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**New media, same old regime politics:
Resisting the repression of media freedom
in Zimbabwe**

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New Media: Same Old Regime Politics: Resisting the Repression of Media Freedom in Zimbabwe¹

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Introduction

Some political scientists and social change activists have viewed new media and information communication technologies (ICTs) as having the power to transform organising, activism and politics. But this paper argues that even with these new tools, activists, political parties and individuals are still faced with many of the challenges of the “same old politics.”

Using the work of Kubatana, Zimbabwe’s civic and human rights information service, this paper discusses how the Zimbabwean government views new media through a lens of threat. Whilst more “elitist” new media tools such as the Internet and blogging are tolerated, attempts to develop audio information services accessed by mobile phones have been met with repression.

Background³

Zimbabwe’s economic and political decline over the period 1999 to 2009 has been widely documented and reported on. Political tensions began with the creation of a trade union-based opposition political movement and the rejection of the government-sponsored Constitutional reform process in 2000. The fast track land reform process which followed the defeat of the ruling party in the Constitutional referendum decimated Zimbabwe’s commercial agriculture sector, as well as the input production and output manufacturing industries which depended on it. It also marked the beginning of a protracted period of political violence, particularly associated with elections and opposition politics. Poor economic management by government contributed to the rapid decline of the Zimbabwe dollar and hyperinflation. By 2008 it was impossible to gather accurate inflation figures because the situation was so untenable. Political and economic instability led to the closure, or withdrawal, of a large number of businesses. Deepening murmurs of popular discontent with the policies of the ruling party were met with increasing repression by the state.

In an effort to maintain power, the ruling Zanu PF party created, or more rigorously enforced, laws to limit freedoms of assembly, political association, expression and access to information. The Public Order and Security Act (POSA) gave the police wide-reaching powers to prevent or disperse “political” gatherings of three or more people. The Broadcasting Services Act (BSA) constrained the space for independent broadcasting. The Access to Information and Protection of Privacy Act (AIPPA) similarly instituted obstacles for independent print news publications and media houses. The Media and Information Committee established during this time further confined the operations of independent, freelance and international journalists. Throughout this period, laws and regulations were interpreted

¹ The paper was presented by Amy Saunderson-Meyer at the New Media | Alternative Politics Conference organised with the support of the Centre for Research in the Arts, Social Sciences and Humanities (CRASSH) and the Centre of Governance and Human Rights (CGHR), 14-16 October 2010. The paper is available on the Kubatana website here: <http://www.kubatana.net/html/archive/inftec/101001kub.asp?sector=INFTEC>

² About the authors: Amanda and Bev run Kubatana.net, which shares civic and human rights information with Zimbabweans. Contact admin@kubatana.net or visit www.kubatana.net

³ Portions of this ‘Background’ and ‘About Kubatana’ sections of this paper originally appeared in *SMS Uprising: Mobile Activism in Africa*. Chapter 7 - 160 characters and beyond, mobile phones for advocacy by Amanda Atwood. Fahamu Books. February 2010. <http://www.fahamubooks.org/book/?GCOI=90638100577370>.

and enforced with a view towards limiting freedom of expression, preventing access to information, and stifling dissent through repression⁴.

Parliamentary elections in March 2008 gave MDC a narrow majority in Parliament, but the Presidential vote was so close a run off was required. Opposition leader Morgan Tsvangirai of the Movement for Democratic Change (MDC) withdrew from the run off days before the June election citing widespread election violence and intimidation. The election went ahead and Robert Mugabe's "landslide" victory was met with stiff resistance from local, regional and international leaders and civil society leaders alike. Bowing to this widespread condemnation, in September 2008, Zanu PF and the two factions of the opposition MDC signed the Global Political Agreement (GPA)⁵. Established through inter-party negotiations, supported by SADC and led by South Africa, the GPA created an "inclusive government" that left Zanu PF President Robert Mugabe as President of Zimbabwe, but brought in Morgan Tsvangirai in the newly created post of Prime Minister. It also created a Cabinet of Ministers drawn from Zanu PF, MDC-Tsvangirai and the smaller MDC-Mutambara party.

In January 2009, the acting Finance Minister announced the shift to a multi-currency economy. This formalised the economy that many Zimbabweans had already been operating in – one in which US dollars, South African Rand and Botswana Pula were the currency of exchange. It also did away with the rapidly devaluing Zimbabwe dollar, thus removing the ability of the Reserve Bank of Zimbabwe to print money, fuel inflation and engage in rent seeking behaviour for Zanu PF.

