



Regional Stakeholder Consultation on Digital Rights and Inclusive Internet Governance in Southern Africa

*22 and 23 May 2023, Southern Sun Rosebank Hotel,
Johannesburg, South Africa*

1. Summary description of the activity

On 22 and 23 May 2023, a Regional Stakeholder Convening on Digital Rights and Inclusive Internet Governance in Southern Africa was held in Johannesburg, South Africa. The event was organised by the Namibia Media Trust (NMT) and the Association for Progressive Communications (APC) with support from OSF. It was facilitated by Anriette Esterhuysen.

With the project titled: 'The African Declaration on Internet Rights and Freedoms: Fostering a human rights-centered approach to privacy, data protection and access to the internet in Southern Africa' nearing closure, the partners needed to convene to critically unpack and review the experiences of the last two years, as well as look ahead to how the work implemented by national partners can be carried forward sustainably. A project review meeting with the project team took place alongside the consultation, to review the project implementation experience and outcomes and to strategize around sustaining partner activities in-country, as well as regional collaboration among the partners.

In essence the convening brought together a combined total of 21 participants, 6 males and 15 females from six Southern African countries to discuss the challenges and opportunities related to digital rights in the region. Over the course of two days, representatives from project partners in Eswatini, Botswana, Malawi, Zambia, Namibia and Zimbabwe shared their experiences and concerns regarding digital rights violations. They were joined by resource persons from South Africa. The presentations emphasized the need for improved legislation, increased awareness, collaboration among civil society organizations (CSOs), and engagement with policymakers and regulatory bodies. The discussions revolved around issues such as access to affordable internet, surveillance,

freedom of expression, data protection, and the impact of emerging technologies. This report aims to provide a comprehensive overview of the discussions and outline recommendations for addressing the identified challenges.

2. Objectives of the activity

2.1 To assess current challenges and opportunities for digital rights and inclusive internet governance in the Southern African region.

2.2 To develop collaborative strategies for further strengthening of inclusive governance and digital rights in the region and in the six participating countries.

3. Collaborations with any other organisation(s) on the activity

This project is an initiative of the African Declaration (AfDec) Coalition, supported by the Association for Progressive Communications (APC) and the Namibia Media Trust (NMT), and funded by the Open Society Initiative for Southern Africa (OSISA).

4. Information about the participants in the activity

The convening was attended by project leads from all six-country partner's namely MISA Botswana, MISA Malawi, MISA Zimbabwe, MISA Zambia, the Coordinating Assembly for NGO's (CANGO), Namibia Media Trust, as well as the project coordination team, Peace Amuge on behalf of the APC, the project coordinator Frederico Links, NMT Director Zoé Titus as well as the project financial officer Hilya Akwenye. Invited guests include individuals from ALT Advisory, ARISA, OSISA, Paradigm Initiative, the Centre for Human Rights at the University of Pretoria, digital rights and media law specialist and the Embassy of Sweden.

5. Brief description of each session, discussion, training intervention on the activity programme

The first session on day one was Setting the Scene: The state of digital rights in the Southern Africa region where partners from each of the six participating countries gave a five-minute input on what is happening in their countries focusing on:

- Fears: most pressing current concerns.
- Hopes: any positive developments or opportunities for positive change.

- Something unexpected that emerged from them while implementing the project.

Country challenges:

Each country presented its specific challenges related to digital rights. In Eswatini, high broadband prices and inadequate internet infrastructure, especially in rural areas, hindered access to the internet. Additionally, the country faced concerns over an internet shutdown in 2021 ordered by the government.

Botswana was notorious for state surveillance and interception of communication, which infringed upon citizens' right to privacy and was used by the ruling party to monitor its opposition. The Cybercrime and Computer Act was used as a means to restrict freedom of expression and harass individuals.

Malawi faced issues with adherence to constitutional guarantees, unaffordable and inaccessible internet, and unstable connectivity. Harassment and intimidation by the ruling party targeted citizens who spoke out against the regime and inadequate service delivery.

In Zambia, there were regulations that allowed for the arbitrary seizure of digital information, used in particular to target people and institutions who held divergent views (from that of the state). This threatened freedom of expression. The country's close circuit television (CCTV) system raised concerns about surveillance and harassment.

Zimbabwe experienced slow internet speeds, a high rate of misinformation and hate speech. Namibia reported concerns around mandatory SIM card registration as well as the unlawful collection of biometric data.

This was followed by a presentation by Hlengiwe Dube from the Centre of Human Rights at the University of Pretoria. She provided a broad overview of notable events, trends and practices characterising the regional digital rights landscape, including state actions and advocacy by non-state actors.

The next session consisted of presentations that provided an overview of cybersecurity, cybercrime and data protection laws and institutions relevant to the region. They focused on identifying risks and opportunities related to:

- Data governance in the region (including access to information and data protection)
- The African Union Data Policy Framework and what it means for the region
- Developments at SADC level, including the alternative model law on cybersecurity

- The updated 2019 ACHPR Declaration of Principles on Freedom of Expression and the opportunities it presents.

