



Submission to the Special Rapporteur on the promotion and protection of freedom of opinion and expression

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## Introduction

This is a joint submission made by Gender Links (GL) and the Advancing Rights in Southern Africa Programme (ARISA).<sup>1</sup> This submission is in response to a call by the Special Rapporteur on the promotion and protection of freedom of opinion and expression in the context of to inform the thematic report on the right to freedom of opinion and expression and gender justice for the 76th session of the General Assembly.

Gender Links is a Southern based Women's Rights organisation working across all 15 Southern African countries. GL coordinates the [Southern African Gender Protocol Alliance](#) that campaigned for the adoption of the Southern Africa Protocol on Gender and Development in 2008. Originally aligned to the Millennium Development Goals, the Protocol brings together global and international commitments to gender equality. In 2016, the Protocol was aligned to the **Sustainable Development Goals**. GL is founding chair of the Global Alliance on Gender and the Media (GAMAG). GL is a global and regional **thought leader on gender and the media**. GL works closely with media houses to undertake training and research. Every five years back to back with the Global Media Monitoring PROJECT GL conducts a Southern Africa based Gender and Media Progress one of the most extensive media monitoring studies undertaken in any region of the world providing a wealth of data for advocacy and action planning as well as sharing.

ARISA is a regional programme that seeks to improve the recognition, awareness, and enforcement of human rights in the Southern Africa Development Community (SADC), including the protection of the region's most vulnerable and marginalized groups. ARISA has particularly identified the thematic areas of women's customary land rights and the rights of indigenous populations as crucial for the promotion of human rights in Southern Africa.

The submission will show how freedom of expression intertwines with gender equality and frames the existence of online gender based violence as a hindrance to women's freedom of expression and opinion and public participation.

As the Vienna Declaration and Programme of Action proclaimed, women's human rights are interdependent, indivisible and interrelated. The right to freedom of opinion and expression is fundamental for the enjoyment of a whole range of human rights, and for women's political and economic empowerment and public participation. However, sexual and gender based violence, harassment and discrimination, as well as multiple legal, systemic, structural and

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<sup>1</sup> With support from USAID, the PROGRESS Consortium is currently implementing the Advancing Rights in Southern Africa (ARISA) Programme to improve the recognition, awareness, and enforcement of human rights in the region, including protection of the region's most vulnerable and marginalized groups. The Progress Consortium is made up of Freedom House, the American Bar Association (ABA), Internews and PACT. The ARISA Programme will run for a period of five (5) years with a focus on the following thematic issues which have been identified as crucial for the promotion of human rights in Southern Africa:

- Women's customary land rights;
- Rights of indigenous populations;
- Media freedom and digital rights; and
- The rights of human rights defenders as a cross-cutting theme.

cultural barriers remain major impediments, denying women full enjoyment of their rights, including freedom of opinion and expression.

While digital technology has expanded opportunities for women to access information, communicate, mobilize and amplify their voices, it has also exposed them to new and severe threats in the on-line space. Freedom of opinion and expression is not only suppressed but also weaponized against women in the digital sphere.

using an intersectional approach that draws on the experiences of women, both online and offline, the report sets out the main challenges that women face in exercising their freedom of opinion and expression in the public space, analyse the international legal framework from a gender perspective, as well as the roles, responsibilities and practices of State and non-State actors including the internet intermediaries, and propose recommendations.

Gender Links (GL) with the support of the Advancing Rights in Southern Africa (ARISA) program makes these submissions to contribute to the dialogue, knowledge and much required advocacy which seeks to ensure women attain freedom of opinion and expression as they participate in both offline and online spaces.

GL recognises the immense potential of the internet as a tool to promote and empower women as envisaged under Sustainable Development Goal 5 which amongst other things seeks to enhance the use of enabling technology, in particular information and communications technology (ICT), to promote the empowerment of women.<sup>2</sup> The internet has especially proved to be the go-to platform for many women and women's rights organisations who seek to challenge the status quo, raise their voices, and who try to access a world they would not have ordinarily accessed. Women are beginning to claim these alternative spaces for information and communication.

