

**Report of the Experts' Meeting on
'Addressing the Challenge of Hate Crimes on the Internet in Kenya'**

Centre for Human Rights and Policy Studies (CHRIPS)

And

Centre for Human Rights and Peace (University of Nairobi)

Tuesday, 13th August 2013

Venue: Panafric Hotel, Nairobi



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List of Abbreviations and Acronyms

BAKE	Bloggers Association of Kenya
CCK	Communications Commission of Kenya
CHRIPS	Centre for Human Rights and Policy Studies
CHRP	Centre for Human Rights and Peace
DPP	Director of Public Prosecutions
ICAK	ICT Consumers Association of Kenya
ICT	Information and Communication Technology
KNHREC	Kenya National Human Rights and Equality Commission
KICTANET	Kenya ICT Action Network
KOT	Kenyans on Twitter
MCK	Media Council of Kenya
NCIC	National Cohesion and Integration Commission
NEWS	Network Early Warning System
NGO	Non-Governmental Organisation
TV	Television
UN	United Nations

Acknowledgements

This report captures the proceedings of an experts' consultation forum on the challenge of online hate crimes in Kenya. The forum was held at the Panafric Hotel on 13th August 2013. The forum was co-hosted by the Centre for Human Rights and Policy Studies (CHRIPS) and the University of Nairobi's Centre for Human Rights and Peace (CHRP). CHRIPS took the lead in organising the event.

CHRIPS acknowledges all the efforts that went into making the consultative forum a success, in particular, the moderators, the panellists and all participants for their meaningful engagement with the subject matter.

This report was written by Stanley Kamau, a policy analyst based in Nairobi. It was edited by Mikewa Ogada, CHRIPS Programmes Coordinator.

1. Introduction

The one-day experts' meeting on addressing the challenge of hate crimes on the Internet in Kenya was held at the Panafic Hotel in Nairobi on Tuesday, 13th August 2013. The forum was co-hosted by the Centre for Human Rights and Policy Studies (CHRIPS) and University of Nairobi's Centre for Human Rights and Peace (CHRP).

The goal of the consultative forum was to develop strategies for legislative, policy and institutional interventions on addressing hate crimes on the Internet. The specific objectives of the forum were:

- To identify the challenges of deterring the propagation of ethnic, racist and xenophobic hatred on the Internet;
- To explore the gaps and opportunities in policy, legal and technical frameworks; and
- To highlight emerging good practices in regulating the exploitation of the Internet to promote ethnic, racist and xenophobic hatred and incitement.

Thirty-one participants drawn from civil society organisations, government and institutions of higher learning attended the forum.

The discussions were divided into three sessions, which focused on the lack of conceptual clarity on the matters of hate speech and hate crimes on the Internet and how to deal with this challenge. A discussion of the possibilities of state regulation vis-à-vis self-regulation elicited debate, with the majority of the participants observing that emphasis should be placed on self-regulation by Internet users without negating the role of the state in addressing hate crimes on the Internet. The discussion called for more engagements and research on the subject matter to identify and address the root causes of this phenomenon.

The expected outputs were:

- A framework for a strategy for legislative, policy and institutional interventions on addressing hate crimes on the internet.
- A Briefing Paper on good practices in combating ethnic, racist and xenophobic hatred and incitement while upholding the freedoms of thought, expression and information.

The report proceeds as follows. The first part presents the introductory segment of the forum that focussed on framing the issues for discussion. The second part discusses the nature of online hatred and incitement. The third part covers the discussion of the review of legal and police framework and industry approaches, while fourth examines on civil society and citizen initiatives. The final section presents the options and recommendations.

Background

The exploitation of digital technologies and in particular, the Internet to propagate ethnic, racist and xenophobic hatred and incitement, has emerged as a serious challenge to peace and democracy in Kenya. Reports by state as well as non-state agencies have noted that digital hate speech was prevalent in the 2002 elections, in the 2005 referendum and in the 2007 general elections. The enactment of the National Cohesion and Integration Act (2008) and the establishment of the National Cohesion and Integration Commission (NCIC) was part of the response to the proliferation of inciting speech that contributed to the 2007-2008 post-election violence.

