BACKGROUND AND JUSTIFICATION

1. In the past few years there has been an increase in internet usage globally and the internet has become a key public infrastructure that has the potential to connect people, companies and businesses, and to facilitate service delivery and economic growth.[1] As of April 2022, there were five billion internet users worldwide – 63% percent of the global population.[2] In Africa, it was reported that there were about 590 million users (43% internet penetration) as of May 2022.[3] These figures include children, who represent a third of all internet users in the world,[4] and are increasingly exposed to the virtual environment. The increase in access and usage of technology has presented several opportunities for the realization of children's rights such as the right to education through online learning and to enjoy their fundamental freedoms such as freedom of expression through expressing their views and receiving information on issues concerning them.[5] It is however imperative to highlight that there is a digital divide which has resulted in some children not benefitting from the opportunities created by the internet due to various reasons that limit their access to the internet. Reasons for the digital divide are geographical, financial, digital literacy and gender related.[6]

1   J Bryne & P Burton 'Children as Internet users: how can evidence better inform policy debate?' (2017) 2 Journal of Cyber Policy 39.

2   Statista 'Global Digital Population as of April 2022 https://www.statista.com/statistics/617136/digital-population-worldwide/ (accessed 20 July 2022).

3   Internet World Stats Usage and Population Statistics https://www.internetworldstats.com/stats1.htm (accessed 20 July 2022).

4   S Livingstone et al 'One in three: Internet Governance and children's rights' UNICEF-Office of Research Innocenti Discussion Paper 2016-01 7.

5   S Livingstone S & B O'Neill 'Children's rights online: challenges, dilemmas and emerging directions' in van der Hof et al (ed) Minding Minors Wandering the Web: Regulating Online Child Safety. Information technology and law series (2014) 19-38.

6   UNICEF 'The State of the World's

2. Whilst the increased access to the internet and technology has created opportunities for some children, the benefits present other growing dangers for children's rights online.[7] Violation of children's rights is therefore no longer restricted to homes, schools and communities but also take place in the online sphere. Children are exposed to numerous online risks which can be classified as content risks[8] (advertising or spam; ferocious, horrific or hateful content; pornographic or harmful sexual content); contact risks[9] (online grooming, child sexual abuse material (child pornography), and cyberbullying); and conduct risks[10] (sharing pornographic material, sharing personal information, chatting with strangers, sexting). Children's privacy is also at risk due to inter alia, sharing of children's personal information by children themselves or their parents or other individuals[11]; tracing, monitoring and broadcasting of children's live images, behaviour and locations by websites; and data collection and processing by governments and businesses. Due to their age, children may not be able to identify online risks and protect themselves hence they remain the most vulnerable internet users. Undoubtedly, online risks and harms have an impact on the rights and welfare of children hence the need for African countries to adopt effective legislative and other measures to ensure the promotion and protection of children's rights online.

3. Over the past decade, African countries have passed laws and adopted regulations on cybersecurity, cybercrime, electronic transactions and data protection. Approximately more than half of the AU Member States have enacted data

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Children' 2017.

7   Council of Europe Commissioner for Human Rights 'Protecting children's rights in the digital age: An ever growing challenge' https://www.coe.int/en/web/commissioner/-/protecting-children-s-rights-in-the-digital-world-an-ever-growing-challen-1 (accessed 20 July 2022).

8   Children have no active role in the process but merely receive general information.

9   Children are targeted as participants in individualized activity either by other children or adults.

10   Children are the initiators of risk-taking behavior.

11   This may include malicious sharing of children's images that may portray pornography and ridicule thereby affecting children's reputation and privacy more broadly by enabling the misuse of personal information.

protection cybercrimes and/or cybersecurity laws. Some countries have also taken a step further in ensuring that the legislation has provisions related to children.