It also recognises the downside of ICTs which has propelled and given rise to online gender based violence. The internet has become yet again another sphere where women's voices are stifled and where violence against women continues to grow with limited justice for those who suffer this violence. Although online spheres have strengthened freedom of speech and access to information, this should not be at the expense of women's dignity, safety, privacy and freedom to participate.

### **Barriers, challenges and threats women in the public sphere face in exercising their freedom of opinion and expression online and offline**

Conversations on freedom of expression and opinion often focus on freedom from government interference or the absence of laws that hinder the press and not so much on citizens', activists freedom to communicate and express themselves in and through media and ICTs. This framing negates discussions on the difficulty of women in reaching certain roles in the media, covering certain topics, or expressing themselves online and offline.

Misogyny and abuse, crude insults, sexual harassment, trolling and ridicule – the list goes on – are some of the forms of violence women face as they try to participate in dialogue, debates and make their voices and presence count online.<sup>3</sup> Online violence against women in particular women journalists has been dubbed the "new frontline in journalism safety" - a particularly dangerous trend for women journalists<sup>4</sup>. Online violence that happened offline has

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<sup>2</sup> Sustainable Development Goal 5 <https://sdgs.un.org/goals/goal5>

<sup>3</sup> Nyamweda, T. 2018. Whose online is it anyway.

<sup>4</sup> UNESCO.2020. Online violence Against Women Journalists: A Global Snapshot of Incidence and Impacts

transcended to online spaces and can be seen as a continuum. With all this violence at play it is important to note that attacks against female journalists pose a clear threat not only to their safety and well-being, but also to the diversity of the press and to freedom of expression.<sup>5</sup> It is therefore important to critically assess the gendered dimensions of what happens in online spaces and the behaviours that are exhibited in these spaces so as to understand this new public sphere better and come up with concrete measures to curb these violations.

Vocal women online tend to be gagged and/or shamed when they share opinions especially on issues that are deemed sensitive, resulting in many women shying away from expressing themselves. Women who provide robust contestations are often deemed oppositional and having no business challenging the status quo. Pushing an agenda that one believes in is often questioned or criticised. There is a lot of backlash against feminists on social media platforms who put out content that aligns to their beliefs and agenda which may not be popular with many such as safe abortion. It may also be seen as going against the dominant religious or cultural contexts. We will not see diversity and multiplicity of voices if freedom to have opinion and freely expressed it are not realised by all citizens.

Gender Links in 2018 conducted a study on Glass Ceilings in the South Africa media houses. A respondent in this research noted that "When females do stories on certain issues that touch very close to home for certain males, the reaction is a very negative one on social media. Women have drawn a lot of flak on air for challenging the patriarchal perceptions in the past, and still do."<sup>6</sup>

The same study reveals that more women journalists who took part in the study agreed that there is gendered harassment where women journalists do face cyber violence. While only a few women reported cyber stalking, quite a few said they had been victims of unknown email or cell phone correspondence issuing violent threats, bullying and trolling, often of a sexual nature. Although some journalists feel there is nothing that can be done since it is difficult to what people say online others have noted that cyber bullying for example must be reported to the highest authorities in media houses.

### **Distinct challenges faced by those who experience multiple and intersecting forms of discrimination**

Challenges women journalists and feminists face online are often looked at in a one dimensional way and women as a homogenous group. Looking at the gender specific elements in isolation of the intersecting elements especially, "simplifies, silences and contributes to the erasure of the experiences of women leaving a gap in analyses that do not allow for adequate exploration of the nuances of online behaviour and discrimination.<sup>7</sup> To counter this, we need initiatives that are multi layered and speak to the intersectional issues where discrimination can stem from including race, sexuality, class, religious backgrounds, to name a few.

### **The pandemic, economic crises and recent political unrests effect on women's ability to communicate, protest and access information online offline**

The internet has changed ways in which women organize with a considerable number of activists tapping into the online space to ensure their conversations are carried forward. On

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<sup>5</sup> UNESCO 2019. UNESCO stands up against the online harassment of women journalists  
<https://en.unesco.org/news/unesco-stands-against-online-harassment-women-journalists>

<sup>6</sup> Daniels, G and Nyamwed, a T. 2018. Glass Ceilings: Women in South Africa media houses. Ender Links Johannesburg.

