

# CCIREPORT2024

Cultural policies, legal and regulatory frameworks and their impact on the creative and cultural industries of nine Southern African countries  
- an overview and assessment





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# Acronyms

<b>ACP</b>	Africa, Caribbean and the Pacific	<b>NASCAM</b>	Namibian Society of Composers and Authors of Music
<b>ACFTA</b>	African Continental Free Trade Area	<b>NDP</b>	National Development Plan
<b>AI</b>	Artificial intelligence	<b>NGO/NGOs</b>	Non-governmental organisation/s
<b>AU</b>	The African Union	<b>NIPPS</b>	National Intellectual Property Policy and Strategy
<b>BIPA</b>	Business and Intellectual Property Authority	<b>NSDP</b>	National Strategic Development Plan (Lesotho)
<b>CAPI</b>	Computer assisted personal interviews	<b>OACPS</b>	Organisation of the African, Caribbean and Pacific States
<b>CCI/CCIs</b>	Cultural and creative industry/industries	<b>PACRA</b>	Patents and Companies Registration Agency
<b>CDIS</b>	Culture for development indicators	<b>PR</b>	Public relations
<b>CIPA</b>	Companies and Intellectual Property Authority (Botswana)	<b>QPR</b>	Quadrennial periodic report
<b>CMO</b>	Collective management organisation	<b>RA</b>	Research assistant
<b>COMESA</b>	Common Market for Eastern and Southern Africa	<b>RISDP</b>	Revised Regional Indicative Strategic Development Plan (SADC)
<b>CSO</b>	Civil society organisation	<b>SACU</b>	South African Customs Union
<b>EU</b>	European Union	<b>SADC</b>	Southern African Development Community
<b>FENACULT</b>	National Festival of Culture and Arts	<b>SCTS</b>	Southern Africa Sustainable Cultural Tourism Strategy
<b>GDP</b>	Gross domestic product	<b>SPSS</b>	Statistical Package for Social Scientists
<b>GI</b>	Goethe-Institut	<b>SCF</b>	Sound Connects Fund
<b>HQ</b>	Headquarters	<b>UDHR</b>	Universal Declaration on Human Rights
<b>IDI</b>	In-depth Interviews	<b>UN</b>	United Nations
<b>ICH</b>	Intangible cultural heritage	<b>UNCTAD</b>	United Nations Conference on Trade and Development
<b>IFACCA</b>	International Federation of Arts Councils and Cultural Agencies	<b>UNESCO</b>	United Nations Educational, Scientific and Cultural Organization
<b>IFCD</b>	International Fund for Cultural Diversity	<b>WPFI</b>	World Press Freedom Index
<b>IKS</b>	Indigenous knowledge system	<b>WIPO</b>	World Intellectual Property Organization
<b>INICC</b>	National Institute of Cultural and Creative Industries	<b>WCT</b>	WIPO Copyright Treaty
<b>IP</b>	Intellectual property	<b>ZAMCOPS</b>	Zambia Music Copyright Society
<b>IPI</b>	Industrial Property Institute	<b>ZARRSO</b>	Zambia Reprographic Rights Society
<b>IPRs</b>	Intellectual property rights	<b>ZNIPPIS</b>	Zimbabwe National Intellectual Property Policy and Implementation Strategy
<b>KI/KIs</b>	Key informant/s		
<b>KII/KIIs</b>	Key informant interview/s		
<b>MIAF</b>	Music In Africa Foundation		
<b>NAHC</b>	National Arts and Heritage Council		

# Glossary of key terms

**African Union:** The African Union (AU) is a continental body consisting of the 55 member states that make up the countries of the African continent. It was officially launched in 2002 as a successor to the Organisation of African Unity (OAU, 1963-1999).

<https://au.int/en/overview>

**Agenda 2063: The Africa We Want:** Agenda 2063 is Africa's blueprint and master plan for transforming Africa into a global powerhouse of the future. It is the continent's strategic framework that aims to deliver on its goal for inclusive and sustainable development and is a concrete manifestation of the pan-African drive for unity, self-determination, freedom, progress and collective prosperity pursued under Pan-Africanism and African renaissance. The genesis of Agenda 2063 was the realisation by African leaders that there was a need to refocus and reprioritise Africa's agenda from the struggle against apartheid and the attainment of political independence for the continent, which had been the focus of the OAU, the precursor of the African Union; and instead to prioritise inclusive social and economic development, continental and regional integration, democratic governance, and peace and security, among other issues aimed at repositioning Africa to becoming a dominant player in the global arena.

<https://au.int/en/agenda2063/overview>

**Creative economy:** The United Nations Conference on Trade and Development defined the creative economy as "the interface between creativity, culture, economics and technology as expressed in the ability to create and circulate intellectual capital, with the potential to generate income, jobs and export earnings while at the same time promoting social inclusion, cultural diversity and human development. This is what the emerging creative economy has already begun to do" (UNCTAD, 2008).