4. The African Committee of Experts on the Rights and Welfare of the Child (ACERWC) notes the normative and policy framework on children's rights online at international and regional level. At the international level, the ACERWC notes that the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (OPSC) seeks to strengthen the provisions of the CRC in various ways relevant to online and offline sexual exploitation of children. It is further noted that in 2021, the UN Committee on the Rights of the Child adopted General Comment 25 on children's rights in relation to the digital environment. The GC offers guidance to States Parties on relevant legislative, policy and other measures to ensure full compliance with their obligations under the CRC and Optional Protocols thereto in light of the opportunities, risks and challenges in promoting, respecting, protecting and fulfilling all children's rights in the digital environment.

5. There are other instruments that also address children's rights online such as the Council of Europe's Convention on Cybercrime (Budapest Convention) and the Council of Europe's Convention on the Protection of children against sexual exploitation and sexual abuse which are both open for ratification by non-members states; the International Telecommunications Unit (ITU) Guidelines on Child Online Protection; and the ITU Resolution 179 (ITU's role in child online protection) which, among other things, calls upon member states to raise awareness on online risks that may be encountered by children, establish frameworks for child protection online, and support the collection and analysis of data and statistics on child online protection which are key in designing and implementing public policies. Further the ACERWC notes that building on the Human Rights and Business Guiding Principles, the Children's Rights and Business Principles12 call on industries to meet their responsibility to fulfil children's rights by circumventing any adverse effects associated to their work,

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12   UNICEF 'UN Global Compact and Save the Children, 'Children's Rights and Business Principles' (2012) https://www.unicef.org/documents/childrens-rights-and-business-principles (accessed 20 July 2022).

products or services. This includes adverse effects in the online environment.

6. At regional level, the ACERWC notes the provisions of the African Charter on the Rights and Welfare of the Child (ACRWC) on the promotion and protection of children which also apply in the online environment such as article 7- freedom of expression, article 8-freedom of association, article 10-privacy; article 1-education; article 15-child labour; article 16-protection against child abuse and torture; and article 27-sexual exploitation. In addition, the ACERWC adopted General Comment No. 7 on Article 27 of the ACRWC (sexual exploitation) in 2021. The General Comment describes legislative, administrative and other measures that should be taken by State Parties to protect children from all forms of sexual exploitation and abuse both offline and online. Most importantly, GC No. 7 stresses that legal and policy frameworks should be reviewed and where necessary adapted to rapidly changing realities concomitant with developments in the digital world. Legislation should

address online sexual abuse, and provide a mandatory reporting obligation for internet service providers. Further, in 2022 the ACERWC's Working Group on Children's Rights and Business adopted Resolution 17/2022 on protection and promotion of children's rights in the digital sphere to offer guidance to Member States, businesses/ private sector and NGOs/ CSOs on how they can contribute to the protection and promotion of children's rights online. The provisions of Aspiration 7 of Agenda 2040 (violence, exploitation, neglect and abuse) are also noteworthy as it calls upon Member States to ensure that no child is exposed to sexual exploitation and used for child pornography.

7. The ACERWC also notes that the African Union Convention on Cyber Security and Personal Data Prevention (Malabo Convention) which is not yet in force places an obligation on States to put in place legal frameworks aimed at strengthening fundamental rights and freedoms, especially protection of data and sanction

any infringement of privacy.13 Protection of children from sexual exploitation and abuse online is provided for in article 29(3) (1) which calls upon state parties to criminalise child pornography. The AUC has also undertaken a number of initiatives on online child safety, including the AU program on online child sexual exploitation in Africa which aims to put in place a comprehensive and coordinated effort and to mutually reinforce a set of activities to galvanize member states, key stakeholders and partners to accelerate actions in addressing Online Child Sexual Exploitation and Abuse (OCSEA) including prevention, protection and prosecution. The ACERWC also notes some instruments adopted by Regional Economic Communities (RECs) that have some provisions on protection of children's rights online for instance the SADC Model Law on Data Protection and the ECOWAS Child Policy (2019-2030).