The inclusive government took office in February 2009. The MDC was allocated the Finance Ministry, further removing control of the economy from Zanu PF. The inclusive government was met with scepticism by some Zimbabweans, but most welcomed it for bringing economic stability and an end to political violence. At the time, Zimbabweans had high hopes that the country's political and media landscape would also open up. The Ministry of Home Affairs – which controls the police who enforce POSA, for example – is now jointly run by the MDC and Zanu PF. The Ministry of Information is in Zanu PF hands, with an MDC deputy. The newly created Ministry of ICTs is held by MDC, with a Zanu PF deputy.

But these developments have yielded little substantive change for Zimbabweans. The democratic space has opened slightly, but freedoms of association, expression and information are still tightly controlled.

Recent examples . . .

⁴ Submissions by the Media Monitoring project of Zimbabwe (MMPZ) to the African Charter on Human and People's Rights session in May 2008 [Moyo, B. (2008) 'No change in restrictive media landscape in Zim since last ACHPR session in May 2008', Media Monitoring project Zimbabwe (MMPZ), 13 November 2008, <http://www.kubatana.net/html/archive/media/081113mmpz.asp?sector=MEDIA>] outline many of these obstacles. The June 2008 reports by the International Federation of Journalists (IFJ), [IFJ (2008) 'Against the odds: Covering Zimbabwe in a climate of fear and physical danger', International Federation of Journalists (IFJ), 13 June, <http://www.kubatana.net/html/archive/media/080613ifj.asp?sector=MEDIA>] and International Freedom of Expression exchange (IFEX) ['Worst time for journalists in country's history', IFEX, 24 June, <http://www.kubatana.net/html/archive/media/080624ifex.asp?sector=MEDIA>] further explore the conditions faced by journalists trying to operate independently in Zimbabwe.

⁵ Agreement between the Zimbabwe African National Union-Patriotic Front (ZANU-PF) and the two Movement for Democratic Change (MDC) formations, on resolving the challenges facing Zimbabwe, September 15, 2008, <http://www.kubatana.net/html/archive/demgg/080915agreement.asp?sector=DEMGG>

- On 27 August 2010, Zimbabwe's Board of Censors banned an exhibition by Zimbabwean artist Owen Maseko. The exhibition on Gukurahundi – the massacre of so-called dissidents in the Matabeleland and Midlands regions of Zimbabwe by the ruling Zanu PF party in the 1980s⁶. The Censor Board ruled that the event be banned because it “portrayed the Gukurahundi era as a tribal-based event and as such is prohibited.” Interestingly, the Censorship and Entertainment Act does not specify that “tribal-based” events or portrayals be banned⁷.
- On 1 September 2010, SW Radio Africa, an independent short wave radio station which broadcasts news “by Zimbabweans for Zimbabweans” reported that their news broadcasts were being jammed⁸. SW Radio is based in the UK, but has reporters in Zimbabwe and conducts phone interviews with Zimbabweans for its daily news, opinion and feature programmes. Their daily half hour newsreel programme provides a valuable roundup of independent news, interviews and commentary. Many Zimbabweans have access to radio and value SW Radio's independent broadcasts. But their signal is now being jammed, by the Central Intelligence Organisation, which falls under the President's Office, according to SW Radio's sources.
- On 20 September 2010, 83 members of Women and Men of Zimbabwe Arise (WOZA and MOZA) were arrested in Harare during a demonstration to mark International Peace Day. According to WOZA, “the aim of the peaceful protest was to highlight community safety issues and police behaviour in communities⁹.” The 83 spent 2 nights in police custody and reported on their release that conditions in Harare Central Prison are worse than ever. Cells are filthy, conditions are overcrowded and prisoners are routinely mistreated¹⁰.

Since the Global Political Agreement (GPA), there have been recent improvements within the media environment, including the licensing of five newspapers on the 26 May 2010 – The Daily News, NewsDay, The Weekly Worker, The Daily Gazette and The Mail – of which NewsDay is now on the streets. This will improve citizen access to alternate sources of information, primarily for city residents. However rural residents make up the large majority of the population and they struggle to access these papers due to cost barriers and limited infrastructure for provincial or national distribution. The television and radio broadcasting sectors – which maintain the greatest outreach across the country - remain closed, with the Broadcasting Authoring of Zimbabwe (BAZ) maintaining a tight grip of control. The Zimbabwe Broadcasting Corporation (ZBC) is a monopoly, which offers biased and highly politicised coverage. Independent and community radio stations have yet to be licensed, more than two years after the GPA was signed.

About Kubatana

⁶ To find out more read Breaking the Silence, Building True Peace: A report on the disturbances in Matabeleland and the Midlands 1980 - 1989. Legal Resources Foundation and Catholic Commission for Justice and Peace.

http://www.hrforumzim.com/members_reports/matreppart1.htm

⁷ Art, Censorship and the Gukurahundi in Zimbabwe. Sokwanele. September 2010.

<http://www.sokwanele.com/thisiszimbabwe/archives/6021>

⁸ Jamming of SW Radio Africa broadcasts continues. Lance Guma, SW Radio Africa. September 06, 2010.

