Data Protection and the Fulfilment of Online Freedom

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Outline

• What is personal data?
• Personal data protection in Malawi
• Way forward
What is personal data?

• Increased access to the internet, mobile subscriptions and smartphone usage have enabled people to shop, interact, share and search for information, learn, and work online.

• We access and share information, express ourselves, and associate using the internet and related platforms.

• This has increased collection, processing and sharing of personal data.

• Yet, most of us ICTs are not aware of the implications of digital technologies and how our rights are compromised.
• Personal data is information that relates to an identified or identifiable natural person by which that person can be identified …

• “in particular by reference to an identification or one or more factors specific to his/her physical, physiological, mental, economic, cultural or social identity” (Article 4, EU GDPR, 2018).

• Upholding data rights means data must be kept private – it should not be known, stored, or used by unauthorised parties – this is key to right to privacy.

• Data protection is both an enabler and reliant on the enjoyment of other rights, such as freedom of expression, information and association.
Personal data protection in Malawi

• Data collection has been increasing in Malawi, especially with the implementation of biometric national ID in 2017.

• The national ID now used by a number of government agencies, replacing previously siloed ID programs.

• … The Malawi Electoral Commission uses it to register voters; the Malawi Revenue Authority uses it to register potential taxpayers; the ID is used to pay civil servants, and the Immigration Department uses the ID to verify applicants.

• Ministries, departments, and agencies are integrating digital ID into programs for financial development and inclusion, farm subsidies, healthcare, and social protection. Ibid.
• From 2018, SIM card registration became mandatory, using the national ID.

• Banks are also using the ID card to verify and register new customers as well.

• Increased data collection brings increased potential of state surveillance and data privacy breaches.

• Evidence suggests that the Malawi Government is willing to use surveillance to undermine digital rights.
• For example, the case of investigative journalist, Gregory Gondwe.

• The consequences are that citizens become scared to participate in public affairs and/or practise self-censorship in their engagements over digital platforms.

• This undermines the philosophy of a free and open internet that drives innovation and enables the enjoyment of rights and improvement of livelihoods.
Way forward

• There is a need to have strong data protection laws.

• Educate citizens to protect their data and demand their digital rights.

• Have robust, well-resourced and independent data protection authorities.

• Establish clear and well-publicised complaint mechanisms in cases of data privacy breaches.
• These measures would enable accountable data governance that respects citizens’ data rights and advances wider internet freedoms in Malawi.

• … it would enable robust protection of digital rights while providing scope for data openness that enables data harnessing to serve the legitimate public interest.