8. Despite the progress noted at international and regional level on children's rights online, it is noted that promotion and protection of children's rights online still remains a challenge in Africa. Internet access remains a challenge for some children hence hindering them from accessing some opportunities online. Further, some African countries have no law or policy on cyber security hence there is no protection of children's rights online. Some countries lack capacity-development incentives for cybersecurity – which aim to bridge the digital divide, build institutional knowledge, or address policy awareness limitations and skills shortages for cyber protection.14 Further, some legal frameworks lack adequate depth and breadth and there is limited awareness and understanding amongst government and policy makers within Africa while some do not see online child safety as a priority and have limited capabilities to tackle the issue effectively. There is also a gap in holding internet service providers accountable for online child rights violations among African countries. Last but not least, 42 AU Member States have not ratified the Malabo Convention. Such a slow pace towards signing and ratification by African countries will impede the timely achievement of the objectives of the Convention hence jeopardizing the protection of children's rights online. The ACERWC notes that all these challenges have an

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13　　Article 8(1) of the Malabo Convention.

14　　ITU 'Are African countries doing enough to ensure cybersecurity and Internet safety?' September 2021 https://www.itu.int/hub/2021/09/are-african-countries-doing-enough-to-ensure-cybersecurity-and-internet-safety/ (accessed 20 July 2022).

impact on the realization of children's rights in the digital sphere.

9. Against the backdrop of these facts, the ACERWC intends to hold a Day of General Discussion on this particular theme during its 40th Ordinary Session which will be held on 21 November-02 December 2022.

OBJECTIVES OF THE DAY OF THE GENERAL DISCUSSION

10. The Day of the General Discussion has the following major objectives:

i. To assess the barriers that limit children's access to the internet in Africa and identify possible solutions;

ii. To discuss the nature and scope of violation of children's rights in the digital sphere in Africa and their impact on the rights and welfare of children;

iii. To identify the challenges and discuss possible solutions to the challenges that children face (including children in vulnerable situations) in the digital sphere in Africa;

iv. To create a forum where countries share their experience (best practices and challenges) in terms of enabling legislations/polices, institutions and programmatic responses with regard to internet and technology access for children and addressing online risks and harms for children;

v. To discuss the laws, institutions, mechanisms and practices in place within African countries to prevent, prosecute and punish perpetrators of violations of children's rights online; and ensure adequate and timely remedies are available to survivors;

vi. To identify the challenges and project solutions to the impact of violation of children's rights online; and

vii. To discuss the role of other stakeholders in addressing violation of children's rights online (businesses/private sector, civil society organisations and parents)

STRUCTURE OF THE DISCUSSION

1. In line with the above-mentioned objectives, there will be four panels/ sessions divided according to the following headings:

- ✓ Panel I- Children's rights in the digital sphere: Focus on African Perspectives
- ✓ Panel II- The legislative and institutional responses of African countries on the promotion and protection of children's rights in the digital sphere
- ✓ Panel III- A focus on contemporary online child rights violations in Africa
- ✓ Panel IV- Working collectively to promote and protect children's rights in the digital environment

EXPECTED OUTCOME

2. Following the discussion, the ACERWC will consider adopting an outcome statement which will highlight the major issues raised and recommendations towards effective and functional solutions to the challenges faced by children as they explore the internet in Africa. The contents of the outcome statement will then be shared to Member States of the AU and other stakeholders for possible policy guidance and shaping interventions. Moreover, the major outcome of the discussions and the recommendations therein will be reported to the Policy Organs of the African Union to mobilize a higher degree of political engagement at the continental level.

DATE AND TIME

3. The Day of General Discussion will be held during the 40th Ordinary Session of the ACERWC on 24 November 2022 at 09:00-17:00 South African Time.

