

**STATEMENT**  
**UPR Pre-session on Namibia**  
**Geneva, Switzerland 25-26 March 2021**

**Internet Society (ISOC) Namibia**

**Presentation of the Organization**

This statement is delivered by Internet Society Namibia chapter, a local chapter of the global internet society. Our mission is to promote the development of the internet as a global technical infrastructure, a resource to enrich people's lives' and a force for societal good. We are part of the Action Coalition of Namibia. However our report for this year was submitted in partnership with CIPESA and Small Media.

**National Consultation for the Drafting of the National Report**

Namibia, through the Ministry of Justice, hosted the National Consultation and Drafting for the UPR report during the week of 05-09 October 2020. However the Internet Society Namibia chapter was not invited at this consultation after various requests to be included in the consultation and thus we are also not aware of how many consultations were conducted after the country's second review in 2016.

**Plan of Statement**

This statement addresses the following issues: (1) Freedom of Expression, (2) Access to Information and (3) Data Protection and Privacy.

**Statements.**

**1. Freedom of Expression**

**1.1 Follow up to the First Review**

In its first review, two countries, specifically Sweden and Norway, gave recommendation on freedom of expression. Sweden called for measures to safeguard freedom of expression and Norway emphasized the importance of government to create close corporation with CSO's and media houses to safeguard freedom of expression in the country. Few changes were made with regards to freedom of expression and that media and freedom of expression is guaranteed under article 21 of the Namibian constitution, nonetheless, other laws restrict freedom of expression in Namibia as well, amongst them is the Protection of Information Act 84 of 1982 and the Namibia Central Intelligence Service Act 10 of 1997 (NCISA) which has been used by authorities to silence the media.

Although there are no reports of journalists killed, imprisoned, reported missing or harassed, assault and threats to practitioners are not uncommon in Namibia. In April 2020, as part of regulations to curb the spread of the COVID-19, Namibia outlawed the publication of false or misleading statements related to the virus including on social media. The offense is punishable with a fine of up to 2,000.00 Namibian Dollars (USD 134.00) or imprisonment of up to six months.

## **1.2 New Development since the First Review**

Despite these challenges, one cannot deny the positive development and changes made by the government since its first review in 2010. The government has increased its financial allocation to the office of the Ombudsman Namibia to continue with its advocacy and engagement. In June 2020 the Namibia Access to Information Bill was tabled before the National Assembly and is now under consultation. Still in 2020 Reporters without Borders ranked Namibia at number 23 in the world and number one in Africa for Press Freedom. So far we have also not had any journalist or anyone killed for freedom of expression.

## **1.3 Recommendations**

For this, we recommend that the government of Namibia: Amend Article 21 of the Namibian Constitution to remove restrictions on freedom of expression on the undefined grounds of “decency or morality” “defamation” or “incitement” and desist from criticism and harassment of journalists and the media.

## **2. Access to Information**

### **2.1 Follow up to the First Review**

In its first review, about six countries gave recommendations on issues of and around access to information, these countries were: Germany, Austria, Mexico, Spain, Malaysia and Niger. One of the recommendations made by Germany was “To take effective measures to enhance the access to public services concerning person who do not speak the official language”. While there are some development on this matter, access to information continues to be a challenge and most CSO especially in the media space have been advocating for the access to information bill which the country currently does not have one enacted. Access to information online is another major concern in the country. Most government ministries websites and social media platforms are outdated with information which hinders the ordinary citizens to acquire current up to date information needed. The Women’s Rights Online report done by the Internet Society Namibia chapter also found that there is an increase in gender inequality when it comes to access to information online, for example the report found that only 47% of Namibian women have access to the internet. No National Policy including the Gender Policy recognizes ICT as a tool for fighting gender inequality.

### **2.2 New Development since the First Review**

Since the first review, the country has done some development with regards to providing information to Namibian people especially in vernacular languages. Namibia also has a National language policy in place which calls for the promotion of local language. However this policy caters mostly for the promotion of local languages in our education lower primary learners. The policy is also long outdated as it was set up in 2003 and does not reflect to the most current language barriers issues. Defendants or accused in courts are also allowed to speak in their preferred language where interpreters do the translations. The national broadcaster has television and radio programs in 8 or more languages. As well as some newspapers that also has sections in vernacular languages. However with all of this, journalist in most

cases are hindered to acquire relevant information to report on especially national information as the country currently do not have the access to information laws. Another hindering factor especially in the technology space is the accessibility and affordability of internet. Namibia is one of the countries with the highest internet cost. A report that was done by Internet Society Namibia chapter on Women Rights Online also proofed that 1GB of data in Namibia cost over 8% of average monthly income. Government has also established community multi-purpose centres in the different regions to create access to information, however many are not fully functioning, equipment breakdown and lack of connectivity are an ongoing concern when it comes to accessibility of information online.