The fact that the NCI Act fails to address the challenge of digital hate speech points to the difficulty of monitoring and deterring hate speech online, and simultaneously safeguarding the rights to freedom of thought, opinion, expression and the right to information.

In the run up to the 2013 general elections, most observers noted that ethnic hatred and incitement had migrated online, and in particular, to social media such as Facebook and Twitter. Regulating hatred and incitement on the Internet poses tremendous legal, policy and technical challenges. This challenge is not restricted to Kenya. Rather, it is a worldwide challenge that has been underlined in several reports by the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. In addition, regulation has to be weighed and balanced with the right to freedom of opinion and expression and in a manner that does not unreasonably restrict the open nature of the Internet. In Kenya, state security agencies, the Independent Elections and Boundaries Commission (IEBC), the NCIC, the Kenya National Commission on Human Rights (KNCHR), the National Steering Committee on Media Monitoring, NGOs, the Communications Commission of Kenya (CCK) and the communications industry, have all underlined the need for creative solutions to address this challenge.

As part of the search for solutions, CHRIPS in partnership with the CHRP, University of Nairobi, convened an experts consultation bringing together experts from the academia, state, industry, and the civil society to explore some of the emerging good practices in combating the use of the Internet to propagate ethnic, racist and xenophobic hatred and incitement as well as examine the potential of such technologies to contribute to the fight against racist and xenophobic hatred.

2. Session I: Framing the Issues

2.1. Opening Session

Opening remarks were made by Dr. Mutuma Ruteere the Director of CHRIPS and Dr. Mumia Osaji from the Centre for Human Rights and Peace at the University of Nairobi.

2.2. Opening Remarks by Dr. Mutuma Ruteere (CHRIPS)

Dr. Mutuma Ruteere noted that in the run up to the 2010 constitutional referendum and also the post-election violence of 2007/2008 in Kenya, there was concern over the use of digital forums to propagate hate. Dr. Ruteere pointed out that the Commission of Inquiry into Post-Election Violence (popularly known as the Waki Commission after its chair) found that online incitement of hatred partly fuelled the post-election violence.. To illustrate the extent of official concern about the problem, he recalled a quote by Dr Mzalendo Kibunjia, Director of NCIC, who told Kenyans in France that: *“if some of you were in Kenya you would have been in prison by now because the amount of hate speech you are spreading through blogs and online platforms is unacceptable”*.

Dr. Ruteere observed that there is no jurisprudence on hate speech in Kenya. He noted that in the decision in the incitement case against former cabinet minister Chirau Ali Mwakere, the High Court ruled that the Constitution of Kenya precludes certain utterances from the ambit of freedom of speech and expression without actually defining what constitutes hate speech.¹

He also noted that the Internet has provided an opportunity for individuals to bypass traditional regulation creating an international challenge. He observed that even China's filtering efforts have still not succeeded entirely in regulating online communication. He further noted that extremist groups are recruiting members to incite hatred against specific groups, citing the recent rise of right-wing extremism in Europe as a matter of great concern, which has been partly facilitated by the use of online hate forums.

Dr. Ruteere noted the lack of a universal interpretation of what constitutes hate speech. What we see is a diversity of decisions with regard to the definition of hate speech. He gave the example of differing opinions by French² and US³ courts on the sale of Nazi merchandise by Yahoo. While a French court found that the online sale of Nazi merchandise was illegal and banned their sale in France, a US court found that complying with the French court's orders would infringe the First Amendment rights of the company under the US constitution. This particular case demonstrated the borderless nature of the Internet, and consequently, the difficulty of regulating online activity across jurisdictions. However, Dr. Ruteere pointed out the lack of a single

¹ Chirau Ali Mwakere vs Robert M Mabera & 4 others, High Court at Nairobi, 2012.