LIVESTREAMING ON ACERWC FACEBOOK PAGE

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CHILDREN'S REPRESENTATIVES
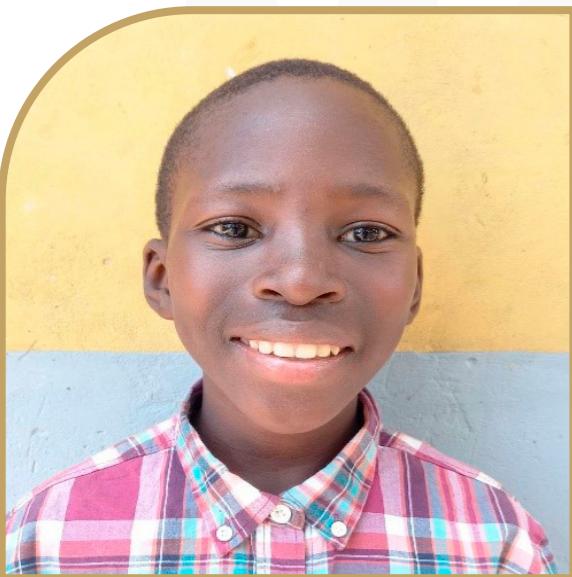
PANELISTS

**Ndombele Ange Panis,
14 years old, DRC**

**Kidus Molla Kassaw,
16 years old, Ethiopia**
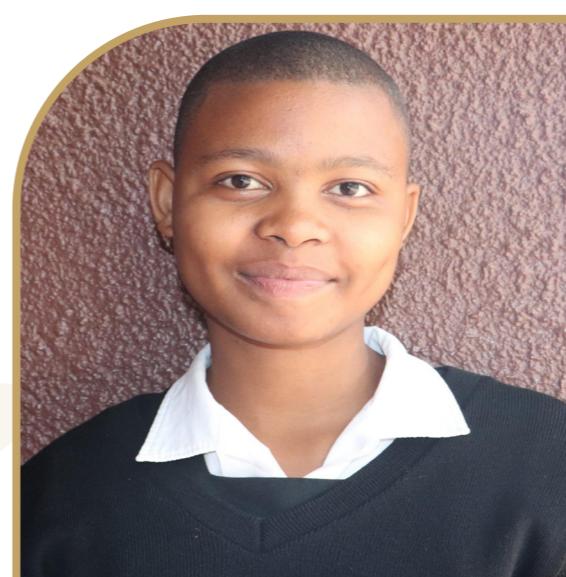
**Sinethemba Mtsetfwa,
16 years old, eSwatini**
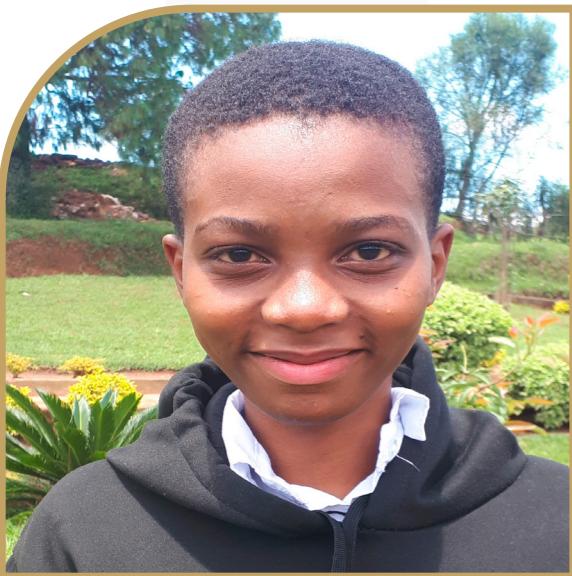
Sylvia Musalagani

**Joyce Kirabo,
17 years old, Rwanda**

**Siyakhula Mavuso,
16 years old, eSwatini**

As the Safety Policy Lead for Africa, Middle East and Turkey (AMET), Sylvia manages safety policy development and strategic policy engagements across 78 countries in the AMET region. Her role is focused on building relationships with key policy stakeholders and collaborating on regulatory and policy initiatives that advance the safety of online communities in Africa, Middle East and Turkey.