<http://www.swradioafrica.com/news060910/jamming060910.htm>

⁹ WOZA and MOZA commemorate International Peace Day with street protest in Harare - 83 arrested. WOZA. September 20, 2010. <http://wozazimbabwe.org/?p=764>

¹⁰ Jenni Williams released without charge; 10 released members need medical attention. WOZA. September 22, 2010.

<http://wozazimbabwe.org/?p=791>

Founded in 2001, the Kubatana Trust of Zimbabwe¹¹ aggregates civil society information and shares it with subscribers via the Internet, email, mobile phones and print publications. Kubatana is also a community of activists, sharing information, ideas and inspiration to encourage and create a new Zimbabwe.

Given the constrained civic landscape Kubatana has been challenged to consistently find new and innovative ways to share information with Zimbabweans, and to inspire them to action. The heart of Kubatana is its online library of over 17,000 reports, statements and articles by civil society organisations, journalists and commentators. But knowing that many more Zimbabweans can access their email (for example at work or in an Internet café) than have time to browse the web, the organisation began sending out weekly email newsletters. More than 9,000 Zimbabweans now receive Kubatana newsletters, which aggregate top stories, job vacancies and scholarship opportunities, along with inspirational quotations, individual reflections and encouragements for Zimbabweans to get active on a range of civic issues.

2006 saw the launch of the Kubatana community blog¹², a space for more personal and anecdotal writing from Zimbabwean writers. Through the comments section it also opens up conversation and debate, further increasing the space for ordinary voices to be heard and publicly recognised. These informal pieces provide a much needed window into daily life in Zimbabwe. International media houses such as the BBC, CNN, Sky and the New York Times have looked to the Kubatana community blog for a range of opinion from Zimbabweans.

Recognising the limited Internet connectivity of many Zimbabweans – but the burgeoning audience of mobile phone subscribers, in 2007 Kubatana launched an SMS-based information service. Over 13,500 Zimbabweans now receive regular text messages. Kubatana uses SMS to tell subscribers about public events or other upcoming meetings, encourage specific advocacy actions, offer print materials or videos via post, or to share news flashes such as election results. We also use SMS to ask subscribers for their thoughts and suggestions about current events. To provide an even wider avenue for dialogue we share feedback from subscribers in our blogs and email newsletters.

Some examples include:

- Mixed opinion on treatment of pregnant schoolgirls¹³
- SMS feedback – Zimbabweans' top issues for the Constitution¹⁴
- Brazil / Zimbabwe football – Not all fun and games¹⁵

But Kubatana began to feel constrained by SMS. The 160 character limit makes it a useful tool to share short, specific snippets of information, but is a flat medium for disseminating more complex information, richer opinion or materials such as music, art and drama. In discussion with other activists and software developers, Kubatana began to explore the possibility of using Interactive Voice Response (IVR) to share audio information with the general public. This could be used as a static information service – such as phone in to find out symptoms of cholera, or TB –

¹¹ <http://www.kubatana.net>

¹² <http://kubatanablogs.net/kubatana/>

¹³ <http://www.kubatanablogs.net/kubatana/?p=3818>

¹⁴ <http://www.kubatanablogs.net/kubatana/?p=3782>

¹⁵ <http://www.kubatanablogs.net/kubatana/?p=2966>

or a more dynamic information service – such as daily news headlines or weekly audio dramas.

Introducing Freedom Fone

With support from the Knight News Foundation, Kubatana began to develop Freedom Fone¹⁶, an open source software designed to make IVR services easier for organisations to set up and run. Organisations install the Freedom Fone software on a stand-alone computer and connect it to the GSM modems with which it is configured to work. The organisations then create, record and edit audio menus and content channels which are uploaded into the Freedom Fone interface. They connect the Freedom Fone modems to their mobile phone SIM cards and let their audience know which numbers to phone in to receive information. Freedom Fone then does the rest: answering the calls and walking callers through the audio menu, as well as taking voice messages and accepting SMS feedback.

Kubatana has used Freedom Fone in a number of ways:

- From July to September 2009 Kubatana ran Inzwa (Shona for Listen), which shared daily news headlines and a weekly audio magazine featuring interviews with Zimbabwean activists, community leaders, musicians and artists as well as job, scholarship and resource information. There is a listener survey available online to enable deeper understanding of this service¹⁷.
- In March 2010, Kubatana re-launched Inzwa as a daily news headline and current affairs service – but it was closed after one week (see further discussion below).
- In April 2010, Kubatana worked with Zimbabwean arts personality Gavin Peter to review the week of performances at the Harare International Festival of the Arts (HIFA) and encourage people to attend shows.
- From April to June 2010, Kubatana worked with Zimbabwe's Minister of Constitutional and Parliamentary Affairs MDC's Eric Matinenga to run an information service about the Constitution making process Zimbabwe is currently undertaking. We opened the lines for callers to phone in with their questions about the Constitution making process, selected 20 key questions, and then recorded the Minister answering these questions for the public. Answers were recorded in Zimbabwe's three main languages – English, Shona and Ndebele – and the public were then encouraged to phone in to hear the answers. For further reading please access the Constitution information service survey online¹⁸.
- In July 2010 Kubatana launched Tariro on Top, an audio drama about sexual harassment in the workplace. The service took callers through a series of five two-minute episodes in which Tariro teamed up with her female colleagues to confront the sexual harassment of their male superiors. The drama proved very popular among Zimbabweans, with people staying on the phone for the full duration of the drama, and walking through each episode to hear the whole story.

¹⁶ <http://www.freedomfone.org>

¹⁷ View the listener survey here: <http://www.kubatana.net/html/archive/inftec/091031kub1.asp?sector=INFTEC>

¹⁸ You can read the Constitution information service listener survey here:
<http://www.kubatana.net/html/archive/inftec/100630kub.asp?sector=INFTEC>

Confronting state resistance to Freedom Fone

As demonstrated above, Kubatana has used Freedom Fone in a number of ways in the past 15 months, sharing political, activist, resource, democratic, civic and social information with Zimbabweans. In each case, we have offered the service in a cost-to-caller model. That is, whilst we don't make any money out of people phoning our services, and whilst we don't charge them anything extra for it, calls are charged at the standard rates – around US\$ 0.25 / minute for calls between mobile networks.

This cost factor does raise a barrier to access for many Zimbabweans. Unemployment is at 90%, and the majority of Zimbabweans live on a dollar a day or less¹⁹. However, we have made our services pay-to-use because offering them completely for free would be financially unsustainable. Freedom Fone does offer the potential for organisations to provide access at no cost to the caller, and we may offer a free-to-use service around a specific event or campaign, but in the meantime, requiring Zimbabweans to pay their own way has also given us a better measure of the extent to which people do, or don't, value the information we provide.

During July to September 2009, Kubatana made available an information service, which included daily news headlines and three channels that changed weekly. The weekly channels were jobs, resources and opportunities; "every day heroes – a new look at Zimbabwean activists and activism" (this channel attempted to help take some of the stigma that many Zimbabweans associate with the word "activism," and featured civic leaders working to change their communities in a number of ways, such as working with AIDS orphans, running a rape clinic, and developing water filtration systems); and interviews and highlights of their work from upcoming artists, poets and musicians. Kubatana advertised the audio phone in information service widely – in the state and independent press, through display and classified advertisements. The service was allowed to operate without interference, and received over 4,000 unique callers in the three-month period.

In March 2010, Kubatana launched a similar service but, drawing on the feedback from our listener survey, we focussed just on daily news headlines, and also introduced a daily current affairs channel, in which activists, opinion makers and civic leaders were featured speaking about current events, such as a local play on the Constitution making process, a Cabinet reshuffle, and violence against women. Again, this service was promoted widely in the local and independent press using display and classified advertisements.

The service was launched on Wednesday March 3. On the morning of Tuesday March 9 we received a phone call from Econet, the mobile phone company which runs the network that our phone lines were on, informing us that they had been contacted by the Broadcasting Authority of Zimbabwe (BAZ) about our service. BAZ had questioned Econet's facilitation of Kubatana's unlicensed broadcast through the Econet platform and asked Econet if we had a license to broadcast. Because Kubatana is not a broadcaster, we have never applied for such a license, and informed Econet accordingly. Econet advised us that their legal department was investigating the issue, and that they would get back to us later that day. That afternoon, they phoned back to inform us that their technical interpretation was that their platform was being used to break the law, and that Kubatana was using Econet as a transmitter. They said that Econet was regulated by BAZ and as such had to conform to their requirements. We were told Econet

¹⁹ Billionaire Branson urges investment in Zimbabwe. Reuters. September 20, 2010. <http://af.reuters.com/article/topNews/idAFJOE68K01520100921>

would be suspending our lines. If we wanted to resume our service and get our lines back, they said we should present them with a letter from BAZ advising Econet that we were now in compliance with their regulations, and that we wanted our lines reconnected. By 6pm that day, our lines were disconnected.

Kubatana approached the Econet CEO asking him to reject BAZ's complaint on moral, legal and business grounds. We also sought a legal opinion from Adrian de Bourbon, a respected Zimbabwean advocate now based in Cape Town, to advise us whether BAZ's complaints had any legal standing. Freedom Fone is an Interactive Voice Response (IVR) service, not a broadcasting tool. In our understanding, requiring us to be licensed to use Freedom Fone would be like requiring all businesses, which use call-handling services (such as Thank you for phoning Our Company. Press 1 for sales, 2 for support, and so forth) to have a license for these services.

