farmers were said to have undertaken to *withdraw their support of the MDC in exchange for the return of their farms* (*Die Burger*, 29 April 2000:1) and the political opposition has not been able to campaign freely: not in the run-up to last year's parliamentary elections and not in the 2002 presidential election campaign. Violence in the run-up to the June 2000 elections became increasingly dominated by clashes between ZANU-PF and MDC supporters and served as a diversion from the real issues facing the country and as a means of intimidating MDC-supporting rural voters, who showed signs of backing the MDC at the polls by creating political "no go" areas. Fortunately Morgan Tsvangirai, the leader of the MDC, survived an attempt to take his life and was unhurt. However, the rally that he had been on his way to attend was cancelled for the safety of all those concerned (*Independent Online*, October 12,2001).

Widespread harassment, intimidation and even torture of opposition supporters appears to also have contributed to a lower than expected electoral turnout at the polls last year: many questioned the secrecy of the ballot and feared sure retribution for voting against the ruling party<sup>11</sup>. According to a number of farmers and observers, there was a lot of retribution instigated by war veterans seeking to punish those who supported the opposition in the June elections (*Business Day*, 20 July 2000). According to a report by the non-governmental monitoring group, Amani Trust, there

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<sup>11</sup> Up to 25% of the voters' roll contained irregularities, including multiple entries and the names of deceased voters. Also white Zimbabweans holding British passports (dual Zimbabwean and British nationality) had been disenfranchised and all Zimbabweans living abroad (an estimated 1 million in South Africa alone) were not allowed to vote. This, according to Dr Denis Venter (2000) was an easy way of "freezing possible opposition voters out of the electoral system à la the June 1999 election in South Africa" ([www.eisa.org.za](http://www.eisa.org.za)).

were in excess of 5 000 documented human rights violations<sup>12</sup> in the period following the announcement of the constitutional referendum result to just prior to the June 2000 elections. In more than 86% of the incidents, the perpetrators were members or supporters of the ruling party and more than 41% of documented casualties were known MDC supporters, while fewer than 7% of victims were known to be partisan ZANU-PF (Venter,2000:www.eisa.org.za). People were becoming refugees in their own country, according to a report by the National Democratic Institute (NDI) and Mugabe declared those opposing the government “enemies of the state”.

### 2.3.1. The Electoral Process

Willie Breytenbach (1996) notes that “although elections are not sufficient to guarantee democracies, they do go a long way in laying the institutional foundations for [them]” and are, thus, “indispensable in measuring public support”: without institutional opposition, accountability may flounder (48). Ideally, in a democracy, elections and referenda should provide a platform for popular control over government as well as electoral choice between varied candidates and their programmes, open access to political office and equality between electors, perpetuating the aforementioned democratic principles as opposed to stifling or ignoring them (Baker, 1999). As evidenced by the above discussion, this is not the case at present, and a brief discussion of electoral history in Zimbabwe will illustrate that this has never been the case.

At independence a coalition government came to power in Zimbabwe consisting of two, chief (ethnically different) African Nationalist movements, namely, ZANU PF (Zimbabwe African Nationalist Union) and ZAPU PF (Zimbabwe African People’s Union), led by Robert Mugabe and Joshua Nkomo, respectively. By 1985, just prior to elections, Prime Minister Mugabe, attracting mostly Shona-speaking supporters, had called off the coalition and a civil war had broken out in the ZAPU “stronghold” of the South western region inhabited by mostly Ndebele-speaking people. As a result, Zimbabwe’s first post-independence elections were held under conditions of

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<sup>12</sup> These included murders, rapes and serious assaults on victims.

“widespread repression and intimidation” including the detention of many ZAPU-PF politicians. Eventually, the parties merged in 1987 with Mugabe at the helm<sup>13</sup>.

In 1990, ZANU PF won elections with an overwhelming majority owed, no doubt, to constitutional arrangements made in the interim: these instituted an Executive Presidency and a plurality electoral system. Although opposition won more than 20% of the votes, the plurality system crushed the considerable opposition potential with the translation of the 20% of the total votes into 2% of the seats in Parliament<sup>14</sup>. By 1996, after many complaints that the last election had been unfairly contested and further demands for constitutional changes, which fell on deaf ears, President Mugabe was re-elected again and again, there had been no real challenge and “voter participation reached an embarrassing all-time low” (Baumhögger, 1999:963-8).

### 2.3.2. Opposition: The Movement for Democratic Change

The electoral process in Zimbabwe has *always* been plagued by a lack of viable opposition, intimidation of voters, monitors, and opposition candidates, irregularities, corruption<sup>15</sup> and farcical constitutional amendments favouring the ruling party. Since Zimbabwean Independence in 1980 no opposition party has posed an electoral threat to the ZANU PF and, initially, for the most part, people seemed to be satisfied with their hard-earned independence<sup>16</sup>. However, amidst and despite waning support for ZANU PF, opposition have repeatedly failed to make inroads into parliament (winning a mere three seats in the 1990 and 1995 elections) (Baumhögger, 1999:966-8) until, despite a murkier rather than transparent electoral system (see the discussion of the independence of the electoral system below), the landscape for the 2000 parliamentary elections was somewhat more balanced than lop-sided after the Movement for Democratic Change (MDC) was established and ran in the elections last year.

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<sup>13</sup> For a detailed account see Baumhögger on Zimbabwe in Nohlen, et al (eds) Elections in Africa

<sup>14</sup> The electorate voted against the acceptance of a new constitution (increasing presidential powers) in the referendum. If everyone voted the same way in the election, plurality systems still translate into a victory, albeit slim, for the ruling ZANU-PF. Critics would have the electoral system changed to proportional representation, which translates the number of votes cast into a proportionate number of seats in parliament giving smaller parties and other marginalised groups a chance to be included in parliament (*Zimbabwe Election Update*(2), 2000:13).

The establishment of the Movement for Democratic Change (MDC) under trade unionist, Morgan Tsvangirai, signalled the first *serious* challenge to the ruling party since independence and the party cited at the core of its policy “reclaiming the People’s Power”. The MDC recognises that Zimbabwean people have become demoralised by the lack of true leadership, the prevalence of corruption in higher levels of government and by the “oppressive and self-interested responses from those in power...towards implementing meaningful actions to solve people’s problems”.

It is one of the party’s strengths that it is led by a diverse multi-ethnic and multi-racial combination of academics, trade unionists, human rights activists and businessmen, giving the party and its top multi-skilled leadership a national profile (*Zimbabwe Election Update* (2),2000:8-10). Generally, in Africa, ethnicity has been cited as one of the most salient features influencing support patterns in elections and, for this reason, there is often a strong correlation between ethnicity and power on the continent (Breytenbach,1996:55). In Zimbabwe the Mashona groups represent roughly 77% of the population against 19% for the Ndebele and 4% for the rest. In the first ten years after independence the voting pattern was fixed along these lines<sup>17</sup> (Breytenbach,1996:57-60). However, the MDC has risen as the most serious challenge to ZANU-PF since independence and its diverse leadership seems able to breach divides as will become evident in the discussion of election results below (*Zimbabwe Election Update* (2),2000:8-11). This may be the beginning of a road toward a truly shared national consciousness in Zimbabwe.

This said, the MDC did not win a majority in the 2000 parliamentary elections, even though, opposition to government policy was by far in the majority in the referendum prior to parliamentary elections. Studying the electoral system in Zimbabwe gives and indication of why this was the case.

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<sup>15</sup> The National Democratic Institute (NDI) stated that only the ruling party receives funding from the national treasury.

<sup>16</sup> Barring the marked economic decline of the past decade, Zimbabweans have enjoyed the finest education system and primary health infrastructure in Africa.

<sup>17</sup> 75% ZANU-PF (Mashona), 19% to Matabele representatives and 4% to others.

### 2.3.3. The Electoral System

Former President of the Electoral Supervisory Committee, Bishop Peter Hatendi, has noted that Zimbabweans cannot say that they have an independent body running their elections<sup>18</sup>. In fact, the Electoral Institute of Southern Africa (EISA) declared that the body that ran the 2000 Zimbabwean electoral process was not credible (*Zimbabwean Election Update* (1),2000:2). Currently, the Electoral Act No. 14 of 1979 governs elections in Zimbabwe and makes provisions for the appointment and functions of the following bodies:

- *The Delimitation Commission* (DC) functions to determine the boundaries and the number of constituencies into which the country shall be divided. The chairperson is appointed and answerable to the President.
- *The Election Directorate* (ED) functions to coordinate the activities of ministries and government departments with regard to the delimitation of constituencies, the registration of voters and the conduct of polls and its chairperson is, once again, appointed by the President. The Ministers of Justice, Legal and Parliamentary Affairs and the Minister of Home Affairs also serve on the ED since it is regarded as the duty of the police to ensure that political parties campaign peacefully. However, critiques of the widespread violence during the 1990 and, *particularly*, the 2000 elections have seriously called into question both the *credibility* and *independence* of the police (as well as the electoral offices and commissions).
- *The Electoral Supervisory Committee* (ESC) is, in theory, independent since it "shall not, in the exercise of its functions, be subject to the direction or control of any person or authority". However, all members are also appointed by and answerable to the President *who has the prerogative to make their reports to him public or not*.

Decisions in all these bodies are arrived at by majority vote, and, lastly,

- *The Registrar General of Elections* (RG) is supposed to be controlled by the ESC and ED, but, in effect, this position has tended to be influenced by the President.

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<sup>18</sup> Hatendi resigned in February 2000 citing the frustration of his plans to foster democratic reforms in the country's electoral system as part of his reason for stepping down (*Zimbabwe Election Update* (1):2).

Amendments to the Electoral Act, prior to the 2000 elections, changed the President's hold on things to a mortal grip since they reduced the ESC's powers, giving the RG virtually all the power (to monitor and conduct) and, according to ESC Chairperson, MS. Elaine Raftpolous, *unconstitutionally* shifting the ESC structure to the RG. She said, "The reason for having set up the ESC was to oversee and ensure that this kind of thing that is now happening is stopped".

#### 2.3.4. The Independence of Electoral Monitors

There is virtually no independence in the electoral monitoring system. As it stands, all independent electoral monitors have to be passed through the RG's office and receive accreditation certificates. Brian Kagoro, spokesperson for the National Constitutional Assembly added, "When you subject the monitors to [those] whom they are supposed to be monitoring, you are virtually subverting the autonomy and independence of the monitors and observers". The government has included a code of conduct for election agents in its amendments to the electoral act, including polling agents, monitors and observers and Mugabe's xenophobic stance has also interfered with the independence of observer missions in that Zimbabwe "will welcome any observer team, as long as they don't include a single Briton".

In addition, the electoral process is also threatened by the weaknesses of educational and informative material on issues relating to the elections and independent observers claim that this is in part a consequence of the weakness of the ESC. One example of their efforts being thwarted was that the RG failed to deliver a copy of the voters' roll to the ESC, although the RG is required to do so by law. Critics believe that as long as the President continues to appoint Electoral Commissions under the Election Act, there will be tremendous potential for the RG's office to be used to rig elections and it will remain impossible to conceive of free or fair elections in Zimbabwe<sup>19</sup>(*Zimbabwean Election Update* (1),2000:1-4).

Civil and political rights in Zimbabwe have been severely undermined and threatened and citizens cannot be said to enjoy the benefits of democratic procedures as long as

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<sup>19</sup> This notion is supported by the conclusions of a study funded by the French Institute for Research in Africa, which found that the Zimbabwean President has the ability to influence the outcome of elections with his domination of the entire electoral process (*Zimbabwean Election Update* (1),2000:3).

*their freedom of expression and association* is threatened or non-substantive while the *rule of law* crumbles in an atmosphere of political inequality and oppression.

The MDC (and others) have repeatedly accused ZANU-PF of

- breaching the rule of law,
- rampant corruption,
- sponsorship of violence,
- human rights abuses and a
- general failure to address the basic needs of ordinary people.

However, despite ZANU-PF's "terror campaign", a plurality system and other dubious electoral adjustments, the opposition came close to unseating the incumbents: for the total of 120 contested seats, the final count gave ZANU-PF 62 seats, the MDC 57 seats (One seat went to another opposition party, ZANU-Ndonga) (*Zimbabwe Election Update* (1),200:6).

#### 2.4.1. The Openness and Accountability of Government

In terms of access, accountability and transparency to an electorate, Zimbabwe's government falls sadly short of democratic ideals<sup>20</sup>. If elections can be rigged, governments are not brought to account for their actions. A sterling example of the Zimbabwean government's lack of openness and accountability to the electorate is the above discussion of the constitution drafting and ratification process and government's lack of responsiveness to the rejection of the new draft constitution in February 2000. The Executive President and his fawning government have systematically ignored public opinion and dissatisfaction and not accepted responsibility for their role in the current economic and political crisis in Zimbabwe<sup>21</sup>.

As regards the judicial system, David Hasluck has further noted that although both "the High Court and Supreme Court in Zimbabwe have an excellent reputation for their impartiality and independence", the executive "has not obeyed High rulings"<sup>22</sup>.

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<sup>20</sup> See discussion of The Electoral Process: the President's prerogative to make public any reports made to him.

<sup>21</sup> After the referendum, with a glimmer of truth, President Mugabe said that the country's current economic and political crisis was "born out of the colonial situation", however, he ignored his more than 20 year term of office that has only seen these inequalities go from bad to worse as the people get poorer and government coffers richer (*Business Day* - Online, 18 July 2000).

<sup>22</sup> He notes that courts have been known to make independent decisions regardless of government threats and without pandering to the presumed desires of government.

Hasluck adds that the Constitution provides for the independent appointment of judges with life tenure and freedom from interference. However, the President has labelled both Courts "The White Man's Court". According to Venter (2000), "CFU members had to agree, under extreme duress, that squatters could remain on their land (defying at least three Zimbabwe High Court rulings that these actions were unlawful) in exchange for no further violence and a return to farm activities" (www.eisa.org.za). Therefore, although the judiciary in Zimbabwe takes pride in its independence, the lack of accountability and responsiveness, impartiality and accountability on the part of government undermines the democratic principles of *equality in law* and *impartiality in treatment* and judicial levels of democracy remain reserved.

#### 2.4.2. The Implications of Separate Presidential and Parliamentary Elections

The ruling party continually abuses its parliamentary majority in titanic proportions severely threatening any levels of democracy or debate in terms of the way that the budget is divided, ignoring the principles of "*majority rule with maximum debate or consensus on decisions*" and "*wide representation of constituents interests*" (Baker, 1999:274-6). On one occasion, the opposition, MDC, actually stormed out of parliament after the deputy speaker Edna Madzongwe *approved the mini-budget without even taking a vote*<sup>23</sup> (*Saturday Dispatch*, 9 September 2000:9) and, although more relevant to the discussion of the electoral system, the notion of the presidential and parliamentary elections being separated and the former taking place almost two years after the latter, is even more damaging as regards the situation whereby the Executive is not responsive to the electorate's wishes at all.

As noted, the Zimbabwean Parliament is composed of 150 seats of which 120 are contested and 30 directly appointed by the President. Mugabe has been able to appoint an additional 30 members of parliament, mostly ZANU-PF faithfuls: an early indication that Mugabe will use his power to try to put more distance between ZANU-PF and the MDC in order to extend the government's slim parliamentary majority of just four seats (Venter, 2000:www.eisa.org.za). Despite the 30 'ZANU-PF appointments' to parliament, the outcome of the general election still *denies* ZANU-PF a two-thirds majority in parliament, which, in the past, gave Mugabe unchecked

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<sup>23</sup> Parliament authorized extra expenditure of R9 billion on top of the R15 billion already budgeted for

power to change the constitution (as noted, in excess of 14 times and, again, only weeks prior to the elections to sanction the seizure of white-owned farms). ZANU-PF not gaining a 2/3 majority would appear to be a positive step in the direction of upholding democratic procedures within the constitution. However, as noted, constitutional changes *were* made and a majority less than 2/3 *still* secures Mugabe's license to push forward his policies of land distribution while he remains in office until the Presidential elections of 2002. ZANU-PF still occupies 92 seats in Parliament; a clear majority. Therefore, the irony of the situation is that, with the Presidential Elections being separate from the parliamentary elections, the latter's result, even though it has seen tremendous MDC inroads, still renders the opposition unable to do anything about the Mugabe government continuing with its unfavourable policies, as the President's remaining in office and ability to appoint his faithfuls grants him enough support for continuing with his land seizure policy (Venter,2000:www.eisa.org.za).

This goes completely contrary to the procedures of *accountability, responsiveness* and *accessibility* of decision-makers and the principles of *popular control* and *political equality* (Baker,1999:274-6).

#### 2.5. Democratic Society: The Plurality of News Media

According to Rashweat Mukundu (2001), information and research officer of the Zimbabwean chapter of the Media Institute of Southern Africa, the media faces its "darkest hour" in independent Zimbabwe's history (142).

In January 1999, state-media relations in Zimbabwe took a turn for the worse after the editor and chief reporter of *The Standard*, Mark Chavunduka and Ray Choto were arrested by military police. Sarah Chiumba<sup>24</sup> of MISA's chapter in Zimbabwe notes that this followed a report in their paper alleging a coup plot within the military. The charges brought against the journalists were under Section 50(2) of the Law and Order Maintenance Act (LOMA), which prohibits the publication of news likely to cause fear and alarm or the publication of 'false news'. MISA-Zimbabwe has repeatedly called for all colonial Rhodesian pieces of legislation, such as LOMA

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this year.

(1960) to be completely done away with in the Freedom of Information Bill, since it is clear that, as long as they remain in the statute books, the incumbents will use them to harass and intimidate journalists.

In terms of media violations, Zimbabwe has the highest number<sup>25</sup> of 'action alerts' reported in the Southern African region. Violations included the bombing of the *Daily News* printing press, the beating of media practitioners, the arrest of journalists and the expulsion of foreign correspondents. Kaitira Kandyii (2001), regional information coordinator for MISA, suggests that the political economic situation in the country sparked much of the tension that spread to the media (9). The drafting of a nefarious new constitution, escalating unemployment, fuel shortages, an HIV/AIDS epidemic, war in the DRC, allegations of corruption, inflation and the collapse of social service delivery have all been subjects of daily media reports, which have resulted in journalists being accused by the government (including the President) of misrepresenting, exaggerating and misinforming on these issues (Mukundu,2001:142). The government effectively tried to shift blame onto the media by furthermore accusing the latter of working against the government and the good of the country (9). The occupied farms soon became "no go" areas for most journalist and, in another reaction to media criticism, Mugabe was quoted as saying that his decision to send 11 000 troops to the DRC was a "purely internal matter and was no one else's business" and that critics should "keep their dirty mouths shut" (*The Star*, 26 June 2000:1).

The state fired editors from two of the largest state-controlled newspapers to further, according to Peta (2001), "gag the media ahead of presidential elections next year". Ray Mungosi and Funny Mushava were dismissed from state-controlled *The Herald* and the state-controlled *Sunday Mail* because they had not done enough to portray the government in a good light since they had been appointed. The dismissals followed a similar discharge of the chairperson of Zimbabwe Newspapers (overseeing six major newspapers) after his refusal to implement a government directive to fire editors who do not tow the government line and, also his refusal to accept Minister Moyo's directive to remove Mushava and Mungosi from the two key Zimbabwean papers in

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<sup>24</sup> E-mail interview.

order to bolster the government's battered image. As it was, the two journalists had only been appointed about eight months prior to their dismissal. They had been hired to replace editors who were also dismissed for not following oppressive government directives (Peta In *The Star* online, 17 March 2001; Peta In *Independent Online*, 8 March 2001).

Sarah Chiumba<sup>26</sup> notes that the Zimbabwean government has actually written to the independently owned Daily News stating that the paper would no longer be accorded protection as a media organisation but would be treated as a political organisation.

#### 2.5.1. Foreign Journalists

Foreign journalists have not been able to exercise their freedoms and it is believed by political analysts that Mugabe has targeted the media (as well as the judiciary and opposition) in an offensive in 'preparation' for the 2002 Presidential elections. Part of this crackdown has been that the information department (now situated within the President's office) could cancel press cards issued to journalists and announce new requirements for accreditation as journalists in Zimbabwe. It has been stated that the "government would favour Zimbabwean journalists over foreigners in accrediting correspondents working for the foreign media" (*Business Day* Online, February 20,2001). The government has announced a new form of accreditation for all journalists, which basically amounts to state licensing (*Business Day*, February 16,2001). Moyo declared, "The days for trash journalism are numbered," with the long-delayed Freedom of information Act (still pending) and state-drafted code of ethics, which amounts to the aforementioned accreditation system and a Moyo-nominated disciplinary board. Moyo's power in this area is particularly problematic as his disdain for the independent media is quite apparent. For example, Moyo, himself, refuses to grant interview by independent journalists and just hours after he promised to "silence" the independent *Daily News*, the paper's printing presses were bombed. In addition, Moyo's former colleagues fear being quoted on the subject of the infamous minister (Hartnack,2001:10).

#### 2.5.2. Intimidation and Reproach

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<sup>25</sup> 40, which is considerably higher than Swaziland, in second place, with 18.

Both local and foreign journalists have been the victims of intimidation, violence and accusations that they are fuelling the flames of political violence: observers have alleged that the hatred towards foreign media was 'orchestrated' by those in government in order to make them scapegoats for Zimbabwe's problems. Journalists have been threatened with violence while police have looked on. Cape Town photographer, Mr Obed Zilwa of Associated Press was detained under the suspicion that he had been involved in an explosion at a Zimbabwean Newspaper. Harare police held the journalist longer than 48 hours without appearing in court or being charged. This was *after* a memorandum had been circulated that stated that there was no prima facie evidence or witness to link Zilwa to the blast (*Die Burger*, 29 April 2000:1-2).

In addition, in February 2001, two foreign journalists were expelled from Zimbabwe and it was, once again, alleged by government officials that the journalists in question had been "propagating lies", as well as that they had supported the Angolan Rebel Movement, Unita (*Business Day Online*, February 23,2001). This contradicts other claims that their expulsion emanated from the fact that one of the journalists, British Broadcasting Corporation's Joseph Winter, had "fraudulently acquired" an extension to his work permit and that a second journalist (South Africa) *Mail and Guardian's* Mercedes Sayagues, permit had expired (*Business Day Online*, February 20,2001). Apparently both permit-related charges are bogus as Winter claims he has already worked in Zimbabwe for four years and had recently renewed his permit and had followed the same procedures he had always followed (*Business Day Online*, February 20,2001).

Winter was forced to seek refuge at the UK embassy after a group of people tried to break down his front door after Information and Publicity Minister Moyo, had allegedly refused to sign the court order asking government not to harass the journalist and his family until his departure from Zimbabwe (*Business Day Online*, February 19,2001).

Zimbabwean Justice Minister, Patrick Chinamasa said that reports that some judges had been intimidated and feared for their lives were media fabrications and, sadly, the

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<sup>26</sup> In an e-mail interview.

South African Justice Minister, Dr Penuell Maduna noted that he was satisfied with Chinamasa's claims: "I couldn't develop concerns based on what the media said, knowing the media as I do (Independent Online, March 7,2001).