Sylvia is a recognised thought leader on human rights, internet freedom and trust &safety and has been awarded various fellowships in the field; Information Controls fellow of the Open Technology fund, Mozilla Festival Fellow and Internet freedom

Festival Fellow, African School of Internet Governance and Oxford University Media policy institute.

Sylvia has worked extensively with leadership teams to facilitate the development of strategies to improve project management, policy advocacy and organisation sustainability. She has also worked one-on-one with organisations to help them refine their leadership skills and improve their ability to deploy successful strategic initiatives.

PANELISTS

Dr. Elvis Fokala has more than 12 years of experience working in the field of children's rights within the CSOs and Academic sectors. During the last seven years, he has established himself as a legal scholar with several published academic papers and edited books and Journal issues in the area of children's rights and constitutional law in relation to Africa.

He holds a PhD in Public International Law (Research focus on Child Law), from the Abo Akademi University in Finland. LL.M in Multidisciplinary Human Rights Law, from the Centre for Human Rights, University of Pretoria, South Africa.

He is currently the Programme Manager of the Children's Rights Unit at the Centre for Human Rights at the University of Pretoria,

My name is Mary Wambui Thiong'o

I'm an Assistant Director Children's Services with 15 years of experience in advocating and championing for Child Rights. I'm an award winner with International Justice Mission as a champion for Justice for children in Kenya.

Currently am working at the National Council for Children Services as the head of Advocacy,Public Education and awareness creation,where among

other responsiilities I am championing care for children without parental care or at risk of separation as well as coordinating both state and non.state actors in the children sector towards enhanced service delivery to Children in Kenya.

Mona Aika has over fifteen years of work experience in Child Protection. Mona began her career as a national Child Protection Coordinator at World Vision Tanzania managing the integration of child protection across the area development programmes.

In 2018, Mona joined the UNICEF ESARO as Child Protection Specialist managing the UNFPA-UNICEF Global Programme on Ending Child Marriage, UN Joint Programme for the elimination of FGM and EU Spotlight Initiative Africa Region Programme.

Furthermore, Mona is also managing the Ending Violence Against Children portfolio and Child Care Reform across the 21 UNICEF country offices in East and Southern Africa. She has a Law degree (LLB) and a Master's in international law (LLM) from Oxford Brookes University in England.

PANELISTS

Cleophas Maragia Angwenyi

Cleophas has over 12 years' experience working on children's rights, and is currently a Senior Child Rights Advocacy Advisor at Save the Children AU Liaison and Pan Africa Office, Ethiopia.

Cleophas brings has broad experience in continental child rights advocacy, and has served in the Coordinating Committee of the CSO Forum on the Charter, and as the Regional Coordinator of the Eastern Africa Child Rights Network (EACRN).

Cleophas holds a

Bachelor's Degree in Anthropology from the University of Nairobi, and pursuing a Master's Degree in Development Anthropology in the same institution. Cleophas has also undertaken several short courses in child protection, conflict resolution, project management, monitoring & Evaluation.

Fikerte Tadesse

Currently working as a Project Coordinator for Plan AULO. Keen advocate for Economic development and strong Civil Society organization with a range of experience from working on different societal issues ranging from good governance to supporting private sector.

Having a decade professional experience in non-government and private sector. I hold Masters in African Studies and Bachelor of Arts in Business Administration and Information System

Jennifer Kaberi

Ms Kaberi is a Fellow at the Berkman Center for internet and society at Harvard University, investigating how we can reboot social media by creating a digital environment where children can engage, create, and influence in a safe and fun environment. She is also a Child Development specialist with a Masters in Child Development from Daystar University.