The legal opinion we received agreed with our assessment that the service we were offering was not in violation of the laws of Zimbabwe. Amongst other things, it made the following points:

- Making a telephone call is different from receiving a broadcast, regardless of whether the telephone call is made over a landline or a mobile network, and regardless of whether the telephone call is answered by a human being, an answering machine, or a computer-based pre-recorded audio menu.
- In the 1990s, Econet's attempts to create a mobile phone company were met with resistance from the Zimbabwean government, which wanted to maintain a monopoly on mobile phone networks. But the Zimbabwean Supreme Court "recognised the fundamental importance of the telephone service in the free exchange of information, which in itself was considered to be a fundamental right within a democratic society²⁰." The Supreme Court held that the government monopoly on telecommunications services denied Zimbabweans' their right to freedom of expression, and required government to grant Econet a license to operate.
- Mobile phone companies in Zimbabwe, as with elsewhere in the world, are registered as telecommunications services, not as broadcasting services. As such, they are regulated under the Post and Telecommunications Authority of Zimbabwe (POTRAZ), not BAZ. During Econet's early attempts to be allowed to operate, another Supreme Court ruling specifically separated mobile phone services from broadcasting services, and created a very clear legal distinction between the two²¹.

The Broadcasting Services Act²² defines a "broadcasting service" as "any service which delivers television or radio programmes to persons having equipment appropriate for receiving that service, whether the delivery is effected by means of or uses the radio frequency spectrum, cable, optical fibre, satellite, or any other means or a combination of those means." In relation to Kubatana's information service, de Bourbon argued "[q]uite clearly [Kubatana] does not deliver television or radio programmes to persons having appropriate equipment for receiving such a service. What it does is to place [on] the existing telecommunication service of Econet information that can be retrieved by making a telephone call and dealing with a recorded message stored on a computer. There is no delivery of a television or radio programme; it is a telephone call."

²⁰ See *Retrofit (Pvt) Ltd v PTC & Anor* 1995 (2) ZLR 199 (Supreme Court).

²¹ See *PTC v Retrofit (Pvt) Ltd* 1994 (2) ZLR 71 (Supreme Court).

²² See Broadcasting Services Act, 2001. <http://www.kubatana.net/html/archive/legisl/010404broa.asp?orgcode=par001>

Meanwhile, whilst this opinion was being prepared, Econet seemed to be having second thoughts themselves. On 1 April they shared with us a letter they had written to BAZ, informing BAZ that their industry is regulated by POTRAZ, and “would ordinarily accept orders and directives from them.” They noted that BAZ regulates the broadcasting industry, not the telecommunications industry, and that Econet sells lines to individuals and organisations on a non-discriminatory basis, and has no control over how their subscribers use their lines.

Our numbers were reinstated the following week, and since then our information services have operated without interference.

However, on 30 June 2010 we received a letter from the Chief Executive Officer of BAZ. The letter read:

Please be advised that the Broadcasting Services Act [Chapter 12.06] prohibits the provision by any person of a broadcasting service other than in accordance with a licence issued by the Authority. A broadcasting service is any service which delivers television or radio programmes to persons having equipment appropriate for receiving that service, whether the delivery is effected by means of or uses the radio frequency spectrum, cable optical fibre, satellite or any other means or a combination of those means. Programme content means programming material intended for public consumption. Furthermore, the provision of a broadcasting service includes the provision within Zimbabwe of such service transmitted by satellite or any other means. We therefore kindly advise Kubatana.net to discontinue with any broadcasting activity until you have a broadcasting service license in terms of the law.

The Broadcasting Services Act does outline several different types of licenses broadcasters are meant to apply for, and the schedules associated with the Act gives more detail about the profile and application of these different licenses. However, none deal with the type of information services Kubatana offers. At the advice of our lawyer, we wrote to BAZ to enquire which license, specifically, we were meant to apply for. We have yet to have a response from BAZ in this regard.

At the same time, we sought another professional opinion, this time from Libby Lloyd, a communications regulatory policy consultant based in South Africa. We asked Lloyd to provide us with an analysis of regulatory trends internationally on the difference between broadcasting and telecommunications. We wanted to get a better understanding of whether our phone-in information services would be regarded as broadcasting in terms of international and regional standards.

Lloyd’s opinion recognised that:

“The regulatory approach to broadcasting and electronic communications is changing with technological convergence resulting in, among other things, broadcasting being delivered over what have traditionally been regarded as telecommunications networks (such as broadband and mobile telephony networks). This has led to international bodies (such as the International Telecommunications Union, (ITU)), governments and regulators considering new technology neutral definitions to distinguish between broadcasting and electronic communications.”