### 2.5.3. Ownership

Last year, the National Democratic Institute (NDI) confirmed that the state-controlled Zimbabwe Broadcasting Corporation (ZBC) holds a monopoly<sup>27</sup> on radio and television broadcasting and the government controlled media has been found to be grossly biased in favour of the ruling party, which goes contrary to the rights of citizens to seek and receive the information they need to make free and informed choices when voting and at other times<sup>28</sup> (Zimbabwe Election Update(1),2000:10). The ZANU-PF government made heavy use its state-owned mass-media to sell its constitutional proposals and the public media *refused* to flight paid advertisements for the National Constitutional Assembly (Mukundu,2001:142-3). According to Chiumba<sup>29</sup>, the NCA challenged this blatant censorship and won a ruling in its favour from the High Court. However, "ZBC refused to comply and continued to deny the NCA access to the airwaves. The government also attacked journalists working in the private media as 'sell outs' for supporting the NCA".

Van der Westhuizen (1994) notes that it is important to safeguard commercial speech as well: advertisers often inform the public about the "availability and quality of products and services" (291). In this case, advertising would have served the electorate in becoming informed of alternative political party that might better represent their needs and views<sup>30</sup>.

In terms of state-owned press coverage of events, the state-owned *Sunday Mail* called the 2000 cabinet a "new look cabinet", stressing that Mugabe had brought in

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<sup>27</sup> However, Kandyii (2001) claims some victories in the realm of ownership. He cites the "nullification of the ZBC monopoly" through the establishment of a privately owned radio station, however, although this is a great gain, whether this "nullifies" the ZBC monopoly remains a point of contention.

<sup>28</sup> Media Monitoring Project Zimbabwe conducted a survey, which concluded that 91% of pre-election stories on the election campaign were on ZANU-PF, 93% of the voices quoted in political stories were ZANU-PF voices and in stories on political violence, ZANU voices were quoted more than the police and the MDC was quoted just once.

<sup>29</sup> In an e-mail interview.

<sup>30</sup> As recently as November 2001, the Namibian President, Sam Nujoma, has established a government advertising-ban on the only independent Namibian paper, *The Namibian*.

“respected personalities in the field of finance and business who are expected to tackle the country’s economic woes”, whilst this was sadly contrary to the opinion of the opposition and various analysts<sup>31</sup> (*Business Day* - Online, 21 July 2000). Prior to the 2000 elections, the NDI said that free and fair elections would be hindered by the inability of the media in Zimbabwe to fulfil its role of providing the electorate with adequate and accurate information upon which the majority of voters often rely to make an informed, balanced political choice.

Kadyii (2001) notes that government “vented its wrath on the private and independent media” in Zimbabwe as it brought criminal defamation charges against the *Daily Herald* newspaper and its journalists for publishing a story that linked the President to “unauthorised payments” in connection with the construction contract for the controversial US\$5 billion new Harare International Airport (9-10). In the case of the privately owned weekly, *The Standard*, which published a story alleging that the government sponsored Constitutional Commission draft document was printed before the whole process was over, its journalists were charged with criminal defamation. Mugabe also made inflammatory statements, which further fuelled tensions in the media sector as he threatened to arrest “irresponsible journalists...who write blatant lies to cook up emotions”. Minister of State responsible for Information and Publicity, Prof. Jonathan Moyo, said he intended suing the Daily News for publishing an article that he had written years ago when he was still critical of the present government, and, in August, an operative for the Central Intelligence Organisation confessed that he had been assigned to assassinate The Daily News Editor-in-Chief, Geoffrey Nyarota. “No arrests have yet been made and no report on the status of the investigation is available” (Mukunda, 2001: 143-4).

Private media journalists have had their equipment destroyed and have been arrested for ‘misdemeanours’ such as taking photographs. They have battled to cover news events regarding the occupation of commercial farms or any news, in fact, outside urban parameters. Private media are without any protection or refuge, since neither the police or the courts could prevent their harassment (Mukunda, 2001: 143-4).

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<sup>31</sup> The opposition, MDC and analysts greeted the cabinet with caution saying it remained to be seen whether the 30 appointed ministers would be able to do their jobs without interference or clouded judgement (*Business Day*, Online – 20 & 21 July 2000).

Prior to the elections, the government had been drafting a new communications bill. However, the minister in charge was not appointed to the new cabinet after the elections and, instead, the Ministry of Information, Post and Telecommunications was replaced by the Department of Information and Publicity in the President's office further tightening the incumbent's grip on power (Mukunda,2001:144). It is this 'mortal-grip' on the broadcast media, its shameless use of state resources, and its built in majority in parliament which rendered it an almost forgone conclusion that ZANU PF would retain a majority in parliament (Venter,2000:www.eisa.org.za). Therefore, in terms of ownership, openness to different opinions from different sectors of the public and international community and as a balanced forum for political debate, the media's rights in Zimbabwe and media institutions are practically non-existent.

The government and its supporters have always reserved "their most virulent reaction for the vibrant and crucial independent press". The ruling party, under pressure, has always sought to pass the proverbial buck and has often unleashed its blame on the media in the form of intimidation, illegal imprisonment and torture. In 2000, The Sunday Standard's Mark Chavunduka and Ray Choto (Editor and chief reporter, respectively) were abducted and tortured by police. A few months later the offices of the Daily News were petrol-bombed. This year the Daily News was again attacked when what ballistics experts believe to be anti-tank landmines destroyed the newspapers \$2m printing press. According to Basildon Peta, Secretary General of the Zimbabwe Union of Journalists, war veterans had openly declared their intention to shut down the daily, "there can be no simpler way of achieving that goal than simply destroying the press" (*Business Day Online*, February 23,2001). Moyo also closed down two independent radio stations despite High Court rulings that declared the state's broadcast monopoly unconstitutional. "[Moyo] cited irregularities in their work permits, but other officials said the government did not like their coverage" (*Independent Online*, March 1,2001).

Currently the Zimbabwean government undermines the principles of *popular control* and *political equality* as well as the procedures of accountability, responsiveness and accessibility. Critics claim that Moyo represents what *Independent Online* (March

1,2001) referred to as “an all-out attack on the pillars of democracy: the media, the courts and the opposition”.

MDC leader, Morgan Tsvangirai said, “The real problem is Mugabe” (*Business Day - Online*, 20 July 2000).

“Essentially vain, arrogant and stubborn, Mugabe’s accumulation of personal power has made him quite oblivious of the needs [and desires] of the ordinary people - this is the stuff of megalomaniac dictators”.

This personality of arrogance and vanity and the cult built around Mugabe argues against any notions that he will use his opportunity while still in office to affect national reconciliation or institute a government of national unity (Venter,2000:www.eisa.org.za) or do anything to further truly democratic principles and procedures.

Although it is heartening to see new life breathed into civil society in terms of voters turning out to vote in spite of intimidation and many groups openly opposing the Mugabe regime, it is still impossible to conclude anything other than Zimbabwe’s democratic institutions of the electoral process, government and democratic society enjoy exceptionally low levels of democracy and that the system as sum of its part can not be considered democratic in any sense. After the June 2000 elections Zimbabwe appeared to have taken a giant step back from the edge of a precipice. However, with the presidential elections looming and an assassination attempt on the opposition leader, Morgan Tsvangirai on 12 October, it seems that Zimbabwe may be stepping closer to another ledge rather than toward greater levels of democracy.

## Chapter Three

### The Information Super Highway: The Internet *Considering the medium and its impact and possible impact on Democracy and Press Freedom.*

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*"We must conduct our fight with clean weapons"*

Gandhi

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Most simply put "the Internet is a 'network of computer networks'" (Smith, and Krayneak and Hebraken in Buys,2000:11). However, Reinhardt Buys (2000) notes that a more complete description of what the Internet is and how it works must necessarily incorporate its history, its physical components, its functions and a description of the role players who create, use and maintain the Internet (12). This chapter will deal with such a broad description of the technology and its aim is to present the Internet as a 'clean weapon': a legitimate site of struggle, for journalists and activists working under the pressures of immense censorship in dictatorial Zimbabwe. Therefore, in addition to a descriptive discussion of the Internet and its possible uses and more or less what is needed to use it, this chapter (and the next) will also consider how the medium can work for *and* against censorship, naturally, with particular reference to the Zimbabwean case.

What this chapter is not intend to do is to present an argument for the Internet as the best form of communication: it is not intended to promote the Internet above face-to-face contact everywhere in the world. It is, perhaps, as Roszak (1998) muses, that "There will never be a machine that leaves us wiser or better or freer than our own naked mind can make us - nor any that helps us work out our salvation with diligence" (In Kitchen,1998:22). However, it *is* the firm contention that the Internet presents one of the most effective and growing alternatives in that if there is no printing press, there can be no printing press to be bombed!

\* \* \*

### 3.1. History

Internet access has only become broadly available in the past 6 or so years and, therefore, to many, it is considered a new technology, in its relative infancy, ushered in by commerce. On the contrary, the Internet has its beginnings in the United States *military* in the 1960s. In 1962 the US Air Force commissioned the Rand Corporation to do a study on how the USA could maintain its command over missiles and bombers during and after nuclear attack and what first resulted was a project undertaken to develop a world-wide computer network that would continue to function, enabling the US Air Force to control its missiles and bombers, even if a large part of the network was destroyed in a nuclear attack. The network that *evolved* from this project was mostly utilised by academic institutions, scientists and the US government. However, most notably, it was a first for enabling manifold and dissimilar institutions “to connect to each other’s computing systems and databases and share data via e-mail”. In 1992, the Internet already increasingly ‘populated’ by commerce, the US government ceased to manage the network and soon commercial interests offered Internet access to the general public for the first time. It was also at this time that European Laboratory for Particle Physics proposed the World Wide Web as the *best* means to share and discuss “research ideas between the members of the far-flung organisation” (Buys,2000:34).

In South Africa, academic institutions took the lead on the Information Super-Highway. The first network or data-base connections were set up between Rhodes University and the University of Cape Town and, also, the University of Natal, the University of Potchefstroom, the University of the Witwatersrand and the University of Pretoria. Soon the South African *Foundation for Research and Development* had set up ‘Uninet’, a universities’ network. However, the first suitable e-mail link was established by Prof. Pat Terry between Rhodes University<sup>1</sup> and a private home in Portland, Oregon in 1988 (Buys,2000:2;35). However, merely a year later, South African access to the worldwide Internet was severely restricted due the political policy of Apartheid in the country at the time. However, with the release of Nelson Mandela from prison in 1990 and the first free

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<sup>1</sup> Incidentally, Rhodes University was the first South African University to install a computer in November

and fair elections held in South Africa in 1994, Uninet proved to be one aspect of the South African infrastructure that was instrumental in launching South Africa into the Top 20 connected countries in the world, despite prior restrictions. By 1999 it was estimated that South Africa had 1 million Internet users (Buys,2000:35).

### 3.2. How does the Internet Work?

To connect to the Internet a user needs to have access to a computer with operating software such as a Windows system and a browser, which is a software programme that allows the user to view documents on the Web<sup>2</sup>. The user requires a telephone line to which he or she can connect a modem<sup>3</sup> and also needs to have an agreement with an access provider. Typically, access providers are commercial concerns (Buys,2000:13).

As noted, the Internet is a large network of networks. Information or data is transferred via the Internet by means of a collection of “packet-switched” computer networks that are joined together to form the Internet by means of software protocols, namely, Transmission Control Protocol (TCP) and Internet Protocol (IP). In layman’s terms, TCP breaks up the data into small “packets” or pieces and each packet is sent inside an “electronic envelope” addressed with a Web address for both the sender and the recipient. Then IP takes over and devises a means for the information to move from the sender to the recipient in these various ‘sealed’ or enveloped packets. In the same way that regular post destined for a remote location passes through various post-offices en route, so too e-mails, for example, will travel through many “locations” and two e-mails may never follow the same route. In fact, if TCP broke an e-mail message into *ten* packets, then each of those may have travelled a completely different route, but, as Buys (2000) describes it “the recipient will never know it because as the packets arrive, TCP takes over again,

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1965.

<sup>2</sup> Basically a browser, such as *Netscape Communicator* or *Microsoft Internet Explorer*, translates *hypertext mark-up language* or HTML-encoded files into text, audio and video.

<sup>3</sup> A modem is a device that enables a computer to send and receive information over a telephone line. It converts a computer’s digital signals into analogue (sound waves) to be transmitted over standard telephone lines. Internal modems are circuit cards that are plugged straight into the computer’s motherboard. External modems are small electronic boxes attached to the serial port of the computer with a cable (Buys,2000:13;465).

identifying each packet and checking to see that it is intact". If everything is in order, TCP reassembles all the packets into the original data (12).

There are many different protocols or layers of the Internet and these also work together. The 'top' layer, so to speak, is the application layer, such as File Transfer Protocol (FTP) or Hyper Text Transfer Protocol (HTTP). This 'layer' basically governs what data looks like and how your computer will interact with a server and the other way around. Simply, 'lower' layers govern how the data or programmes perform. The code that makes a web page appear as it does is called the *hyper text mark-up language* or HTML in the 'top' or *application layer*, which enables the user to specify how a page will appear and to what it will be linked. To return to the analogy of the postal system, data is passed from the application layer (where the sender sees what a document looks like in micro-soft word or in HTML format for example) to the transport layer and, as such, is placed in a virtual box and 'labelled' according to the context of the box and the process at that stage. The box is then 'sent' to the Network layer where it is 're-packaged' with the 'addresses' of its origin and destination. Once the box reaches its destination, the process is reversed. The journey looks something like this. Both the sender and the receiver or the user and the host view things in the application layer.

APPLICATION→TRANSPORT→NETWORK→TRANSPORT→APPLICATION

The "application space" of the Internet is 'home' to TCP or IP implements, browsers and operating systems, encryption modules, and e-mail among others (Lessig,1999:102;105).

Without an exhaustive explanation of *all* the services provided by the Internet, those of possible importance to this discussion include the

- **World Wide Web** and access to its information. Every Web document is stored on a host computer<sup>4</sup> and has an IP address, whereby the information can be accessed.

<sup>4</sup> A host computer stores the data that can be accessed through the Internet by a user (Buys,2000:22).

- **E-mail** is the oldest web service and, at the present date, users can send e-mail addressed e-mail messages with text files, spreadsheets or audio and video files attached.
- **Internet Relay Chat** (or IRC), enables users to communicate in real time in 'spaces' (*chat rooms*) that allow users to view and send chat messages simultaneously.
- **Public Bulletin Boards** also exist on the net and here users can share information, insights and concerns. USENET allows a user to post a message to a newsgroup: a public area, where a number of other newsgroup users can read it and post their replies or comments.
- **File Transfer Protocol** (FTP) makes it possible for Internet users to download files and computer software from the Internet. Often computer software manufacturers who use their sites to distribute their products operate FTP sites.
- Further services include video conferencing and a voice telephony service, which require access to greater bandwidth<sup>5</sup> (Buys,2000:14-8). However, as noted, of relevance to the discussion of media freedom in Zimbabwe in subsequent chapters, the first four or five services are sufficient.

### 3.3. What did and do people hope the Internet could mean for them?

Before the Internet became an everyday tool, integral to the business and social functions of millions of people of all ages and races around the globe, and even now that it has become so consequential, a widespread hope has been that Cyberspace would provide a 'new space' in which we could fight to reform our ailing communities; a new, truly egalitarian medium. Sherman and Judkins proclaimed the Internet as "the hope for the next century" (In Kitchen,1998:20). Reinhardt Buys (2000:11) noted that the Internet is "a whole new border-less and electronic jurisdiction", and Nicole Stenger boldly enthused

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<sup>5</sup> Bandwidth is the amount of information that can be conveyed over a network connection in a given period of time. Narrow Band is generally cheaper than Broad Band (Buys,2000:13) and connections can include electronic encyclopaedias, bulletin boards, utility metering, and home banking. Broad Band is another Internet protocol ([www.infosat.co.za/interact\\_table.asp](http://www.infosat.co.za/interact_table.asp)) and services include video-conferencing and medical services, which are not necessary for the day to day conveying of information of a journalist or private individual, therefore, a Narrow Band connections will suffice (Kitchen,1998: 133).

that “in this cubic fortress of pixels that is Cyberspace, we will be, as in dreams, *everything*” (emphasis added) (In Kitchen,1998:20).

According to Rob Kitchen (1998), the hope, if not the belief, has been that Cyberspace will be *everyone's* space: egalitarian and democratic, while increasing business earnings, leisure time, and, simultaneously, increasing the standard of living (21). He sites Saluka as stating, “We are being sold the promise that Cyberspace will allow us to solve all our problems, to shed the constraints of materiality, space, time, our bodies...” (19-20). In minuscule part, that is the view of this thesis<sup>6</sup>.

Opposing ‘hopes’ and views on ‘what will be’ have emerged from various theoretical perspectives. On one end of the continuum are the likes of *technological determinists* and *utopians* and, on the other end, *social constructivists* and *political economists*. This ‘list’ is not meant to be exhaustive, but to serve as a broad sample of approaches that feed into the literature. *Technological determinists*, hold that almost all socio-political, economic and cultural aspects of human lives are *determined* by technology. In this view technology is seen as being “outside society” and society’s influence and it drives society. *Utopianism* mostly purports that Internet technology will change the *future* to benefit *everyone*, providing technical solutions to most of the world’s problems (as in the statements above). The conclusion is that since technology has a ‘nature’ that is outside society’s influence, the good “potentialities” of the Internet *will* come to fruition by virtue of the fact that they are *possible* (Kitchen, 1998:57). However, for Axford and Huggins(2001), there is no room for technological determinism (and, one could conclude, utopianism) in a multi-dimensional account of the impact of the technology on our world as “no technology impacts unmediated upon societies” and it is not logical for particular implements to be removed from their use by actors (2). As will be discussed later in this chapter, it is certainly not a forgone conclusion that the Internet will be used for the greater good.

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<sup>6</sup> Although this thesis contends that “if there is no printing press, there can be no printing press to be bombed”, there is, perhaps, the implication that the Internet is beyond the grasp of censorship. This is not the case: the remainder of this chapter will explore how careful and considered use of the Internet can yield

Enter *Social constructivists*, adding to the debate that human beings have the ability to exercise *choice* and, hence, are not driven by technology, but make technology work for them. In this view, Internet products are themselves seen as the products of social interaction. The view of *Political economy* adds to this that these products are the result of *very specific* social interactions: tied to the socio-political and social-economic exchanges of *capitalism*. The Internet, according to this neo-Marxist reading<sup>7</sup>, will help to *reproduce the political and social relations of real space capitalism*. The real space status quo balance-of-power will remain the same in virtual space: “Power on-line will equate with traditionalist capitalist power” (Kitchen,1998:59). The conclusion is that science and industry are instrumental in shaping cultural backgrounds and Internet users’ incumbent interpretations of technology (Kitchen,1998:59). People can (and are) all the time being influenced, *not forced*, to make choices that are not necessarily conducive to inculcating a libertarian culture on the Internet<sup>8</sup>. Lawrence Lessig’s (1999) thesis is that current ‘architectures of power’ in real space *and* in Cyberspace will render a libertarian future for the Internet impossible. He notes that the Internet does *not* have a democratic or libertarian ‘nature’ in and of itself. Technology does not have its own nature: it is coded by people with said interests, therefore, the future of the Internet and the ‘nature’ that it takes on depend entirely on who owns cyber-spaces, so to speak. This said the *political economic* view is, however, often criticised for ‘over-stating’ the role of capital, neglecting other social processes at play such as government pressure on capital (and vice-versa), language, and history to name but a few. Dahlgren (2001) counsels “sobriety” as regards either “easy optimism” or “easy pessimism” and, therefore, caution in adopting any single viewpoint (77).

The remainder of this chapter proceeds from the assumption that all approaches (and similar approaches not discussed here) have valid contributions to make to broadening our knowledge of societal and Cyberspatial relations, but that no approach can stand

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communication results that can evade censorship in specific cases.

<sup>7</sup> The notion being that capitalism is still the dominant shaper of today’s society and those who have capital hold power.

alone in studying such a multi-faceted medium as the Internet. Language and history may explain much about who has access to the Internet and actually uses it, while, in the case of Utopianism, theorists may not give concrete or even reasonable means for the attainment of their ideals, but that does not render the ideal a foolish one to strive for. Perhaps the means needs be sought!

### 3.4. What has the Internet become?

As much as we yearn for a space free of our everyday struggles and problems, Cyberspace, the Internet, or the World Wide Web<sup>9</sup> does not provide a perfect world that we can somehow move to leaving our own real world and its problems behind us. This arrival of a 'new world' or frontier: "a place of exploration and discovery", does not necessarily conclude that all good things will come to pass, but also brings with it the implication of Cyberspace as "an unmapped territory to be inhabited and economically exploited...to be colonised" (Kitchen,1998:20;22). Colonised by 'good' or 'bad'.

Evidently, as can be intimated from the brief discussion of the history of the Internet and the basic discussion of how the Internet works, human beings do fashion, and, thereby influence, technology to meet their ends and, as in real space, it would seem that only some people have access to the Internet. Power online continues to equate with traditional power in real space as information would seem to be capitalism's latest 'commodity', rather than the oppressed people's newest liberator (Kitchen,1998:60).

#### 3.4.1. Access

Those who already have access dominate the Internet. The question of access is particularly important in Africa and is often discussed by interested parties. Hardware (computer equipment, telephone lines and modems), software (programmes, browsers

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<sup>8</sup> See discussion on Digital Identification and Certification in Chapter 4.

<sup>9</sup> Although these terms are popularly used interchangeably, they refer to different things. The Internet, according to Buys (2000:14), is a "global association of computers that carries data and makes the exchange of information possible" and the World Wide Web is a subset of the Internet: a collection of interlinked documents that work together using a specific Internet protocol, namely, HTTP. This enables web documents to use special links (hyperlinks) that take the form of highlighted text and graphics to link one document to many other documents and so on.

etc) and Internet access pose a problem in third world economies, in general. Add to this the world trend that most people do not use their computers seeking the ends of equal access, world peace or democracy (or that those who have received computers through aid programmes do not know how to use them): most people with computers only use the technology for word-processing, record keeping and playing games and those who do connect to the Internet are generally swapping mail or seeking specific information. Although there are thousands upon thousands of mailing lists available and although those taking part in the mailing list discussion number millions, these millions do not make up the majority of users, nor do mailing-list discussions make up the majority of what surfing time comprises of for millions around the globe<sup>10</sup> (Kitchen,1998:22). Returning to the African situation, of all these 'millions of users' around the globe, a resounding majority of their people live in first world, sound democracies. According to Ms Maaïke Blom of NIZA (the Netherlands Institute of Southern Africa) the most recent United Nations Development Report states that 88% of all Internet users are located in Industrialised countries, where only 15% of the World's population lives<sup>11</sup>. Usage is, therefore, divided along established real-space social and spatial divisions and the Internet is not universally accessible.

There is great disparity between developed countries and developing countries both in the real world and in the virtual world. Most people who access the net are academics, students and business people. Lyon (in Kitchen,1998) points out that it is difficult to consider an electronic democracy translated into reality in the absence of a consistent equal access policy. Before we can speak of electronic spaces being "democratic, egalitarian, or accessible", cyberspaces must be affordable, intellectually accessible, and people must have time to interact with the Internet. However, most importantly, the World Wide Web is a space requiring skills, which are often impossible for rural people in developing countries to acquire (111-3).