Jennifer has over 15 years of experience working with children, and a significant amount of developing child-focused systems. Jennifer has supported several government agencies and regional bodies in developing children's policies as part of the technical committees. Moreover, Jennifer has been trailblazing in using technology as a tool for child participation by creating platforms where children can hold their leaders accountable as well as contribute to National and Regional debates

PANELISTS

Betty Odallo

Betty Odallo serves as the Senior Technical Adviser for Africa at the Center for Reproductive Rights. With more than ten years' experience working on sexual and reproductive health and rights (SRHR) and good governance, Betty is responsible for the design and implementation of advocacy strategies on SRHR, at regional and national levels across several countries in Africa including Kenya, Uganda, Tanzania, Rwanda, Nigeria, Zambia and Malawi. She leads programming on access to adolescent SRHR and works to enhance the capacities of girls' rights organizations to become more effective in advocating for laws, policies, and standards on ASRHR that are human rights-based and responsive to the needs of diverse adolescents.

David Gitau

David Gitau is a Criminal Intelligence Officer at INTERPOL's Crimes against Children Unit. His experiences includes online child sexual exploitation investigations and capacity building for law enforcement.

David joined INTERPOL in 2021 after working for the Anti-Human Trafficking and Child Protection Unit at the National Police Service in Kenya. He holds a Master degree in Human Trafficking, Migration and Organized Crime from St Mary's University Twickenham. Trained as a police officer, he has worked on various aspects of crime including trafficking in human beings and smuggling of migrants.

Shimelis is currently working as Director of Programmes at the African Child Policy Forum (ACPF), responsible for managing, co-ordinating and overseeing all programme-related activities.

Shimelis has been behind the initial conceptualization of ACPF's major advocacy reports, the African Report on Child Wellbeing, and the African Report on Children with Disabilities and the African Report on Violence against Children as well as co-authoring chapters in those reports.

Shimelis has authored various books and journal articles on violence against children, child sexual exploitation, girls' rights, disability as well as child poverty, among others, and has led the conceptualization of continental conferences and dialogue forums on child rights in general.

PANELISTS

Willy Buloso

Willy Buloso is the Regional Coordinator for Africa at ECPAT International, since 2017. He is responsible for providing leadership towards ECPAT's advocacy and programming work against Sexual Exploitation of Children in Sub-Sahara African countries.

He had previously worked for the International Criminal Court in The Hague, Human Rights watch in Nairobi and the United Nations Mission in Mali. He holds a master's degree in law and international relations from the University of Lyon 3 in France and an International Diploma in Humanitarian Assistance from Fordham University in New York, USA.

Fluent in Swahili, English and French. Passionate about wildlife conservation and proud member of the Virunga Foundation to save the gorilla habitat in the Virunga National Park

Tugwell Chadyiwanembwa

Currently working as the Programmes Manager for Plan International African Union Liaison Office, I am a senior advocacy and influencing expert on development, peace building and humanitarian concerns with a wide range of experience gained over more than 16 years of practice in non-governmental and governmental institutions including Plan International, World Vision, Voluntary Services Overseas, Midlands State University School of Social Work, Council of Social Workers, Ministry of Public Service, Labour and Social Welfare, Zimbabwe Council of Churches and Population Services Zimbabwe.

I hold Bachelor of Social Work Honors, Master of Social Work, Master of International Relations, and Executive Master of Business Administration.

I have led program development and management in child rights and protection, gender-based violence, health, education, food security, sexual and reproductive health, and emergency response (COVID-19 included) to advance human rights particularly for children and young people.

Usang Maria Assim

Usang Maria Assim is an Associate Professor of Law at the Dullah Omar Institute for Constitutional Law, Governance and Human Rights based at the University of the Western Cape in South Africa, where she currently serves as Acting Head of the Children's Rights Project.

As a children's rights expert, Maria works in close collaboration with the African Committee of Experts on the Rights and Welfare of the Child, the Committee's partners, and other civil society organisations involved with children's rights in Africa and globally, to contribute towards the fulfilment of the Committee's mandate.