² LICRA and UEJF vs Yahoo! Inc (USA) and Yahoo France, Superior Court of France, 2000.

³ Yahoo! Inc v. LICRA, US District Court for the Northern District of California, 2001.

mechanism of dealing with hate speech is itself an opportunity that presents a menu of possibilities globally and locally to address the problem.

Dr. Ruteere also pointed to the difficulties Internet Service Providers (ISPs) face in developing effective technologies, including filters, to combat online crimes such as child pornography. He observed that many ISPs have guidelines which include codes of conduct, terms and conditions of use as well as a report button, which can be used to report cases of abuse and hate speech. However, there is the dilemma of determining how much content we can expect ISPs to restrict and whether in a democracy, anyone – including private companies - should have the power to determine what is and isn't transmitted online.

Dr. Ruteere observed that Kenya is at the very beginning of thinking about a regulatory framework for the regulation of online hate speech. The country is only starting to set up good practices through industry players and still lacks a framework for defining hate speech. He observed that sometimes what is described as hate speech is merely the display of stupidity by politicians, and we cannot really punish them because stupidity is not an offence.

In his concluding remarks, he posed question that would guide the day's discussions:

- Where does freedom of speech start and the parameters that exclude hate speech end?
- How do we deal with hate speech? Should we legislate or employ more good speech to counter bad speech?
- How do we harmonise efforts to deal with the challenge of online hatred in Kenya?

3. Session II: The Face of Online Hatred and Incitement

3.1. Remarks by Dr. Fred Mudhai (Cambridge University)

Dr. Fred Mudhai expressed concern as to whether there is censorship of what media airs under the guise of eliminating hate speech. If this is the case, he wondered about the criteria that the media use to determine what constitutes hate speech. He also wondered whether we should regulate and censor content or give citizens the capacity to filter information on their own.

3.2. Remarks by Kagonya Awori – Umati Project, iHub Research

Ms. Kagonya Awori presented the findings of Umati Project, a research initiative by iHub Research, Ushahidi and the Dangerous Speech Project at the World Policy Institute. The Umati Project seeks to identify and understand the use of *dangerous online speech* in the Kenyan context as way of establishing and using non-governmental interventions to reduce the potential of 'dangerous speech' to foment violence on the ground.

Ms. Awori started by broadly outlining Kenya's existing legal framework on hate speech, noting that the NCI Act defines hate speech as speech that is "threatening, abusive or insulting or involves the use of threatening, abusive or insulting words or behaviour and results in the commission of an offence if such person **intends** thereby to stir up **ethnic hatred**, or having regard to all the circumstances, ethnic hatred is likely to be stirred up". She observed that the Act mentions ethnic hatred to constitute racial, ethnic or national discrimination but does not include hatred based on religion, gender, nationality, sexual preference or disability. Further, she noted that Kenya's constitution provides that freedom of expression does not extend to hate speech yet it does not define the term. In addition, the Code of Conduct for Political Parties (an element of the Political Parties Act 2012) forbids political parties to "advocate hatred that constitutes ethnic incitement, vilification of others or incitement to cause harm".

Ms. Awori observed that in the conceptualization of the Umati Project, the domestic limitations on the definition of hate speech led to their reliance on Prof. Susan Benesch's concept of *dangerous speech*, which Benesch argues is a subset of hate speech that has a high potential of causing violence. Therefore, the Umati Project defined *dangerous speech* as "communication that may help catalyze mass violence by moving **an audience to condone - or even take part in – such violence**⁴."

Brandenburg Vs Ohio (1969), SCOTUS

In this case at the Supreme Court of the United States held that the freedoms of speech and press do not permit a State to forbid people to advocate "...for the use of force, except where such advocacy is directed to inciting or producing imminent lawless action or imminent violence and is likely to incite or produce such action."

