



# DRL Civil Society Policy Shaping Workshop

Expanding the Reach and Deepening the Content of Digital Rights in Africa



 Monday, **7th** - Thursday, **10th February, 2022**





## CHAPTER ONE

### 1.0 BACKGROUND

In 2020/2021 Paradigm Initiative (PIN) after assessing the state of digital rights in Africa discovered that there is a challenge of little or no understanding of digital rights among policy and law makers in African countries. Therefore, in order to provide solutions to these challenges, PIN secured a fund through the US state department on Democracy, Human Rights & Labour (DRL) to increase awareness through workshop to the said group. This project aims at ensuring expansion of digital rights to legislator's, policy makers and other stakeholders in African continent. This will help the improvement of both legal and institutional frameworks in the continent. This project targeted various counties in Africa including Tanzania.

The objective of the DRL Civil Society Policy Shaping Workshop

- *Expanding the reach and deepening content of digital rights training workshops with legislators and policy makers across the continent*
- *Expanding the reach and deepening the content of our digital rights workshops across Africa*

With the above explanation, this is why Paradigm Initiative (PIN) contracted Zaina Foundation as a country host to implement this project in Tanzania.



## CHAPTER TWO

### 2.0 METHODOLOGY

The workshop was conducted physically in Dar es salaam region. It involved two groups of civil society policy shaping group, whereby for the first two days of the workshop it involved participants from CSO's, TCRA and Active citizens. While for the last two days of the workshop it involved participants from media, advocates and academia. A total of 40 participants were reached in both groups whereby female were 12 and men were 8 for the first two days, while for the last two days' men were 7 and female were 13.

The workshop was structured into Seven (7) intersecting modules. Whereby, module 1 was on an overview of the state of Digital Rights in Tanzania. This session aimed to raise understanding on the state of digital rights in Africa. It highlighted digital rights challenges faced by African countries and the situation of digital rights in Tanzania particularly.

Module 2 was on Social media and election. This session was there to bring understanding on the power of social media in politics, its challenges and its opportunities.

Module 3 was on overview of Cybercrime Act No.14 of 2015. This session was there to give participants an overview of the online penal law and its offences in Tanzania.

Module 4 was on the overview of Electronic and Post Communication (Online Contents) Regulations 2020. The session was aimed to give participants with highlight on clear analysis of the regulation.

Module 5 was on the role of shaping group in enhancing digital rights in Tanzania. This session was there to give a highlight to the participants to discuss and strategize best options to engage with law and policy makers for amendment.

Module 6 was on digital security masterclass. This session aimed to increase digital security skills to participants.

Module 7 was about round table case study sharing. This session was kept in order to allow participants to share experience on their advocacy activities (success and challenges).



Ms. Zaituni during her remarks in DRL Policy Workshop

## CHAPTER THREE

### PROCEEDINGS OF THE WORKSHOP

#### **3.1 Welcoming Remarks and Agenda Setting**

Before remarks were given, the programs of the workshop begun first by arrival and registration of the attendees. The attendance register is essential in keeping record for the number of attendees of the training. The workshop started by welcoming remarks from executive director of Zaina Foundation and representative from Paradigm Initiative program officer in charge of East Africa.

Executive Director from Zaina Foundation Ms. Zaituni Njovu gave her welcoming remarks by expressing her sincere gratitude to the participants who accepted to participate in the DRL Policy shaping workshop. She further explained to the participants about Zaina Foundation, objective of the workshop and made some introductory part

Additionally, Adv. Ekai Nabenyio who is a PIN program officer in charge of East Africa gave his remarks. The remarks touched a brief enlightening of what is PIN and why digital rights. He said, Paradigm Initiative is a pan Africa digital rights organization with its headquarter in Nigeria. He further explained that our lives are now defined by internet. We are connected with internet. This is why digital rights is now turned into a basic need after food and shelter is now internet. The world is turning into internet. Digital Rights is now the agenda of UN and AU. COVID 19 pandemic has also being a blessing. Working at home means you are at home and connecting and working from home using internet. For him before COVID 19 he never knew about zoom application. So internet is now a basic human right. Within that framework there is something called data protection for example if you want to visit a person in her/his apartment you fill your personal details at the gate before entering. Have you asked yourself where are those books are kept after being filled out? At office also for instance Zaina Foundation they have visitor's books where visitors are putting a lot of personal information in those books, have you asked yourself how are those data used? This is why countries needs data protection law to ensure data are safe?

Therefore, PIN is there to ensure that data which is in the hands of so many people are protected. Telecommunication companies have your data, google know your data so what is the protection. We are here to discuss state of digital rights in Africa and Tanzania in particular after today we will discuss about the same with other group of lawyers, academia, media etc. In the near future we will have the same discussion with law makers and policy makers. So let's work together with government in order to speak direct to the government about the state of digital rights in the country.