[https://unctad.org/system/files/official-document/ditc20082cer\\_en.pdf](https://unctad.org/system/files/official-document/ditc20082cer_en.pdf)

**Creative industries:** The creative industries – which include advertising, architecture, arts and crafts, design, fashion, film, video, photography, music, performing arts, publishing, research & development, software, computer games, electronic publishing, and TV/radio – are the lifeblood of the creative economy. They are also considered an important source of commercial and cultural value.

<https://unctad.org/topic/trade-analysis/creative-economy-programme>

**Copyright industries:** Industries that are wholly engaged in the creation, production, manufacturing, distribution, broadcasting, the performance of copyright-protected works, such as music, theatre productions, visual and graphic arts, photography, collective management societies, television and radio. 'Copyright industries' is divided into four broad categories: Core industries, interdependent copyright industries, partial copyright industries and non-dedicated support industries.

<https://www.wipo.int/portal/en/index.html>

**Freedom of expression:** It is the right to speak, to be heard and to participate in political, artistic and social life. It also includes the 'right to know': the right to seek, receive and share information through any media.

<https://www.article19.org/what-is-freedom-of-expression>

... the power or right to express one's opinions without censorship, restraint, or legal penalty.

[https://www.oed.com/dictionary/freedom\\_n?tl=true](https://www.oed.com/dictionary/freedom_n?tl=true)

**Global Expression Report:** The Global Expression Report (GxR) is an annual look at the right to free expression and information across the world. The GxR metric tracks freedom of expression across 161 countries via 25 indicators to create a score between 0 and 100 for every country. That score places it in an "expression" category.

<https://www.globalexpressionreport.org>

**Gross domestic product (GDP):** The sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources.

<https://databank.worldbank.org>

**GDP per capita:** The sum of gross value added by all resident producers in the economy plus any product taxes (less subsidies) not included in the valuation of output, divided by mid-year population. Growth is calculated from constant price GDP data in local currency.

<https://databank.worldbank.org>

**Intellectual property rights (IPR):** IP rights such as copyright, patents and trademarks are viewed like any other property right. They allow the creators or owners of IP to benefit from their work or from their investment in a creation by giving them control over how their property is used.

<https://www.wipo.int/portal/en/index.html>

**Southern African Development Community (SADC):** A regional economic community comprising 16 member states: Angola, Botswana, Comoros, Democratic Republic of Congo, Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Tanzania, Zambia, and Zimbabwe. The mission of SADC is to promote sustainable and equitable economic growth and socio-economic development through efficient, productive systems, deeper cooperation and integration, good governance and durable peace and security – so that the region emerges as a competitive and effective player in international relations and the world economy.

<https://www.sadc.int>

<https://www.sadc.int>

**World Press Freedom Index:** Reporters Sans Frontières (RSF)/Reporters Without Borders (RWB) is an international non-profit organisation governed by principles of democratic governance. RSF's World Press Freedom Index measures and aims to compare the level of press freedom enjoyed by journalists and media in 180 countries and territories.

<https://rsf.org/en>

# Executive summary

Harnessing the potential within the CCIs requires a multipronged approach that includes actions from all levels of society to show significant results.

## In this context, governments are generally expected to:

- I. Put in place cultural policies and enact legislative frameworks that create an enabling environment for various programmes and interventions by UN agencies, civil society organisations (CSOs), associations, groups and individual artists to progress.
- II. Set up ministries and departments of governments responsible for arts and culture promotion, as well as institutions such as national galleries, museums and educational institutions.
- III. Ratify conventions, international treaties and regional protocols that recognise and support arts and culture, and the development of CCI enterprises in their country.

This report identifies the key policies and legal frameworks that exist in nine target countries where the Sound Connects Fund (SCF) has been operative: Angola, Botswana, Eswatini, Lesotho, Malawi, Mozambique, Namibia, Zambia and Zimbabwe. The report also gives the context in which the CCI sector

operates in each of these countries vis-à-vis, among others, internet access, media freedom and the protection of intellectual property.

To supplement this information, the main trade and cultural protocols within the African region and continent have also been listed, along with key international conventions. The combination of these policy frameworks provides an overall understanding of how the CCIs are being supported at the formal levels of government. The degree to which a country's policies coincide with research and agreements set by international organisations provides an indication of how each country views global best practices and where disparities may exist. Cultural and trade practices cannot be isolated from other elements of society such as freedom of expression and financing mechanisms, and so, where possible, ways to compare and synthesise data into an overall appreciation of pros and cons is provided.