(This ruling was made in the appeal case brought by a Ku Klux Klan leader who had been convicted under the Ohio Criminal Syndicalism statute for advocating for violence against minority communities.)

The Umati Project operationalized and categorized hate speech as follows: Offensive speech was defined as speech that advocates for discriminatory treatment of a particular group, although it has a low potential of fomenting violence. Moderately dangerous speech had little to moderate influence over the audience, while dangerous speech was judged to be highly inflammatory, with the highest potential to result in violence.

⁴Prof Susan Benesch, The Dangerous Speech Project.

Ms. Awori noted that around the March 2013 elections, violence appears to have moved online and assumed the form of "a soft war". Statistics from the Umati Project show that dangerous speech was highest in March, the month in which the 2013 elections were held. Offensive speech on the other hand was highest in April, after the elections, indicating a sharp rise in online conflicts, despite the peaceful elections. She noted that 'KOT cuffing'⁵ contributed to only three per cent of total offensive comments from Twitter, while 90 per cent were appeared on Facebook.

Online hate speech is a window into what conversations Kenyans engage in when they are offline. In addition, the increase of hate speech after elections offers a good window into what issues cause high levels of angst among the Kenyan public.

In conclusion, Ms Awori noted that in a proposed second phase of the Umati Project will entail a deeper analysis of Umati's data by a larger pool of experts. The new phase will likely examine what kinds of hate speeches are uttered against different ethnic groups, with a view to offering an opportunity for civil societies and organisations to map out what issues to address before the next elections in 2018. Going forward, the Umati Program will create a computer program to automate the monitoring process instead of using human monitors as they scale the project to other countries. They will also seek partnerships with social media sites.

3.3. Remarks by Judy Kaberia – Reporting Kenya

Ms. Judy Kaberia, the coordinator of Reporting Kenya explained that the project sought to enhance the capacity of Kenyan journalists to cover international and local criminal justice issues and to provide in-depth coverage in the run up to and beyond the country's 2013 presidential elections.

Ms. Kaberia observed while the Kenyan media generally failed to remain neutral during the 2007 election and the ensuing post-election violence, but in the 2013 election the mainstream press and broadcasters largely kept to the rules and the problem shifted to the online media.

She noted progress from government in this process, in particular the setting up of a new department at the police's Criminal Investigations Department (CID), which is working with Office of Director of Public Prosecutions (DPP) and the NCIC to deal with cases of online hate crimes. She however noted the failure of the police to bring most cases to court. Despite hundreds of cases where offensive material has been posted on social media sites like Facebook, the NCIC only launched six formal investigations, and in the end only one case was taken to court. Moreover, the NCIC failed to institute legal proceedings against any of the other individuals who posted incendiary material online during and after the elections.

⁵ 'KOT cuffing' is a term that describes a phenomenon observed on Twitter where Kenyans on Twitter (KOT) openly shun tweets which are not acceptable and publicly ridicule the author with a view to pressuring the offender to retract the statement .

Ms. Kaberia faulted the NCIC for tending to focus more on well-known bloggers and social media activists, while ordinary citizens were responsible for most of the dangerous speech that was communicated on social media. A related problem was that the police were only trained to record hate speeches communicated in political statements by political actors, thereby excluding those uttered or published by ordinary citizens.

3.4. Remarks by Kyalo Mwangi – National Cohesion and Integration Commission

Mr. Kyalo Mwangi noted that addressing hate speech on the Internet, especially on social media, has been a challenge to the NCIC and other government institutions such as the judiciary and the police. The NCI Act does not define hate speech. Further, he also agreed that the Act focuses on hate speech relating to ethnic affiliation, thereby excluding all parameters. These shortcomings have been attributed to the fact that the act was hurriedly drafted. However, the NCIC has proposed amendments to improve the Act.

Mr. Mwangi reported that the NCIC had set up a cyber-crimes unit in response to the escalation of online hate speech. He also reported that the NCIC has been building the capacity of police investigators to enable them to deal more effectively with online hate crimes.