### **2.3 Recommendations**

As access to information is a major concern to the ordinary citizens especially now in times of covid-19 where large crowds of physical gathering is not allowed. We urge our Namibian government to:

- Repeal the Protection of Information Act no. 84 of 1982, especially in light of the Access to Information Bill.
- Amend the Namibia Central Intelligence Service Act. 10 of 1997, by repealing section 4 which bluntly prohibits persons from accessing information on grounds of “National Security”.
- Amend part 6 of the Communication Act, be repealing section 9, and criminalizing unauthorized interceptions and surveillance of citizens.
- Repeal the Protection of Information Act no. 84 of 1982, especially in light of the Access to Information Bill.

## **3 Data Protection and Privacy**

### **3.1 Follow up to the First Review**

The first review on the country did not have specific recommendations on data protection and privacy. The recommendations given and that indirectly speaks to protection and privacy where more on having policy on equality, safeguarding of human rights as well as protection and promotion of human rights. In as much as these recommendations are outlined, they do not speak on the data protection and privacy online.

The right to privacy is provided for under Article 13 of the Namibian constitution which states “No person shall be subject to interference with the privacy of their homes, correspondence or communications save as in accordance with law and as in necessary in the democratic society in the interest of national security, public safety or the economic well being of the country for the protection of health or morals, for the prevention of disorder or crime or for the protection of the rights of freedom of others”.

The Women Rights Online report also found that the Namibia Police and their Women and Child Protection unit have not received any training on *ICT violence against women*. Usage of existing laws to curb cyber violence, has surfaced in the past, bringing little to no justice to victims. There is no data protection law in place to protect victims of online violence. Namibia is without law regarding privacy and data protection law. Nonetheless, several private and public actors do collect personal data in

Namibia without any regulatory enforcement. In 2017, the Communications Regulatory Authority of Namibia enforced a provision within the Communications Act enforcing mandatory SIM card registration through telecommunications operators.

Online violence against women and children has become challenging to both government and law enforcement institutions given the status of outdated laws. This puts women in a vulnerable position and their privacy not protected in the cases of revenge porn and children face the harm of online bullying thus leading to potential mental health challenges.

### **3.2 New Development since the First Review**

In February 2020, a multi-stakeholder consultation on the data protection bill was hosted, reportedly engaging with 85 participants including representatives from the offices of the President, Vice-President, and Prime Minister; Parliament and other agencies including civil society organizations. In the absence of a data protection law, incidents of data breaches have been reported from the corporate to the individual level. Further stakeholder consultations on the Bill were conducted between September to mid-October 2020 via online platforms by the Ministry of ICT with the support from the Council of Europe.

In 2017, the Communications Regulatory Authority of Namibia (CRAN) enforced a provision within the Communications Act requiring mandatory SIM card registration through telecommunications operators. The registration exercise was later abandoned as civil society and media raised concerns. There are reports that SIM card regulations are under review as part of the ongoing review of the Communications Act. In June 2019, the Ministry of Information and Communications Technology tabled the Electronic Transaction Bill before the National Assembly. When it was first published in 2017 as the Electronic Transactions and Cybercrime Bill, civil society raised concerns stating that various sections provided for “warrantless search and seizure operations”, while other sections allowed for “a system of secret warrants and unauthorized access by state agents”. The Bill was later split, with the Electronic Transaction Act being passed by parliament but pending ministerial gazette. The Act empowers law enforcement officials to conduct interception and surveillance of communications as part of their investigations (Chapter 8), with the assistance of telecommunications companies and internet service providers. On the other hand, online violence against women remains a challenge. A report by the World Web Foundation revealed that the lack of cybercrime and data protection legislation in Namibia puts women at risk of violence, and in vulnerable positions in the cases of non-consensual image sharing (also known as revenge pornography), as well as with regard to online blackmail and sexualized hate speech.

### **3.3 Recommendations**

- Operationalise the Universal Service Fund and the National Broadband Policy (2020) to promote affordable, equal and equitable access to the internet and related technologies among women and underserved communities.
- Enact Cybercrime, Data Protection and Privacy legislation in compliance with Article 21 of the Constitution and international human rights standards and obligations.