



FINAL COMMUNIQUE

Digital Space and the Protection of Freedoms of Association and Peaceful Assembly in Africa

CONSULTATIVE MEETING WITH UN SPECIAL RAPPORTEUR CLÉMENT VOULÉ

INTERCONTINENTAL HOTEL, NAIROBI, KENYA - 21-22 FEBRUARY 2019

We, representatives of thirty-five civil society organisations drawn from eighteen countries on the African continent¹ gathered in Nairobi, Kenya, to identify challenges to protecting the right to freedom of association and assembly in the digital age and develop recommendations and strategies to counter such threats;

Including academics, bloggers, content creators, law-based and legal aid organizations, media, tech and digital rights organizations, national and regional human rights defenders' networks, trade unions, and those working to protect and promote women's rights, youth empowerment and the rights of lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) people;

Privileged to host the United Nations Special Rapporteur on the Right to Freedom of Peaceful Assembly and of Association, Clément Voule;

Cognizant of developments in technology that have impacted the way we associate and assemble online and offline, the issues that we can discuss, and the actions that we can take;

¹ Countries represented: Benin, Burundi, Cameroon, Democratic Republic of Congo, Ethiopia, The Gambia, Ghana, Kenya, Malawi, Nigeria, Rwanda, Sierra Leone, South Africa, Tanzania, Togo, Uganda, Zambia and Zimbabwe.



Recognizing that while technology has introduced convenience (such as cost reduction) and promoted inclusivity, it has also brought new dangers and challenges;

Note with concern a trend of closing civic space on the African continent due to key challenges and restrictions in digital spaces that have negatively impacted on the exercise of freedoms of association and assembly, including:

1. THE DIGITAL DIVIDE (INCLUDING ITS GENDER, ECONOMIC AND SOCIAL DIMENSIONS)

Barriers brought by the digital divide are relevant to the African region and include the increasing costs and commercialization of online spaces and infrastructure deficits. These barriers prevent decentralized access and use, and the formation of community networks that are more likely to meet our specific and contextual needs. Women and marginalized communities face further reduced access to online spaces and their difficulties are exacerbated by class and social divisions. Rural women and queer people face the greatest challenges.

2. PROLIFERATION OF RESTRICTIVE POLICIES, LAWS AND REGULATIONS

Vague and overly-broad laws and regulations are mis-applied to selectively prosecute or persecute activists and control online and offline activities. Recent trends include the widening use of cybercrime/ICT laws; mandatory registration and monitoring/compliance obligations on online content creators; prohibitive license fees; taxation of 'Over the Top' services, defined to include a wide range of social media; and mandatory SIM card registration.

3. NETWORK DISRUPTIONS/INTERNET SHUTDOWNS

With increasing frequency African governments are disrupting networks and shutting down internet and telecommunication ("telecom") services. This has become a disturbing trend in the context of elections and public protests, often under the pretext of preventing the spread of hate speech, disinformation, public disorder and national security.

4. GOVERNMENT SURVEILLANCE AND INSUFFICIENT PRIVACY AND DATA PROTECTIONS

Targeted surveillance against activists, CSOs and media is growing, and is carried out in complex collaboration between government, the private sector and foreign



governments. Violations are exacerbated by the availability and use of new forms of technology, including artificial intelligence, CCTV, and facial recognition programs. Governments and private companies have also exponentially increased their data collection through, for example, mandatory SIM card registration, demand for users' data from telecom companies, and other forms of intensive collection of biometric information. This personal data has been misused by security and law enforcement agencies, telecom companies and other business entities without adequate judicial and/or parliamentary oversight and accountability. The legal framework is inadequate to deal with the proliferation of surveillance technology and data collection, and regulators, lawyers and judiciaries are not equipped to fully understand and protect against the human rights implications.

5. ONLINE VIOLENCE, INCLUDING VIOLENCE AGAINST WOMEN AND VIOLENCE AGAINST LGBTIQ PEOPLE

Governments are increasingly using sponsored trolls/bots to discredit and harass activists and political opponents. Women are disproportionately affected by this, as well as by cyberstalking, online sexual harassment, inappropriate use of personal information, and promotion or normalization of violence against women. This increases their withdrawal from the public sphere. For sexual minorities, online space is often the last “safe haven” for communication and association, but the lack of anonymity and the erosion of online privacy have made the space unsafe. Laws offer inadequate protection and law enforcement authorities often ignore or dismiss complaints, frequently due to discrimination or lack of training and capacities.