Figure 2: Adv. Ekai Nabenyio gave his welcoming remarks during DRL Policy shaping workshop

### 3.2 Module I: Overview of Digital Rights in Africa

This module was facilitated by Adv. Neema Olle Ndemno from Zaina Foundation who started by giving an overview of digital rights in Africa. She gave an outline of her presentation where she started to introduce digital rights, state of digital rights in Africa, Challenges facing digital rights in Africa, state of digital rights in Tanzania and conclusion. In her presentation she noted that the number of online users are increasing not only in the world but also in Africa and Tanzania as well. She further explained that “Many governments are taking steps that undermine internet access and affordability, and weaken the potential of digital technologies to catalyse free expression and civic participation”. There has been an increase of digital rights violations in African countries such as arrest and intimidation of online users, internet blockage, enactment of laws and regulations which undermine FoE, right to privacy and press, surveillance and data privacy, online GBV/ cyber bullying and unreasonable taxation to online users. In her conclusion she said that “it is evident that the state of internet freedom and digital rights in Africa is worrying, and could yet get worse, but this is why we are here to discuss this and a way forward”



Figure 3: Adv. Neema presenting the overview of digital rights in Africa during DRL Policy Shaping Workshop

### 3.3 Module II: Social Media and Politics

This module was facilitated Hon. Neema Lugangira (Member of parliament) who started by reminding lawyers and advocates their role in educating the communities about various laws. However, she raised her concern about the statistics on the number of internet user in Tanzania which was provided by TCRA to be 22 million. Her concern was “Is it real that we have a total of 22 million internet users in Tanzania? How did they obtain these findings? Did they obtain from mobile sim card registration or? Because if it's through sim card registration it will have a challenge because to her side she registered four different lines. She added that some of people are using/ practicing their right to FoE to harass and shut other up others. And most of times if one doesn't comment it means she/he is encouraging other to continue with the same violence. This has led some people especially women not to use social media especially twitter. She added that currently most of women MP are not on social media.

“For instance, currently we have about 143 – 145 women MP's but those who are active on social media are only 12 -15 women MP's.” Said Hon. Neema Lugangira.

She continued by saying this is a very shocking news. Do you know the impacts of this? It has led to prevent the works of women MP's not to be seen to the community as well as preventing women MP's from connecting with their communities. Therefore, she advised that we women MP's are supposed to be capacitated on digital rights and how to be secured online.

In summing up the facilitator encouraged CSO's to engage

more with MP's in order to let them understand their work and campaign in order to push for their agendas.

### **3.4 Module III: An Overview of Tanzania Cybercrimes Act No.14 of 2015**

This session was facilitated by Adv. Neema Olle Ndemno who started her presentation by giving an overview of the Act, analysis, critiques of the Act and conclusion. She explained that the Act was adopted in 1st April 2015 and that before 2015 in Tanzania, there was no a penal law criminalizing offences associated with ICT. Therefore, the Cybercrimes Act was enacted to make provisions for criminalizing offences related to computer systems and Information Communication Technologies; to provide for investigation, collection, and use of electronic evidence and for matters related therewith. The Act is divided into 7 parts and it has 59 sections. Whereby,

**Part I** contains preliminary provisions (which include short title, commencement of the Act, application and interpretation sections).

**Part II** provides for the provisions relating to offences committed and relative penalties.

**Part III** deals with the jurisdiction of courts in relation to the offences committed.

**Part IV** provides for procedures and powers of search and seizure of the properties suspected to have been used in the commission of offence.

**Part V** contains provisions that relate to liability of service providers for the purpose of prescribing the extent and manner in which service providers are liable during provision of online services.

**Part VI** provides for general provisions which include, immunity to law enforcement officers when executing their duties, forfeiture of properties, provisions relating to offences committed by corporate body, powers of the Director of Public Prosecutions to compound offences and powers of the Minister to make Regulations.

**Part VII** provides for consequential amendments.

The facilitator added that the Act has some good provisions which include provisions which deals with Illegal system interference, Illegal device, Computer related fraud, Child pornography, Identified related crimes (impersonation), Racist and Xenophobic material, Racist and xenophobic motivated insult, Genocide and crimes against humanity, Unsolicited messages, Disclosure of details of investigation, Obstruction of investigation, Cyber bullying, Violation of Intellectual property rights.