He observed that, while many institutions are involved in social media monitoring, they decline to make complaints on hate speech when asked to do so by the NCIC. Consequently, the absence of complainants makes it difficult for the NCIC to launch investigations.

Mr. Mwangi also noted that the Act requires the NCIC to first explore conciliation before proceeding to apply other legal measures. He further noted that the NCIC has no power to prosecute and therefore can only advise the Office of the DPP, which determines if and when to prosecute.

3.5. Plenary & Conclusions

Moderated by Dr. Fred Mudhai

- Umati is examining the private spaces of online conversations, raising the sensitive question of the protection of individual rights.
- Even as we consider the questions of hate speech, we need to recognise the right to cultural expression. Narratives have always existed in cultural expression and they define our identity to a great extent. We need to be careful to avoid the possibility of labelling cultural expression as hate speech.
- The line between hate speech and freedom of expression is very thin, and will be difficult to draw until such a time that we precisely define what hate speech.

4. Session III: A Review of the Legal and Policing Framework and Industry Approaches

4.1. Remarks by Prof. Migai Akech – Department of Law, University of Nairobi

Session chair Prof. Migai Akech raised several questions to frame and guide the discussion: When we set out to tackle online hate speech, are we treating the symptoms rather than the disease of contestations of citizenship? Why is there an audience for hate speech and why has social media acquired the prominence it has? What might this phenomenon have to do with the public discourses and the ownership and control of the media? Why do we seek to address hate speech rather than the defamation that precedes it? And can we regulate hate speech through legislation?

4.2. Remarks by Mercy Wanjau – Communications Commission of Kenya

Ms. Mercy Wanjau discussed the legal and policy framework for addressing hate speech. She noted the tremendous growth in media in the last two decades which has led to an expansion in democratic space but regrettably also led to an increase in the use of hate speech through media such as TV, radio, newspaper and the Internet. She noted that the impact of misuse of digital technologies is profound because it goes viral quickly, it reaches a broad audience and the possibilities for self-expression are almost endless. Online communication also allows a high degree of anonymity and interactivity between users propounding hate speech. Digital storage is almost limitless today and can be saved in multiple servers around the world, and therefore allows the offending information to remain widely accessible for long periods of time.

Ms. Wanjau listed the following laws as the cornerstones of the legal framework to address hate speech:

- The National Cohesion and Integration Act –Section 13;
- Penal Code –Sections 62,77 and 138;
- Media Act 2007; and
- Kenya Communication and Information Act (establishes CCK to regulate the ICT sector).

She noted that Kenya's legislative framework criminalizes improper use of ICT to send out offensive messages. While the law has its place in dealing with online hate crimes, she wondered whether we can really regulate attitudes and behaviour by legal sanction. Even if it is the most straightforward solution, there is the danger of leaving regulation entirely to the law since the most straightforward solution is not always the most relevant way to approach a complex problem such online hate speech.

Ms. Wanjau pointed out some of the dilemmas the CCK faces in its efforts to regulate hate speech online: The capacity to collect admissible evidence remains a challenge as there are jurisdictional overlaps between CCK and Media Council of Kenya. Further, technological

advancement will continue to generate new platforms for communication and this may result in unintended consequences such as the migration of offline hatred to the online platforms. Consequently, there is an urgent need to create a more effective regulatory framework and invest in awareness creation as well as capacity building to enable more effective prosecutions of online hate crimes.

4.3. Remarks by Victor Bwire – Media Council of Kenya

Mr. Victor Bwire noted that the Media Act 2007 does not include online media, a reflection of the thinking on media back then. Much has since changed as the Internet has allowed individual bloggers to become new media entrepreneurs who rival traditional media institutions.