<sup>7</sup> Hackworth, L in Vickery, J.R. and Everbach T. 2018. Mediating misogyny Gender Technology and harassment

the other hand, this left behind many other who do not have access, cannot afford the costs and lack know how in terms of using ICTs.

### **Examples or information on ways in which freedom of opinion and expression has been abused or appropriated to undermine women's human rights?**

Reporters are often encouraged, and sometime required, to promote their work and interact with audiences online. But audience engagement can have ugly consequences as some people use Twitter, Facebook and other online platforms to attack members of the press especially women journalists who dare to speak on certain issues which have traditional framed as "men's domain".

### **Key elements of a gendered perspective on the human right to freedom of opinion and expression A feminist perspective to the understanding of this right**

Online gender-based violence (GBV) must be seen as a freedom of expression issue. Ending online GBV is one of the most important feminist principles of the internet. With the perpetuation of online GBV, public participation that could support the actualisation of human rights such as freedom of expression become limited. Freedom of expression and opinion offline or online with no feminist lens is the perfect tool to justify harmful behaviours that undermine women's voices offline and online and limits this right.

Voice is one of the most important measures of gender equality in and through the media. Women already have a voice but these voices need to be amplified whether offline and online and there needs to be an enabling environment to ensure that women can be able to access and freely participate in the media in such a way that contributes to their being heard. Women's voices are systematically silenced for example, through having fewer women practitioners in the media and even fewer reporting on issues which have traditionally been considered more "adequate for men", or where very few women's voices and opinions are heard through media content. In Southern Africa 1 in every 5 (20%) news sources is a woman<sup>8</sup>. This legitimates the superiority of men's voices as the dominating factor hiding the equally valid voices of women that are not reflected in public discourse.

Women's right to freedom of expression requires equal access to spaces for public debate, and be equally able to share their ideas and opinions without censorship, or fear of retaliation. When women using technology are routinely faced with threats or other digital attacks, it can have the effect of driving them offline and out of debate, whether fearing for their safety, or because the barrage of abuse becomes unbearable whenever they open their devices. This may operate as a form of self-censorship – women face the issue of deciding to access certain forms of technology or speak out online when they are at risk of abuse, which can often escalate to threats to their physical safety. Restriction of women's access to information and expression online in this form therefore often has a similar impact to offline attacks, and is often accompanied by physical attacks, and must be taken seriously as a free expression concern.

### **Legal gaps, inconsistencies or controversies that should be clarified in this report, e.g. between protecting the right to freedom of expression and protecting women from ICT violence? Please indicate any specific issues in the international legal framework that in your view would benefit from further analysis in this report.**

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<sup>8</sup> See Ndlovu, S and Nyamweda, T. 2015. Whose News, Whose Views. Gender and Media Progress Study. Gender Links. Johannesburg

Freedom of expression is intrinsically linked to gender equality - there cannot be one without the other as such women must have their voices heard in the media and through the media and on ICT platforms. The need to advance gender equality in and through the media and information and communications technology (ICT) has been at the core of gender and media advocacy work since the 1995 conference through its two strategic objectives:

- Strategic objective 1: Increase the participation and access of women to expression and decision-making in and through the media and new technologies of communication.
- Strategic objective 2: Promote a balanced and non-stereotypical portrayal of women in the media.

Commitments that have been made and that which countries have signed up to that seek to ensure women's voices and safety are guaranteed must be upheld. For example the Beijing Declaration and the BDPfA which encourages the Increase the participation and access of women to expression in media and ICTs; in the Southern African region SADC Protocol on Gender and Development as well as country specific legislation and policy frameworks need to be supported.

