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TO: SPECIAL RAPPORTEUR ON CLIMATE CHANGE

C/o Elisa Morgera

E-mail: hrc-sr-climatechange@un.org

SUBMISSION BY MEDIA MONITORING AFRICA:

CALL FOR INPUT ON ACCESS TO INFORMATION ON CLIMATE CHANGE AND HUMAN RIGHTS

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INTRODUCTION

1. Media Monitoring Africa (“MMA”) welcomes the opportunity to provide this submission to the Special Rapporteur on her 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. As such, MMA welcomes the timely nature of this report as an important opportunity for the Special Rapporteur to explore the intersections between access to climate change information and human rights.
2. Aligned with its expertise, MMA will respond to numbers one to three of the questions posed by the Special Rapporteur. As MMA operates within South Africa, submissions will be from this perspective.

OVERVIEW OF MMA

3. MMA, established in 1993, is a not-for-profit organisation, based in South Africa. 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.
4. 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. Further, MMA made submissions in October 2023 to the Special Rapporteur on Human Rights and The Environment on the procedural elements of the human right to a clean, healthy and sustainable environment, with a focus on states and businesses’ responsibilities in relation to access to accurate information.¹

TYPES OF INFORMATION NECESSARY TO PREVENT AND MITIGATE NEGATIVE EFFECTS ON HUMAN RIGHTS AS A RESULT OF CLIMATE CHANGE

5. Various different types of information should be collected and shared to identify and prevent negative impacts on human rights that arise from climate change and associated response measures. In line with MMA’s expertise, we will explain why information on dis- and misinformation; information on the Just Energy Transition in South Africa; and climate information presented in child-friendly manners should be collected and shared to achieve this goal.

Information on dis- and misinformation

6. As a point of departure, it is recognised that mitigating climate change, and therefore the negative effects it has on human rights, is dependent on access to *accurate* information. Dis- and misinformation threaten effective climate action, and consequently cause infringements on peoples’ human rights. Misinformation is defined as misleading

¹ The submissions for this report have not been posted on the OCHR’s website. However, the call for submissions can be found [here](#).

information created or disseminated without manipulative or malicious intent, while disinformation refers to deliberate (often orchestrated) attempts to confuse or manipulate people through delivering dishonest information to them. The key difference between the terms is intention. Misinformation may be unwittingly shared while disinformation is deliberately created and distributed with the intent to deceive or harm.

7. Disinformation and misinformation erode 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.² In fact, disinformation ranks as one of the top ten harms to society.
8. Besides the obvious need for climate change education to combat these effects, MMA also submits that States must provide access to education on disinformation and misinformation, covering their 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 that may be infringed by climate change and climate change responses.

Information on the effects of the Just Energy Transition

9. South Africa, like various other countries, is moving away from an extractive economy to a regenerative one, with the aim of establishing a low-carbon and climate-resilient society. South Africa's Presidential Climate Commission ("PCC") is tasked with facilitating this transition in a just and equitable manner.³ This transition has been termed the Just Energy Transition ("JET"). JET is to be guided by the PCC's Just Transition Framework, and will be implemented through various legislative and other mechanisms. It is imperative that the public is made aware of how these mechanisms work, the effects thereof on climate change mitigation and adaptation, and the potential impacts they may have on human rights.
10. In order for JET to meet its objectives, the State and other major platforms must proactively publish information related to the transition, with a particular focus on transition-affected communities and stakeholders. This will enable people to defend their rights and advance their priorities. Additionally, enhancing access to JET-related information will prevent nefarious actors from spreading disinformation about the transition for the furtherance of their own objectives. The public should be well informed of what the transition will bring and why it is necessary in order to be empowered decision-makers and contribute to the

² For more on the harms of climate disinformation, see: Media Monitoring Africa, "Climate Disinformation: Consequences and Solutions. Unpacking the Effects of Disinformation on Climate Change and Environmental Harms"(2024) (accessible [here](#)).

³ For more information on the PCC, see [here](#).

process.⁴ It is submitted that the same principle should be applied by States across all jurisdictions embarking on similar transitions.

Child-friendly presentations

11. Climate change, and corresponding mitigation and adaptation measures, are very complex topics and therefore may not always be readily understood by children in general. However, it is imperative not use the excuse of complexity as a way to undermine children's rights to access to information and public participation. Children have the potential to be effective change-makers and protectors of human rights, but this largely depends on whether they are able to understand climate change and all its nuances. States must accordingly proactively publish climate-related information in child-friendly ways, while taking account of different ages and maturity levels. This will empower children to have advocacy in climate change related matters and contribute to finding solutions and adaptation strategies.⁵

EXISTING APPROACHES TO COLLECTING, SHARING AND MONITORING INFORMATION

12. South Africa has a strong access to information framework. Section 32 of the South African Constitution entrenches 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 of the Constitution is such a fundamental right. It guarantees everyone the right to a healthy environment, free from pollution and ecological harm. The Promotion of Access to Information Act ("PAIA") gives expression to the 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.
13. Specific environmental legislation similarly provides mechanisms for access to information. Through its Regulations, the National Environmental Management Act ("NEMA") mandates that all reports and related documents containing crucial environmental information must be available to the public for commentary during the environmental authorisation process. 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.
14. Despite South Africa's strong access to information framework, there is room for improvements that would increase the quality of information accessible to the public, as well as the time and costs involved in obtaining such information. MMA submits that the same principles may be applicable across access to information mechanisms globally.

⁴ For more information on JET in South Africa and approaches to accessing information in this context, see: Tim Lloyd, "The Just Energy Transition (JET) in South Africa: Approaches to Accessing Information and Knowledge for Transition-affected Communities" (2024) (accessible [here](#)).