Mr. Bwire raised concern over the levels of training of the journalists, pointing out that while the field journalists are trained on such issues, editors and sub-editors are usually not adequately sensitized. Furthermore, Presenters at most radio stations, especially community radio stations are not professional journalists, and therefore lack a strong grasp of media ethics. In fact, incidents have been documented in which radio talk-show hosts have endorsed hate speech made by their guests.

Mr. Bwire observed that we need to invest in training of bloggers in the journalistic code of conduct to help change their attitudes. He however cautioned against tightly controlling speech, noting the importance of striking a balance to give people a chance to air their grievances while at the same time dealing with hate speech.

4.4. Remarks by David Ohito – Standard Media Group

Mr. David Ohito pointed out that we cannot police hate speech any more than we have been able to deal with prostitution through legal means. There is no consensus on what hate speech is and therefore there it is challenging to police it.

Mr. Ohito observed that Facebook's audience in Kenya is far larger than that of all the local dailies combined. Standard Online handles 50,000 comments and censors 30,000 others on a daily basis.

He noted that mainstream media influences a lot of what goes on in the social media platforms. However, most of the comments and attacks about any story online usually digress from the story to the characters in the story and their identity. Once the conversation moves to identities, it often becomes polarizing. A possible approach to controlling on line hate speech is the social media policies adopted by YouTube and Google Community Guidelines. So far, only three media houses in Kenya- Radio Africa, Standard Group and Nation Media Group- have developed such policies.

4.5. Developing a research agenda

In conclusion, Dr. Aketch noted an effective way of addressing the root causes of hate speech is to consider conducting research into what has changed in the last 10 or so years that has led to the increase in hate speech and the presence of a receptive audience, and also how it is linked to inclusive citizenship.

Dr. Aketch also raised several critical questions that must be addressed, among them: How can we promote diverse viewpoints while creating a sense of nationhood? How do we deal with threats to coalition building while encouraging people to hold and express diverse opinions without suppressing debate? How is the liberalised media impacting on democracy, given that Kenya is a multicultural society?

5. Session IV: Civil Society and Citizen Initiatives

5.1. Remarks by Stephanie Muchai – Article 19

Ms. Stephanie Muchai noted that there is a difference between discriminatory speech and hate speech. When discriminatory speech results in incitement it becomes hate speech.

Opportunely, the international human rights group, Article 19, developed a threshold for helping courts to classify hate speech. She noted that Kenya has taken a punitive approach to addressing the problem, with little focus on push factors. There is therefore a need to consider non-judicial remedies, such as education and other forms of prevention.

Ms. Muchai highlighted some of the weakness of the legal regime for data surveillance and data privacy, which is critical for the control of online hate speech. For instance, the Data Protection Bill does not provide clear guidelines on the approaches to data surveillance and data privacy. Further, regulators inadvertently foster a climate of fear when they fail to properly explain actions such as data privacy infringements and the withholding of certain forms of information, even though these may be legitimately aimed at protecting the public interest.

5.2. Remarks by Alex Gakuru – ICT Consumers Association of Kenya

Mr. Gakuru used Internet user demographics from the Intermedia Survey Institute (2009) to show that Internet users in Kenya are largely high school-educated, middle-income males below 30 years of age. He urged that monitoring online hate crimes should be done within the framework of the law, and should not infringe on individual rights. He argued that there is need to study comparative monitoring systems to understand the appropriateness and effectiveness of the different processes employed in different jurisdictions.

Mr. Gakuru noted that there are three types of tracking that can be applied:

- Government tracking/lawful interception
- Crowd-sourced monitoring – citizens reporting
- Combination of the two (with due legal oversight)

He called for action to strengthen electronic evidence⁶ case law. Further, he noted that citizen-centred anti-hate initiatives work best.

5.3. Remarks by Dr Warigia Bowman – KICTANET

Dr. Warigia Bowman presented the findings of the study- Investigation into Telephony and Voter Behavior with regard to Political communication in Kenya's 2013 General Election.

