



## Call for Applications

### Southern African Digital Rights & Online Freedom of Expression Litigation Surgery

14 - 18 January 2019, Johannesburg, South Africa

---

The Media Legal Defence Initiative (MLDI) is calling for applications from lawyers based in Botswana, eSwatini, Lesotho, Malawi, Namibia, South Africa, Zambia and Zimbabwe to participate in a forthcoming litigation surgery on the right to freedom of expression online, digital rights and the Internet.

All applicants are required to submit for discussion a current or potential case involving these matters. Successful applicants will attend the litigation surgery and become members of a digital rights legal network through which there will be opportunity for engagement regionally and internationally.

#### **Litigation surgery objectives**

MLDI provides legal support to journalists, bloggers and independent media. In recent years, it has supported a significant number of cases involving online media. These have included challenging social media blocking and Internet shutdowns, contesting cybercrimes legislation, 'false news' regulations and intermediary liability, as well as advancing greater online privacy and source protection.

The objectives of the litigation surgery are:

- To equip participants with skills and knowledge to litigate using national and international laws as well as regional and international mechanisms relevant to freedom of expression online;
- To build a digital rights network and help facilitate its engagement with international legal mechanisms and global civil society initiatives; and
- To assist and develop working relationships amongst lawyers undertaking such cases.

#### **Criteria for eligibility**

Participants will be selected on the following criteria:

- The surgery is open to lawyers who work and reside in Botswana, eSwatini, Lesotho, Malawi, Namibia, South Africa, Zambia and Zimbabwe. Applicants can either be working in private practice or be working for, or be affiliated with, NGOs promoting the right to freedom of expression through litigation. Exceptionally strong applications from lawyers who have not yet undertaken freedom of expression work, but have

experience litigating other human rights cases and have a strong interest in undertaking freedom of expression work will be considered as well.

- A maximum of 12 participants will be selected;
- Applicants must be proficient in English;
- The lawyers must have a demonstrated interest in and/or knowledge of the right to online freedom of expression, digital rights, Internet freedom and/or related issues;
- The lawyers must have a demonstrated interest in and/or knowledge of international and regional human rights law;
- With their application, applicants are requested to submit a case study of a case that they are litigating or intend to litigate and that could be discussed during the litigation surgery. As set out above, it will suffice for participants who do not have a case that is pending to have identified a relevant law, practice or policy relating to online freedom of expression that they would like to challenge in court. However, such participants must demonstrate their ability and willingness to pursue the case after the surgery;
- The cases submitted must involve a violation of the fundamental right to freedom of expression online. The following non-exhaustive list of themes are a guide for the type of cases that could be submitted with the application:
  - Cybercrime laws;
  - Intermediary liability;
  - Internet shutdowns;
  - Restriction of online media;
  - Online privacy;
  - National security; and
  - Anonymity online.

MLDI is committed to equality of opportunity and diversity; and will therefore consider gender, age and country of origin in its selection of participants.

### **How to apply**

Please complete the [attached application](#) form and submit it to Michael Moss at [michael.moss@mediadefence.org](mailto:michael.moss@mediadefence.org). The deadline is Tuesday 16 October 2018.

Shortlisted applicants will be notified soon after the closing date and should be available for a Skype or telephone interview on 31 October, 1 November or 2 November 2018.

**Deadline for Applications: Tuesday 16 October**

## **Frequently Asked Questions**

### **Q: What is a litigation surgery?**

A litigation surgery comprises in-depth sessions on international and comparative law relevant to freedom of expression as well as interactive sessions where participants present a case they are working on to peers and experts and discuss that case. The surgery's focus on preliminary problem identification, framing of violations, formulation of human rights arguments and remedies. They also provide an in-depth understanding of strategic litigation and litigating before regional and international human rights bodies.

### **Q: I am not a lawyer but I am interested, can I apply?**

Litigation surgeries are only open to lawyers who are in practice. Very rare exceptions will be made for lawyers who are not in practice or other people providing legal assistance to civil society organisations that work on the right to freedom of expression.

### **Q: What is the purpose of a litigation?**

Litigation surgeries are intended to be a space for litigators to receive technical legal expertise on the relevant thematic issues. It is also a space for litigators to network and find out what other litigators in East Africa are working on.

### **Q: Where must surgery participants be from?**

This call for applications relates to Southern Africa, and only lawyers based and working in Botswana, eSwatini, Lesotho, Malawi, Namibia, South Africa, Zambia and Zimbabwe.

### **Q: How many participants will be at the litigation surgery?**

12 participants will be selected for the litigation surgery. There will also be two MLDI lawyers, an MLDI project coordinator and an external facilitator.

### **Q: Who pays for the costs of participation?**

MLDI will cover airfare, accommodation, travel expenses and a per diem.

### **Q: Is there any follow-up?**

MLDI plans to help facilitate a network of lawyers who are interested and active in defending digital rights and online freedom of expression cases. Further details will be provided during the litigation surgery.

In addition, MLDI's lawyers will discuss with participants how MLDI can assist with their cases and provide follow-up. MLDI will also discuss the possibility of providing further assistance to the freedom of expression cases participants work on after the surgery, either by way of providing ad hoc legal support or by way of partnerships. As MLDI is a non-governmental organisation dedicated to providing legal defence to journalists, bloggers and independent media across the world through its networks, it is always interested in following up on participants' cases and working with participants on cases in the future.