She noted that some have argued that the distinction between broadcasting and telecommunications is no longer necessary. Assuming that spectrum scarcity is the primary argument for broadcasting regulation, this argument posits that with the advent of new media, and expanded ways to share information, the market will now ensure diversity of content. But, the opinion states, “this perspective has generally been dismissed by international and regional bodies in recognition of the importance of broadcasting to democracy in that it fulfils critical information, social and cultural needs of audiences. It has been noted that the free market does not necessarily address such needs.

Importantly, by drawing on regional and international norms and standards, Lloyd’s opinion reminds us that in true democracies, the objectives of broadcasting regulation are to set positive rules which help the public meet goals of content diversity, applicability across a wide spectrum of interests, public service, and a protection of vulnerable groups such as minors.

Lloyd’s opinion states that whilst changes in technology are causing some regulators to alter their definitions of broadcasting, to move away from the connection to frequency spectrum regulation, even with these changes a distinction is being made between “broadcasting” and other information services. Specifically, “broadcasting” is accepted to have a notion of one-to-many dissemination. There is also a component of it being a “linear” service. Lloyd cites the ITU and InfoDev ICT Regulation Handbook saying “TV broadcasts are regarded as linear services where content is ‘pushed.’ On-demand services are regarded as non-linear where content is ‘pulled.’ The EU has defined non-linear services as any audiovisual media service where the user decides upon the moment in time when a specific programme is transmitted. Generally, non-linear services are regulated by e-commerce regulations rather than broadcasting legislation.”

Lloyd also notes that some countries emphasise that broadcasting provides for “simultaneous” reception by the public, and that programming is scheduled. This distinguishes it from information services where users have a one on one experience and can access information whenever they choose, not according to a broadcast schedule.

South Africa’s Electronic Communications Act of 2005 addresses the convergence of broadcast and telecommunications services. According to Lloyd, it “emphasises reception by the public as a key distinction between broadcasting and other electronic communications services and focuses on the fact that broadcasting is ‘unidirectional.’”

Further repression: The MDC information service is shut down

Meanwhile, the Movement for Democratic Change (MDC), using different software, created an Interactive Voice Response news and information service which it launched in June 2010. The MDC advertised the service widely and had lines on all three of Zimbabwe’s mobile phone networks – Econet (around 75% market share), and the smaller NetOne (government parastatal) and Telecel (privately owned company) network²³. The MDC’s service was free to callers. Users were invited to phone in and the system would hang up on them, and phone them back, at no cost to the caller. The service provided daily headlines of news about the MDC, a weekly message from the Prime Minister,

²³ An Overview Of Zimbabwe’s Telecommunications – POTRAZ Presentation Download. March 2010. <http://www.techzim.co.zw/2010/03/zimbabwe-telecoms-overview/>

MDC President Morgan Tsvangirai, and information about upcoming MDC events and rallies.

Within days of the service being launched, BAZ again pressured Econet to suspend the MDC's lines, and they did²⁴. The state-run Herald newspaper ran articles conflating Econet and the MDC, saying that Econet was funding the MDC's service. But Econet, or any mobile phone network provider was not necessarily sponsoring the calls. Rather, people were leaving a missed call for the MDC, and the MDC was phoning them back. The Herald also took aim at Kubatana calling us the MDC's "trojan horse," despite the fact that the MDC set up their system on software other than Kubatana's Freedom Fone, and that the MDC never consulted with us about how we operated our services or asked us for help with theirs²⁵.

So, even with the supposed unity government and an MDC deputy Minister of Information, and an MDC Minister of ICTs, the MDC's information service is closed down. (Incidentally, whilst Econet cut off their lines with the MDC, the Telecel and NetOne numbers for the service still worked for at least several weeks later. However, at the time of writing this paper, they were also disconnected. It is not clear if this is because Telecel and NetOne suspended these lines, or because the MDC has stopped offering the service).

In an article about the MDC's phone-in information service, SW Radio Africa asked "why has the MDC opted for an audio news and information service instead of pushing for the granting of broadcast licences to independent players?" ICT Minister Nelson Chamisa responded that whilst the MDC was pushing to free the airwaves, "in the meantime the MDC has no voice in the state owned media and they had to 'leverage on the available technologies' to connect with their supporters²⁶."

The SW Radio article makes a valuable distinction between phone-in information services and radio broadcast services. But it also indicates how worryingly powerless the MDC really is in the inclusive government, particularly on issues of media freedom, freedom of expression and independent communication. Indeed, if the MDC had greater access to national broadcasting services, it likely would not have felt compelled to launch a free phone-in information service in the first place. Rather, it would have relied on the national Zimbabwe Broadcasting Corporation to carry its messages, jingles news updates and announcements, as Zanu PF continues to do.

New media – New regulations?