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<sup>10</sup> The most frequently typed word in Internet searches is "sex".

<sup>11</sup> Information obtained during an e-mail interview.

As noted by Kitchen (1998), in many ways, a Cyberspatial era is widening social divisions and widening the gap between the information rich and information poor, reinforcing current divisions (60). It would appear that business and industry (not civil society) will sustain further developments and seek large profits for their own coffers (Robins in Kitchen,1998:22). Our current reality of inequality will prevail in the virtual world.

However, a situation of direct, electronic democracy or even universal access is not imperative or even necessary to the argument that the Internet can serve as a new site of struggle for democracy for Zimbabwean journalists (or for other activists around the world, for that matter). This thesis will only explore the possibility of 'struggle' or engaging and publishing on the Internet for those who already have or could reasonably be expected to have access: predominately journalists and activists, including non-governmental organisations, and will explore the possibility of a few activists who have access to these resources, acting for the benefit of many (see discussion of the Zapatista Movement in Chapter Five).

Since, as it stands in real-space, not *everyone* acts as the proverbial watchdog for society and, therefore, the expectations of virtual space for the purposes of this argument should be no different: a few can be the 'watchdogs' for the masses. It would be short sighted to ignore the potential that the Internet currently presents just because not everyone has access. *In real space not all people are heard either.* This thesis suggests that Zimbabwean journalists and activists can use the Internet to escape constraints and that they can use the Internet, this 'third space', to do their real-space jobs.

#### 3.4.2. Inclusion

Theorists and activists are concerned with the question of *inclusion* on the Internet. In the example of the Feminist 'lobby', supporters note that there needs to be a rethinking of the role and structure of institutions and the production of knowledge (currently dominated by men) so that real and virtual space are seen to be more reflective of the people comprising the real world. The current picture is that, at present, "from hardware

engineers to software programmers, men dominate Cyberspatial technological development” (Kramarae in Kitchen,1998:66). It is, therefore, asserted that predominantly white, affluent males’ desires and intentions are reflected in Cyberspace (and, indeed, the world). In 1994, 73% of Internet use was by men and in excess of 90% of American computer scientists were male. For the sake of brevity, this discussion will only focus on a few of the multiple reasons suggested for this being the case. Firstly, girls and women do not have equal access to computers for social or economic reasons (another trend that is exacerbated in third world countries). Secondly, as noted, the Internet is dominated by male issues and male discussants and, through the prevalence of pornography on the Internet, women are retained in their stereotypical gender roles by the new technology. Even in computer games<sup>12</sup>, women are almost always *victims*, which further perpetuates this image of their inherent subjugation. Kramarae (in Kitchen,1998) notes that this imbalance in use and design is cause for concern as not enough is being done to *consciously* change the status quo and “genderise” computer studies: “cyberspace, like earth space, is not developing as a viable place for women” or other marginalised groups it is argued. The white, affluent male’s view predominates in the real and the virtual arena (67-9), therefore this is the dominant *power* in the virtual world as in the real.

The Internet’s capacity for interaction and collapsing space used to empower marginalised groups and individuals is *not* in the hands of those who would use it for this purpose. As discussed with regard to the history of the Internet, most of the global Internet was nationally owned, but has become increasingly “privatised and commodified” by trans-national corporations (TNCs). Technological development will serve only to reinforce current hegemonic structures and the ‘information society’ or ‘information economy’ will be shown up as a myth; a myth “developed to serve the

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<sup>12</sup> Albeit that these games are not always necessarily connected with the Internet and, albeit, that the example of subjugation in these games has exceptions as in the case of the game *Tomb Raider*, in which the lead character, Lara Croft is often portrayed as stronger, mentally and physically, than men.

interests of those who initiate, manage and benefit from the information revolution”<sup>13</sup>(Kitchen,1998:60).

Once again, however, although this is of concern, it does not negate the investigation of the Internet in and for Zimbabwe as a means to further democracy in that country. It has been noted that not everyone needs to have access. The same goes for who is included: the medium can still prove useful. Further to this in terms of the predominant viewpoints expressed on the Internet, this also does not render the Internet useless to this project. The views are not relevant as the chief focus of this thesis is for Zimbabwean journalists and activists to get their truths and viewpoints out of Zimbabwe to mobilise opposition support and also to enable them to pass their commentary and details of events within their borders on to as many people as they safely can to safeguard the truth. Thus we are less concerned with the viewpoints and commentary of the dominant group of the Internet, but of Zimbabweans themselves.

Despite unequal access and inclusion, some reports have found that women *and* men have found it easier to communicate on-line than face-to-face and, women in particular, have found it easier to have their views heard and found men more receptive to their ideas and more open in their attitudes (Kitchen,1998:68). There are many who claim or truly believe that the Internet is unregulable because of this sense of complete anonymity.

#### 3.4.3. Anonymity and Jurisdiction

In real space, when we interact, self-authenticating facts about us are revealed, sometimes, whether we like it or not: sex, age, dress, language, and so on. “In cyberspace you reveal only an address and one that has no necessary relationship to anything else about you”. With certain Internet architectures it is difficult to assert facts about yourself in a credible way: “On the Internet it is both easy to hide that you are a dog and hard to prove that you are not” (Lessig,1999:27;33). However, as discussed in Chapter Four,

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<sup>13</sup> This includes governments, the military and trans-national corporations or multi-national corporations.

increasing regulation is enabling more and more facts about Internet users to be verified on logging in.

The problem with conducting a legal 'search' or establishing who has jurisdiction over web-site 'owners' in Internet or information technology terms is that a specific network could span more than one country and many magisterial districts. As noted by Buys (2000), in extreme examples, parts of information could even be on the open sea (370-71). As a result numerous 'undesirable' entities and industries have blazed prosecution-free trails on the net. Among these, on-line casinos have emerged and, in the United States, most of the casinos serving States where gambling is illegal operate from non-US territories to avoid prosecution. Bets are placed through companies offering secure Internet payment or via offshore accounts. These online-gambling houses have been greatly criticised for being unregulated and, therefore, open to abuse, and in some instances, cases have been brought to bear on on-line casinos (23-4). However, the point is that some remain unregulated or 'beyond jurisdiction'. However, it must be stressed, again, that, as will be discussed in Chapter Four, increased regulation is making it increasingly unlikely that these online casinos can escape judicial action for much longer.

#### 3.4.4. Surveillance

In accordance with this, Roland Stanbridge (2001), senior lecturer at the Institute for Journalism, Media and Communication at Stockholm University, notes that while information technologies bring new channels for communication, they also create new opportunities for surveillance. He notes that in Europe there is much concern regarding the new global electronic communications surveillance system, Echelon. It captures and processes massive volumes of satellite, microwave, cellular telephone and fibre-optic communications traffic and is said to present a threat to the privacy of people all over the world. On a smaller scale, already many organisations now have to balance privacy with policing for unsuitable, dangerous or obscene data. Some have used this position to justify the censoring of mail and many companies argue mailboxes and their contents are company property (Kitchen, 1998:18).

### 3.4.5. Publishers

It was discussed in Chapter One that no one has a right to be published wherever and whenever they wish. However, the boundaries are seriously blurring as anyone *can* now conceivably publish: the Internet has significantly changed the constraints on spaces to be published and has also created a situation whereby 'everyone can be a publisher'. Any person can express their views if they have access to the Internet and, as will be noted in Chapter Four, access is not reliant on having one's own hardware, software and Internet connection. A journalist or activist, multi-nationals, governments or private (affected) individuals can express their views in the form of an e-mail, by engaging with discussion groups in chat-rooms, posting a message to a mailing list or to an electronic bulletin board: content providers are the most important people in the Internet (Stromer-Galley et al,2001:175; Buys,2000:24). Even though the inherent right does not exist, in theory everyone *can* be a publisher. This is discussed in great depth in Chapter Four.

### 3.5. What can the Internet become?

It has been intimated that in large part 'control' of the Internet and its technologies is not in the hands of those who would see it used for the purpose of engendering greater levels of democracy or any other liberties other than the free market.

#### 3.5.1. Terrorism; *Operation: Enduring Freedom*

Another factor that stands to seriously alter the way we understand and safeguard our liberties is the September 11, 2001 attacks on New York City and Washington in America. Already, as early as 1995, at the birth of public Internet, after the bombings of Oklahoma City, the Clinton Administration proposed the Omnibus Counter-Terrorism Act, which, in effect, extended the powers of the FBI, infringing on civil liberties and privacy through new forms of surveillance. One of the clauses was that prison terms could be served and fines be paid should any individual or group be deemed to be using the Internet to collect or transfer funds to any terrorist group (Villarreal et al,2001:210). There also now appears to be less resistance from people the world over to having surveillance increased, as it pertains to their own safety and fears of acts of terrorism.

### 3.5.2. Satellite Technology

Integrated Services Digital Network (ISDN) would appear to be set to make the greatest impact on the Internet in the future. ISDN transmits digital signals over digital phone lines without any time wasted in conversion to analogue and back again. At present users can also use cell phones and a satellite connection to link up to the Internet. At present, the satellite connection is a one-way link and is used in conjunction with a regular dial-up connection: the regular connection is used for outgoing data and the satellite link for incoming information. The reason for this is that most data transported across the net is 'incoming' and, therefore, this system significantly speeds up the process. A user will also require a satellite dish<sup>14</sup> and a corresponding card plugged into the user's computer to link the computer to the dish (Buys,2000:13-4). There is of course no reason to believe that the technology will pause here. We can foresee cellular phones and satellite dishes eventually being used without regular landline connections. In fact, the 'video phones' currently being operated by CNN and other television correspondents work on this basis although they currently remain problematic.

Satellite technology already makes it possible to bypass national media. Generally this is used by leaders to bypass national media and communicate with citizens directly (Stromer-Galley,2001:174), however, it is clear that the technology could be used to avoid monitored local servers based on land lines or to broadcast information into an area that suffers heavily from censorship (see the Serbian example in Chapter 5 for a variation of this).

### 3.5.3. Anonymity

As noted by Villarreal Ford and Gil (2001), "although some Internet enthusiasts have hyped its democratic essence, we need to retain caution, thinking of its potential in this regard as partially realised but also as constantly in danger of being foreclosed" (202). Just because the Internet currently makes people more anonymous than they are in real

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<sup>14</sup> It stands to reason that this satellite dish will receive data from a specific satellite, such as *InfoSat* in Africa ([www.infosat.co.za](http://www.infosat.co.za)). The installation and use of such a system is quite costly, but it nonetheless remains possible ([www.mweb.co.za/products/broadband/system\\_requirements.asp](http://www.mweb.co.za/products/broadband/system_requirements.asp)).

space, this does not mean that the design of the Internet cannot change to start making people less anonymous (in fact, this is already occurring, and will be discussed in the next chapter). Laurence Lessig (1999) notes that buildings are often extended or changed and, similarly, the design of an unregulable network could be renovated: it could be changed into a more regulable network. Lessig holds that one of the ways in which this will happen is through commerce taking control of the most net spaces - *net code* - for financial gain (1999:26;33). In this regard, Villarreal and Gil (2001) cite the concept of *enclosure* as advanced by Boal, which refers to the 17<sup>th</sup> century experience in Britain, whereby land that was in common use was being continually fenced off for big landowner's private use. Previously free farmers were finding themselves suddenly forced to be wage labourers for the well-moneyed. In concurrence with Lessig, they also note that "a great many strategies of enclosure threaten to undermine the existence of the Internet as we know it today" and, essentially, we are faced with an immensely powerful trend to enclosure, away from the current sites of inclusion of the Internet: "campaigns of disempowerment" are being waged by state and market forces everywhere (201-6). This is also for discussion in the next chapter.

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The Internet is a medium for the mind and the imagination, but that should not be taken to mean that it is the soul habitat of mental cognition: *real* space should not and cannot be forgotten. (Novak in Kitchen,1998:22). We live in real space, we coexist in real space, we feel hunger in real space, and we feel pain and joy in real space. Robins in Kitchen (1998) argues that we must remain aware that the world of the World Wide Web is "not a fundamentally different world", but that Cyberspace and real space overlap in a symbiotic relationship or *what could be a symbiotic relationship*. Any changes that anyone predicts the Internet can bring about or will bring about must be placed in the context of the real world and "the social and political upheaval" that is being experienced in the real world today (22). We must begin and continue to relate the Internet and virtual reality to our concrete societies and lives within real space.

## Chapter Four

### Regulation and Code: Regulating the 'Un-regulable'

*The issues of privacy, encryption, identification and legislation: the promise and peril of digital information technology.*

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*First thoughts about cyberspace tied freedom...  
to the disappearance of the state...  
The claim now was that government could not regulate cyberspace,  
that cyberspace was essentially, and unavoidably, **free**...  
Behaviour could not be controlled; laws would be meaningless...  
Cyberspace could **only** be free.  
Freedom was its **nature**<sup>1</sup>.*

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It has been noted in previous chapters that the electronic media have always been justifiably regulated (by licensing, registration and the like) due to the inherent scarcity of airwaves and, although, this is not meant to purport the regulation of content, it is regulation nonetheless (Lichtenberg, 1991:2). Is there then really a need to regulate the Internet? Telephone lines and computer hardware are scarce in many parts of the world; however, they are not scarce as much due to physical limitations of access as to the economic limitations of access in these parts of the world. There would, then, not appear to be an argument of technical scarcity to support the regulation of the Internet. Nonetheless, regulation by registration or licensing is not the only means by which media, including new media technologies, can be and are regulated or restricted.

The dominant language of the Internet remains English as the technology was developed in the US and became popular among its predominantly English-speaking academics. For practical and economic reasons, English remains the language of choice and reinforces the divisions between those who can access or publish information and those who cannot (Naidoo, 1998:42). However, there is another language at work that can serve to either include or exclude potential users from the Internet. That language is *code* and, in this chapter, the discussion will turn to code as a means for increasingly regulating the Internet so that people's movements across Cyberspace can be more easily traced, more easily regulated, perhaps, more easily

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<sup>1</sup>Lawrence Lessig. 1999. In Code. See References.

censored. However, code also provides the possibility of overcoming censorship in certain instances. What will be?

#### 4.1. Architecture

From the moment we are born, every aspect of our lives is affected by language. From our first strained cries we are trying to *communicate* whether it be, for example, hunger, fear, or pain. *Language* is considered to actively 'construct and constitute' human reality. Therefore, to gain understanding of the social, cultural, political and economic factors that shape our world, *real* and *virtual*, it is necessary to deconstruct<sup>2</sup> the multiple messages we receive by being exposed to various objects in our reality. In this case, we regard Cyberspace in its various forms (Kitchen, 1998:64).

*Both* spoken/written language *as well as* computer *code* are of importance to this discussion. As human understanding of the world is built up of communication and language, web pages, for example, are "literally constructed through the language of the programmers" (Kitchen,1998:64). Lessig's (1999) proposition is that the *architecture* or *coding* of the Internet is the most important exclusionary language or factor to affect structure and power relations on the Internet. Language: code and spoken language, are the building blocks of the Internet; code and language constitutes the space as it is.

The Internet was *built* for research: its architectural style was not created for commerce. It was not designed to hide: it was designed and built - *coded* - to be *open*. Information or data transmitted over this net at its inception could easily be intercepted and stolen. Hence, confidential data could not easily be protected. The assumption was also, however, that this space could not be regulated.

It is true that the current architecture of cyberspace makes regulation difficult as those whose behaviour one may like to control could be situated in any space on the Net and people are able to remain largely anonymous. However, regulation is made *difficult*, but not impossible (Lessig, 1999:19-21). Cyberspace does not actually have a *nature* or libertarian soul in and of itself that remains formidably unchangeable,

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<sup>2</sup> According to Rob Kitchen (1998), "deconstruction is a technique" for working out the inconsistencies, incoherence, limits and unintended influence/s of a given text (64).

although many imposed upon it a lasting libertarian nature. *Architecture* determines the 'nature' of Cyberspace.

This said, however, there are still those who would hold that the Net cannot be regulated, and, as noted, it is not in dispute whether it is, in fact, exceedingly gruelling at present, however, the fact that the Internet is *designed* renders it probable that this design can be changed and it is *not* inconceivable that the architecture of the net can and will be changed to make the Internet more *regulable*. The Internet has no libertarian nature that will perpetuate itself. It is constructed by people with said Interests and, like any construction: a house, a school, or an office block, structures can be changed, removed or added to suit the owner's needs. It is just a matter of changing the design, the architecture: the *code*.

#### 4.2. The Effects of Ownership and the Current Stakeholders

Architecture matters and architecture can be changed, but the *ownership* of that architecture matters even more: "Foundations get laid, they do not magically appear". Constitutions are built and are not found. In real space laws regulate through constitutions and other legal codes, and, in Cyberspace we must seek to understand how code *constitutes* and regulates: "how software and hardware, that make Cyberspace what it is, regulate Cyberspace as it is". If the language or code that fashions cyberspace is owned by those who wish the space to be easily and rigidly regulated, then cyberspace can be controlled. If the code is not owned then it becomes more difficult to regulate. We must consider who the 'law-makers' are and which of their values are being embedded into code (Lessig, 1999:5-7;48;207).

But first, let us consider Lessig's example that illustrates how ownership affects the way code shapes a given architecture. For students, lecturers or support-staff to connect to the Internet at the University of Chicago, they need merely to connect their machines to any one of the many jacks located around the university campus. At Harvard, on the other hand, you cannot connect your machine to the net unless the machine and the user are registered and, once registered, all interactions with the network are monitored and identified to the machine.

These two 'architectures' have evolved from the views of those responsible for running the two separate institutions. In the case of the University of Chicago, their Provost decided that the rules regulating speech at the university should be as protective of free speech as the US constitution. At Harvard, however, the administrative view was one less focused on the protection of free speech. The difference is simply a matter of *code*, however, the networks differ, *firstly*, in the values they embrace and, *secondly*, in the design that these values necessitated and, as a result, it is easier to control behaviour in the Harvard network than it is in the Chicago network. In short, "Code embeds certain values or makes certain values impossible" (Lessig,1999: 26-7;89).

It has been noted that, in the beginning, data transmitted via the Net could be easily intercepted or stolen. However, the Internet presented the new as yet to be colonised space and, for commerce it presented a new and growing market to be exploited. The bottom line is that commerce has an incentive to increase profit margins and in terms of e-commerce, in order to make transactions in this space of the safest nature so that people could trust that their private and financial details would not be intercepted or stolen; commerce had (and continues to have) an incentive to increase the authenticity and certification of transactions in cyberspace. The challenge for commerce on the early Net was to design a Net that both *shared* the network advantages of the Internet, but would incorporate some of the security that commerce requires. (Lessig,1999:42). Therefore, the Internet is shaped by predominant language *and* the needs and "actions of the players" (Kitchen,1998:64).

#### 4.3. Architectures of Regulation: Identification and Authenticity

We can imagine and even already identify different architectures that would better serve commerce in identifying who individuals are and authenticate facts about them. The following are four means of identification are currently being and could be further employed on the Net and, together, could provide for a highly regulated architecture.

- *Passwords* work to connect the user name to a corresponding password before they may access a network or a web site. To access either, both bits of information have to be provided. This can prove tedious to have to remember different

passwords for different sites; however, it has a security advantage as long as the user keeps her or his password secret (Lessig,1999:34).

- *Cookies*<sup>3</sup> or “little brothers” are text-only strings of usually random-looking letters. These are long enough to serve as a unique digital fingerprint to every user. Cookies avoid the inconvenience of having to remember a plethora of passwords. When you enter a site for the first time, the web site sends a cookie to your hard-drive. It saves information about you and your preferences, while you are ‘visiting’ the site. The cookie is saved. When next accessing the same site, a copy of the small entry or ‘cookie file’ on your hard disk is sent with the request to that site and allows that site to ‘verify’ who you are and the site then knows that you have visited before (Buys,2000:335). Cookies are less cumbersome than passwords since you can surf through sites that deposit and consume cookies with little interruption (Lessig,1999:34).
- A third technology incorporates both the cookie and the password. *Digital certificates* or *signatures*, according to Lessig, would create a virtual passport on the Internet. These certificates would reside on you computer and a server would automatically check the certificate as you entered a given site. If you have the correct certification, you would be let onto the site and the server would then know certain facts about you granting you access or not (Lessig,1999:35).

Another plus that is provided to commerce by digital information is that it allows for speedy integration and crosschecking. This has enabled companies to draw up “blacklists” of unfavourable customers and this information can be resold or easily disseminated (Kitchen,1998:19). Thus far the regulatory coding seems fair and harmless, even convenient.

However, under numerous constitutions, the Universal Declaration of Human Rights, the European Convention of Human Rights and the International Covenant on Civil and Political Rights, the right to privacy is *guaranteed*. This right includes the right to be free from “invasions and interference by the state and others in one’s personal life”. In addition, it guarantees “the right to *determine the destiny of private facts*”,

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<sup>3</sup> They can track “electronic footprints”, sites accessed, the amount of time spent at each of those sites and it can link this information to e-mail addresses. This information becomes a valuable commodity to sell.

including deciding when and where private facts may be made public (Buys,2000: 365-6). Code has already upset the control that individuals have over facts about their private lives (Lessig,1999:142).

With every electronic communication over the Internet, a user gives away some personal information about him or her, *even* if this is 'limited' to the addresses of the sender and the recipient (Buys,2000:365). For example,

- *E-mail* is basically a text-based message in digital form: it is like a transcribed telephone conversation. However, unlike a telephone conversation, the content is saved and then becomes searchable. As noted in the previous chapter, on the basis that they own the computer hardware and software, companies are increasingly monitoring their employees' e-mail for 'improper material'.
- *Cell phones* need to locate themselves so that transmitters can follow the caller as she moves from one zone to another. The FBI in America is pushing for the data to be made available for public safety reasons<sup>4</sup>.

A security risk with *cookies* is that sites could have subscribed to a common tracking system of some sort. Your cookie file could be copied to other systems and if a "common cookie" identifies you across a number of sites, then, in principle, if you have revealed information about yourself in one of those places, the other places could know it as well"(Lessig,1999:35). These are evidently examples where individuals right to privacy is being breeched and, in many cases, without them being aware of the fact.

It is evident that commerce is already instituting changes and processes whereby identification and monitoring and, thereby, 'trust' become more sturdy for e-commerce, but that the code that enables this state of trust, also creates the power to learn facts about people and to, perhaps, exploit those facts.

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<sup>4</sup> Lessig is quite cynical in his treatment of the phrase "for public safety reasons". However, in view of the terrorist attacks on America, Lessig's proverbial tune will probably change and, it appears that the FBI is already getting what it wants and arguably needs at this time. Having paid close attention to vox-pops on the American Cable News Network (CNN) and Fox News, it appears that attitudes toward government surveillance are changing overwhelmingly and that people are less opposed to surveillance on their own communications after the September 11, 2001 terrorist attacks than they were before the attack.

Already the questions must be asked, *why would people choose to hold onto these IDs?* Why would people comply with regulatory, if not *risky*, coding such as this? It is Lessig's claim that the answer lies with incentives.