However, the Act has some critiques that the Act failed to define some key words for instance in section 7 and 8 the

words "unauthorized data", "false information". Section 7 (2b) and "unsolicited messages" in Section 30 makes the law open to misinterpretation and abuse by state authorities. In section 16 the words on the Publication of false information, the terms "deceptive, misleading and inaccurate information" are subjective and open to abuse by implementers of the law. Further the facilitator mentioned that, Sections 31, 32, 33, 34 and 35 of the Act provide excessive powers to the police for search and seizure of computer systems; and disclosure of data. These sections should provide clear guidelines, safeguards and oversight, including the requirement for a warrant issued by a competent court of law before any search and seize or disclosure of data is to be undertaken.

In winding up this session the facilitator said that "From the analysis of the Cybercrime Act no 14 of 2015, it is clear that the law despite having some good intention but to some extent it has overt disregard press freedom, privacy and freedom of expression, the excessive powers granted to police, and the limited protections afforded to ordinary citizens".

### **3.5 Module IV: An Overview of Electronic and Post Communication (Online Contents) Regulations of 2020**

This session was facilitated by Adv. Frank Chacha from Legal Fountain Advocates. The facilitator started by giving an introduction of the Regulations, analysis critiques and conclusion. The facilitator started by introducing the Regulations by saying "In March 2018, the Electronic and Postal Communications (Online Content) Regulations 2017 were signed into law, introducing new legal requirements for bloggers, internet users and online media that, to a large extent, threaten freedom of expression, rights to privacy and freedom of assembly through online platforms. In July 2020, these Regulations were repealed and replaced by the Electronic and Postal Communications (Online Content) Regulations 2020".

The Regulations is challenged for Imposing a mandatory requirement for licensing online contents provider, the provisions are prone to abuse and subject to various interpretations. For instance, a person who uses his or her account for "Facebook Live" may encounter the consequence of translation as it can be considered as a way of broadcasting the contents to public unlicensed which is an offense under the regulations. Further, Rule 3 and rule 4 of the regulations make it difficult for a person who wants to post online content. Application for the license is accompanied with the following do, according to regulation 6 this create a room for bureaucracy and its

infringing other peoples' rights to freedom of expression since it disregards the role of community journalists.

Therefore, Regulations reinforce criminal defamation, restrict anonymity, provide hefty punishments for the violations, impose a mandatory licensing without give room for individual who can't afford, and annual, restricts the right to FoE and access to information without comply with international STD, fees and grant sweeping powers of content removal to the Tanzania Communications Regulatory Authority (TCRA) and intermediaries. Generally, all these are incompatible with the internationally acceptable standards and have the effect of stifling legitimate freedom of expression and press freedom in Tanzania.

### 3.6 Module V: Role of Policy Shaping Group in Enhancing Digital Rights

This module was facilitated by Ms. Maria Matui from WATED. She started by saying that in UN and AU they regard digital technology as important right to human being. As CSO's which ways/ strategies/ and various declarations are uttered by the government that we use to use to persuade the government to take our agenda? The facilitator also raised that in considering policy engagement there are issues that needs to be considered including;

- We have values/ norms/ cultures/ believes which we are following. Does what you are advocating reflecting your national believes and culture.
- Who are our allies and who are not your allies
- Lets strategise institutions (which ones you will engage them. And capacitate them (both government and non – governmental organization)
- Increase the understanding of digital rights to various groups of people (religious leaders, traditional leaders, academia, media, CSO's etc)

However, the facilitator highlighted that in policy issue engagement there are different challenges that need to be handled these include; competition within the sector (NGO's), involvement of external expertise etc.

### 3.7 Module VI: Digital Security Masterclass

This module was facilitated by Mr. Godwin Assenga who is working as ICT officer at TAMWA and Peter Mbwambo from PIN. The facilitator started by posing a question to participants to measure their understanding on the subject matter. He asked the participants what is digital security? The participants said digital security means phones, laptops, email, hacker's etc. Hackers are the online intruders in our online platforms. Others said it's how to be safe online.

The facilitator outlined his presentation to include introduction to digital security, computer hygiene, social network and private setting and surveillance and censorship.

The facilitator further asked the participants to share their experience on the following question

- What is the digital security incidences have faced before?
- What was the impact?
- What are the solutions?

"One participant Mr. Samata shared that in 2014 his Facebook account was hacked and the hacker shared porn videos on his Facebook. Another attack was on his g-mail email therefore he contacted TCRA people and told him to go with his computer to no avail. Later he contacted ICT people and he helped him. the ICT person told him it's because of liking some pages unknowingly. Some pages which you follow invites those hackers" Said Mr. Ibrahim Samatha, February, 2022.