Lloyd's regulatory opinion states that, in the absence of greater clarity within the laws of Zimbabwe, information on demand services such as the one Kubatana provides should be allowed to operate freely. But as evidenced by the actions of BAZ, the use of a phone-in service for sharing pre-recorded audio information challenges some people's understanding of "broadcast" and "radio programmes" in a way that a simple phone call between two individuals on either end of the line does not. Should it? With the convergence of broadcasting and telecommunications technology is there an argument for regulating Zimbabwe's telecommunication's space in the same draconian manner that its broadcasting space has been? Below, we try to demonstrate why the argument for regulating telecommunications

²⁴ Econet warns MDC-T. Sydney Kawadza, The Herald (Zimbabwe). June 24, 2010.

<http://www.kubatana.net/html/archive/inftec/100624herald.asp?sector=POLPAR>

²⁵ Inappropriate interference with MDC audio service. Amy Saunderson-Meyer. June 29, 2010.

<http://www.freedomfone.org/news/inappropriate-interference-with-mdc-audio-service>

²⁶ Econet threatened over MDC audio news service. Lance Guma, SW Radio Africa. June 22, 2010.

<http://www.swradioafrica.com/news220610/econet220610.htm>

service in this manner is absurd – and posit that the government of Zimbabwe has been far more threatened by the content these services could potentially offer than they are by the convergence of technology itself.

Is it the medium? Does making a telephone call blur with listening to the radio in some way? How? No one would argue that John, phoning Aunt Jane to get her advice on how to change a tyre was engaging of any form of “broadcasting.” If John phoned Aunt Jane, got her advice and told the ten other passengers in the mini-van what Jane had said, he still would not be considered to be broadcasting. In fact, if John phoned Aunt Jane and put his phone on loudspeaker mode, so that all of the passengers in the mini-van could hear her advice, he still would not be accused of broadcasting. So it’s not the medium, or device of telephones per se.

Is it the fact that the material is pre-recorded? Answering machines have a pre-recorded voice pick up on the end of a landline and invite you to leave a message. Even more people have activated the voice mail option on their phone – and even personalised it with their own pre-recorded welcome message. So it’s not that it’s pre-recorded.

Is it the menu functionality? But many businesses in Zimbabwe – including Econet – have automated answering services, which help to direct your call to sales, support, customer care, and so forth. So it’s not about menus.

Is it the combination of menus and pre-recorded information? Possibly, but that still seems unlikely. There aren’t a lot of examples of this in use in Zimbabwe, but there are a few. For example, you can phone an Embassy and press 1 to hear their operating hours, and 2 to hear visa requirements. To return to our above example, you could imagine John phoning a roadside helpline where you can press 1 for advice on jump starting your car, 2 for how to change a tyre, and so forth. Again, it’s hard to imagine anyone accusing the Automobile Association of broadcasting. So it’s not the combination of menus and pre-recorded information.

We suggest that the authorities in Zimbabwe are threatened by some of the phone-in information services because of the content they offer. These services are particularly threatening because so many Zimbabweans have mobile phones. We may have new media tools for communicating. But we often have the same old politics. Even within the context of Zimbabwe’s “inclusive government,” there is still fear about the power of information, and a resistance to people having access to independent information that might be critical of government or encourage people to take action about their situation.

Zimbabwe is not alone in this. According to technology blogger and researcher Russell Southwood, in Mozambique last month, government pressured mobile phone networks to shut down their text messaging services after price riots in Maputo were mobilised via text message²⁷.

But to return to Lloyd’s regulatory opinion, in a democracy the objective of regulation should be to ensure a diversity of programming, guarantee access to information and protect constitutional rights and freedoms. Where there is a legitimate public safety concern, one might make the argument for restricting access to the airwaves. For example, in Rwanda Radio Mille Collines infamously spurred on the genocide, urging Hutus to kill Tutsi “cockroaches.” Post

²⁷ SMS message ban raises difficulties. Russell Southwood, Pambazuka News. September 29, 2010. <http://www.pambazuka.org/en/category/comment/67340>

election violence in Kenya in 2008 was heightened via inflammatory text messaging. In Zimbabwe, hate speech that might in other countries legitimately be banned is broadcast on state controlled national radio – Zanu PF regularly attacks the MDC, and minorities such as whites and gays and lesbians.

But even attempts to regulate or censor free expression in the public interest should be handled carefully. As American radio broadcaster Lenny Bruce once said, “take away the right to say ‘fuck,’ and you take away the right to say fuck the government.” A government may try and cloak its repression by focusing on the medium, or latching onto words it deems unsuitable. But blanket efforts to control the dissemination of political, civic, justice, human rights, opposition, activist or alternative information must particularly be resisted.