Presenters were: Wendy Trott from ALT Advisory, Avani Singh a Digital rights legal specialist, and Faith Munyati from Advancing Rights in Southern Africa (ARISA) and the American Bar Association.

Key take aways:

Hlengiwe emphasized the importance of basic infrastructure, addressing the challenges faced by children in the digital age, and combating online violence against women. She highlighted the need for practical understanding of the law, accountability in surveillance practices, and accessibility for persons with disabilities and the elderly. She went through the updated, 2019, ACHPR Declaration of Principles on Freedom of Expression in detail, illustrating how it can be used as a guide for digital rights advocates in Africa. She urged participants to make use of the home grown African soft law instrument, particularly as it is a result of advocacy from the AfDec coalition.

Avani Singh stressed that privacy is a fundamental right that influences all other rights and provision for its protection in the region should adhere to international standards. She raised concerns about disinformation during conflict, the need for clear and comprehensive legislation, and the lack of capacity and technical know-how to address cybercrime issues effectively.

Wendy Trott highlighted the need for clearly defined definitions in domestic legislation to align with international standards. She emphasized the importance of advocacy for data protection laws, building jurisprudence, and public understanding and motivation regarding data protection.

Faith Munyati presented an alternative SADC model law, pointing out gaps and ambiguities in definitions in the SADC model law and the need for an alternative law as well as the need for legislation to be narrowly restricted to avoid undue limitations on freedom of expression. She emphasized the lack of political will, the need for human rights-centered laws, and the harmonization of legislation in the region.

The last session of the first day was aimed at identifying advocacy lessons from partner's experience in working in difficult situations – what worked and what did not work. Participants worked in groups of four and shared the outcomes of their group discussions in plenary after the discussion.

The program for the second day started with a closed session for project partners to do a project review and unpack their experiences while implementing the project followed by crafting a way forward as it relates to priority issues and actions for the next three years as well as how impactful collaborations can be made. The convening then ended with a open reflective summary discussion of

the day's deliberations with a focus on the sustainability of the work going forward and possible future collaborations.

6. Evaluating the success of the project

Several factors suggest that the Digital Rights Convening was successful:

6.1 Active participation: Project leads from different countries actively participated in the discussions, presentations, and knowledge sharing sessions. Their engagement suggests a genuine interest and commitment to the topic of digital rights.

6.2 Comprehensive discussions: The convening covered a wide range of topics related to digital rights, including access to the internet, surveillance, freedom of expression, data protection, and emerging technologies. This comprehensive coverage indicates that the convening addressed key issues and provided a platform for meaningful discussions.

6.3 Identification of common challenges: Participants recognized and discussed common challenges faced by their respective countries, such as high broadband prices, surveillance, and restricted freedom of expression. Identifying these shared challenges fosters a sense of unity and solidarity among participants, indicating a successful convening that facilitated the exchange of experiences and perspectives.

6.4 Concrete recommendations: The convening resulted in a set of specific and actionable recommendations. The presence of practical recommendations suggests that the convening led to tangible outcomes and actionable next steps.

6.5 Focus on inclusivity: The convening addressed the need for inclusivity by considering gender responsiveness, the rights of persons with disabilities, and the marginalized communities. This focus on inclusivity suggests that the convening was successful in ensuring a diverse and representative participation.

6.6 Commitment to follow-up actions: The participants mentioned the need for post-project follow-up, engagement with regulatory bodies and policymakers, and continuous communication among participants. These aspects indicate a commitment to sustaining the outcomes of the convening and taking concrete actions beyond the event itself.

7. Immediate outcomes of the activity

7.1 Increased awareness: The participants gained a deeper understanding of the challenges and issues related to digital rights in their respective countries. They were exposed to various perspectives and experiences, which helped broaden their knowledge and awareness of the importance of digital rights.

7.2 Knowledge sharing: The convening facilitated the exchange of information and experiences among participants from different countries. This knowledge sharing allowed participants to learn from each other's successes, challenges, and strategies in addressing digital rights issues.

7.3 Identification of common challenges: Through the presentations and discussions, common challenges faced by the countries in the region were identified. These challenges included issues such as high broadband prices, inadequate internet infrastructure, surveillance, restricted freedom of expression, and lack of accountability. Recognizing these common challenges helped foster a sense of solidarity among the participants.

7.4 Recommendations for action: The discussions and presentations generated a set of comprehensive recommendations for addressing the identified challenges. These recommendations encompassed various aspects, such as legislative reform, collaboration among civil society organizations, awareness raising, capacity building, and engagement with policymakers and regulatory bodies. These recommendations provided a roadmap for immediate actions to be taken to improve digital rights in the region.