Maria teaches, leads research, and publishes on various aspects of human and children's rights, including the right to alternative care, civil and political rights of the child, and children's socio-economic rights. Her book, Understanding kinship care of children in Africa (a family environment or an alternative care option?) was published in 2015 by Eleven International Publishing in the Netherlands.

PROGRAM OF WORK

DAY 2 — 24 November 2022

DAY OF GENERAL DISCUSSION ON CHILDREN'S RIGHTS IN THE DIGITAL WORLD

TIME [SAT]	TOPICS AND SPEAKERS	PANELS AND MODERATORS
09:00-09:10	• Welcome Remarks	Hon Joseph Ndayisenga- Chairperson of the ACERWC
09:10-10:30	*Panel I- Children's rights in the digital sphere: Focus on African Perspectives* Moderator: Hon. Theophane Nikyema	i. Opportunities and Challenges with regards to children's rights in the digital sphere in Africa- **UNICEF – Ms. Mona Aika** ii. Children's perspectives: Online dangers and their impact on children's rights- **Children's representatives** iii. Internet access as a rights issue: Strategies for achieving universal and meaningful access to the internet by children in Africa- **Jenifer Kaberi, Mtoto News**
10:30-10:45	**Health Break**	
10:45-12:30	**Panel II- The legislative and institutional responses of African Countries on the promotion and protection of children's rights online.** Moderator: Hon. Kembo	i. International and regional human rights standards and commitments on online child protection and their implementation in Africa- **Opal Sibanda, ACERWC Secretariat.** ii. Taking the African Union Plan of Action and Strategy on OCSEA forward focusing on African perspectives- **Dr. Richard Wamimbi, AU Department of Health, Humanitarian Affairs and Social Development** iii. Experiences in enabling legislation/policies, institutions and programmatic responses with regard to online child protection- **Representative of the Government of Kenya** iv. Addressing cross border issues on child online safety: Extraterritoriality and international mutual legal assistance and cooperation- **Mr. GITAU David, INTERPOL**

TIME [SAT]	TOPICS AND SPEAKERS	PANELS AND MODERATORS
12:30-14:00	**Lunch Break**	
14:00-15:30	**Panel III- A focus on contemporary online child rights violation in Africa** Moderator: Hon. Robert Nanima	i. Children's privacy and personal data protection in the digital sphere: African Countries' Responses- **Prof. Usang Assim, Dullar Omar Institute** ii. New and emerging forms of online child sexual exploitation in Africa: African Countries Responses- **Willy Buloso, ECPAT International** iii. The [de]Merits of a child's Right to Play in a Digital Age in Africa - Art 12 of the African Children's Charter- **Dr. Elvis Fokala, Centre for Human Rights** iv. Child influencers and Social Media: Child Exploitation in the Digital Age- **Cleophas Maragai, Save the Children** v. The digital environment and its implications on adolescent girls' right to be protected from sexual abuse and exploitation; a case of Kenya, Uganda, Zambia and Liberia- **Betty Odallo, Centre for Reproductive Rights & Tugwell Chadyiwanembwa, Plan AU Liaison Office**
15:30-16:45	**Panel IV- Working collectively to promote and protect children's rights in the digital sphere** Moderator: Hon. Karoona	i. The role of businesses: Striking a balance between children's participation and protection rights –**Sylvia Musalagani, META** ii. The role of parents: Balancing the tension between parental responsibility and children's right to freedom of expression and privacy- **Dr. Shimelis Tsegaye Tesemma- ACPF** iii. Online safety in schools: The role of schools and Education Ministries- **Fikerte Tadesse, Plan AU Liaison Office** iv. Experiences in implementing projects and programs related to online child protection- **Sakhile Dlamini , World Vision,**
16:45-17:00		Outcome Statement