6. SOCIAL MEDIA CONTENT MODERATION POLICIES AND ALGORITHMS

Content regulation policies of network platforms, including social media platforms, are vague and are not applied uniformly. Some decisions are automated, others are not, and many decisions are informed by economic interests. Explanations of content take downs vary according to country. Algorithms can give visibility to a particular group's message or drown it on the web and so are extremely important for the work of associations and organizers. However, companies' proprietary rights are overly broad and have resulted in too



little algorithm information being made publicly available. Non-governmental actors are concerned about what data companies share with state actors.

7. DISINFORMATION

Disinformation and propaganda campaigns online are commonly used to both target and discredit organizers of gatherings and protests, CSOs and human rights defenders, and increasingly to undermine elections. States are enacting anti-disinformation laws as an excuse to target and criminalize content disseminated online by CSOs, while at the same time using the online tools to disseminate disinformation and confuse and silence organizers and activists.

Recommendations and Commitments

We developed recommendations for States, internet intermediaries, tech companies, and civil society to address the identified challenges. These formed the basis for our submissions to, and an interactive consultation with, UN Special Rapporteur Voule to inform his upcoming report on protecting freedoms of association and assembly in the digital era [see *Key Issues and Recommendations* document]. The recommendations and strategies are also the foundation for continuing work, collectively and individually, on protecting fundamental rights in the digital space.

We will remain vigilant against threats to civic space in the digital era. We commit to collaborate and provide support to each other through individual and joint efforts at the national and regional levels. These efforts will include, but not be limited to:

- Taking joint actions to build mutual understanding and ongoing dialogue amongst relevant stakeholders;
- Engaging in international advocacy at the African Union and UN levels;
- Strengthening protective mechanisms, including litigation and legal aid;
- Enhancing stakeholder accountability in the face of the identified threats;
- Building the capacity of those charged with protecting and promoting civic space in the digital era; and
- Mobilizing academia and engaging in cross-sectoral research in order to better understand the exercise of fundamental freedoms online and provide practical strategies to overcome identified challenges.



Conveners

Civil Society Reference Group: A Kenyan coalition whose role is to protect and enhance an independent and effective civil society voice and agency for public benefit.

Collaboration on International ICT Policy for East and Southern Africa (CIPESA): A leading center for research and analysis of information aimed to enable policy makers in the region to understand ICT policy issues, and for various multi-stakeholders to use ICT to improve livelihoods.

International Center for Not-for-Profit Law (ICNL), an international organisation that has provided technical expertise on enabling legal frameworks for civil society in over 100 countries worldwide and over 20 in Africa.

Participating Organizations

1. Access Now
2. Article 19 – East Africa
3. Article 19 – West Africa
4. Association for Progressive Communications: All Women Count-Take Back the Tech! (Kenya)
5. Bloggers of Zambia
6. Centre for Human Rights, University of Pretoria (South Africa)
7. Centre for Human Rights and Rehabilitation (Malawi)
8. Chapter Four Uganda
9. Civil Society Reference Group (Kenya)
10. Collaboration on International ICT Policy for East and Southern Africa
11. DefendDefenders (East and Horn of Africa)
12. Dignity Television (Cameroon)
13. Freedom of Expression Hub (Uganda)
14. #GambiaHasDecided (The Gambia)
15. Human Rights Defenders Network (Sierra Leone)



16. International Trade Union Confederation – Africa
17. Internet Society – Benin Chapter
18. Inuka Kenya Ni Sisi (Kenya)
19. Jamii Forums (Tanzania)
20. Just City Coalition (Kenya)
21. Kenya Correspondents’ Association (Kenya)
22. Legal Aid Service Providers’ Network (Uganda)
23. Legal Resources Centre (South Africa)
24. Ligue Burundaise des Droits de l’Homme (Burundi)
25. Ligue des Droits de la Personne dans la Region des Grands Lacs /
Observatory of Rights in the Great Lakes Region (Burundi, DRC, Rwanda)
26. Media Institute of Southern Africa – Zimbabwe Chapter (Zimbabwe)
27. Media Policy Research Centre (Kenya)
28. Media Rights Agenda (Nigeria)
29. National Coalition of Human Rights Defenders (Kenya)
30. Nigeria Network of Non-Governmental Organisations (Nigeria)
31. Pan-African Visions (Kenya)
32. Reseau Ouest Africain des Defenseurs des Droits Humains / West African
Human Rights Defenders Network (West Africa / Togo)
33. Si Jeunesse Savait (Democratic Republic of Congo)
34. Tanzania Human Rights Defenders Coalition (Tanzania)
35. West Africa Civil Society Institute (West Africa / Ghana)