New media – New threats

A dictatorship like Zimbabwe’s gets painted as uniformly repressive. New media tools are embraced for providing long awaited communications solutions. But the reality, of course, is more complicated. This paper argues that, in Zimbabwe at least, whilst we have new media, there is still entrenched control of the media landscape. Freedom of expression and the movement of information threaten Zanu PF, and dictatorial parties and politicians like it around the world. They deliberately constrain people’s access to information to enhance their control and minimise dissent.

A variety of media tools challenge this control, but in an economy like Zimbabwe’s, market forces work with the dictatorship to further reduce access to independent information. A small handful of Zimbabweans can afford regular Internet access or satellite television. By not banning these services altogether, the regime allows an illusion of openness, whilst maintaining a confidence that, because the majority of the population is isolated from these opportunities by their poverty, the “independent” press poses little threat.

Further, a history of violent and unpredictable crackdowns on the slightest whisper of dissent have ensured that the vast majority of Zimbabweans are unlikely to step very far out of line, even when afforded the opportunity to do so. Beat your dog harshly enough a few times, and it will cringe every time you raise your hand to scratch your head.

So for years, political repression and economic depression have together enabled Zimbabwe’s ruling party to tightly control the information landscape. New media tools such as the Internet or satellite television have been permitted not because of an opening of the democratic space, but because they pose no real threat. However, the introduction of phone-based information services does pose a threat, because of the growing ubiquity of the mobile phone²⁸.

Frustrated by the limitations available for communicating with the wider public, Kubatana and the MDC alike turned to voice services over mobile phone.

Kubatana firmly believes that self-censorship is one of the greatest enemies of freedom, and we deliberately and consciously provoke, inspire and critique – Zanu PF, the MDC, local and national politicians, businesses, other NGOs, literary and artistic figures, and ourselves. Kubatana’s website, blog, email newsletters, bulk text messaging

²⁸ For a thought provoking discussion of the opportunities posed by the growing reach of the mobile phone globally, read *The Promise of Ubiquity*. John West, Internews Europe. December 2008.
<http://www.kubatana.net/html/archive/inftec/081231ieu.asp?sector=INFTEC>

service and print publications have provided independent, critical information without interference since 2001.

In the past 15 months, Kubatana has offered a variety of different news services on mobile phones including news headlines, activist information, resources and opportunities, information about the constitution making process, arts, edutainment, and only one was shut down, in March this year. Why just the one service, and why at that time?

The MDC continues to prepare and distribute print and electronic copies of publications such as *The Changing Times* and The Prime Minister's newsletter. But the country's largest mobile phone operator, a private company, cut off its free-to-caller information service lines. Why?

New media tools such as Internet and websites have not been closed down because, as discussed above, they pose no real threat to Zimbabwe's regime. The poverty of its population provides a de facto form of censorship.

Text messaging may have worried the government to some extent, but brutal and repressive policing has ensured that the majority of Zimbabweans are unlikely to participate in any public demonstration or mass action, which might be mobilised via text message. Further, given the high cost of both phone calls and text messages (around 9 US cents per SMS), the vast majority of Zimbabweans keep their phoning and text messaging to a minimum. But a large and growing number of Zimbabweans have mobile phones. The dollarization of the economy and mobile phone network expansion has brought used handset and SIM card prices into an affordable range for many. Mobile phone penetration in Zimbabwe is now at 49%, up from 9% in 2008, according to government data²⁹.

Thus, a free-to-caller mobile phone information service dramatically changes the information landscape. Make it a free-to-caller service provided by the former opposition party, now your supposed "partner" in government, which shares party news, opinion, and event information, and which begins to challenge your party's monopoly of the broadcast space through a different form of dissemination altogether? Now that's threatening.

In the case of Kubatana, a phone-in service that provides two-minutes of independent, thought provoking national and international news does similarly. You might not be able to afford to call in every day, but even accessing this news one a week could change your perspective on things. Imagine if you could phone from a landline, where the calls are cheaper, or from the office where, for you, it feels free altogether. Imagine if you could phone from the office everyday, and then go home and tell your friends and family. Imagine if you didn't have access to a landline, but you and a few friends chipped in to be able to share the cost of the call and listen on loudspeaker, or report back what you'd heard? Again, suddenly Zanu PF's monopoly on information is a lot more threatened than it has been.

New media – New opportunities

Kubatana's Freedom Fone and services like it provide new opportunities for communication, mobilisation and activism, but, in repressive environments, they will be met with resistance.

The solution to this, however, is not to buckle under this pressure or constrain one's own use of innovative

²⁹ Zimbabwe mobile phone boom still can't beat investor fears. AFP. September 28, 2010.
<http://www.totaltele.com/view.aspx?ID=458932>

technology. Rather, the solution is to use new media and new technologies to expand access to information and broaden discussions of censorship, repression and control of the media environment.

Kubatana will stand up to attempts to censor its ability to communicate in any media, new or old.

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