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TO: SPECIAL RAPPOREUR ON HUMAN RIGHTS AND THE ENVIRONMENT
C/O David Boyd
E-mail: hrc-sr-environment@un.org

SUBMISSION BY MEDIA MONITORING AFRICA:

**CALL FOR INPUT ON PROMOTING ENVIRONMENTAL DEMOCRACY: PROCEDURAL
ELEMENTS OF THE HUMAN RIGHT TO A CLEAN, HEALTHY AND SUSTAINABLE
ENVIRONMENT**

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INTRODUCTION

1. Media Monitoring Africa (“**MMA**”) welcomes the opportunity to provide this submission to the Special Rapporteur on his upcoming report. MMA notes upfront that climate disinformation and the complex dimensions of the online world are, and will likely continue to, erode efforts in the fight for climate justice, and as such welcomes the timely nature of this report as an important opportunity for the Special Rapporteur to engage with the evolving nature of procedural rights in a digital context.
2. Aligned with its expertise, MMA responds to 5 of the 6 questions posed. As MMA operates within South Africa (“**SA**”), their submission will be from this perspective.

OVERVIEW OF MMA

3. MMA, established in 1993, is a not-for-profit organisation, based in SA. It is an innovative organisation which plays an active role in advocating for access to information, freedom of expression, and the responsible free flow of information to the public. MMA strives for a fair and just society that respects a culture of human rights. MMA has done various work around access to information, freedom of expression and dis/misinformation. Recently, MMA made submissions, along with submissions from the Web Rangers, on disinformation to the Committee on the Rights of the Child on General Comment 26. MMA welcomed the final General Comment 26 which included reference to children’s right to access “accurate” environmental information.

STATES’ AND BUSINESSES’ RESPONSIBILITIES AND OBLIGATIONS

4. MMA’s point of departure is based on the interdependence of rights, and at the same time the recognition that realising a clean healthy environment and mitigating climate change goes hand in hand with access to accurate information.
5. SA has a strong legal framework for information rights that may serve as an illustrative example for others to ground and advance their obligations related to accessing environmental information.
 - 5.1. Section 32 of the SA Constitution establishes the right to access information held by the State, and by others when such information is necessary for the exercise or protection of fundamental rights. Section 24, which guarantees everyone the right to a healthy environment, free from pollution and ecological harm, constitutes such a fundamental right.
 - 5.2. The Promotion of Access to Information Act (“**PAIA**”), gives expression to the abovementioned right to access to information in respect of information held by both public and private bodies. PAIA places an obligation on the State and businesses to grant access to information upon request, except where specific exemptions apply.

- 5.3. The National Environmental Management Act (“**NEMA**”), through its Regulations, mandates that all reports and related documents containing crucial environmental information must be available to the public for commentary during the environmental authorisation process.
- 5.4. Other environmental legislation and regulations, such as those for water and air quality, as well as the Mining and Mineral Resources Regulations, stipulate that businesses must monitor and report their emissions and discharges, and that this information be accessible to both the public and government agencies.
6. SA’s access to information framework places affirmative obligations on both the State and businesses to ensure the right to access information, particularly in the context of environmental issues. However, there are additional mechanisms that could be utilised by SA, and other States, to realise this right more fully:
 - 6.1. As mentioned above, PAIA provides a mechanism for the public to access information. Public and private bodies must designate Information Officers to deal with such requests. MMA submits that the contact information of such Information Officers must be readily available on all applicable organisations’ websites, to ensure that the public can practically utilise PAIA. The principle of accessibility can be applied for all access to information mechanisms, thereby ensuring that they are as functional as possible.
 - 6.2. The media plays a crucial role in informing the public. MMA submits that it would be beneficial for States and businesses to provide the media with clear and accessible policy information to empower them to report on key environmental issues and developments. This will advance access to environmental information, leading to improved awareness and informed responses to current challenges.

STATES’ OBLIGATIONS REGARDING ENVIRONMENTAL EDUCATION

7. To provide effective environmental education, States must educate people on environmental threats, their causes, and mitigation and adaptation strategies. Disinformation and digital illiteracy are significant hurdles to achieving this. Therefore, States must provide access to education regarding disinformation and digital literacy to fully meet their obligations.
8. Disinformation erodes trust in institutions and the media, harms democracy by diminishing informed decision-making by the public, polarises debates, creates or deepens tensions in society, and impairs freedom of expression. It thereby poses a significant threat in the context of environmental justice and climate change, which is exacerbated by the rise of social media. In fact, disinformation ranks as one of the top ten harms to society. MMA submits that States must provide access to education on disinformation, covering its nature, dangers, and identification, in school curricula. States must provide access to education on this topic for non-school going portions of populations through public awareness campaigns, zero-rated websites, and public broadcasters. This will enable people to make

informed decisions based on relevant and accurate information, and therefore advocate for their rights.

9. In today's digital world, States must ensure digital literacy among their populations. This is crucial to ensure access to information for all. This goal can be met by integrating digital literacy into school curricula and offering free training at community centres, which are accessible to all.
10. The main barrier to States meeting these obligations may be financial constraints. However, in the context of the climate crisis, society cannot afford to neglect environmental education, disinformation awareness, and digital literacy. The first step to overcoming this barrier is to increase awareness of why this type of education is so crucial. State authorities must grasp the urgency of these educational initiatives and allocate resources accordingly.