⁵ For more on Children's rights to access to information in the context of climate change, see MMA's submissions to the Committee on the Rights of the Child on the Draft General Comment on Children's Rights and the Environment with a Special Focus on Climate Change (accessible [here](#)).

Proactive publication

15. PAIA, the main access to information mechanism in South Africa, requires the public to take the initiative to ask the State or a private body for the information that they seek. There are then various grounds where the state or private body can refuse to provide the information requested. Other access to information mechanisms similarly requires the public to ask for information from the relevant party. The African ATI Declaration, which sets out the regional position on current and aspirant access to information obligations, principles, and practices, stipulates in Principle 29 that state bodies and certain private bodies should proactively publish information of public interest. Climate change information certainly falls under this category. While not hard law, the African ATI Declaration provides useful guidance on best practices, and South Africa should align with such practices.
16. MMA submits that the state and private bodies should be required to proactively publish climate change related information to the public. This would lessen the time and financial costs associated with obtaining information, and thereby enable the public to effectively advocate for their rights. It would also enable the media to accurately report on climate change related issues, further enhancing the public's right to access to information. Additionally, proactive publication of accurate and relevant information would result in the public being better equipped to combat the harms of climate mis- and disinformation. The State could make use of public awareness campaigns, zero-rated websites, and public broadcasters to proactively publish accurate and up to date climate information.

Capacity building for authorities

17. In order for the existing access to information mechanisms to reach their full potential, it is essential for the public authorities who are mandated to operate these mechanisms to be fully educated on their operation, as well as the importance of access to information. Building the capacity of public authorities is crucial, as it will promote compliance with existing systems. Again, this will ensure that the public is able to access information in the most time and cost effective manner possible and thereby fully realise their right to access to information as well as advocate for their other human rights.⁶

Incorrect grounds of refusal and inadequate reasons

18. In South Africa, access to information mechanisms are often thwarted by public authorities incorrectly relying on grounds of refusal, resulting in the public having to resort to burdensome appeal or litigation processes. Denying access to information is often the default position. This is contrary to the purpose of PAIA, which is that disclosure should be the rule and refusal be the exception. The failure of public authorities to provide adequate reasoning for their denials exacerbates the problem.⁷ It is difficult to be certain of the

⁶ For more, see: Tim Lloyd, "The Just Energy Transition (JET) in South Africa: Approaches to Accessing Information and Knowledge for Transition-affected Communities" (2024) (accessible [here](#)).

⁷ See *The Health Justice Initiative v The Minister of Health and Another* (10009/22) (2023) (accessible [here](#)) as an example of where the State failed to provide any reasons for their refusal to provide certain information.

reasons for this trend. However, poor record keeping, lack of political will and a lack of capacity (addressed above) may be responsible.

BARRIERS TO OBTAINING ACCESS TO INFORMATION

19. There are various barriers to obtaining up to date and accurate information on human rights and climate change. In line with MMA's expertise, this section will focus on the barriers created by digital illiteracy and the challenges in regulating social media platforms.

Digital illiteracy

20. For environmental and associated human rights to be fulfilled for all portions of the population, factors such as digital literacy must be considered when states and private entities disseminate information. As climate disinformation, and indeed the exchange of information generally, occurs mostly online it is essential that everyone is able to navigate online platforms and make informed decisions on what they see there.
21. States should ensure that their children are digitally literate, so that they can navigate climate disinformation in an informed manner and thereby realise their rights. States could work with civil society organisations to achieve this.⁸ To account for non-school going portions of the population who may be digitally illiterate, states must proactively publish climate information in accessible ways – for example by making use of infographics or orally – as well as undertake programmes to upskill these groups of people. States and other platforms must be transparent in what efforts they are making to ensure digital literacy, including the quantum of resources being put into such measures. This is crucial to enable the public to keep them accountable.
22. Such measures will ensure that all members of the population are able to obtain up to date and accurate information. Further, that all portions of the population are able to participate meaningfully in decision making processes. In South Africa, this is particularly important in the context of JET.

Regulation of social media platforms

23. In South Africa, there is little to no regulation on the way in which social media platforms spread content. Content moderation is largely left to platforms' own policies. Social media companies are private businesses and therefore aim to maximise profit – as a result, they may be motivated to promote emotionally charged, extreme and inflammatory content. This may result in users being unduly exposed to content that is biased or discriminatory, while algorithms suppress more balanced views. Therefore, users may be inundated with climate information that is not accurate or up to date.

⁸ The Web Rangers, which was established by MMA, is a digital literacy programme designed to allow young people to gain critical skills and knowledge around online safety and champion their rights in the detail world. States could implement similar curricula in schools and partner with such programmes.

24. While there is a need to regulate this, regulation must also be treated with caution. As has been demonstrated by many domestic laws globally, overregulation on what is shared on social media platforms can lead to gross violations of freedom of expression and access to information. In order for the public to be able to access accurate and up to date information on climate change and their rights, a careful balance needs to be struck.
25. The Real411 is an independent tool which provides an opportunity for the public to address mis- and disinformation, and other online harms, which balances the harms thereof with people's right to freedom of expression. Other innovative solutions that may strike this balance include imposing fines on platforms where the online harm is obvious; imposing obligations on platforms to flag content according to the harm that it may cause (for example, as potential climate mis or disinformation); and by imposing obligations on platforms to proactively disclose what efforts they are making to eradicate climate mis and disinformation and to spread up to date and accurate climate change information.

CONCLUSION

26. 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.
27. Please do not hesitate to contact us should you require any further information.

**Media Monitoring Africa
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