#### 4.4. Incentives

Notably, the security risk in cookie use has been made quite clear and yet cookies have spread since browsers have enabled people to choose to accept them or not. Still, why do so many people accept them? The choice to protect privacy has often been at the cost of not being able to access certain areas of the Net where cookies are *required*. Similarly, it would appear that life would become easier for those who carry digital certificates should they become such a widespread requirement. One can foresee servers providing incentives to 'carry' digital ID, such as making exchanges cheaper or simpler because, for them, if you carry ID, data can be authenticated much more easily. Further to this, the more websites include verification requirements, the more people will subscribe to carrying the certificates: "Life in an authenticating world will be easier for those who authenticate". Improbable? Not necessarily: "networks are rapidly integrating digital signatures; and a host of companies (called 'certificate authorities') now provide digital certificates" (Lessig, 1999:42).

Another example of incentives being used to gain information about people is any one of the scores of 'free' e-mail or messaging accounts available on hundreds of sites on the Internet. Enter any one of these sites<sup>5</sup> and register and you will be asked to provide details of your age, full names, sex, occupation, postal and street address, citizenship, telephone number and marital status. These sites do not *need* this information about a given user to make the site or other users' safer, nor do the sites need that information to create 'more trust' in the environment. Many sites provide 'free' e-mail precisely because they wish to solicit that kind of information from users to then sell that same information to advertisers. With this information advertisers are then able to pitch their products using a stranger's gender, first name, occupation, marital status and age as basic marketing indicators to establish which products they may be interested in buying. If any Internet user has been perplexed as to how 'junk' mail has ended up in

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<sup>5</sup> I opened a hotmail.com account as well as an mtnice.co.za account for the purposes of this paper. I have also filled in similar applications with similar questions on cnn.com. They require personal information to varying degrees. Some only require that this information be voluntary.

either their e-mail (or even snail mail box), they could probably trace their hits back to a registration form on such a site. However, it must be said that with accounts like *Hotmail* and many other free services of its kind, information is not verified in order for one to be able to use the system. Users can operate under pseudonyms and without providing personal details. It is probably the case that Hotmail is more concerned with advertising to users

Incentives are the best means for commerce to achieve its aim of increasing trust in digital transactions and commerce is in a good position to head the establishment of these incentives. However, commerce could get a little help from government in establishing this “infrastructure of trust” and Lessig (1999) argues that since commerce has already taken the regulation lead and the first, perhaps, “sufficient step” in making the Net more regulable, the government will need to do very little to make behaviour on the Net *extraordinarily* regulable (42;48;51).

#### 4.5. Government Regulation and Incentives Created by Government

At the time of its public birth it was very difficult to imagine the Net tamed to serve government ends especially with it being lauded for being somehow ‘above control’. Now, six or so years on, it is becoming less and less difficult to grasp the fact that the Net is on its way to becoming (or already, in many ways, being) *the* regulated space. It also takes little investigation to discover how commerce and government play a role together in that regulation and how, it would appear, that code is becoming just another tool of state-regulation.

##### 4.5.1. Legislation: Government’s Regulatory Code

It has been noted that some changes will occur without government intervention to make Cyberspace a more reliable space for e-commerce to function effectively, however, in the (American) post-*Napster*<sup>6</sup> era it has become commonplace for the (American) government to step in and declare illegal any software that enables Internet users (those surfing the web and those posting web sites) to contravene *real-space* copyright laws. In real-space, laws and constitutions govern: legislation is

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<sup>6</sup> MP3 technology enables the compression of audio files into the size of a Microsoft Word file for easy distribution across the Net. CDs can be copied and e-mailed, and web sites, like *napster.com*, were built with thousands of songs archived and ready for anyone to take.

regulation or *code*. Already, in commercial industry, Sony has complied with these government stipulations by producing a Walkman-like machine that *plays* MP3 files<sup>7</sup>, but designed to comply with the set *government* standards of control. "Control will be *coded* by *commerce*, with the backing [or even mandate] of government" (Lessig,1999:ix-x;39;89;99)

Just as code is used to regulate, code can be used to crack or circumvent such protective software. In 1998 the US Congress made it a crime to write and sell software that circumvents copyright schemes. "In the judgement of Congress, regulating users alone would be difficult but regulating code [as employed by users] would not be as difficult" (Lessig,1999:49).

#### 4.5.2. Legislation and Indirect Regulation

In other cases, by indirectly regulating code writing, the government can achieve regulation that, had they pursued it directly, would have rendered them politically unpopular.

As noted, the ability to regulate Cyberspace depends on the ability to identify and authenticate; and the more credentials Internet users verify, the easier it becomes to regulate Internet users. In the case of digital IDs, government could, for example, require that certain sites verify certain things about users before they are allowed to enter a site. Without verifying your age, you could, for example, not be allowed to enter an adult site on the Internet. This would work to aid regulation in a similar way to the way the South African government 'encourages' all South Africans to apply for a National Identity Book. There is no requirement that all South Africans *have* to be in possession of a National Identity Book. However, it becomes necessary in practice because, without one, a citizen will not be able to open accounts, vote, perform transactions, or complete certain applications to university or employment. This is an example of how the government can create incentives for people to 'carry' digital ID

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<sup>7</sup> See footnote #6

without directly dictating to them that they should carry ID. Any suitable strategy would utilise indirect regulation<sup>8</sup>.

#### 4.5.3. Direct, Coded State Regulation

At the other extreme of state regulation, Lessig (1999) suggests that the very real possibility exists of the government directly using computer code to increase its regulatory capabilities. The claim is that there is the possibility of government being able to search or scan an individual's entire computer hard-drive and then to notify government if anything appears on the drive that is deemed 'illegal' for the individual to have in his or her possession. It is Lessig's contention that the government could execute this search by means of a *worm*<sup>9</sup>. In America, for example, the *Federal Bureau of Intelligence* (FBI) could employ a worm to 'sniff' for classified documents or certain types of information. If it finds something, it sends a message to the FBI alerting them to the illegal documentation or code and, if nothing illegal is found, the worm erases itself without interfering with the operation of the machine. It is possible that other coding could easily render a worm unable to penetrate a system, but the counter to this possibility is that, government could easily legislate, *order*, that networks be constructed in such a way so that worms, with judicial authorisation, could be placed on a machine; that machines *must* be worm-ready even though worms can only be deployed with judicial authorization (17).

#### 4.6. Problematic Jurisdiction

This should not be taken to imply that all forms of government intervention and search are negative or illegitimate. Often governments have to intercept information to protect the state and its citizens<sup>10</sup>. There are two sides to this; on the one hand, the increased ability to scan and search through data on the Internet could enable a legitimate government to gain the increased capacity to protect its citizens. However, a dictatorship may use the same capacity to do harm. The purpose of this chapter is to

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<sup>8</sup> Lessig provides a further illustration by noting that government could make voting mandatory and then establish Internet voting, which would require voters to cast virtual votes, verifying their identity with a properly authenticated digital certificate (1999:51).

<sup>9</sup> A 'worm' is a bit of computer code that is sent out into the Net and works its way into the systems of vulnerable computers. It is not a virus that attaches itself to programmes and interferes with their operation, but is a bit of code that does what the code writer says.

<sup>10</sup> I refer, once again, to the example of the terrorist attacks against America and the ensuing *Operation Enduring Freedom*.

explore the possibilities of regulation and then to apply them in the context of Zimbabwe.

An obstacle to effective jurisdiction and policing of crime on the Internet, as has been noted in the previous chapter, is that data on the Internet could possibly be spread across many networks and across many countries. Therefore it would be difficult to track speech or information. The South African government allows for the right to privacy to be limited under “reasonable and justifiable” circumstances, such as under a State of Emergency. Under such justifiable circumstances, the Criminal Procedure Act provides for the general power of search and seizure of certain articles by the state if the articles are deemed to be relevant to the commission of an offence or evidence of an offence<sup>11</sup> (Buys,2000:367-71). ‘Seizing’ data from the Internet becomes a near impossible task. If the information opposes a corrupt government, it may be good that the information is not easily intercepted. However, should the information be part of a planned attack on innocent civilians, the inability to track it down could result in disastrous consequences.

### Taking a Gamble

Internet gambling is a fine illustration of many of the points already made with regard to regulation, jurisdiction, searches and how computer (commerce) and legislative (government) ‘code’ can work together.

Traditionally, gambling has been prohibited or heavily regulated. Digital technology has changed this and made it difficult to enforce gambling legislation on the Internet and to catch offenders. According to Eksteen (2000), the question is, if the offender is tracked down, who has jurisdiction if the Internet Service Provider resides in one country and the casino operator is situated in another? Where does the gambling take place? Does one have the jurisdiction to prosecute? (315-6;318). In the state of Minnesota in the United States gambling is illegal and the attorney general has shut down many Internet gambling sites in Minnesota. However, a banned gambling site can easily move, but keep all its Minnesota customers (Lessig,1999:55). Eksteen (2000) notes that Casino operators hold that in a situation where the on-line casino

site is hosted in a country or state *in which the practice of gambling is legal*, it cannot be illegal to gamble on that site. The argument is that bets are placed 'at' the casino, which is technically licensed and taxed by the host government and legal (320).

Still without regard for the Internet's apparent lack of regard for geography, the same attorney general of Minnesota has threatened legal action against sites hosted *outside* the state should they allow the residents of Minnesota to gamble. The jurisdiction for the latter threat is said to emanate from the fact that a given site may be hosted outside Minnesota's jurisdiction, but still *serves* the people of Minnesota via the Internet. In line with due process in the United States, if a non-resident has minimum contacts with a state, that state has jurisdiction over such a non-resident. With increased accessibility and contact – in terms of transaction - via the Internet, there is some other contact with the state of Minnesota on the part of the Internet gambling site in question: the website is not only interactive, but available twenty four hours a day. In the case of a Nevada gambling website hosted in Belize, the state felt it held jurisdiction in this regard and the court exercised jurisdiction over a foreign defendant (Eksteen,2000:320).

This difficulty with jurisdiction and regulation would change and become much easier if every Internet user were to hold a digital ID (government issued or otherwise). As soon as a potential gambler passed onto a gambling site, the site would check his or her digital identification: if the said potential gambler were under eighteen or if from Minnesota, for example, the site would not let them pass onto it.

If such digital certification became commonplace, the interests of particular states could be respected without the threat of court action being brought to bear on particular commercial on-line gambling interests. The interests of Minnesota State would be respected and all other states' residents could gamble on that site without their rights being contravened and the on-line casino's right to canvass for custom would not be contravened either. Why should this occur? Lessig foresees this occurring because each state or localised jurisdiction has something they wish to protect themselves or their residents from and *the same architecture* enables all states

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<sup>11</sup> Of course, these searches and seizures are only deemed legal and valid if the actions are conducted

to achieve their regulatory ends: this can result in “a kind of quid pro between jurisdictions” and nations more generally. It is likely that the interest in enforcing local laws is even greater internationally. “An ID, or certificate-rich Internet would facilitate international zoning and enable a structure of international control (Lessig,1999:55-6).

Although code has just been shown to be a regulatory force to be reckoned with, it would appear that code in the form of encryption technology could similarly be utilised to restore privacy and ‘hide our words’ from undesirable eyes (Lessig,1999:142;144-6;157).

#### 4.7.1. Encryption

Encryption is the process by which a readable communication, *plaintext*, is disguised as something unintelligible: a scramble of characters according to some code or cipher, *cipher text*. Decryption is the process of converting cipher text back into its original, readable form.

There are two systems of encryption, namely, private key and public key. With the former, the same ‘key’ is used to encrypt the plaintext message as is used to decrypt it. With the latter, two complementary keys: one is a private key, which is kept secret by the signer and never shared and the other a public key, which is shared with anyone with whom the author wants to communicate. Private keys are used to digitally sign<sup>12</sup> messages, encrypt messages or both, however, if a document is signed without being encrypted, confidentiality is lost. Given that the Internet is an ‘open’ network, for the purposes of this thesis it is important to bear in mind that if one is sending an unencrypted message it is the “electronic equivalent” of sending a postcard as opposed to a letter in a sealed envelope, the equivalent of an encrypted digital message (Michalson,2000:209-10).

In the example of Clipper chip encryption in the United States, the Clipper Chip encryption technology encrypts data in such a manner that it can only be read by

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under an applicable search warrant.

someone who has a key, but the technology also leaves a 'backdoor' for government. With this system, the government would always be able to decrypt data with a special key, although they would still need a court order to do this legitimately.

Initially the Clinton administration attempted to get the Clipper chip established as the standard by banning all other encryption technologies. However, when this proved too controversial, the government quickly set in place subsidies for the development and deployment of Clipper chip technology. The result would be that by making the technology the cheapest available, it would soon become standard. However, the plan was not successful, as people were sceptical about adopting something that was so vigorously promoted by government. The next step was that the government sought to regulate the authors of encryption code directly by fixing the requirement that all encryption code *should* have a 'backdoor' for government access built into it. This is an example of the US government regulating code directly so as to better regulate behaviour indirectly: "the government uses the architecture of the code to reach a particular substantive end" (Lessig,1999:48-9) and, hence, the government's ability to search certain conversations is not blocked by emerging encryption technology.

In cases where the encryption data has no 'backdoor policy', it is claimed that someone who may not have a key, but has a decryption programme and enough computer power to do it can still crack encrypted messages. However, Professor Peter Wentworth of the Computer Science department at Rhodes University has noted that with so-called "strong encryption" communications cannot be opened, not even by government or law-enforcement agencies. He notes that strong encryption is the digital equivalent of being able to put your message or information into an envelope that cannot be opened<sup>13</sup>. Pretorius (2000) claims that all encryption can be broken: "it is just a matter of time and money and finding the right message"<sup>14</sup>. However, all

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<sup>12</sup> The 'digital signature', commonly associated with encryption, appears as a series of numbers and letters unique to each message. This series of numbers is termed the "hash value". If one letter, number or space in the message is changed, the hash value will also change (Michalson,2000:211).

<sup>13</sup> In an e-mail interview, September 1, 2001.

<sup>14</sup> According to Bertus Pretorius (In Buys,2000),

Encryption strength is measured in the time and money it takes to break the key that was used to encrypt the message and thus breach confidentiality...A key with more bits is exponentially stronger but unfortunately the process is exponentially slower...The strong enough number of bits is currently 40 but is rising to +100 bits as computing power makes processing time a lesser problem (147).

is not lost as he further adds, on the issue of finding the right message to decrypt at the right time, that this is a daunting task and can be likened to searching for the “proverbial needle in a haystack” (In Buys,2000:121;148). In fact, Professor Wentworth has noted that strong encryption is *not* ‘breakable’ in any practical sense, noting that not even the CIA and the FBI have the capacity to do it and says that the closest these organisations came to supposedly “breaking” the encryption code was having to use a keyboard logger (which Wentworth describes as a device that records keystrokes used) in an attempt to learn the secret phrase that unlocks the secret key. Of course, governments might learn the passphrases by means of torture or threat. However, he claims that, in order to actually decrypt the code without the passphrase, “you’d need a million years to break it”<sup>15</sup>.

#### 4.7.2. Steganography

Steganography simply takes one piece of information and hides it within another. It is a subtle cryptographic application, which allows one to send messages in “covers” that appear unlikely to be messages such as inside a picture or music file. Computer files often contain unused areas of data and steganography programmes take advantage of these areas by replacing these spaces with the encrypted message. These small changes are invisible to the ordinary viewer or listener and can only be read by special software. Steganography<sup>16</sup> allows for the sending of messages without anyone being aware that anything is going on (Campbell,2001 and [members.tripod.com/steganography/stego.html](http://members.tripod.com/steganography/stego.html)). There are many programmes available free of charge on the Internet (see <http://members.tripod.com/steganography/stego/software.html>).

#### 4.8. Open Code

However, what if a government had a million years or what if, by some seemingly unlikely twist of fate, means are engineered by which strong encryption could be broken without a key and steganography could be somehow ‘uncovered’. What if, quite conceivably and highly likely, the encryption software has a ‘back door’?

Open source code, also referred to as free software or *open code*, provides another spanner in a would-be infiltrator’s works. It is free, you are able to easily see what it

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<sup>15</sup> In an e-mail interview with Professor Peter Wentworth, November 26, 2001.

does and check that there are no back doors (or, disable back doors where they do exist)<sup>17</sup>.

Most of the software implemented at the Internet's beginnings was "open": it allowed users to explore how a programme was implemented and learn from that example how to, perhaps, better implement that protocol in the future. It did this by enabling users to access *source code* and *object code*. Object code is computer language that appears as a series of 0s and 1s, but the former, source code, is the code written by programmers and it is close to normal language. 'Openness' in code was responsible for much of the early Net's growth.

HTML, referred to in Chapter 3 as regards the different 'layers' of the Internet, is such 'open code' and has always been open. This fact is attributed to why it has been the fastest growing and spreading code in computer history: it is easy to copy and learn the code and it is easy to reveal the HTML source code of any website with the click of a button. With "closed code", customers can do little but accept a programme as it is and, therefore, closed code can be seen as *regulable* code. In the case of open code, users have to accept only *what they want*. For example, if the French government were dissatisfied with Netscape's protocol for exchanging encrypted data and wanted to modify it to allow for French government 'spying', that modified protocol is open: the source code has been given over to the public. In this instance, even if Netscape complied with the French demand and posted a new module, it does not follow that the new version will be taken up publicly: if "code is open code, users take only what they want". Lessig (1999) also notes that this is similar to a reader of a book who reads only the chapters that he or she wants to read (105-7).

The example of the film, *Dead Poets Society* comes to mind in which Robin Williams plays the role of a secondary school English teacher. In his first lesson with his final year class, he has the entire class rip the introductory chapter from their poetry textbooks. Of course one would have to have seen the film to grasp 'why', however, 'what' is important here: people do not have to read a chapter just because it is there. Choice is of importance in this illustration.

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<sup>16</sup> Steganography can also be used to place a hidden 'watermark' in images, music or software.

Returning to the example of the supposed request of the French government to Netscape to increase ‘spying capabilities’ in their software, since the source code, which is relatively easily intelligible, is publicly available, *any* supplier or writer could *re-modify* the programme code to *exclude* the modification. In the same manner that readers of a book can choose to read only the chapters that interest them, computer and Internet users can adopt only the parts of open code that they want to. Hence, “To the extent that code is open code, the power of the government is constrained” (Lessig,1999:106-7).

With closed code it is virtually impossible for users to modify the control that the code comes “packaged with”: unlike hackers and programmers, ordinary users, without access to source code, would not know which parts of the code are necessary and which are not required for the programme to function. Closed code remains invisible. Open code boils down to open *control*: there is still control, but it is transparent and users are aware of it. Open code requires that law-making be public<sup>18</sup> (Lessig,1999:107-8).

Nonetheless, Duncan Campbell (2001) of the Internet based *Daily Mail & Guardian* noted that many Americans hold new technology as being responsible for aiding terrorism. This potential of the Internet and encryption technology to be used by terrorists has for years been a target of intelligence agencies and political actors (this has supported arguments, noted above, for ‘back doors’ in encryption coding). However, according to the Federal Bureau of Intelligence (FBI), the conspirators of the September 11 attacks did not use encryption or other concealment methods such as steganography: “Once found, the e-mails could be openly read”. When code was used it was of the simple traditional variety. The tracking systems that are in place cannot distinguish such messages from other innocuous traffic. Encoded messages

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<sup>17</sup> See footnote No. 15.

<sup>18</sup> The argument has raged in favour of open code because of the values it embeds. Arguments for closed code are often strengthened by that fact that it is said to favour competitiveness. However, Lessig (1999) holds that “we could at least push closed code in a direction that would facilitate greater transparency”: selling software packages in separate parts or modules – allowing people to choose what they want – could allow a similar transparency in closed code (224-5).

would stick out and at least provide the hint that something sinister might be going on. It has even been suggested that the power of hiding message on the Net is not about encryption: the sheer volume makes it almost impossible to be traced if a low profile is kept. Backdoors will not inconvenience people who want to keep things hidden in the least.

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“Speech in Cyberspace will not be free if we allow big business [and government] to control every square inch of the Net. The public needs a place of its own” (Shapiro in Kitchen,1998:106).

In addition to the services of e-mail, websites, bulletin boards and many other inventive methods (most still to be discussed in Chapter Five), strong encryption, stenography, and open source code could facilitate the opening up of this space.

The next chapter will deal with case studies from all over the world that deal with the Internet’s role in safeguarding free-speech and democratic participatory ideals. In Chapter Six, the Zimbabwean context outlined in Chapter Two comes to the fore again as the chapter explores the lessons gleaned from the case studies in Chapter Five, as well as what has been highlighted about the Internet as a medium for expression in terms of its limits and strengths (both in the this chapter and the last).

## Chapter Five

### Surfing Around Censorship

*Case Studies: How the Internet has been and is being used to overcome censorship throughout the world.*

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*“Cyberspace is...becoming a vital link and meeting ground for a civically engaged and politically mobilised stratum of the polity ...In this regard, it fosters the emergence of multiple mini-public spheres”*

Peter Dahlgren

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The *Pentagon Papers* was an American government report on the Vietnam War in 1971 and the papers presented the government in a poor light. At the time, the *New York Times* printed part of the papers that had been leaked, but was stopped from printing further details by the US government as ‘prior restraint’ was placed on the paper deeming the information ‘potentially harmful’. However, when information has already been published, preventing further publication cannot prevent the information from being made public: if today the *New York Times* wanted to publish similar papers in relation to, for example, America’s *Operation: Enduring Freedom*, they could easily distribute the papers to a USENET group first. The papers already having been published would be considered ‘public knowledge’ and, therefore, would be free to be printed anywhere. Thus, Internet technology protects against prior restraint (Lessig,1999:170). One of the most striking effects of the Internet, according to Peter Ferdinand (2000), is its ability to spread ideas across national boundaries. In addition to this and the fact of its ‘nuclear strike’-resistant architecture, it can be very effective in preventing *censorship* (21).

\* \* \*

Ferdinand claims that the fact that messages will be broken up into separate packets of information as they leave the sender (as described in detail Chapter Three) and are only reassembled once they reach their destination ‘receiver’ computer, means that governments cannot intercept e-mail messages en route *without destroying most of the efficiency gains that Internet technology can bring*. We have already discussed various

surveillance techniques that would be seemingly successful in Chapters Three and Four. However, Ferdinand notes that very considerably restricting the possible routes through which e-mail traffic could travel, or to intensively and continuously monitor the receivers would severely slow down the general speed of communication (22).

It is easy - in a world that experiences tremendous poverty, suffering and oppression -to buy into the Utopian dream of 'what the Internet will be' in and of itself: an untouched, ungoverned, free space. However, this need not be the piecrust promise it is at present. A new egalitarian Internet society will not come to pass because it may be *possible*. True. However, as discussed in Chapter Three, Cyberspatial technologies can still be used to increase the freedoms of speech and 'association', and, perhaps, then indirectly, the socio-political status of more marginal or oppressed groups. Even though power on the Internet is not decentralised politically or legally (Kitchen,1998:68), the goal of increasing democratic spaces can be achieved regardless of equality of access to the space: the Internet still provides certain implements that when used carefully in a given context could yield the desired results and run circles around censorship.