There is need for more emphasis on the existence of online Gender Based Violence and equally so concrete actions to end it as it pushes women out of a space that was once viewed as a space that women could freely participate and organise. A more rigorous exercise of mainstreaming gender within ICT Policy to help protect

Freedom of expression is not absolute. Where one's freedom ends is where another begins. Clarification and balancing of rights on what constitutes freedom of expression and where harming another user through misogynistic gendered hate speech or gender trolling needs to be clearly defined as perpetrators often hide behind their right to free expression and opinion to harm and attack other people online.

**a. What legislative, administrative, policy, regulatory or other measures exist in your State to promote and protect women's freedom of opinion and expression online and offline? To what extent do these measures take into account intersectionality?**

All SADC countries guarantee the right to freedom of expression for all citizens. All countries in SADC also have media laws and policies that govern the operations and behaviours of the media. Some countries, however, have embraced stringent media laws that purport to uphold the status quo and which, in many instances, pose a threat to media freedom and democracy. In many ways, freedom of the media continues to decline in the region.

According to the 2018 Southern Africa Gender Protocol Barometer, no SADC member states have enacted specific gender and media legislation as encouraged by the SADC Protocol on Gender and Development which encourages member states to enact legislation and develop national policies and strategies, including professional guidelines and codes of conduct, to prevent and address gender stereotypes and discrimination in the media . However, countries have made progress in other areas, such as in Zimbabwe, where legislators revised the national gender policy in 2017 with the aim of eradicating gender discrimination and inequalities in all spheres, including media and ICTs.

South Africa's National Policy Framework for Women's Empowerment and Gender Equality makes a commitment to redress inequities in the ICT sector and support women's participation.

## **What States should do to a) uphold women's human right to freedom of opinion and expression b) protect women from violence, harassment and intimidation online and offline and c) promote women's public participation?**

Online violence against women as a way to silence women's voices may well be an emerging phenomenon in Southern Africa, but like the speed of the social media that spawned it, is guaranteed to spiral out of control if the concerns it raises are not taken seriously the obstacles contributing to ending online violence against women can be addressed through various ways including the following:

Working within the already existing policy frameworks that have been put in place there is need to evaluate and ensure gender is mainstreamed within the existing policies and create gender responsive policies that work best for both women and men from access to affordability to participation. A gender-responsive policy is one that equally considers and addresses the challenges and needs for all groups in society, and takes into particular consideration the unique challenges faced by women when it comes to accessing and using the internet. In so doing, it helps to ensure equal outcomes for women and men.

Policies need to consider the differential impact of violence on democratic participation and layout steps to create a safe environment and make perpetrators account. It can no longer be merely lip service but we encourage policy makers to realise that online threats, harassment and sexism is not just empty words it has ripple effects on participation and activism that are an integral part of the women's movement. For women to also be able to freely express online they need to have equal access and affordability to be able to participate.

At a policy level governments are encouraged to create and implement concrete policy goals for gender equality in internet access participation and safety and put in place gender monitoring mechanisms to monitor regulations; ensure government has genuine multi-stakeholder consultations including gender and ICT experts that can inform policy from a gender perspective. .

Governments must roll out multi stakeholder education and advocacy campaigns through their responsible ministries to increase awareness on the existing policies on the rights to safety even in online spaces as well importance of freedom of expression for all whether offline or online.

Government must also criminalise and prohibit online violence against women as it hinders freedom of expression and opinion for those who use online spaces who all together end up self-censoring and desisting or limiting their participation online. However, states should refrain from adopting criminal approaches to broad and open-ended concepts such as online abuse or online harassment, as well as to expressions such as insults, offensive or false content. Broadly defined terms and concepts are easily abused and can be used against the very interests of women, particularly in highly patriarchal societies where women attempt to challenge the status quo.<sup>9</sup> Therefore more refined specificities on what constitutes online gender based violence are needed.

Governments must support work that seeks to investigate practices that stifle freedom of opinion and expression as there is limited data on the prevalence and incidence as well as impact of for example online violence against women and in particular journalists and feminists. Supporting such initiatives can provide concrete and reliable statistics which can be used to up the ante in the fight against online GBV.