7.5 Project review/evaluation: Participants carried out a review of the project to determine the relevance and level of achievement of project objectives, development effectiveness, efficiency, impact and sustainability. They shared the difficulties they experienced in implementing the project openly and honestly and in a way that contributed to peer-learning.

7.6 Networking and collaboration: The convening provided an opportunity for participants to network and establish connections with like-minded individuals and organizations. This networking and collaboration can lead to future partnerships and joint efforts in advocating for digital rights, sharing resources, and supporting each other's initiatives.

7.7 Setting priorities: The discussions also helped prioritize key issues and challenges that need to be addressed urgently. By identifying the most pressing concerns, participants can focus their efforts and resources on specific areas that require immediate attention.

8. The way forward

The discussions and presentations led to several key recommendations for addressing the challenges identified:

8.2 Collaboration and awareness: Partner organizations committed to collaborate and work together to address digital rights issues as well as to increase awareness raising and escalation of issues when domestic remedies are exhausted or unresponsive.

8.3 Legal expertise and advocacy support: There is a pressing need for digital rights advocates to have easy access to legal and policy expertise to support their work. This needs is particularly urgent in countries where there is a shortage of legal and policy expertise in the areas of digital rights and cybersecurity.

8.2 Gender-responsive approach: Digital rights projects moving forward to be approached in a gender-responsive manner, considering the specific challenges faced by women and marginalized groups.

8.3 Legislative reform: Participants recommended evaluating existing laws to determine their effectiveness and the need for reform. Efforts should be made to develop accessible legal analysis and support for civil societies.

8.4 Craft national digital rights strategies: Participants should work towards developing comprehensive national digital rights strategies tailored to the specific contexts of their countries. These strategies can serve as guiding frameworks for promoting and protecting digital rights, addressing key challenges, and ensuring the inclusion of marginalized communities.

8.5 Continuous communication between partners: Establishing and maintaining regular communication channels among participants and civil society organizations in the region is crucial. This regional network can facilitate information sharing, collaboration on common issues, and the exchange of best practices, ultimately strengthening the collective effort to advance digital rights.

8.6 Strengthen relationships with regulatory bodies and policymakers: Participants should actively engage with regulatory bodies and policymakers to advocate for the development and implementation of digital rights-friendly policies and legal frameworks. Building constructive relationships can foster dialogue, influence decision-making processes, and promote the adoption of rights-respecting practices.

8.7 Capacity building of policymakers and awareness raising: Efforts should be made to enhance the capacity of policymakers and those in positions of power on digital rights issues. This can include targeted capacity-building programs, workshops, and awareness campaigns to ensure policymakers have a solid understanding of the importance of digital rights and their implications.

8.8 Inclusivity of differently abled and marginalized communities: Participants should prioritize inclusive activities and initiatives that cater to the needs of differently abled individuals and marginalized communities. This can involve accessibility audits, provision of assistive technologies, and active participation of these communities in shaping digital rights policies and programs.

8.9 Capacity building in organizational capacity: Participants should focus on strengthening the capacity of civil society organizations working on digital rights. This can include training programs, mentorship opportunities, and resource

sharing to enhance their effectiveness in advocating for digital rights and implementing projects.

8.10 Extensive mapping of civil society organizations (CSOs): Before implementing projects or initiatives, thorough mapping and assessment of existing CSOs should be conducted. This ensures better coordination, resource allocation, and collaboration among organizations working towards similar goals, avoiding duplication of efforts.

8.11 Extensive post-project follow-up: Following the completion of projects or initiatives, participants should prioritize extensive post-project follow-up to assess their impact and sustainability. This includes evaluating outcomes, collecting feedback, and identifying areas for improvement or further interventions.

8.12 Joint resource mobilization: Civil society organizations should engage in joint resource mobilization efforts to pool their resources and increase their collective impact. Collaborative funding proposals, partnerships with donors, and sharing of fundraising strategies can contribute to sustainable funding for digital rights initiatives.

8.13 Mainstreaming digital rights within their work: Civil society organizations should mainstream digital rights within their broader agendas and activities. This entails integrating digital rights perspectives into existing programs, initiatives, and advocacy campaigns, ensuring that digital rights are not treated as separate issues but are recognized as integral to human rights and social justice. Participants also noted the need to explore the benefits of strategic litigation.

8.14 Revive use of the African Declaration of Internet Rights and Freedoms: The workshop highlighted the complexity of the digital rights sector which include very specialised areas, such as and data governance, cybersecurity. Diving immediately into these specialised topics can be overwhelming. The value of the AfDec is that it provides a broad overview of factors that need to be considered to ensure a rights-oriented approach in policy and regulation. It should continue to be used as an awareness raising and capacity building tool.

9. Accompanying material:

- Programme and presentations
- Session photos
- Activity concept note
- Participants list
- Link: https://drive.google.com/drive/folders/1ZKuH4qzw8LQd-g-mbNr2XULWkazZmp-T?usp=drive_link