The Internet most certainly presents the opportunity to circumvent restrictive press laws. In a particular case, Canadians used network news groups to spread information about a grizzly murder case even though the judge in question had imposed an embargo on information about the case. "In many cases, people will be applauded for circumventing press laws [and] they will be seen as *defying the heavy hand of censorship*" (emphasis added) (Reddick,1995:214). In addition, the example of the *Pentagon Papers* is just one instance, however hypothetical, that illustrates how creative usage of the Internet can be used to curb unnecessary censorship. Abrams in Lessig (1999) argues that the Net now does what the publication of the *Pentagon Papers* was designed to do in the first place<sup>1</sup>: it *ensures* that the truth does not remain hidden (170).

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<sup>1</sup> There is, of course, the issue of credibility and trusting in the truth of a network where anyone can publish. It can be argued that newspapers no longer sell news, but sell editorial or credibility services.

Having discussed the architecture of cyberspace, its potential for change and how it operates in the present and could be seen to function in the future, in this chapter various case studies of instances from all over the world in which the Internet has been used to evade the aforementioned 'heavy hand' will be discussed. The cases are not meant to be an exhaustive list. In Chapter Six, some of the valuable lessons from these case studies will be applied to Zimbabwe as the discussion focuses on how the Internet is already being used to avoid censorship in Zimbabwe and to make predictions of how this technology can further be used in the pursuit of free speech in the near future.

### 5.1. Nigeria and the Internet as a source of Information

In Nigeria, journalists frequently clashed with the, now dead, Sani Abacha regime, many coming under physical threats and the threat of censorship. In Lagos the Independent Journalists Centre (IJC) publishes a regular electronic 'newspaper' (more of an electronic newsletter) detailing threats against and the harassment of the press. The electronic 'paper' is able to utilise reports from correspondents all around the country and, according to its editor, Akin Akingbulu, has solidified international support for Nigerian journalists. The Internet has also been put to good use in Nigeria in other ways and Naidoo (1998) cites the jailed Nigerian journalist, Babakmi Ojudu in support of this claim:

The government brought in tons of fuel. In Nigeria, you have to queue for about 24 hours to fill a tank. The fuel turned the country into a big smelly pot, and many mechanics died in the process. Nobody knew exactly which company was responsible for this, and government was not going to tell anybody. So we got in touch with some newsgroups on the Internet. Within three days, the Web supplied the information on where the fuel came from and how much was involved (47).

### 5.2. Internet Censorship in China

In China, the government, although recognising the Internet's capability for encouraging *economic growth*, have sought to regulate the medium due to its potential for sedition. One of the many legal restrictions now placed on Internet use is that would-be Internet

users have to apply to the Chinese Ministry of Public security for permission to use the Internet and, then, the government has instituted a 'system' whereby, in principle, Chinese Internet users are supposed to access the Internet through one of only four government-controlled networks. These networks filter out "undesirable" sites such as *Penthouse* and the *New York Times*<sup>2</sup>. Unsurprisingly, Internet users have found ways of 'getting around' censorship networks. Instruction manuals on how to avoid connecting to the web via these networks are readily available and, in other cases, dissidents have sent their articles or materials to foreign colleagues who then re-send the data back to masses of Chinese e-mail addresses (Bray,2000:170). Many more journalists are using the Internet (including web sites, newsgroups and e-mail) not only to find value in existing information, but also to generate new information (Berger,1996:14).

In addition to the aforementioned measures to avoid censorship of information coming in or going out, it would appear, as Ferdinand purports, that regardless of the means of restriction the Chinese government employs, the sheer volume of information being transmitted will render the Internet in China virtually impossible to control or completely restrict (Bray,2000:170-1).

However, in the event that governments do stumble upon 'unsatisfactory' web sites or communications or do, in fact, attempt to limit the routes through which Internet traffic can travel or if servers are shut down or censored, "it is quite easy to set up 'mirror sites' abroad that can continue to receive and rebroadcast traffic" (Ferdinand,2000:22).

### 5.3. Serbia and Radio B92

The collapse of the former Yugoslavia and the civil war that ensued resulted in President Milosovic's crack down on political opposition: party-based or otherwise, inside Serbia. Nonetheless, despite stringent media censorship, a radio station, which relied heavily on the Internet, was able to emerge as one of the regime's chief opponents from within Serbia's borders and, this, despite, official attempts to silence it. The station was called B92 and it presented, as much as possible, alternative views of Serbia's domestic policies,

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<sup>2</sup> It would appear that pornography and the free press are equally abhorrent to the Chinese government.

which the authorities greeted with much contempt and put B92 under serious pressure and eventually cutting off its transmitters. However, the station had already by this time established itself as the first ISP in the country and it responded to its transmitters being cut by sending its broadcasts abroad over the Internet and then having them re-broadcast back into Serbia from sympathetic stations in Montenegro, and later on by the likes of CNN and the BBC: “*However, much pressure the regime continued to put on the station, it could not stop the flow of news*” (emphasis added) (Ferdinand,2000:14).

The Democratic Party of Serbia, opposing Milosovic, faced a ban in the run up to the elections and, as a result of its ban, it sent the text of its party platform abroad so that it could be re-broadcast back into the country from an Internet ‘mirror site’: “In this way it managed to avoid being silenced and it ran a credible election campaign...However, critical the Democratic Party may have been of the regime, the latter could not prevent it from doing so because of its Internet presence”.

Because of its international communications links, Radio B92 soon started acting as an alternative news agency as other media turned to it for help in getting their controversial or censored material published. It arranged for ‘officially’ closed newspapers to be published abroad and then to have their material redistributed in Serbia. The station also became actively involved in training journalists in Internet use and, in time, it became linked with a veritable network of foreign news stations and newspapers “so that they distributed news from abroad inside Serbia, and news from Serbia abroad” (Ferdinand,2000:14-5).

#### 5.4. Zambia

This is not an isolated example of ‘mirror sites’ being used to thwart attempts to silence outspoken media. Zambia’s *The Post* also used the Internet and managed to generate international solidarity at a time of repression. Consider the example of gambling presented in Chapter Four and how sites hosted outside a state where gambling was illegal could serve the people who wanted to gamble inside that state.

After an edition of the newspaper was published, “revealing secret plans by the government to conduct a referendum that would have caught other political parties off guard”, the Zambian government banned the edition. However, the ban came too late as the paper was sold and online on the Net, before the hard-copy paper was off the shelves (Naidoo,1998:47). The government then ordered the Internet service provider, *Zamnet* to remove from its server another issue of *The Post*, which was critical of the regime. News of this blatant censorship spread and by the time the issue in question was removed, it had become available on other Internet sites around the world, where it was beyond interference by the Zambian government<sup>3</sup>. Removing the online edition did not stop the world from viewing the story that embarrassed the Zambian state (Naidoo,1998:47). Roland Stanbridge (cited in Naidoo,1998:49) states that even if most Africans do *not* have access to the Internet, it can be of use, since those few who do have access can use it for the benefit of their communities.

#### 5.5. Sierra Leone and a Digital Press

In Sierra Leone, in the wake of military intervention by the West African force, ECOMOG, the leading independent newspaper, the *Expo Times*, was forced to shut down as most of its journalists fled the country, fearing persecution. The former news editor of the *Expo Times*, Conrad Roy, died under mysterious circumstances, after having been detained for almost a year. He had been awaiting trial on charges of treason. A second *Expo Times* staff member was detained with him.

On March 15, 2000, *Expo Times* was back on the press, but, this time, a ‘digital press’: it resumed publication via a website, aided by the US-based *Freedom Forum* and the British newspaper, *The Guardian*. The total set-up cost was £230, including one year’s domain-name registration and rental of 25 megabytes of web-space and, according to Stanbridge, this enabled the editor, Ibrahim Seaga Shaw, using chiefly borrowed equipment to produce the paper online<sup>4</sup>, to receive news from a network of correspondents by e-mail. On its first day up and running, the *Expo Times* online received

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<sup>3</sup> E-mail Interview with Roland Stanbridge.

more than 3,000 'visits' from around the world and it remains exemplary in terms of what can be achieved with very limited resources under very difficult circumstances.

### 5.6. Protest Movements

Gurak (1997) conducted a study of two protest movements that conducted their business predominantly over the Internet. One movement was protesting against the Clinton administration's introduction of Clipper Chip encryption (which allowed a 'back-door' for government and as discussed in Chapter Three) and the other was against Lotus's Marketplace, which aimed to sell information about users for market research. By communicating with each other and organising their protest solely over the Internet (using e-mail and online chat forums), activists were able to stop the advocating of the Clipper Chip and were able to prevent Lotus from selling user information (In Stromer-Galley et al, 2001:177). Similarly, nationalist protest movements have been able to utilise the Internet in aid of their respective causes. Indonesia and Mexico are but two examples, but the discussion leads on to include 'networks of activists networks'.

#### 5.6.1. Indonesia and the fall of Suharto

According to Hill and Sen (2000), the student movement to overthrow General Suharto after 32 years in the Presidency was "the *first* revolution using the Internet" (emphasis added). This is not to say that the technology was *solely* responsible for the successes of the movement in Indonesia. However, it was most definitely instrumental in allowing groups opposed to the Suharto regime to communicate publicly and beyond the state's control.

The 'political space' in Indonesia was highly restricted with print and audio-visual media strictly censored and ownership increasingly centralised. Nonetheless, the government, driven by the promise of information-led economic development, facilitated the establishment and expansion of the Internet throughout the country. The arrival of the Internet to the government meant the prospect of economic prosperity and, for those

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<sup>4</sup> The website URL is [www.expotimes.net](http://www.expotimes.net)

opposed to the government, the arrival of the Internet in Indonesia meant that freedom could inadvertently prosper; all opinions and aspirations could be expressed with or without government's mandate. For all that the government hoped it would bring about, Internet growth became a government priority in subsequent years and by 1997 there were about 85,000 users and Indonesia was included by the *Inter@ctive Week* as one of the emerging 20 nations offering "a plethora of untouched opportunities for expanding the Internet". It is quite clear that in the 1980s and early 1990s the concentration of newspaper and media ownership in Indonesia was growing. However, according to Hill and Sen (2000), within a year, the Internet was 'the talk' of the government, business and political radicals and regular daily news media devoted regular sections to the Internet and related technologies. E-mail addresses started to become as common as telephone numbers on the business cards of company directors as well as political activists as, in Indonesia, there are also public Internet services in every provincial capital and other major cities. These points, such as Internet Cafés, put Internet technology in the grasp of those people who could not afford an Internet connection or even a telephone<sup>5</sup> and they are mostly situated where there is sufficient technological and educational capacity, but not the level of wealth required for widespread ownership (118-24). As a result, the Cyber cafes' and their "Indonesianised" chat rooms and communications allowed for information, opinion and gossip to be shared regardless of who owned mainstream media and how it was controlled. The Internet enabled privately experienced and constantly growing grievances to be publicly voiced and to mature into public opinion (Hill et al,2000:127-8).

#### 5.6.1.1. Apakabar ('how's life?') and PIJAR

The e-mail discussion list, "Indonesia-L" was moderated by John MacDougall in Maryland in the USA and was the first Internet-based activity to become central to political communication between those opposing Suharto's order: inside and outside

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<sup>5</sup> Even though, after 5 years Internet subscribers only account for 0.1 percent of Indonesia's 210 million inhabitants, some subscribers attract multiple users. For example, in a home, there may be one subscriber, but several people will use the connection. At a university, there could be numerous subscriptions, but even more numerous users.

Indonesia. The list soon became known as *Apakabar* or 'how's life?' The content ranged from hard news on Indonesia (from newspapers and media around the world) to unedited, but also uncensored 'political gossip' and the activists own materials. MacDougall estimated that by the end of 1995, 13,000 *identifiable recipients* were receiving *Apakabar* and that most of these recipients were Indonesians living in Indonesia and quite a number living abroad. *Apakabar* was enabling the defiance of state control over information (Hill et al, 2000: 128-9).

However, the first political group in Indonesia to establish a presence on the Internet was PIJAR (The Centre for Information and Reform Action Network). Established in 1989 by student activists, the group aimed to facilitate social and political justice through a democratic struggle and it pursued these aims, initially through its print periodical which was circulated, predominantly, to and by students in Jakarta. However, soon after the banning of a number of critical-of-government weekly newspapers, the editor of the PIJAR journal was charged with insulting the President in an article in the magazine. He was jailed for two years.

Early in 1996, PIJAR periodical went online as a mailing list, which made it possible for PIJAR to distribute messages with greater ease to NGOs outside Jakarta and to human rights groups and other Indonesians abroad. PIJAR used a server outside Indonesia and a number of other Indonesian underground periodicals followed suit. By 1999 there were hundreds of mailing lists relating to Indonesia and, together, these functioned as a forum for the discussion, questioning and supplementation available news. Hill and Sen (2000) note that journalists often could not get their stories published in newspapers and these became regular features on the Indonesian mailing lists. 'Letters to the editor' that could not be printed were easily published on a virtual 'bulletin board' and "the online newsgroups were a constant reminder that censorship could be got around" (129-130).

Dissidents shared information about protests via e-mail; they flooded news groups with stories of Suharto's corruption and used chat rooms as a means of exchanging 'tips' on

how to resist repression by the government's troops. It is noted that when students occupied parliament days before Suharto resigned, human rights organisations in the US were able to receive reports from a person who had seemingly taken a laptop inside Indonesia's parliament building and went on-line as the building was being surrounded by government troops<sup>6</sup> (Hill et al,2000:130). "The newness of the medium and its technological capabilities at this point of time in Indonesia free it from constraints and conventions that tie the older media" (Hill et al,2000:133).

#### 5.6.2. Mexico and the Zapatista Movement

In the mid 1990s, on the face of it, Mexico was a parliamentary democracy. The reality of the situation was quite different as the country was actually operated as a single party state, with the Institutional Revolutionary Party, controlling the sites of economic and political power for most of the 20<sup>th</sup> century. In terms of media freedom, the largest television station (attracting 90 percent of the Mexican population) was state-owned and was often derogatorily referred to as 'the fourth power' or 'the Ministry of Culture' and, apparently, a similar trend applied to all three branches of government. On the 31<sup>st</sup> of December 1994, the indigenous Chiapas banded together to form an army, the Zapatista movement, and declared war on the Mexican government, after "emerging from the Lacandòn jungle" and seizing the municipal offices and police stations in four towns. They found the Internet useful in ending their 500-year struggle for equality and freedom.

The Zapatistas demanded only that employment, land, food, health, education, independence, freedom, justice and democracy be made accessible to their communities and, soon, news of the uprising was being picked-up by Internet users everywhere, including journalists and activists, and in numerous translations. From the outset, the movement was concerned with the opening of a space for evasive interaction: for a 'site of struggle', so to speak, to criticise the state. The use of the Internet spread the views and stance of the Zapatistas during their negotiations with government and forced even the state-'puppeteered' media to report on the official demands of the movement (which,

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<sup>6</sup> In the closing days of Suharto's rule, state censorship had collapsed, but cyber-networks remained largely

after years of a closed space for government-controlled content, was a remarkable feat) and, undoubtedly, their greatest strength was the fact that they published their demands without mainstream media gate-keeping. This was essential as,

- Without an active and consistently interested international audience, the movements of the Mexican government against the Zapatistas would not have been checked and the movement may have been crushed in its early stages.
- The “network of radical media communication” that resulted, enabled the movement to communicate directly with a motivated civil society that could respond directly to the requests of the Zapatista movement for citizen participation in their project.
- They were able to communicate with members of the political and intellectual elite, and
- They were able to encourage supporters throughout the world to carve out spaces (within their own regions) “for the constructive analysis of issues affecting their lives”.

Villarreal and Gil (2001) state, “With this unprecedented [Internet] intervention into the dominant national discourse, the indigenous army had irrevocably shattered the silence of centuries”. For the movement and its sympathisers, the Internet became their most innovative, effective and crucial ‘site of struggle’. Here people have been able to speak freely to a wide audience without being guarded in their views; they have been able to speak freely in an otherwise censored world “in which information and its means of distribution are so closely guarded by politicians and corporate interests”. Anyone can publish, in theory, publish on the Internet, which meant that many stories broke almost live from people who were at events and would not otherwise have had a means of providing thousands of interested parties with information (217-20;223).

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supported.

### 5.6.2.1 Mailing Lists and Web Pages

E-mail mailing lists and newsgroups were the most popular online forums for discussion and their chief objective was to distribute information that had not been reported in the mainstream media to “counter the governments disinformation”<sup>7</sup>. In addition to e-mail and ‘bulletin boards’, the Zapatista web-page, used by both individuals and institutions to publish information and analyses of the struggle also served in keeping those already alerted to the plight of the movement informed. Many institutions’ web sites have contributed to an “international solidarity network” with their pulse on the daily struggles of the movement. However, the importance of individual action cannot be stressed enough as, it would appear, that individuals’ sites have been even more successful in mobilising support.

One such page is *!Ya Basta!*, created and updated by Justin Paulsen of California. It is one of the most often consulted websites relating to the Zapatista movement and, among other things, includes selected Zapatista movement communications in four languages: news reports, opinions, articles and action alerts from international sources. Paulsen even provides the means for sending electronic messages of support to the Zapatista army or the indigenous people.

“[*!Ya Basta!*] is but one of many [web sites] that demonstrate the power of the individual to contribute immeasurably to a movement of international dimensions through the diligent exploitation of the Internet as an informative and interactive medium” (Villarreal et al,2001:222-3).

### 5.6.2.2. The Internet in Crisis and Initiating Protests

In the case of the Zapatistas, the Internet was, most importantly used to initiate protests against real or impending military attacks on Zapatista territory and to prompt inventive means of online, cross-cultural ‘grass-roots’ politics. An example is a memo circulated by

an American university Professor in Latin American studies, acting as a consultant to the Chase Manhattan Bank. In the memo he stated that the indigenous Chiapas (from whom the Zapatista movement arose) could undermine political stability in Mexico and that the government would have to, in his words, “eliminate the Zapatistas to demonstrate their effective control of national territory and of security policy”. The memo was sent to prominent clients of the bank as well as a number of US senators. However, thankfully, the memo was leaked and then instantly posted on the Internet from where an intercontinental scandal materialised and the bank fired the Professor, illustrating the kind of publicity that prevented the Mexican government from “eliminating” the Zapatista army.

In moments of crisis, the Internet proved indispensable. Again, weeks after the above-mentioned report was written, a “military solution”, was, in fact, attempted by the Mexican government and in the military offensive air strike and the arrest of key Zapatista figures, 10 000 people fled into the jungle “to escape the Mexican army”. Immediately the Zapatistas and their Mexican supporters launched appeals for solidarity and news made its way through enemy lines, albeit with great difficulty. On reaching Mexico City, however, information was dispatched via the Internet to news agencies and Internet discussion groups within minutes and “resounding” solidarity actions all over the world managed to pause the military offensive, although the damage caused by the offensive was never repaired (Villarreal et al,2001:223-5).

Villarreal and Gil note that in this case, albeit that the Zapatistas articulated a vision of humanity that “resonated with individuals across lines of class, race, religion, gender, [nationality and social, political and economic differences]”, the Internet emerged as an invaluable resource because of its reach, despite the fact that the people it actually served had little access to phone lines and many could not read or speak Spanish. “They had no independent access to media technology of any kind. Yet, their presence on the Internet became one of the foremost examples of successful online activism. Zapatista media

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<sup>7</sup> Reverend Pablo Romo of Fray Bartolomé Human Rights Centre in San Cristóbal de Las Casas, Chiapas,

strategies proved to be immensely effective models of transformative action through communication” (227-8).

#### 5.6.2.3. Networking Success

This movement and its success (and the fact that people the world over were engaged in the cause), eventually sparked individuals to spontaneously establish an independent global network of communications on and offline and this network became a means for people everywhere to share information regarding repressive actions of governments (including their economic and military actions) around the world. Solidarity was often demonstrated in protests, which were in turn reported by the press and so “the cycle continued” (228).

#### 5.6.3. Great Britain, E-mail and the Jedi

According to David Shapshak(2001:35), it only took a single e-mail message to establish a new religion in the United Kingdom. An e-mail was circulated and it read,

For those who don't know, a census is where the government collates general information about its residents (number of people living in your house, religion, etc). If there are enough people who put down a religion that isn't mentioned on the census form its becomes a fully recognised and legal religion. It usually takes about 10 000 people to nominate the same religion. It is for this reason that it has been suggested that anyone who does not have a dominant religion put 'Jedi' as their religion.

Jedi's are fictional, though legendary, warrior knights depicted in the popular films of George Lucas' *Star Wars* series. Shapshak (2001:35) describes Jedi's as lyrical “samurai-like” characters who are in touch with “‘The Force’” which is an “unseen, all-powerful, cosmic energy that translates into something like karma”. The Force also has both a dark side and a light side (seemingly in harmony with numerous factual eastern religions). After the aforementioned e-mail was circulated, enough people in the UK declared that their dominant religion was that of the Jedi and it was given its own code. However, the

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quoted by Villarreal and Gil.

British Office of National Statistics noted that it could not confer upon Jedis the status of official recognition, not defining what a religion or faith might be. Although Jedi's are not "official" in Britain they are, 'officially recognised' and what this Jedi e-mail confirms is "the viral potential of e-mail", which "has reached a new milestone: creating a new religion on a census".

#### 5.6.4. The Association for Progressive Communications and Institute for Global Communications

According to their website, the Association for Progressive Communications (APC) started out as the "first globally interconnected NGO network of groups working for peace, human rights, development and the protection of the environment"<sup>8</sup>. The Institute for Global Communications (IGC) was another of the first few activist networks on the Internet and beginning as early as 1987, the IGC [and APC<sup>9</sup>] provided computer-networking tools for communication and information exchange on an international level (Villarreal et al,2001:212).

"While it may seem trivial from today's perspective, offering e-mail and computer conferencing services to civil society in the late 1980s and early 1990s was a huge leap into the future. *There was no better or more cost effective way for activists to get their messages out to the world*" (emphasis added) (APC Homepage - <http://www.apc.org/english/index>).

The IGC networks, namely, *PeaceNet* (the initial IGC network founded in San Francisco in 1986 by a group of non-profit organisations. Its strategy "was to empower people with on-line access and enable them to build the network's content"), *EcoNet* (joined with *PeaceNet* in 1987 as IGC as a project of the non-profit Tides Foundation), *ConflictNet* (joined in 1989), *LaborNet* (joined in 1992), *WomensNet* (joined in 1995), and *AntiRacism.net* (launched in 1999), together with partner networks in the APC, constituted the world's "first computer communications system dedicated solely to environmental preservation, peace, and human rights".

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<sup>8</sup> <http://www.apc.org/english/index.htm>

From as early as 1988, the IGC and APC began to connect with NGOs around the globe and, since then, many non-profit groups have been introduced to computer networking. This has served more than 130 countries. From basically, in the initial stages, functioning as ISPs, enabling clients to register their own address on the Internet for use with e-mail and website addresses, 2001 sees over 18 000 international computer users affiliated with IGC networks who host over 300 websites for 'green' organisations around the world and the APC's stance is that now, ten years on, it is pioneering new ways for "civil society to use the Internet strategically, and equitably: the "network of networks" (as the APC's homepage reads) now claims to be moving into promoting freedom of expression on the Internet and the role of information and communication technology in developing countries<sup>10</sup>. The IGC has also developed into a content and organisational services provider. According to Villarreal and Gil (2001), "A 1995 Pentagon Report on strategic uses of the Internet devoted a section to IGC because it represented 'the largest and most active international political groups using the Internet'" (212-15).