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<sup>9</sup> Article 19. 2020. Freedom of expression and women's equality :Ensuring comprehensive rights protection. <https://www.article19.org/wp-content/uploads/2020/10/Gender-Paper-Brief-1.pdf>



**Measures for platform providers and intermediaries taken to i) protect women's freedom of opinion and expression; ii) protect women from online gender based violence, harassment, intimidation and disinformation; iii) promote women's equal access to the digital space; iv) address grievances and provide remedies to women users; v) ensure accountability of the intermediaries?**

Social media has especially proved to be the go-to platform for many women and women's rights organisations who seek to challenge the status quo, raise their voices, and who try to access a world they would not have ordinarily accessed. Women are beginning to claim these alternative spaces for information and communication. Platform providers are beginning to take safety more seriously than ever before and coming up with their own mechanisms to support safer online spaces. This has included including the deletion of content, banning / restricting of some accounts, reporting mechanism that can be used by users as well as development of safety toolkits. They have also run their own safety campaigns.

Internet intermediaries have a responsibility to safeguard human rights including freedom of expression. They also need to take up responsibilities in ensuring a safe internet where there is no Online GBV including developing practical measure to help women be address online GBV line for example quick responsiveness where violations have been reported Platform providers must also be able to make their reporting mechanisms user friendly for those who want to report online GBV occurrences.

Media has continued to leave behind women's voices in reportage as well as participation in the industry. Various factors influence this from the fact that most sources for example which are categorised as official sources are usually men or women not agreeing to speak to the media and so forth. Lack of women's voices, women's concern, opportunities and space for women violates the SDGs principle of "leaving no one behind." Organisations such as Gender Links have worked with mainstream media over the past two decades to strengthen media practice especially in raising women's voices in the media which is an integral part of freedom of expression.

In an attempt to address some of the challenges around women's voice in the media media houses have come up with media house policies and action plans that seek to promote the representation of women's voices in the media.<sup>10</sup> Gender Links and other linked minded organisations spread across the world have supported mainstream media to develop these policies or mainstream gender within the frameworks that media houses are working within.

Mainstream media have media self-regulatory bodies, unions and associations can encourage diversity in the media. As the watchdogs of the media they have the responsibility to ensure that media and journalists collectively work towards an environment where free expression of all is free expression for all is guaranteed. Regulatory bodies must also play an active role to in constantly monitoring women's participation in all levels of the media sector.

**Good practices by States, internet intermediaries or other stakeholders to enhance women's right to freedom of opinion and expression and empowerment and public participation of women.**

The Cybercrimes Act 2021 in South Africa provides and opportunity to protect dignity of women from practices such as gender trolling, threats, revenge pornography online .Under this new Act three types of messages – which include data messages on social media

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<sup>10</sup> See Media Centres of Excellence Process in Southern Africa <https://genderlinks.org.za/what-we-do/media/coes-for-gender-in-the-media/>

platforms – could be deemed as “harmful”. Any person who violates the act could face a fine, imprisonment of up to 15 years or both. Harmful data messages include:

- Data messages inciting violence or damage to property.
- Messages threatening people with violence or damage to their property.
- Data messages containing intimate images sent without consent.

### Resources

Daniels. G, Nyamweda. T and Nxumalo, C. 2018 Glass Ceilings Women in South Africa media houses. Gender Links, South Africa.

GAMAG. 2020. Report on "Violence Against Women Journalists" for the Special Rapporteur on Violence Against Women, its Causes and Consequences.

Daniels G 2021. Glass Ceilings: Cyber misogyny is a sign of unchecked sexism in the media.

Lowe Morna et al. 2018. Southern Africa Gender Protocol Barometer. Gender Links, South Africa.

UNESCO. 2021 Online violence Against Women Journalists: A Global Snapshot of Incidence and Impacts. <https://www.icfj.org/sites/default/files/2020-12/UNESCO%20Online%20Violence%20Against%20Women%20Journalists%20-%20A%20Global%20Snapshot%20Dec9pm.pdf>

**All submissions will be posted on the OHCHR website at the time of the report’s publication, except those containing a clear request not to be made public.**