THE SAFETY OF ENVIRONMENTAL HUMAN RIGHTS DEFENDERS

11. The online world enables opportunities for environmental human rights defenders ("EHRDs") to express their views and lobby for change. This should be encouraged and enabled. However, the online world also poses challenges, where nefarious actors seek to silence EHDRs through various tactics, ranging from harassment, hate speech, incitement, doxing, and various other online harms. The Special Rapporteur is encouraged to consider the various reports of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression which detail different online harms that are likely to threaten and impact the work of EHDRs. MMA encourages cross reference to such reports with a particular focus on the importance of creating spaces online for robust engagement that does not unlawfully stifle or hinder expression.
12. Disinformation can also lead to harms such as the incitement of violence towards EHDRs which can manifest offline. To protect EHDRs from violence that stems from disinformation campaigns, States, in collaborate with other stakeholders must take proactive measures to mitigate disinformation, including providing guidance to the public on content that may amount to disinformation. This could include, for example, the expansion and mainstreaming of initiatives such as the [Real411](#) to proactively identify, address and correct disinformation. Other initiatives, such as the Media Attack Reporting System (MARS) which presently focuses on journalist could be widened to include EHDRs. This platform, launching in October, will allow journalists to upload online attacks onto the site, giving people insight into the attacks faced by journalists. States and businesses could support initiatives such as these to enable EHDRs to have platforms to report various online harms.
13. It is equally imperative that States recognise the psychological and potential physical impacts of online harms. In doing so, States will ensure the safety of EHDRs in a holistic manner.
14. While judiciaries are naturally more reactive than proactive in ensuring the safety of EHDRs, they do play an important role. Judiciaries must be alive to the fact that nefarious actors may attempt to abuse court processes to financially harm and silence EHDRs. In SA, environmental activists invoked a novel defence known as Strategic Litigation Against

Public Participation (“**SLAPP**”) in response to a mining company’s defamation lawsuit demanding R 14 million (approximately 743 800 US Dollars). The Court recognised the existence of the SLAPP defence and allowed the activists an opportunity to clarify their use of this defence after the judgement was handed down. Other judiciaries should consider this example, as well as other similar examples, to develop jurisprudence that prevents court processes from being abused in this way.

FULFILING RIGHTS FOR VULNERABLE POPULATIONS

15. The way that information is disseminated is crucial to supporting and protecting vulnerable populations. For environmental and associated rights to be fulfilled for populations who may be particularly vulnerable to climate and environmental harms, factors such as language; socio-economic status; differing levels of digital literacy, literacy, and ability must be taken into account when States and businesses circulate information. For example:
 - 15.1. To take account of socio-economic vulnerabilities, public broadcasters which provide information for free, could broadcast programs that convey environmental information. Such programs could convey information on what the State’s environmental obligations are, what it is doing to uphold these obligations, and what the public’s rights are. Further, public broadcasters could facilitate debates on how to solve various environmental issues. Zero-rated websites and applications could also be used for this purpose. These mechanisms were effectively utilised by the SA government during the Covid pandemic to facilitate online education irrespective of socio-economic status.
 - 15.2. Toll free hotlines and messaging services, which consider differing levels of literacy and different languages spoken in the region, could be helpful in disseminating information to vulnerable members of society. Such services could provide information to the public, in their own language and in a manner that anyone can understand, on issues such as how to access certain information from the State or a business, and information around environmental issues. AI and other emergent technology could be used by States to facilitate these services in a plethora of languages, thereby ensuring access for all. Not only would this ensure that all people are able to access information, it would also play a role in acting against disinformation as all people would easily be able to verify information.
 - 15.3. The use of infographics and other visual images should be used to disseminate information to account for differing levels of literacy and ability. Further, information can also be provided orally by way of publicly accessible events. States and businesses must also utilise braille and magnified print to account for differing abilities.
 - 15.4. It is crucial for States and businesses to recognise the intersectional effect of vulnerabilities. For example, a female child be vulnerable in a different way from a female adult or a male child. When States and businesses are ensuring that vulnerable groups are realising their rights, they must provide for these intersectionalities and be responsive to arising forms of vulnerability.

EXAMPLES OF GOOD PRACTICES

16. MMA recommends that businesses and States adopt the following examples of best practices:
 - 16.1. **Transparency in environmental practices:** both States and businesses must be transparent in their environmental actions. This includes proactive disclosing information about potential environmental risks linked to their operations, such as carbon emissions, waste disposal methods, and resource usage.
 - 16.2. **Engagement with stakeholders:** States and businesses should proactively involve local communities, environmental organisations, and other stakeholders in decision making. This involvement should promote access to information through meaningful public consultations where environmental concerns and information can be openly shared and discussed.
 - 16.3. **Cooperation with information requests:** where proactive disclosure by businesses does not provide sufficient information, businesses must collaborate with States and furnish environmental information when requested. This includes responding to requests for information made under legislation.
 - 16.4. **Promoting environmental awareness:** both businesses and States should actively contribute to raising public awareness and knowledge about environmental issues. This can be achieved by providing information, resources, and support for environmental initiatives and educational programs within the communities where they operate. For example, MMA has developed Real 411, a free online platform that the public can use to navigate and report disinformation online.

CONCLUSION

17. MMA welcomes and encourages the collaborative and inclusive approach of the Special Rapporteur in engaging with these issues. We appreciate the opportunity to provide this submission and remain available to assist the Special Rapporteur, including by providing further written or oral submissions at the appropriate time.
18. Please do not hesitate to contact us should you require any further information.

**Media Monitoring Africa
Johannesburg, 2023**