#### 5.6.4.1 APC Toolkits and Action Apps

'APC Toolkit' is an ongoing project to develop Internet publishing and collaboration applications that meet "the unique needs" of activists, campaigners and organisers. The APC Action Applications (Action Apps) are Internet 'tools' developed by the APC that provide innovative ways for NGOs to "get their word out" *online*: the tools make it easier and more affordable to publish information on the web and they enable users to organise collaborative campaigns *online*. They also enable events and information pools involving dozens of organisations.

According to the APC, the current Action Apps focus is on a series of publishing and information sharing tools, however, they note that they are looking to the future to hopefully expand the toolkit to incorporate "online discussion software, and NGO 'virtual office' and other tools that make it easier for organisations to work together". The currently available toolkit is "plugged in" to an NGO web site and empowers relative

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<sup>9</sup> <http://www.apc.org/english/index.htm>

Web-novices (anyone from a volunteer to programme staff) to add content to the page and this can be as simple as cutting and pasting information into a form, such as

- Press releases,
- Action Alerts,
- Event Listings,
- Radio Programmes,
- Radio Scripts,
- Personnel and member listing, and
- Bibliography and links listing.

The APC stresses the importance of increasing impact through collaboration by sharing one particular NGO's events with others, including sharing press releases and other information with like-minded organisations to increase the reach of a message. Action Apps make it possible to do this kind of sharing automatically. The Web Networks<sup>11</sup> and the APC News section web pages draw content from numerous NGOs using model Action Applications.

One of the networks aided by the APC is SANGONeT, which was founded in the late 1980s Apartheid South Africa "by a visionary technical expert". The organisation's goals were simple: to provide low cost access to e-mail and basic bulletin board systems for labour, social justice and development communities. The organisation relied on cheap technology as a means of basic information exchange: SANGONeT offered a vital service to clients "at a time when the security police were closely monitoring virtually all communication" ([www.apc.org/english/about/members/index.htm#Safrika](http://www.apc.org/english/about/members/index.htm#Safrika)).

#### 5.6.4.2. Open Code

In addition, and perhaps most importantly, the APC is committed to releasing its Action Apps and other Toolkit modules in 'open code': as open source. As per discussion of Open Source Code in Chapter Four, this translates into the APC's tools being available to other developers to use and expand. The APC's development pages are also open source

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<sup>10</sup> <http://www.apc.org/english/index.htm>

(<http://www.apc.org/English/about/projects/toolkit/index.htm>).

#### 5.6.5. Institutional Mobilisation and POPVOX

Finally, [www.POPVOX.org](http://www.POPVOX.org) circulated an e-mail inviting institutions to register as members of this “global news portal” that, among other functions,

- publishes all members’ submissions,
- provides an international platform for journalists, students and teachers to publish articles, editorials and commentaries, and
- gives a voice to everyday people to expose local problems.

Rosita Wong<sup>12</sup> of the *International Centre for Economic Growth* claims that the centre has set up POPVOX.org to promote transparency, human rights, democracy, rule of law, economic opportunity and sustainable development through an Internet service. The portal is an editing and censorship free new bulletin board, which aims at forming a network to enable registered users to submit and receive articles, editorials, comments, reports, papers, cartoons and press releases to expose corruption, details of election fraud, human rights abuses and the like. Further to this, the site provides “vetted tips” to journalists for stories that expose a lack of transparency and abuse. Members include journalists from all over the world, NGOs from more than 100 countries, universities and religious entities. Wong also notes that to protect submitters, anonymous status is provided on request.

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The Internet has had a profound impact on media activism. Traditionally, (radical) media activists have functioned as ‘mediators’ of news and analysis. However, the Internet is ever increasing the opportunities for media activists to speak for themselves through direct postings onto the Internet (Villarreal et al,2001:206). There have been instances of newspapers publishing on-line in defiance of a government ban (such as in Zambia) and journalists have been able to obtain vital information that had been concealed by the government (as in Nigeria). Electronic communication has clearly contributed to the free

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<sup>11</sup> <http://events.web.net>

flow of information and speech as evidenced in Indonesia, Serbia and Mexico, among others, even in the face of excessive censorship the Internet has the potential to increase the power of people in relation to an oppressive state (Ott et al,2000:139). With only a few people having access, the Internet has already been and can continue to be successful in opening a space for free speech and a 'site of political struggle'.

The importance of this chapter's discussion of world events cannot be underestimated: it is imperative that research is conducted into the mechanisms and processes that underlie the use of cyberspace and its development around the world so that proposals can be made or plans set into action for people in other contexts to use Internet technologies to their advantage, where they are not able to act freely. In the following chapter, the discussion will turn to how the Internet is already being used to evade censorship in Zimbabwe and how some of the lessons of this chapter's case studies will enable Zimbabweans to use the Internet to increase their power in relation to their own state in the future.

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<sup>12</sup> In e-mail correspondence.

## Chapter Six

### The Internet: A 'Site of Struggle' for Zimbabwean Journalists and Activists?

*The African Internet landscape and discussion and predictions of what is currently occurring and what could happen in Zimbabwe with innovative Internet utilisation.*

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Well over a decade ago, Peter Watermann (1988) stated that “the use of the computer runs counter to the very principle of one-directional bureaucratic hierarchy” and that “the very existence of the new media...undermines the power/information monopoly”. Then, as they are today, many organisations and industries (not merely IT related ones) were run along non-hierarchical lines, as networks of cooperation, sharing expertise or information. In this way ideas flow *across* rather than vertically and, in fact, serve to undermine the traditional “A-shaped hierarchies” of (cultural, social, political and economic) power on which concepts like censorship depend (363;365-6). The new media presents alternatives.

\* \* \*

Albeit relatively slowly, the Internet is opening new avenues of expression in African countries where dictators have traditionally suppressed information and free speech by outlawing or rigidly controlling the press, radio<sup>1</sup>, television, and the postal service. Zimbabwe is no exception: centralised ownership of major media, severe intimidation and attacks on journalists and the opposition have added to the restraint of information and expression in that country. As per the discussion in Chapter Two, the Zimbabwean government has released stringent accreditation conditions, which apply to foreign and *local* Zimbabwean journalists and the intended effect of these measures is to place a ‘black out’ on what is happening in that country so that the international community remains ignorant of the sad situation<sup>+</sup>. However, along with a call for Zimbabwe to respect the principles of the free press and an independent judiciary, the UK Foreign Office declared that the expulsion of foreign journalists from Zimbabwe and other methods of intimidation *cannot* and *will not* prevent the world from seeing

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<sup>1</sup> In September 2000 the Zimbabwean Supreme Court ruled to end the state’s monopoly of the airwaves by granting an aspiring radio station, *Capital Radio*, their right to the air. To many this seemed only the beginning of good things to come. However, by March 2001, the Zimbabwean government had rushed a new Broadcasting Services Act through parliament and had imposed a virtual blanket embargo on opening up the broadcasting sector (Muduku, 2001:15).

<sup>+</sup> Sarah Chiumba from MISA’s chapter in Zimbabwe in an e-mail interview.

what is happening in that country or anywhere else in the world (*Business Day Online*, February 19,2001).

All the suppressed means of communication merge in the Internet “and have now been placed on the doorsteps of the people of Africa, giving *Africans access to a global society*” (emphasis added) [Stanbridge (2001) quoting Prof. Joe S.M. Kadhi of Kenya]. It is, of course, not true that the Internet has found itself at the doorstep of *all* African people (as was evidenced in discussion of access and control in Chapter Three). However, as in the example of Indonesian activism in the previous chapter, it was shown that not every citizen in a country needs access to Internet technology for it to be used to bring about levels of democratisation: Internet technology is not universally accessible and yet it may be instrumental in affecting monumental changes. This is the hope for Zimbabwe and countries facing similar problems.

In the preceding chapters the discussion has considered the value of media freedom to democracy, the poor state of democracy in Zimbabwe and the appalling treatment of journalists and opposition members in that country. Chapters Three and Four measured the Internet as a possible means to increase media independence and freedom where it is absent and Chapter Five considered examples from all over the world in which the Internet has already been instrumental in advancing the struggle for the freedom of expression and democracy. It has been suggested that in the case of Zimbabwe, the Internet, however flawed, can still be utilised in the pursuit of increased levels of democracy in that country as it presents the opportunity for journalists and activists to escape the oppressive constraints of real-space Zimbabwe that have already been discussed in Chapter Two. This final chapter turns to the specific task of considering the Internet as a possible alternative space for these Zimbabweans, *specifically*, to avoid government censorship and harm and to aid them in their current context in which they experience little or no democracy. It is indeed as noted by the UK Foreign Office: intimidation and censorship cannot prevent the world from gaining literal ‘*in-sight*’ into Zimbabwe’s situation: the Internet would appear to be the best means available to this end.

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## 6.1. The Internet Media Landscape in Africa

According to Janet Carr (in Naidoo), the Internet in Africa has the potential to serve the continent and its people “in a healthy two-way process: information can be easily accessed and, at the same time, can be easily *disseminated*” (emphasis added) (47). Axford and Huggins (2001) note that “Students of political communication must pay due attention to the contexts in which new technologies are applied” (13). What follows is a brief overview of the Internet’s use in the African context before moving onto a brief discussion of the Internet in the Zimbabwean context.

### 6.1.1. Access to Communications Media in Africa

The African continent has the lowest density of telephone lines per inhabitant in the world. Teledensity for every 100 people in Europe is around 45, whereas, in Africa, per hundred people, there will be on average 1.6 phone lines and in rural areas teledensity drops to one per every 1000 people (Ott et al,2000:144). It is Villarreal and Gil’s (2001) claim that “the Internet is only as useful as it is available”, and, in 1995, at least 80% of the world’s population was estimated to be without, *many* African countries falling into this category. The problem of access is also not necessarily easily solved. It is not just a matter of making telecommunications equipment available, but “it is also a question of media literacy, computer networking skills, and funds to pay Internet specialists” (204). Nonetheless, Internet growth in Africa *is* accelerating<sup>2</sup> and permanent connectivity exists, to varying degrees, in all 54 African States. There are also online media in most African states, totalling around 200 publications<sup>3</sup>.

Even with limited infrastructure, the Internet’s influence of African communication is already noted. According to Stockholm University’s Roland Stanbridge<sup>4</sup>, prior to the advent of the Internet in Africa, it was very rare for African media to report on events in neighbouring countries, unless they were simply duplicating material from a numbers of wires such as Associated Press (AP), Reuters, or BBC World. The reason

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<sup>2</sup> According to Ott et al (2000), this is not so gradual either, as, where Internet barely existed in Africa in 1995, by the year 2000 51 of the 54 states had some form of Internet connectivity in their capital cities. And over the last 6 months of 2000, “the number of computers in Africa that are permanently connected to the Internet has grown at twice the average world rate” (143).

<sup>3</sup> E-mail Interview conducted with Roland Stanbridge, senior lecturer at the Institute for Journalism, Media and Communication at Stockholm University, 21 May 2001.

<sup>4</sup> See footnote 3.

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for this was that communication links between African countries were not only scarce and slow, but also expensive. One could also imagine that these kinds of communications may not have been favoured in some cases where countries had a dictator at the helm for much or part of their history. The Internet is not only more effective, but on the whole, cheaper than these traditional arrangements. It also has other spin-offs for commerce and economic growth, which may allow, as shown in Chapter Five, for even the hardest dictator to overlook its 'revolutionary' nature.

Today some African journalists are beginning to use the Internet for conducting research, for collaborating with colleagues across the continent and further afield (via e-mail), for conducting interviews and for communicating with experts<sup>5</sup>. Further to this, journalists with Internet access can enter online newspapers from other African states to gain a deeper understanding of regional events. African journalists are no longer hamstrung by foreign news services and can now confidently compete with them. Stanbridge emphasises the benefit of this in promoting *debate* and the *free flow of ideas* within Africa, adding that "receiving more [...] *contextual information* potentially enriches audiences"<sup>6</sup> (emphasis added). In addition to these aforesaid advantages, one of the chief concerns of this thesis is to emphasise the advantage that Internet enables traditional media (print, radio-broadcast) to perform their role and, arguably, duty where they have been impeded.

Stanbridge cautions that accruing these benefits wherever Internet access is to be found is by no means the *rule*. Media managers and editors are often disinterested in providing access to the Internet in the newsroom or are ignorant of the medium's benefits. In other cases there are available installations, but there are no journalists with the skills to use the equipment. There may be one person who is skilled in Internet practice, which results in the unsuitable situation of that one person having to help everyone else. It is often suggested that the biggest challenge facing the Internet in Africa is making it more available so that it does not remain a medium for elites only. Be this as it may, these undesirable outcomes of the use of the Internet in reality do not negate the seemingly *infinite* possibilities that the Internet presents: although

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<sup>5</sup> All these methods have been used in preparation for this thesis.

<sup>6</sup> See discussion below of how e-mail messages are being used in Zimbabwe and what benefits this type of communication brings.

the Internet's benefits are hampered by numerous structural constraints in various instances, it has the *potential* to bring about change even if it is in short supply.

### 6.1.2. Internet Cafés

Although the purported opinion here is that the Internet does not have to be broadly available to be an effective tool, one of the means to provide access to people, who cannot afford the capital equipment to link up the Internet themselves, is the Internet Café. The Internet is becoming increasingly available to large sectors of the African population through the institution of these cafés and other donor supported projects to provide Internet access to governments *and* civil society (Ott et al,2000:153). *InfoDev* is a fund, primarily sponsored by the World Bank to support information and communications technology projects in developing countries. This fund has supported a \$1.2 million project to create a virtual university in Africa, using satellite technology and offering distance courses in 22 African countries (Ott et al,2000:146). They have set up numerous 'Infoshops' throughout Africa where they make learning aids, videotaped lessons, and, where possible, Internet access available. It would, therefore, appear that anyone *could* publish!<sup>7</sup>

### 6.1.3. Internet Support Structures for Africa

#### 6.1.3.1. APC Africa

An example of the kind of support available to African who may wish to utilise the Internet for the purposes of activism, getting a story out or gathering support for a cause, is APC Africa already referred to in the previous chapter. In 2000, the APC launched an Internet Rights project in Africa after piloting such projects in Europe and Latin America. By completion all the websites will have an online resource kit of 'Internet Rights' educational documents and case studies and will be linked to APC's already popular "Rapid Response Network"<sup>8</sup> site. The goal of this initiative is to raise civil society awareness of issues and specific response strategies to abuses of rights. All packages and programmes, as stated in the case of the APC in general in chapter five, are provided *free* via the Internet and in Open Source Code<sup>9</sup>. The African

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<sup>7</sup> Taking into account the need for education and skills.

<sup>8</sup> A site mirroring strategies and procedures utilised against human rights abuses in other parts of the world.

<sup>9</sup> Refer to discussion of APC Toolkits and available resources in Chapter Five.

members and partners of APC work locally and regionally to interpret its programmes for use in the region: “strengthening indigenous information sharing and independent networking capacity on the continent are key priorities” (<http://www.apc.org/english/about/apcafrica/index.htm>).

To mention one of APC’s developments in Africa, South Africa’s SANGONeT<sup>10</sup>, an APC member, was commissioned to build a Website to connect 14 electoral commissions in the Southern African Development Community (SADC). The purpose of this was to promote cooperation between members of SADC and to advance democracy and free and fair elections in the entire SADC region by encouraging electoral processes that enable genuine universal participation. In addition to establishing the networking Website, SANGONeT has also trained most of SADC Electoral Commission Forum staff and Commissioners in the Internet and email use ([http://www.apc.org/english/news/archive/sn\\_003.htm](http://www.apc.org/english/news/archive/sn_003.htm)).

#### 6.1.3.2. Bravenet

*Bravenet*<sup>11</sup> is a site that is aimed at making web-site construction easy for beginners. Some of the services the site provides include new website hosting, mailing lists, mini polls (such as the poll on the e-zim.com site discussed under 6.3. below), message board and e-mail forums, which can host online discussions, and password gate protection, which can restrict access to specific pages ([www.bravenet.com](http://www.bravenet.com)). The site also provides free HTML tutoring, which enables anyone to learn this simple programming language that forms the foundation of modern web-design ([www.bravenet.com/reviews/intro.php](http://www.bravenet.com/reviews/intro.php)). In order to solicit help from the site, it is necessary to be a member, but membership is completely free. These features are valuable to activists and journalists alike. Discussion boards can allow for visitors to publicly discuss topics of interest on their own web page. Messages and comments are posted immediately and it could take days or weeks before someone may be ordered to take a contribution off a page. Mini polls allow for users of a website to vote on a topic of interest and to see the voting results instantaneously as they change. Building a mailing list allows a site-owner to send a single e-mail to a vast number of different

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<sup>10</sup> Basically a network of Southern African NGOs.

<sup>11</sup> Although the name suggests an element of guts or nerve, it was not the intention of its owners to start a site to aid Internet activism or a battle of any kind. The name actually stems from theirs names: **Brad** + **Dave** + **On the Net**, hence *Bravenet* ([www.bravenet.com/members/us.php](http://www.bravenet.com/members/us.php)).

e-mail addresses at the same time. And, as noted, extra security is as simple as password protecting pages that one wants kept from prying eyes. *Bravenet* allows a member to password protect up to 20 URLs ([www.bravenet.com/members/services.php](http://www.bravenet.com/members/services.php)). The basic software necessary to start a site can be downloaded for no cost and in terms of hosting a site, *Bravenet* includes hosting plans for no cost as well as the opportunity to search a database of over 3,300 differing hosts, which means, that should it be essential (as in the case of censored access to the web), a website can be hosted outside of the country of residence ([www.bravenet.com/reviews/build.php](http://www.bravenet.com/reviews/build.php)).

In addition to APC Africa and *Bravenet*, MISA has established MISAnet: an electronic information exchange system that links major media institutions in southern Africa. It has been most successful in bringing regional news and support to media institutions in the region as well as to the public<sup>12</sup>. MISA Zimbabwe also utilises the Internet further by having a newsgroup on *Yahoo! Groups*<sup>13</sup>. Further support is also provided by the Netherlands Institute of Southern Africa (NIZA) and, already mentioned, *InfoDev*. Again, this is not meant to be a complete list to cover all education and support structures available to would be African Internet activists and censored journalists. The aim of this brief discussion is to affirm the existence of such structures and to show that they can be effectively used to achieve specific ends.

## 6.2. Internet Communications Technology Landscape in Zimbabwe

The University of Zimbabwe (UZ), has been running an exclusively e-mail dial-up link to the Internet via Rhodes University since about September 1991. The host name is *zimbix* and it was soon followed by the first dial-up Internet provider in Zimbabwe. According to the APC's web pages, in all there are 10 major ISPs in Zimbabwe ([www2.sn.apc.org/Africa/countdet.CFM?countries\\_ISO\\_Code=ZW](http://www2.sn.apc.org/Africa/countdet.CFM?countries_ISO_Code=ZW)) and, according to the CIA's 1999 figures, there are 30,000<sup>14</sup> Internet users in Zimbabwe and this has most probably increased since then ([www.odci.gov/cia/publications/factbook/geos/zi.html](http://www.odci.gov/cia/publications/factbook/geos/zi.html)). Zimbabwe has points of Internet presence in all major cities and towns and,

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<sup>12</sup> Stanbridge in e-mail interview.

<sup>13</sup> See discussion later in this chapter.

<sup>14</sup> Granted, this does not even account for 0.3% of the 11,365,366 strong population ([www.odci.gov/cia/publications/factbook/geos/zi.html](http://www.odci.gov/cia/publications/factbook/geos/zi.html)), however, it has been repeatedly emphasised that the lack of universal access is not a problem as this is not a case for a digital polity, but one for enabling activism and journalism to continue in the absence of rights of free association and expression.

an advantage over a number of African states, has points of presence in *secondary* towns as well (Ott et al,2000:143).

There are 212,000 telephone mainlines in use (according to figures last tallied in 1997) ([www.odci.gov/cia/publications/factbook/geos/zi.html](http://www.odci.gov/cia/publications/factbook/geos/zi.html)) and the Zimbabwe Posts and Telecommunications Corporation (ZPTC) is the only supplier of basic telecommunications services in the country. It also operates a small cellular service<sup>15</sup> and operates the national wholesale Internet backbone international gateway for resale by ISPs. According to 1999 estimates there are about 70,000 mobile cellular telephones in use ([www.odci.gov/cia/publications/factbook/geos/zi.html](http://www.odci.gov/cia/publications/factbook/geos/zi.html)). There is a problem with the consistency of telephone line quality in Zimbabwe and, as a result, the latest dial-up modems are not guaranteed to function well and are sometimes advised against, as they are reliant on line quality. Although most modern modems should work, some websites still suggest older modem models that can be opted for ([www.nsrc.org/db/lookup/operation+lookup-report/ID+8902023539](http://www.nsrc.org/db/lookup/operation+lookup-report/ID+8902023539)). Cellular phones can also be used to dial up to the Internet.

In terms of the expense of using the Internet in Zimbabwe, national local call Internet access is available throughout Zimbabwe and local calls cost approximately \$0.60/per hour and dial-up accounts cost about US\$40 for full and unlimited Internet access. However, hosts, such as *Mango*, provide e-mail accounts for as little as 20 Zimbabwean dollars per month in addition to 15 Zimbabwean cents per specified unit of information sent or received. *Mango* was established in 1990 by a co-operative of local and international NGOs and, although full Internet services have gained increasing popularity, "*Mango* continues to operate successfully as a low cost alternative for those whose primary requirement is e-mail". Due to the provision of premises and support staff by some of the founding NGOs, *Mango* is the cheapest means to access e-mail on any African network ([www2.sn.apc.org/Africa/countdet.CFM?countries\\_ISO\\_Code=ZW](http://www2.sn.apc.org/Africa/countdet.CFM?countries_ISO_Code=ZW)). Of course prices to access the Internet from Internet cafés vary, but would be useful for those who only need access now and again. Despite problems with accessibility, this thesis is predominantly concerned with the idea of *getting copy out of Zimbabwe* and not so much with copy getting in,

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<sup>15</sup> A second private cellular service was approved amid protracted court battles.

the assumption is, therefore, that users would not always need hours to surf the net for information, but would merely need enough time to get their own message across.