*"Another participant Ms. Maria Matui said she bought a new laptop some years back. When she started using the laptop she noticed a certain IP address is signing in to her laptop. She returned the laptop to the shop. By then she had a bad habit of not signing out her email addresses and social media accounts in her laptop. Unfortunately, she was out the country so she communicated with IT technician so they advised her to change passwords of the laptop and emails, install antivirus (Kaspersky), turn on 2FA and Set on notifications. That is how I managed the problem", Said Maria, during DRL Policy shaping workshop, February 2022.*

Therefore, in summing up this session the facilitator conducted a digital rights clinic where participants were directed to set and install open source safe application in their mobile ,set passwords and password managers, as well as set privacy in their social media handles.

Additionally, Peter Mbwambo who was a co- facilitator in this session had the following to add in this session. He warned the participants that a lot of hackers are using public WiFi at hotels and airports So they are advised to switch on their VPN while using public WiFi. He also encouraged participants to use encrypted VPN's. However, he advised the participants to wear their bags in front when using public transport, as well as not to shake their elbow when putting passwords in ATM machines since bank security is low.

### 3.8 Module VII: Round Table Case Study Sharing on Advocacy on Digital Rights

#### 3.8.1 Zaina Foundation

Zaituni Njovu from ZF – Internet shutdown in 2020  
Why ZF focused on Internet Shutdown? ZF did an

assessment before 2020 to foresee what challenges will Tanzania face as heading to the general election? And in that assessment we understood that the country enacted Cybercrime Act in 2015, and in 2018 introduced EPOCA regulations which were later repealed and replaced in 2020. These Regulations infringed the freedom of expression, rights to associate online and speech. The other thing is that the neighboring countries like Uganda and Kenya imposed internet shutdowns, therefore it's was obvious for Tanzania to impose internet shutdown in its general election. The targeted beneficiaries for this project are online platforms users, government officials and telecommunication companies.

Challenges faced during the project-

Engagement of the government in this project was hard since ZF failed to meet TCRA and telecommunication companies.

### **3.8.2 Paradigm Initiative**

#### **Adv. Ekai Nabenyo**

PIN had a Ripoti tool which various countries used to document various violations or digital rights incidences happening in their countries. Therefore, the facilitator shared and showed the participants how to use the Ripoti tool to report those violations and digital incidences in their countries.

### **3.8.3 Zaina Foundation**

Zaina Foundation since 2020 run KeepItOnTZ campaign for the aim of raising awareness about impacts of internet shutdown in Tanzania. This campaign run by us in collaboration with 10 coalition members in Tanzania to prepare, respond and resist about network disruptions in Tanzania. During 2020 election Tanzania joined other

countries in shutdown internet. The main reason was presidential election. Major social media like WhatsApp, Tweeter, Instagram, Facebook and Youtube were targeted during this incidence.

The impact was shrinking of civic space in Tanzania.

During this campaign the first phase was before election whereby we trained women journalists about internet shutdowns and circumvention tools, the second phase was advocacy campaign through tweeter and close to election we localized and support activists for circumvention tools.

Post-election we are doing advocacy on policy reform and litigation.

### **3.8.4 HAKI MAENDELEO**

#### **Wilfred Warioba**

-Haki Maendeleo had a digital right project - improving accessibility for marginalized communities which aim to improve digital accessibility to the vulnerable and marginalized communities. Among the activities of this project was to advocating for data protection bills online transaction

#### *Strategies*

- They engaged ministry of constitution and legal affair, law reform commission, and CHRAGG. They showed that they were happy

#### *Challenge*

- The government refuse all the recommendations which deals with FoE, press, and digital rights during UPR process.







## CHAPTER FOUR

### WAY FORWARD AND CONCLUSION

#### 4.1 Way Forward

The following are the way forward recommended by the participants during the DRL Policy shaping workshop

- Advocate for reasonable fees to allow low income earners to enjoy digital rights
- Review of the EPOCA regulations to observe the principle of natural justice including the right to be heard and no one should be made a judge of his own cause.
- Review and reduce the stiff punishments for failure to comply with the license.
- Review the requirement to install surveillance cameras for internet café since it violate the right to privacy
- Reduce the mandate of regulatory bodies in order to allow fair trials
- Review the Cybercrimes Act of 2015 and EPOCA to observe international standards as stipulated under the ICCPR and African Charter
- Review the Cybercrimes Act of 2015 to define vague and broader terms.
- Enactment of data protection law in Tanzania
- Increase digital rights awareness and legal understanding to the communities
- The law should add another offence of internet shutdown without prior information

#### 4.2 Conclusion

The workshop was closed by Mr. Ibrahim Samatha and madam Shida Kaburuge who thanked the organizers and PIN for supporting this workshop which enriched the participants with knowledge and skills on digital rights/ security and left a debt to the participants on advocating for the sustainable solutions facing digital rights challenges in Tanzania.