Reporting on the findings, Dr. Bowman argued that people's texting and Facebook behavior during the electioneering season was likely to be strongly influenced by public pronouncements about "hate speech" from the Kenyan government. She however observed that that much of the impact was probably psychological as people refrained from posting, texting, or saying (on TV or radio) any comments that could be construed as hate speech. She noted that monitoring by the Media Council of Kenya and the guidelines by Safaricom and the CCK for political advertising may also have contributed to deterring hate speech during the elections.

Nevertheless, she pointed out that there is need to be cautious about Kenya government-led efforts to apply controls, such as filtering/censorship on online speech, as these can lead to violation of information/communication rights, while at the same time burdening ISPs. She observed for instance that service providers were expected to install gadgets to eliminate anonymity of e-mail senders and other web users by December 2012. The use of the Internet traffic monitoring equipment known as the Network Early Warning System (NEWS) to deal with cybercrime could also be abused if proper controls are not put in place.

Dr. Bowman called on all stakeholders interested in strengthening freedom of expression guarantees contained in the constitution to work together to define the concepts of "incitement," and "hate speech".

In conclusion, she noted that, in spite of filters, it is possible to send incendiary, provocative, and even violent text messages. Citing the inciting and dangerous 2007 SMS text stating: '*Raila has been arrested*', she noted that what makes messages "inciting" is very much contextual. She advocated against criminalization saying that the punitive approach is not effective also noting that while censorship may have a deterrent effect, it is a slippery slope. She advocated for citizen education as the way to deal with online hate crime.

⁶ Electronic evidence is any information that is stored or transmitted in a digital form that a party to a court case may use at trial

5.4. Plenary & Conclusions

Moderator Eva Ayiera, CHRIPS

Participants concluding observations:

- Efforts to control online hate speech should focus on prevention.
- Government should have the ability to investigate reports of online hate speech but should not engage in active monitoring of Internet use.
- While private bodies should not usurp the role of official regulators, they can take advantage of their financial power to exert their influence on the policy process. .

6. Session V: Strategies going forward

- A list of participants at the forum should be shared with all so that the conversation can continue.
- A report on the proceedings should be developed to guide further engagements.
- Stakeholders should explore the possibility of establishing a working group or a network to provide guidance on how to implement the issues learned from the forum.
- Should we be thinking of a comprehensive strategy? Is a comprehensive strategy an invitation for more regulation by the government?
- There is need to seriously consider prevention rather than regulation as well as conciliation over punishment
- Media institutions should come together and discuss the question of the control of online hate speech
- There is need for public information campaigns that encourage self-regulation so that people can take advantage of the power of social policing such as KOT cuffing and reporting abuse. Other models to consider are the approach of naming and shaming (publicizing) violators.
- Government should be encouraged to be more proactive in its response to hate crimes.
- Further conversations should include case studies of what is happening in other African countries in order to broaden understanding on comparative approaches and solutions.

Annexes

Annex I: Participants

	Name	Organizational Affiliation
1	Mutuma Ruteere	CHRIPS
2	Eva Ayiera	CHRIPS
3	Irene Nyambura	CHRIPS
4	Esther Muthee	CHRIPS
5	Judy Kaberia	Capital FM
6	Rose Kimotho	Institute for Human Rights and Business
7	Okoth Fred Mudhai	University of Cambridge
8	Patrick Mutahi	CHRIPS/Article 19
9	Njoroge Waithera	Freedom House
10	Betty Kiruki	
11	Kagonya Awori	iHub Research
12	Adam H. Adam	Open Society Initiative for East Africa
13	Muma Osaaji	CHRP/University of Nairobi
14	Pamela Inoti	Africa Leadership institute
15	Pamela Nkatha	Africa Leadership institute
16	Mugo Mugo	Conflict Researcher
17	Mercy Wanjau	Communications Commission of Kenya
18	Alex Gakuru	ICT Consumers Association of Kenya
19	Wairigia Bowman	Clinton School of Public Service, USA
20	Stephanie Muchai	Article 19
21	Nancy Muigei	Peace and Security Researcher
22	Grace Mutung'u	ISOC-Kenya
23	Victor Bwire	MCK
24	Ngaira Eric	MCK
25	Basillioh Mutahi	Nation Media
26	Steve Kayugira	Strathmore University
27	Kennedy Kachwanya	BAKE
28	Stanley Kamau	CHRIPS
29	Dr. Migai Akech	University of Nairobi
30	Kyalo Mwengi	NCIC
31	David Ohito	Standard Media Group