#### 6.2.2. Education in Zimbabwe: *What resources are available for IT training?*

Thus far APC Africa, *Bravenet* and other NGOs have been discussed as resources available to Africans to improve Internet communication and its effectiveness. These resources are naturally available to Zimbabweans via the Internet as well. In addition the following are also available resources that are tailored specifically for Zimbabweans:

- UZ operates the aforementioned *zimbox*, a campus-wide network connected to the Internet and also provides a level of technical support and training in the technology ([www2.sn.org/Africa/orgsdet.cfm?organisations\\_\\_org\\_key=583](http://www2.sn.org/Africa/orgsdet.cfm?organisations__org_key=583)).
- The Research Council of Zimbabwe (RCZ) is the country's national research institute co-ordinating body that is also a recipient of international donor support for the establishment of a national research network connected to the Internet. It is a national government organisation ([www2.sn.apc.org/afria/orgdet.cfm?organisations\\_\\_Org\\_key=406](http://www2.sn.apc.org/afria/orgdet.cfm?organisations__Org_key=406)).
- *Zimisis* is a user group that is a voluntary grouping of librarians, researchers, and institutions that use software for database management. The group aims to facilitate proper installation of the software in Zimbabwe as well as training people how to properly use the database and software by providing training and workshops. *Zimisis* also aims to promote resource sharing in the region ([www2.sn.apc.org/Africa/countdet.CFM?countries\\_ISO\\_Code=ZW](http://www2.sn.apc.org/Africa/countdet.CFM?countries_ISO_Code=ZW)).
- The Zimbabwe Internet Service Providers Association (ZISPA) is a non-governmental membership support organisation for ISPs in Zimbabwe ([www2.sn.aoc.org/orgdet.cfm?organisations\\_\\_org\\_key=2019120305](http://www2.sn.aoc.org/orgdet.cfm?organisations__org_key=2019120305)). ZISPA strives to ensure that independent, commercial ISPs can operate freely in a competitive manner in order to provide effective, reasonably priced access to the Internet for all Zimbabwean Internet users. The association also aims to

assist this community in the maintenance and development of standards for Internet operations ([www.zispa.org.za/draft.html](http://www.zispa.org.za/draft.html)).

- [www.kubatana.net](http://www.kubatana.net) is the site of the NGO Network Alliance Project, which is an online database of the non-profit sector in Zimbabwe. The site draws together fact sheets for over 140 NGOs and social justice organisations and also has links to related NGO sites. According to the APC Africa website, "The NGO Network Alliance Project encourages Zimbabweans and its partners to engage in electronic activism" ([www2.sn.apc.org/Africa/countdet.CFM?countries\\_ISO\\_Code=ZW](http://www2.sn.apc.org/Africa/countdet.CFM?countries_ISO_Code=ZW)). The Internet itself can be utilised in training people how to use it to their advantage.

These are again limited examples of home grown and Internet-based training resources available to Zimbabweans or interested parties.

### 6.3. Present Internet Regulation in Zimbabwe and How the Internet is already being used to Avoid Censorship in Zimbabwe

In March 2000, the Zimbabwean government passed a communications bill through parliament, which would force all e-mail and Internet service providers to allow all communications into and out of Zimbabwe to pass under the vigilant eye of government and already incoming and outgoing information is being monitored. There should, however, be no immediate cause for alarm. Firstly, the sheer volume of information being passed around makes it almost impossible to search all messages and, therefore, even simple code in written language can be useful in evading authorities. Secondly, although information on legislation regarding digital signature technology in Zimbabwe does not appear to be readily available, no such legislation (in terms of back doors for governments) exists in South Africa at this time. Lastly, Zimbabwe does not have the capacity to decrypt encrypted messages regardless of legislation (unless they extract the secret pass phrase information by torturing people and, even so, interested persons would have to find these people first).

All things considered, there is a sufficient amount of access to the Internet and expertise available in Zimbabwe to support the claim that the Internet could be put to good use in furthering the aims of activists and journalists in that country. Most

journalists and activists do have access to the Internet. Most newspapers, if not all major ones, have websites and many are updated on a daily basis by in house staff<sup>16</sup>. As in the case of Internet use in China in the previous chapter, there is already evidence in Zimbabwe of e-mails and websites (mailing lists and newsgroups included) being used to generate new information about what is happening there and the discussion now turns to examples of this.

### 6.3.1. E-mail Messaging

According to Kedzie (In Ott et al,2000), e-mail is the Internet service that offers the greatest capability to facilitate dynamic actions for democratisation: e-mail prompts multidirectional discourse across borders in a timely and inexpensive manner, “unbounded by geographic and institutional constraints” (148). It has become increasingly popular for ordinary citizens, turned activists or not, to send e-mails alerting people all over the world of atrocities and to start electronic ‘chain letters’ or petitions. One activist, “joe bloggs” (all lower case)<sup>17</sup>, heading a campaign against Zanu PF and Mugabe noted that Internet use and e-mail accounts like *Hotmail* accounts have ensured that his group’s members have been able to remain anonymous. “joe bloggs” also states “One has to invariably watch the language if any personal details are available through your service provider or e-mail itself”<sup>18</sup>. However, anonymous services such as *Hotmail* do not require the user to supply legitimate personal details in order for the site to function. I learnt nothing of “bloggs” identity while communicating with him or her other than the fact that I found the contact e-mail address on a poster on Rhodes campus, which leads to the assumption that “bloggs” is a student at Rhodes University.

A situation can be foreseen (as in examples in Chapter Five) in which

“Information will be increasingly conveyed to the outside world by the Internet, helping to mobilise external political forces on behalf of the oppressed” (Leading Pentagon Official cited in Ferdinand,2000:12).

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<sup>16</sup> In an e-mail interview with “joe bloggs” in November 2001. Refer to footnote 17.

<sup>17</sup> A pseudonym used all correspondence and in an e-mail interview with an activist using the Internet. See further discussion on p103.

<sup>18</sup> All the e-mails I received from ‘joe bloggs’ contained only this pseudonym and no other personal details or traceable elements in the e-mail address, such as a Rhodes University e-mail, which would clearly indicate where it was from by the letters ‘ru’ appearing in an address from the University. For example, J.Bloggs@ru.ac.za

The following are examples and discussions of e-mail messages already emanating from within Zimbabwe with regard to the current crisis.

6.3.1.1. "Zimbabwe, Stop This Madness"

In 2000 the US Zimbabwe Democracy 2000 Bill was sponsored by some US legislators and was passed in the country's Senate. Unfortunately it did not make it to Congress. Had this bill been passed into law, it would have imposed a wide range of US sanctions against Mugabe's administration until they respected human rights, stopped sponsoring violence against opponents, and returned the country to the rule of law (*Business Day* Online, February 16,2001).

In February 2001, an international campaign entitled, "Zimbabwe: Stop This Madness", backed by a British financial services group, Abbey International, and originating in the UK was launched on the Internet and its aim was to enrol a million signatures to petition US President George W. Bush to intervene in Zimbabwe's worsening political and economic crisis. The e-mail petition read,

"It only takes a minute! We must try to get a million copies of this petition to The President of the USA at the Whitehouse [...] Zimbabwe; another jewel of Africa is dying. Strangled by the corrupt forces, shortsighted self-serving policies of the egomaniacal dictator Robert Mugabe. Freedom, human rights and sensibility have been extinguished [...] The International community pleads for support to save Zimbabwe [...]"

As cited in *Business Day*, the petition calls for Mugabe's resignation, the swift removal of Zimbabwean troops from the DRC, free and fair parliamentary and municipal elections and the restoration of law and order in Zimbabwe. It also asserts that only "drastic measures by international democracies" could save Zimbabwe. The e-mail further calls for each person who receives the message to sign his or her name before sending it on and for every 100th person to forward the petition directly to the President of United States at the Whitehouse.

The Zimbabwean government alleged that this petition was just an attempt to revive the aforementioned Zimbabwe Democracy Bill. Evidently, in calling for Mugabe's resignation and the immediate removal of Zimbabwean troops from the DRC, this

petition has greater demands than the aforementioned bill. However, the fact that the Zimbabwe Democracy Bill made it through the American Senate is indicative of the fact that powerful world leaders take the Zimbabwean case seriously and that perhaps in the future, they will be able to assist Zimbabweans<sup>19</sup> and that petitions such as these may not fall on deaf ears. In fact, in November 2001, just over two months after the terrorist attacks on America, the US is already speaking of instituting a Zimbabwe Democracy Act, which “smart sanctions” may be used to freeze Mugabe’s assets and those he funds to protect his corrupt regime, without affecting all citizens adversely<sup>20</sup>.

On receiving the above e-mail message, I calculated that the same message had already been passed on to 170 people. I received it at the same time as 12 other people, added my name and sent the message to 40 people, who, hopefully, sent it on again to varied destinations around the world. This allows one to assume that the e-mail may have reached more than 1000 people, in just a matter of hours.

#### 6.3.1.2. Chinhoyi

More recently, many e-mail messages detailing the troubles of the citizens of Zimbabwe who oppose the government have been circulated around the world. One such e-mail with the subject: Chinhoyi, reads,

“Please, can you send this to as many people as possible? 21 Farmers have been arrested in Chinhoyi. They have been stripped of their shoes and jackets and have no access to blankets. Not only that, anybody who has tried to assist has been arrested or beaten up. Please, let the world know what is going on in Zimbabwe. The police are of no assistance and have been told not to help any farmer.

What lengths are Zanu PF prepared to go to retain power? This is not a land issue it is totally political. The farmers have no protection and anyone who helps ends up beaten or arrested as happened in Chinhoyi today. Women

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<sup>19</sup> As intimated in the introduction to this thesis, prior to the terrorist attacks on America, Mugabe had agreed to end land invasions. According to the Daily News on September 10, 2001, “the government said there would be no fresh farms invasions, while invaders will be moved from undesignated farms” and Mugabe was quoted as supporting this ([www.dailynews.co.zw/daily/2001/September/September10/867.html](http://www.dailynews.co.zw/daily/2001/September/September10/867.html)). However, after September 11, with international attention elsewhere, the international community left him to his own devices to pursue the policies he pleases.

<sup>20</sup> <http://usinfo.state.gov/cgi-bin/washfile/display.pl?p=products/washfile/.../newsitem.shtm>

were beaten up inside the police station. Please help us expose Zanu PF somebody must be able to help. PLEASE.”

The Original Message stemmed from the address rhodesia@juno.com and the author appears to have remained anonymous. The message arrived in my mail box after it had already, by my estimates, been sent to in excess of 150 e-mail accounts at destinations (servers) around the world. The reach of the single e-mail is quite remarkable. I received it from a relative who had received it from an information technology colleague. However, on inspecting the other names to which the mail was also sent, I discovered a few Cape Town based journalists among them as well as the noted e-mail addresses scattered the world over. These examples demonstrate, as in the case of the Jedi-campaign in Chapter Five, the speed and reach of e-mail dissemination.

#### 6.3.1.3. African Tears

Some e-mail messages have been less political, have made no demands and have sought merely to remember the dead, the raped and the emotionally and physically wounded, to make people aware. Such an e-mail message contained a letter written by the author of *African Tears*. It read,

“One year ago ‘war veterans’ invaded my farm, raped the resources, terrorised and intimidated me and my workers, tortured my store keeper, burnt every inch of the farm and broke me financially and emotionally until finally I left the land [...]”

It ended,

“Chenjeai Hunzvi is dead. I do not rejoice at death [...] To those who were beaten, burnt, tortured, raped, lost their homes, or were caught up in any way in the wave of political violence that has engulfed our land [...] I dedicate this letter to the lives, the loves and in memory of all who have died in Zimbabwe in the past 16 months”.

The importance of personal contact between the people of the world is important for all the strategic and political reasons cited above as well as for reasons of self-expression, particularly in situations of violence. South Africa recognised the importance of expressing one’s own truth with the Truth and Reconciliation Commission (TRC). In Zimbabwe, in the absence of such a caring institution as the

TRC to facilitate such dialogue, e-mail, Internet Relay Chat (IRC), Bulletin Boards and File Transfer Protocols could reap similar benefits from the necessary self-expression occurring via technology.

### 6.3.2. Websites

Websites enable interested parties outside of a country to get information about it and, as discussed above, setting up a website or finding the resources with which to do so, is not as arduous a task as could be imagined. Websites are proposed as another means in which activists and journalists can communicate to their audiences and with each other. There are already a number of websites dealing with issues specific to Zimbabwe and the political and economic crisis and the following discussion, by no means meant to be exhaustive, aims to elucidate the proposed value of websites to facilitating discussion and the exchange of information and ideas between people and interested parties who would otherwise not be able to communicate freely due to censorship. For the purpose of this thesis, the chief focus is journalists and activists; however, the value of the medium to individuals is not ignored.

#### 6.3.2.1. AllAfrica.com

AllAfrica.com is the website of AllAfrica Global Media, a multi-media multi-lingual, content service provider and the largest worldwide electronic distributor of African news and information. AllAfrica draws news from across the continent to tens of millions of users, approximately 90% of which are currently living outside Africa.

The rapidly growing audience is also diverse: commonly, users tend to be travelled and educated, but their occupations range from international policy-makers and media professionals to scholars, tourists, and Africans working and living in Europe and the US. The site is also registered in over 5 countries across the world and provides over 500 stories in English or French.

AllAfrica.com also aims to develop systems technology and accrues revenue from advertising, other commercial custom, and technology services. It is possible, according to the website to “directly support [the] creation of a strong global [African] voice” and to increase the earnings of content providers linked to the site by purchasing items for sale on the site or by clicking on site advertisements: “every click to view one of our advertisements increases the rates we can charge those

advertisers” and every purchase increases the site’s royalty income. The site is affiliated to some non-governmental organisations, but the bulk of its income comes from the revenue discussed above (<http://allAfrica.com/whoweare.html>).

In terms of the actual uses of the website, AllAfrica.com enables users to choose a region: North, West, East, Central, or Southern Africa, as well as specific countries’ pages and links. There are also search facilities for specific topics or data include links to various topics about a chosen country such as “*Business*”, “*Currencies*”, “*Sport*”, “*AIDS*”, “*Education*”, “*Environment*”, “*Music*”, “*Editorials*”, “*Women*”, and “*Media*” to list but a small sample. The site also includes special reports and photo essays. The site also makes it convenient to instantly print or e-mail given stories or data to any address around the world and this service could also be used for the purposes of raising awareness: instead of writing their own e-mail, activists can utilise journalist’s articles by simply forwarding them to their established mailing lists ([www.allafrica.com/stories/200110050232.html](http://www.allafrica.com/stories/200110050232.html))

In terms of information and resources specific to Zimbabwe and the level of media freedom enjoyed by the site, AllAfrica.com’s homepage often runs stories about the dire situation in that country as their lead story. For example, the allegation that Zimbabwe was to pay off loans from Lybia with “farms, hotels and oil installations” that were pledged as payment appeared as a lead on the AllAfrica.com homepage (this story was run originally by the Zimbabwe Independent in Harare) ([www.allafrica.com/stories/200110050232.html](http://www.allafrica.com/stories/200110050232.html)). In addition, on accessing pages specifically dedicated to Zimbabwe (which include icons leading to all the topics listed above and more), the information is arranged in terms of the “latest news” emanating from the country, the “top news” from Zimbabwe and related links to other websites. Stories are archived by date to be easily accessed and searches can also be conducted to call up stories that deal with specific topics and debates. Some of the ‘top’ news headlines include “*Without an Independent Judiciary We Are Doomed*”, the article noting that the lack of an independent judiciary leaves Zimbabwe completely open to executive abuse, “*Cuban Doctors Living in Squalor*”, run by the Zimbabwe Independent, the article holds that in line with an agreement between the two governments, Cuban doctors sent to Zimbabwe are living in squalid conditions and are horrendously underpaid (October 5, 2001), and “*Mugabe: Saviour, thug, or dictator [...]?*”, which likens the

President to the former Somali dictator, Siad Barre, who was “prepared to destroy the nation rather than relinquish power” (October 7, 2001) ([www.allafrica.com/zimbabwe](http://www.allafrica.com/zimbabwe)). The kind of critical debate available around the world via this site supports the argument for the Internet as being able to increase media freedom where it is threatened or absent.

#### 6.3.2.2. [www.e-Zim.com](http://www.e-Zim.com) - “the virtual Zimbabwe”

The site [e-Zim.com](http://e-Zim.com) is called “the virtual Zimbabwe” as it is one of the most useful resources enabling interested parties and Zimbabweans outside of the country to get up to date information about Zimbabwe and the site contains details of travel destinations, sport, entertainment, as well as the latest exchange rate information and political news. News articles are drawn from varied sources including the US (Cable News Network) CNN, AllAfrica.com, and the (British Broadcasting Corporation) BBC. Articles speak out against the Zimbabwean government and, an article from the US Department of State from the Washington File, speaks out in favour of foreign actions, including “smart” sanctions, aimed at toppling President Robert Mugabe: the kind of commentary that would ordinarily risk being bombed? Headlines include “*Congressman Royce Speaks in Favour of Zimbabwe Democracy Act*”, “*Mugabe Mortgages Country: Libya to Cream Off Assets*”, and “*US says Zimbabwe harassing press with terrorist tag*” ([www.e-Zim.com/main.html](http://www.e-Zim.com/main.html)).

The site further allows for parties within and without Zimbabwe to participate in various polls and discussions and the site also provides [e-Zim.com](http://e-Zim.com) e-mail accounts and links to the free *Hotmail*. Mini Polls include controversial topics such as, for example, the Bulawayo Riots and the attacks on the opposition. Visitors to the site can vote for a number of options<sup>21</sup> and, thereby, weight their opinion according to beliefs of other interested persons. Pages also include “*forums*”, “*chat*”, “*classifieds*”, “*gallery*” and “*contact*” ([www.e-Zim.com/top.html](http://www.e-Zim.com/top.html)). *Bravenet* sets up the site’s discussion boards, chat rooms, exchange rate tables and mini polls. There are also links to AllAfrica.com and other related websites on [www.e-Zim.com](http://www.e-Zim.com). [e-Zim.com](http://e-Zim.com)

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<sup>21</sup> In this case, three options, namely: ‘a’, that the riots were a sign that the country is now completely out of control of the police, ‘b’ that the riots were just another “pathetic” government strike at the opposition, or ‘c’, that the riots were a valid and justified demonstration of war veteran anger against their opposition. When I logged in and voted in November 30, 2001, 40% of voters had voted for option ‘a’, 58% for option ‘b’ and 1% for option ‘c’.

appears to be a very popular resource among Zimbabwean expatriates, citizens at home and other with an interest in the countries affairs and, perhaps even those who wish to travel there. However, for the purposes of this chapter, it provides another forum for expression, debate and virtual association that can serve as a platform for organisation or communication.

[www.dailynews.co.zw](http://www.dailynews.co.zw)

[www.dailynews.co.zw](http://www.dailynews.co.zw) is Zimbabwe's only independent newspaper's online site and, despite the newspapers actual printing press being bombed, the site has been able to continue delivering copy throughout the world. MISA has set up a Misa-Daily News Fund in the hope of internationalising the appeal for donations to the daily paper ([www.dailynews.co.zw/fund.html](http://www.dailynews.co.zw/fund.html)) and the web-site pages include "national news", "leader page", "letter/opinions", "archives", "about Daily News", "Daily News Fund" and "E-mail the Editor", Geoffrey Nyarota (although for the whole of 2001 the latter has proven unsuccessful).

Again, the Internet has enabled the publishing of strong anti-government commentary. One letter to the editor, published on September 10, 2001, from as far afield as Australia called for President Mugabe to "Please," not "embarrass Australia and Zimbabwe by attending the Commonwealth Heads of Government Meeting [...] you are not welcome!" ([www.dailynews.co.zw/daily/2001/September/September10/883.html](http://www.dailynews.co.zw/daily/2001/September/September10/883.html)). The said meeting was scheduled to be held in October, but was rescheduled the day after this letter was published, the haunting September 11.

The same letter expressed the following sentiments about the value of this website to the international community as well as Zimbabweans:

"Since becoming aware of your newspaper's Internet address early this year, I have become a big fan of your website, and just wanted to congratulate you and your staff on a job well done. I read on a regular basis your media reports on the harassment and intimidation you face [...] keep on telling it like it is!" ([www.dailynews.co.zw/daily/2001/September/September10/883.html](http://www.dailynews.co.zw/daily/2001/September/September10/883.html)).

Other comments about those in government has included:

“Nhlahla Masuku, the chairman of the board of the Broadcasting Authority of Zimbabwe was on *Radio One* recently, and what a limp, lily-livered and lethargic performance [...] As we all know Masuku has never been a broadcaster in his life, yet both he and the Minister of State, Information and Publicity, Professor Jonathan Moyo are determining policy for broadcasters. What a shame!” ([www.dailynews.co.za/daily/2001/September/September10/874.html](http://www.dailynews.co.za/daily/2001/September/September10/874.html))

Discussions and stories, such as these discussed above and below, that are not easily published without repercussions (such as harassment or damage to printing presses) in Zimbabwe’s current political climate have found expression on the web. Some of the online Daily News headlines have included “*No bread*”, “*You only print money when you have no money*” (all October 12, 2001), “*Massive rigging alleged in polls*”, and “*Two Journalists Arrested*” (September 10, 2001), to name a few, and some letters of opinion to the editor include “*Government policies are suicidal economic missteps*” (October 11, 2001) and “*Where is the President as all hell breaks loose?*” (May 18, 2001).

Naturally, the Daily News is not the only Zimbabwean newspaper with an online presence. However, it has been chosen because it has most often been in the news as a victim of government harassment and has still maintained its web-publication as well as its hard-copy publication.

#### Agitnet

Agitnet is a virtual freedom of expression exhibition, which was launched in May of 2000, in reaction to the aforementioned bill for the regulation and monitoring of the Internet in Zimbabwe. The site was launched in the interests of using the Internet against its own censorship and “the injustices of the misuse of power”.

Most interesting about Agitnet is that its chief content providers are designers and their work draws attention to freedom of speech and violations of the freedom of communication through visual media (<http://196.29.32.51/article7/background.htm>). Among the Zimbabwean contributors are Pip Curling, Amos Ridzi, Chaz Maviyane Davies and Ken Wilson-Max (<http://196.29.32.51/article7/gallery.htm>).

It must be emphasised that the specific purpose of this site is to illustrate that the web can, in fact, be used in a myriad of ways to increase the freedom of expression and to raise awareness about certain issues and, thereby, to facilitate increased media freedom.

### 6.3.3. News/ Discussion Groups

A discussion group that deals exclusively with Zimbabwe is the Web Forum on the abovementioned website, e-Zim.com. The forum includes discussions on Zanu PF being likened to the Taliban in Afghanistan and the elections scheduled for 2002 and most people who post messages to the boards only use their first names or use a pseudonym and are able to remain anonymous.

Setting up forums, newsgroups or bulletin boards is also very simple and a site like *Bravenet* could be of assistance. However, should the user not wish to set up an entire website of his or her own, but would like to start a website, there are various websites that run discussion groups solely or as part of their service: *Liszt.com* and *Yahoo! Groups* are two such websites. The former, based in the US and named after the famous composer, has been renamed *Topica*, but can still be accessed via the address [www.Liszt.com](http://www.Liszt.com). *Topica* hosts numerous lists on anything from entertainment to gardening and politics. *Topica* also enables users to read or view lists, to start lists or to join existing (moderated or not) lists that are divided into categories. An example of a *Topica* discussion group under the “*Society & Culture/Opinion*” category is “*Pan African discussion group about issues affecting Africa*”. The originator states: “I would like to invite you to an African discussion group that has members from all over the world. From Angola to Zimbabwe”. There did not appear to be any lists specific to Zimbabwe on *Topica*, but the site does demonstrate that access to newsgroups is easy as is starting a newsgroup without having to have your own site or home Internet access: a list can be started from an Internet Café. Any individual, including activists and journalists, could, in theory, start a discussion group about Zimbabwe on this site, for the purpose of rallying support or exchanging information and debate.

In the case of the UK based, *Yahoo! Groups*, however, at least 30 groups dedicated to the plight of Zimbabwe<sup>22</sup> were present on this site. At a glance, the membership of these groups ranged from 1, being the lowest, to 823, being the highest. Other groups do not list members, but are public groups ([dir.groups.yahoo.com/dir/1600098200](http://dir.groups.yahoo.com/dir/1600098200)). An example of a group that is used by activists is the largest group *mh-zimbabwe*. It is a list “to distribute information about the activities of the Humanist Movement in Zimbabwe and all around the world” ([groups.yahoo.com/group/mh-zimbabwe](http://groups.yahoo.com/group/mh-zimbabwe)). Another list is *zimbabwefree*. Its purpose is to act as an open forum for ideas to work towards freedom in Zimbabwe. Since its creation in August, this unmediated group with only 34 members has had the following number of contributions posted to it:

August 2001	September	October	November	December
90	184	180	148	67 (first week)

([groups.yahoo.com/group/zimbabwefree](http://groups.yahoo.com/group/zimbabwefree)).

*BobMustGo*, a group with 15 members states the following:

“The Right Honourable Robert Mugabe, President of Zimbabwe, has been spending his time recently in making life a living hell for all Zimbabweans. Unless we do something about it we’re all in for a lot of trouble. *This discussion group is to allow anyone interested in this issue to communicate freely*” (emphasis added) ([groups.yahoo.com/group/BobMustGo](http://groups.yahoo.com/group/BobMustGo)).

*Zimfarmershelp* has only 2 members and no posted messages as yet, but, as a non-political group, it calls for “ANY HELP either material or other for Zimbabwe Farmers being forced off their farms by the so called ‘War Veterans’ and being harassed, arrested and intimidated by the Mugabe regime” ([groups.yahoo.com/group/zimfarmershelp](http://groups.yahoo.com/group/zimfarmershelp)).

An example of a list of use to activists and journalists alike is *ZimNews*, the purpose of which is to share useful information about current occurrences in Zimbabwe: “everything from the good to the bad”. Although this group only has 38 members, it has recorded an average of at least 20 contributions a month since March 2001 ([groups.yahoo.com/group/ZimNews](http://groups.yahoo.com/group/ZimNews)). Another, *zimbrief*, aims to provide news and

<sup>22</sup> There were other groups related to Zimbabwe, but these dealt with sport, travel, recreation and school friends keeping contact with each other.

updates on Zimbabwe in the run up to the 2002 presidential elections (groups.yahoo.com/group/zimbrief). All the discussed groups were found in the category, 'Zimbabwe'.

These groups and websites that host them demonstrate that Internet technology's use in facilitating lively debate, even when the right to communicate have been severely curtailed, can enable truly free speech and association in a new space in which opinions can be expressed and in which beliefs can be argued for.

#### 6.4. Predictions of how the Internet can further be used to overcome censorship in Zimbabwe.

The discussion in Chapters Three and Four was largely detailed and technical and this was more so in the case of the latter. Much of the discussion of Chapter Four regarding methods of coding regulation may not have appeared to be of relevance to the current situation in Zimbabwe, especially after the above discussion of how the Internet is actually already being used there to avoid censorship. Nonetheless, code and how it can be directly and indirectly legislated is important to this thesis as it provides as illustration of how technology is changing and what kind of programmes are already in the making that may or may not become available to the power hungry. It could be argued that many of these technologies are being developed elsewhere, far away from Zimbabwean borders and that they may never see the light of day there, but 'sniffer worms' and encryption programmes with back doors (or, more accurately, *trap doors*) find their home *in the market* and must surely have a price.

It is of great relevance to note how developments in the rest of the world could be imported into the Zimbabwean context for the ends of either furthering free expression or stifling it as this enables the discussion of ways around expected barriers long before they arrive. Computer technology is also ever changing and any proposal for its use in a current context must needs make predictions for how the technology may change: what is the rule today may be forgotten tomorrow; what may ensure free expression today could be immobilised tomorrow.

##### 6.4.1. Capacity for Future Interaction and Organisation

It has been established that Zimbabwe's Internet landscape provides the capacity to foresee the continued use of the technology in the future to further free expression and communication. This has been discussed in detail, but in brief:

- A significant percentage of the population with the necessary level of skill can access the Internet.
- Most journalists and activists have access to the Internet and are skilled (if only basically) in Internet use.
- There are a number of resources and support structures available to Zimbabweans: both via the Internet and in Zimbabwe itself.

The following are proposed ways in which the Internet could be utilised to further media freedom and, thereby, democracy in Zimbabwe in the future. Although they are hypothetical examples, they are based on concepts, technology and occurrences discussed in Chapter Three, Four, Five and Six.

#### 6.4.2. The Internet is Everywhere, But Headquartered Nowhere

The question of the problem of jurisdiction over matters of the Internet, does not really apply to Zimbabwe at present as the country has experienced an almost total breakdown of the rule of law and a situation in which the powers that be literally make the rules up or change them as they go along. However, the problem of jurisdiction over the Internet is still important to the Zimbabwean case because of the fact that information could be hosted *anywhere*.

The sheer volume of information has been shown to be problematic enough to would-be censors. This problem is further greatly aggravated by the fact that the tremendous amount of Internet traffic could be flowing in thousands (and this is a very conservative estimate) of directions at the same time. In the case of the gambling sites discussed in Chapter Four, the state was able to take the owners of the site to court. It is highly unlikely that the international community (perhaps, barring SADC<sup>23</sup>) will consider a similar appeal from Mugabe to perhaps have legal recourse to mute Internet sites that serve Zimbabwe from outside the country via the World Wide Web.

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<sup>23</sup> The ministers recently issued a statement that "welcomed" the steps being taken by Robert Mugabe in the run up to the 2002 elections (Johnson,2001:24).

#### 6.4.3. Electronic Newspapers

As stated, the Daily News is currently maintaining its strong presence in hard copy in Zimbabwe. What its strong presence on the Internet establishes is that, should the newspaper come under further fire, attack or harassment will not necessarily mean the end of the news agency as a whole<sup>24</sup>. As in the Nigerian case discussed in Chapter Five, a 'digital press' can be hosted anywhere and a censored or threatened periodical can resume publication on the Web. The Daily News is already operating on the Internet and already has quite a following. Should it become too dangerous to practice from a head-office in Harare, a mirror site can host the Daily News and it can be edited outside the country by having journalists e-mailing their contributions from all over Zimbabwe.

#### 6.4.4. Encryption

A fear has been expressed that encryption coding could become commonplace in Zimbabwe and then be used to track people: activists and journalists, via digital signatures. Nonetheless, it has been discussed at length that encryption technology can also be used to restore privacy and to hide our words from undesirable eyes. The Zimbabwean government definitely does not have the capacity to 'break' encryption coding or to break or even track steganography, which, as discussed in Chapter Four, hides messages in picture or music files. Again, the sheer volume of Internet traffic would make it difficult to track unencrypted mail nevertheless, and it has been suggested that encrypted messages may stick out and, therefore be easier to find, but Zimbabwe does not have the capacity to break strong encryption, which makes it a safe option in the current context.

#### 6.4.5. Protest Movements

Non-governmental organisations, such as APC Africa and others referred to here, that have an Internet presence have been shown to provide resources, training and encouragement in order to help people to mobilise themselves against injustice.

The power of a simple resource such as e-mail to activists and protest movements was illustrated in many examples and in particular in the example of the 'Jedi' e-mail campaign that arose in Great Britain. Although the campaign sought frivolous ends, these ends were met and it demonstrates how powerful an e-mail campaign can be in

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<sup>24</sup> See below discussion of predictions of how the Internet can further be used in the future.

mobilising support both locally and internationally. In addition, the examples of how the Internet was used by protest movements in Indonesia and Mexico in order to further democracy and free expression respectively have brought to light how this kind of Internet use can force people to see what is really going on under conditions of grave oppression and violence as in Zimbabwe. As evidenced by “joe bloggs”, the Internet is already being put to use by protest groups, activists and journalists in Zimbabwe and it can be predicted that this use will continue and, hopefully, escalate.

#### 6.4.6. Radio Mirror Sites

There are about 1,140,000 radios in Zimbabwe ([www.odci.gov/cia/publications/factbook/geos/zi.html](http://www.odci.gov/cia/publications/factbook/geos/zi.html)) and since more than one person can access a radio at a time, a conservative estimate would be that at least 5 people have access to each of these radios at any given time. This sets the number of possible listeners at approximately 5,700,000 listeners, this accounts for at least half of the Zimbabwean population. This renders radio a potentially very powerful medium in the Zimbabwean context.

In September 2000 the Zimbabwean Supreme Court ruled to end the state’s monopoly of the airwaves by granting an aspiring radio station, *Capital Radio*, their right to the air, but by March 2001, the Zimbabwean government had rushed a new Broadcasting Services Act through parliament and had imposed a virtual blanket embargo on opening up the broadcasting sector (Muduku,2001:15).

The infrastructure to receive radio broadcasts exists in Zimbabwe. It has been shown in the example of Radio B92 in Serbia that a radio station based on the Internet can send its broadcasts abroad over the Internet and have the programming re-broadcast back into their country of residence. The possibility of Capital Radio re-establishing itself on the Internet, on a mirror site, exists. This would translate into the opposition, who currently battle to have their views aired, being able to send, for example, the text of the MDC party platform abroad and as in Serbia it could be re-broadcast back into Zimbabwe from an Internet ‘mirror site’ outside of the country. Such a station could also become involved in training journalists in Internet use and could further develop links with newspapers and other internal media in order to distribute news from within Zimbabwe abroad and back into Zimbabwe.

#### 6.4.7. Satellite Technology

As noted, teledensity per inhabitant is lowest on the African continent and the state of the telecommunications service in Zimbabwe still leaves much to be desired. It is, however, possible to access the Internet via cellular phone and satellite, although the latter, at present is only available for receiving information and not yet sending information. Although this is the situation at present, Ott and Rosser (2000) note that satellite and cellular technologies are becoming cheaper all the time and are becoming more widespread and that this may lead to a situation in which inadequate infrastructure is easy to surmount (144). There are satellite earth exchanges in Zimbabwe situated in Harare and Gweru and should technology advance to a point where satellite is directly accessed to send and receive information, however unlikely this may seem, there is a satellite presence in Zimbabwe, ready to embrace any satellite-based communications technology advances ([www.odci.gov/cia/publications/factbook/geos/zi.html](http://www.odci.gov/cia/publications/factbook/geos/zi.html)).

#### 6.4.8. Open Source Code

As per the discussion of APC Africa and the APC in general, this resource is available to anyone with Internet access and its resources are available in open source code<sup>25</sup>. This means that computer literate individuals can literally see how the code works and they may decide to amend it or to improve it to fit the very specific needs that may arise in Zimbabwe's future. Again, the need to rewrite code does not exist at present in the Zimbabwean context, but it is possible should the need arise.

#### 6.4.9. Monitoring the Internet: Zimbabwean Legislation

If Zimbabwe were to institute a system as in China, whereby Internet users are supposed to access the Internet through one of only four government-controlled networks, which serve to filter out undesirable sites, instruction manuals, as in China, will probably also surface and instruct users on how to use the web without accessing these networks. However, the importance of the Internet to generating new information has been emphasised over and over and this could still be achieved by e-mailing information out of Zimbabwe and, as in China and Indonesia, having it sent back into Zimbabwe *en masse* even enabling those inside Zimbabwe to organise with people outside its borders.

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<sup>25</sup> Refer to discussion in Chapter Four.

#### 6.4.10. Some Days Are Better Than Others: Times of Political Crisis

Some periods are more likely to produce effective revolutionary Internet use than others. Peter Ferdinand (2000) notes that one of the most important influences of the Internet thus far has been to heighten the power of the opposition *in times of political crisis* as it can simultaneously bring together direct participants as well as comments or views from the world over. Such as in the example of Indonesia: information about protests in Jakarta was directly transmitted *from the point of protest* to Washington in America, *via the Internet*.

What is most striking about times of crises, is that it is understood that at these times, “when the authorities are in turmoil and cannot speak with one voice”, to dissipate dissident Internet-based criticism with claims that critics are ‘cooking up lies’ or ‘oppose the government and the country’, at these times, governments will find it extremely difficult to control political use of the Internet (and traditional media for that matter). No matter how great the level at which regimes have attempted to control speech and ‘association’ in Cyberspace or however many regulatory measures – coded and legislated – they have put in place, they will still find it difficult to control Internet use and, thereby, “the Internet will always heighten challenges in a crisis” (179-180). Zimbabwe will again be no exception.

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This Chapter while being optimistic, remains guarded.

The preceding chapters have provided countless examples of ways in which censorship and regulation (even coded regulation) can be overcome and, more importantly, many examples have pointed to success in democracy’s gaining ground even where levels of Internet connectivity have been considerably low. Connectivity in Zimbabwe is low too, but it has been established that not everyone has to be connected in order for the Internet to be used for the benefit of the persecuted. The vision is not one in which all Zimbabweans will become connected to the Internet, become computer literate, develop into a digital public, organise and rise up against government (although this would not be an unwelcome eventuality). This chapter has sought to cite examples of where the Internet is *already* being used to supplement expression and restore free expression and to make predictions for the future based on

the investigations and conclusions of prior chapters. This, as repeatedly noted, in turn serves to develop and guard democracy. The vision *is* that those Zimbabweans who are currently impeded in expressing themselves or communicating freely, particularly journalists, activists and even academics who make communicating ideas and courses of action their life's work, should have ways – legal or *not* – of expression their ideas freely for the benefit of the Zimbabwean people and democracy.

## Conclusion

### Rebooting

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*“The decentralised small computer is one of the most powerful tools ever to become available to networkers.”*

Peter Watermann

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#### The Pressing Need to Protect the Press

The social order of the civilised world is one in which respect for human rights and democracy is lauded and in which “government has no greater right to be heard than anybody else” (Muduku,2001:15). However, since the United States went to war against terrorism with *Operation: Enduring Freedom*, the US government has increasingly tried to control the flow of news in the Middle East, including alleged attempts to influence al-Jazeera<sup>1</sup>, an independent television station. Even on American soil, the US Presidential spokesperson, Ari Fleischer was reported as warning the press to “*Watch what you say...*” (*Mail and Guardian*,19-25 October,2001:19). The International Press Institute (IPI) expressed their concern in this regard in a letter to the US Secretary of State, Colin Powell. It read,

“Editorial independence protects news reporting and this includes the freedom to portray often uncomfortable or controversial viewpoints [...] Without this essential ‘firewall’, media organisations would face the danger of being annexed by governments or other powerful groups” (*Mail & Guardian*,19-25 October,2001:19).

The *world* must constantly be on guard, thinking of new ways to protect the freedom of expression and the media: even where this freedom is the most developed in the world, the media still has to on occasion act as a lonely adversary of the government in power (Ungar,1991:379-80).

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<sup>1</sup> According to the emir of Qatar, Sheikh Hamid bin Khalifa al-Thani of, Al-Jazeera is one of the most watched stations in the Arab world precisely of its editorial independence and its willingness to provide a multi-faceted platform for controversy.

### Building 'Free' Media to Safeguard Democracy

The value of free media to a democracy and the importance of the right to freedom of expression have been argued for and emphasised from the outset in **Chapter One**. Countries that enjoyed the benefit of media freedom were shown to generally enjoy a wider range of democratic rights as well and the media was shown to be instrumental in the process of democratisation as in the discussion of Russia's transition from Communism. The right of free expression has been emphasised and deemed the most important as it is held that *with the right to freedom of expression in place any other important human right could be struggled for and realised*. In this sense, the media's role is seen as that of facilitator for society's members to have their views find expression and Chapter One suggests that, in order to protect or increase democracy, the freedoms of expression and the press should vigilantly guarded where they are found and diligently fought for where they are absent. It has been the primary aim of this thesis to explore ways in which the freedom of expression and the media can better be achieved and protected.

**Chapter Three** presented the Internet as the most effective and growing alternative in a situation where the media and free expression are stifled. With the Internet, real-space constraints are collapsed as, in theory, anyone can become a publisher and services such as e-mail, websites and bulletin boards provide an enormous capacity for fast and efficient, but, above all, anonymous interaction. However, in **Chapter Four**, continued anonymity was called into question as the increased regulability of the Internet was discussed. Although digital surveillance makes anonymity slightly less certain, further digital technologies such as strong encryption, to name only one, present ways of 'locking' messages so that no unauthorised person can access the information and, in reality, the sheer volume of Internet traffic proves very problematic to monitors in the first place. The Internet presents many ways of getting around censorship and making 'free' expression possible *without* legal government sanction. Chapter Three also notes that this thesis does not wish to propose the Internet as the best means of communication. Distributing an e-mail message may seem immaterial when compared to being published in a city's leading newspaper or to getting airtime on a television station, but *in the total absence of these options*,

electronic messages may present a formidable challenge to oppressive government measures.

#### The Pressing Need for Protest: Democracy in Zimbabwe

As discussed in *Chapter Two*, since violence erupted over the drafting of a new constitution in 2000, the distressing situation in Zimbabwe has steadily and exponentially worsened and there seems to be no sign of an end to the now commonplace harassment, intimidation, threats, attacks, and absence of the rule of law experienced by journalists, activists, the opposition and farm inhabitants. Journalists *continue* to be attacked, taken into custody, threatened, referred to as “liars”, “enemies of the state”, and “terrorists”. The leader of the opposition, Morgan Tsvangirai has been attacked, threatened and arbitrarily arrested without committing any crime other than opposing the incumbent ruler. Farm invasions, attacks and widespread intimidation of the electorate continue and the opposition cannot gather or organise in public without the fear of attack. Electoral monitors will be refused entry into the country without the president’s express permission and he will not allow any white, European electoral monitors into the country under any circumstances. The law comes to no one’s rescue: neither the Mugabe-faithful police nor the Mugabe-faithful judges, and in the face of these blatant injustices against humanity, Mugabe-faithful members of the SADC community have expressed their *satisfaction* with Mugabe’s proposed plans and procedures for the upcoming 2002 presidential election and have presented a glowing report on the circumstances in Zimbabwe. The law-abiding people of Zimbabwe cannot turn to their rulers or their neighbours for support and there is a pressing need to find and expand means of protest against human rights abuses under circumstances where government-critical commentary leaves retribution in its wake.

The Internet is held as the best means currently available to restoring or increasing media freedom where it is stifled. The suggested pattern is as follows:

↑ INTERNET USAGE → ↑ MEDIA FREEDOM → ↑ LEVEL OF DEMOCRACY

As regards journalism and activism, this is of particular importance to the Zimbabwean situation as the hope in this case is that the Internet can be used to transform real-space constraints on the media by enabling the defiance of state control over information flows in and out of the country so that the 'illegal press' can provide a gateway to increased levels of democratic freedoms within the borders of Zimbabwe almost immediately. As noted, the Zimbabwean government may have jurisdiction over the legal press, but it will certainly find regulating the Internet-based media more challenging.

#### Access

The Internet has been shown to be an expensive resource in Africa that is chiefly accessed by elites: such as politicians, businessmen, NGOs, and academics. There are only about one million users in Africa (although this number grows daily) and of this million, only 30,000 users are in Zimbabwe. Nonetheless, it has also been established that universal access is not a prerequisite for the Internet to be put to good use for the gains of freedom, enlightenment and democracy. In *Chapter Five* many examples of the Internet serving as a gateway to opportunities for avoiding censorship, facilitating political protest and, at best, political renewal all over the world were discussed: Nigeria, Serbia, Zambia, and Indonesia are some of these countries where the Internet was only available to a small percentage of the population and, yet, the Internet was still utilised for the greater good of those nations. With this in mind, *Chapter Six* served to investigate the Internet in Africa and Zimbabwe and concluded that access was very low there. However, consistent research into the medium has shown that Zimbabweans and interested parties are already employing the Internet in the struggle for freedom of expression and the media. The amount of usage regarding Zimbabwe is astonishing and the strong possibility exists for the Internet to be used to an even greater degree to lead the protest in the future. This possibility exists whether or not access in the region increases.

#### The Importance Human Action

It is important that the Internet's marked potential be unleashed and its resources utilised efficiently, *strategically* ([www.apc.org/english/ngos/strategy/index.htm](http://www.apc.org/english/ngos/strategy/index.htm)): increased connectivity to the Internet will not necessarily increase levels of

democracy in Africa as there are a substantial number of countries with low connectivity that are more democratic than countries with much higher levels of Internet connection (Ott et al,2000:143,148-9). The reason for this is the necessity of human agency: “Technology alone will not secure such a public space” (Hill et al,2000:133).

The Internet has already been shown in Chapters Five and Six to be used for the ends of increasing democracy and enabling free speech in Zimbabwe. It also has tremendous potential for future use in the pursuit of democratic principles such as freedom of expression, association and the press in Zimbabwe and the rest of the world. However, the Internet is a tool, which makes multiple resources available. These resources have, during the course of the preceding chapters, been shown to be able to aid free expression and, thereby, the freedom of the media. However, the resources need to be wielded in order to be effective for good or bad ends. Internet technology cannot solve problems in and of itself, but “it can be integrated into our strategies for solving these problems” (Marleau in Naidoo,1998:41).

It must be stated that this thesis has not sought to suggest that the Internet will make people more political or that if more people have access, the more people will become civically engaged. The Internet is not going to make people more political. However, it will provide those currently stifled in maintaining their political and journalistic activities with a means to continue to do their work:

“The Internet does not change people much, it tends rather to allow them to do what they usually do, *but do it better*” (emphasis added) (Dahlgren,2001:77).

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The African Media Landscape has indeed been changed by the arrival of the Internet: it has become, arguably, more critical in places, it has become more contextual, it has increased in quality due to the number of resources made readily available and, most importantly, now most people can foresee speech that is critical of government being published *anonymously* and without fear of retribution or attack.

These benefits of Internet use have been argued to be of paramount importance at this critical time in Zimbabwe’s history: with electoral monitors unable to move freely and

foreign journalists being arrested, local journalists and activists may be the only hope of providing some form of supervision during the upcoming presidential elections, in terms of scrutinising levels of intimidation and the like and making this information available. The Internet may become one of the only spaces left in which it is safe to organise as a viable opposition to government.

It is already remarkable that despite Mugabe's tireless efforts to stifle the media and terrorise Zimbabwean citizens, information is still published at home and abroad in hard copy *and* via the Internet and, as discussed in Chapter Six, there is a *wealth* of digital information available on the Internet that has originated in Zimbabwe and about Zimbabwe. Activists are able to communicate anonymously, websites are able to run opinion polls and publish strongly anti-government sentiments, the potential of e-mail seems limitless in terms of distributing information and creating awareness and newsgroups are already facilitating much needed debate. The Internet would indeed appear to be an alternative 'site of struggle' for Zimbabwean journalists and activists and, with satellite, cellular and encryption technologies, such as strong encryption and steganography, the future use of the Internet as an 'illegal press' and an alternative space for protest seems secure: if the Internet and its ever growing resources continue to be used strategically in and for Zimbabwe, there is *no* reason to assume that the free publication of opinion and the organisation of the opposition cannot continue unhindered. As noted by Ott and Rosser (2000:154),

"The reality is that whether Africa is prepared or not, the Internet exists and will continue to expand and change to meet the needs of its global users. The challenge for Africa, and for those who care about it, is [to] see that the Internet is used in a positive and sustainable manner, both within and without".

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