Annex II: Institutions

Institution	Mandate
NCIC	National reconciliation, cohesion, integration and the elimination of all forms of discrimination based on ethnic, racial, religious and social origin in Kenya. www.cohesion.or.ke
CCK	Regulation of Kenya's Information and Communication sectors including broadcasting, multimedia, postal services, telecommunications and electronic commerce. www.cck.go.ke
DPP	Institute and undertake criminal proceedings against persons accused of committing hate speech offences. www.odpp.go.ke
KNCHR	Provides human rights policy advice to the government, investigates and recommends remedies in cases of human rights violation and undertakes public education on human rights. www.knchr.org

Annex III: Programme

TIME	SESSION	SESSION NOTES
8am – 9am	<p>SESSION ONE Framing the Issues: Why online incitement and hate crimes are an issue for Kenya</p> <p>Welcome Remarks: Dr. Mumia Osaji, CHRP, University of Nairobi Introductory Remarks: Dr Mutuma Ruteere, Director CHRIPS & UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance</p>	<ul style="list-style-type: none"> • Framing the issues for the day • Defining the scope of the problem internationally and domestically • Raising the questions, the dilemmas • Speaking to national policy direction • Highlighting emerging practices in combating ethnic, racist and xenophobic hatred on the Internet
9am – 10.15am	<p>SESSION TWO: The Face of Online Hatred and Incitement Session Chair – Dr Fred Mudhai Ms. Kagonya Awori – Umati, iHub Research Ms .Judy Kaberia – Reporting Kenya- Coordinator & Special Projects Reporter, Capital FM Mr. Kyalo Mwengi - NCIC</p>	<ul style="list-style-type: none"> • Considering national trends and data on ethnic, racist and xenophobic hatred and incitement online (particularly social media platforms and blogs) • The profile of the individuals and groups: demographics, age, social status, affiliations, languages used and also use/manipulation of language;
10.15 – 10.30am	BREAK	
10.30 – 11.45am	<p>SESSION THREE A Review of the Legal and Policy Framework and Industry Approaches: Session Chair – Prof. Migai Akech Ms Mercy Wanjau, CCK Principal Legal Officer Mr Victor Bwire, Media Council of Kenya Mr. David Ohito, Standard Media Group Mr. Bassiliah Mutahi, Nation Media Group</p>	<ul style="list-style-type: none"> • Legal environment • Commentary on key legislation (CCK Act, NCIC Act, others) • Challenges in the current legal and policy frameworks • Comparative legislation and best practices from other countries
1.00pm – 2pm	LUNCH	
2 pm – 3.15pm	<p>SESSION FOUR Civil society and Citizen initiatives Session Chair – Ms. Eva Ayiera Mr. Alex Gakuru – ICT Consumers Association of Kenya Dr. Warigia Bowman – KICTANET Mr. Kennedy Kachwanya – Bloggers Association of Kenya (BAKE)</p>	<ul style="list-style-type: none"> • Civil society monitoring, tracking, advocacy • Gaps, challenges, successes, good practices to augment

TIME	SESSION	SESSION NOTES
3.15pm – 4 pm	SESSION FIVE Strategies going forward Session Chair – Dr Mutuma Ruteere <ul style="list-style-type: none">• Proposal on moving forward• Innovation	<ul style="list-style-type: none">• Establish a working group (multisectoral) to take the issues forward• Identifying the priorities in Kenya's technology, innovation, communication and democratic growth