The listing of these documents was supplemented by questionnaires and focused surveys with sector practitioners and government representatives across all nine countries. Key informants (KIs) were sought from practitioners considered to have a strong experience in policymaking and implementation, as well as enterprise owners. The responses from these KIs were analysed to identify common themes as well as particular examples to illustrate specific conditions in each country. Three aspects of policy were interrogated: formulation, implementation and evaluation.

In general, most respondents reported scepticism in policy formulation where there had been insufficient stakeholder engagement. A lack of inclusivity among a range of practitioners – informed by geographical location, language, arts genre, age and experience – was seen as a barrier to the formulation of useful policies. Practitioners were doubtful that government representatives were fully





aware of the realities on the ground, and felt that policies were not always relevant. The time it takes to formulate policies through the correct process, including sector engagement, was also noted as a drawback. Practitioners did not always understand the bureaucratic processes and were not aware of the roles they could play. Many policies and laws had not been sufficiently communicated and the role of authorities was largely seen as restrictive 'policing', rather than creating a healthy environment for CCI growth.

Efficiency in engagement and support of cultural players was seen as an important way of addressing sector needs. Sixty-eight percent of participants interviewed for this study, however, reported that they had not been consulted or given a chance to participate in any of the policymaking processes within their respective countries.

Overall, there was a consensus that there was insufficient understanding of the sector, which is crucial for effective policy formulation, implementation and evaluation. The study established that there was insufficient data, information and mapping processes about the CCIs. The lack of capacity both at a technical and institutional level was frequently cited as hampering implementation of policies. There was a lack of properly planned and financed programmes of action that could manifest the visions stated in policy documents, with many government representatives acknowledging these difficulties. Funding was one of the most frequently noted barriers to implementation.

Until governments fully appreciate the evolving impact of the CCI sector, notably its financial contribution and potential for social regeneration, the CCIs will likely fail to unlock their full potential. The lack of statistical evidence to support the sector's needs was largely seen as a serious challenge that limits governmental funding and active support for the CCIs across SADC. The sector's contribution to GDP remains unknown, partly due to its informal nature.

Other insights into weak policy implementation were linked to ministries of arts and culture politicising their interventions. The lack of monitoring and review mechanisms for policy implementation and a general absence of cultural indices were seen as hurdles for the sector. It was observed that a majority of practitioners lacked the knowledge and capacity to advocate for change in the CCIs.

The sharing of good practices, generating new knowledge and critiquing past, current and future endeavours in the CCI sector should be encouraged within the SADC context. The absence of a SADC forum that hosts specific debates and strategic high-level exchange sessions to deliberate and analyse regional trends, opportunities and challenges of the culture sector was lamented.

In conclusion, the research highlighted the complexity of policy formulation and implementation within the context of the various regional and global imperatives. More information, and in particular, templates for good practice such as those developed by UNCTAD need to be shared. Both government representatives and civil society members within the CCIs could gain valuable insights by drawing on successful practices implemented in other countries and adapting them to their local contexts. The balance and tensions between various policies and government positions need to be understood and correctly navigated. Practitioners also need to understand how they can advocate for change, while public servants implementing CCI support need to be aware of such implications.

Funding and financing could be developed from a combination of different interventions, and the financial contributions of the CCIs should be properly demonstrated with data and reliable economic projections. At the core of all CCIs lies creativity, emphasising the need to prioritise the protection of intellectual property. Practitioners must be ensured protection of their work, with their business and royalty incomes secured. Moreover, there is a critical need for long-term data collection, analysis and dissemination of findings to support lobbying efforts and policy reviews, not only within the countries examined in this study but across the whole of Africa.

# Introduction

This report is one of two reports produced by Goethe-Institut and the MIAF as part of the Sound Connects Fund (SCF) programme. While the other report focuses on the work and good practices observed during implementation, this report has a specific focus on cultural policies, legal and regulatory frameworks and their impact within the SADC region.

## THE SOUND CONNECTS FUND

Between 2021 and 2024, the MIAF and Goethe-Institut provided funding support under the banner of the SCF to 36 arts and culture organisations in nine Southern African countries, namely Angola, Botswana, Eswatini, Lesotho, Malawi, Mozambique, Namibia, Zambia and Zimbabwe. The SCF was implemented over 40 months and was made possible with funding from the ACP-EU Culture programme – an initiative by the Organisation of the African, Caribbean and Pacific States (OACPS) and the European Union (EU).

SCF funding saw the creation and successful implementation of diverse developmental projects in sectors such as music, theatre, visual arts, gaming, animation and fashion. Robust capacity-building programmes were implemented to strengthen and deepen key skills among practitioners while also building connections across the CCIs in the region.

The SCF's capacity-building activities were tailored to the needs of the grantees, and were implemented both in person and virtually, covering critical areas such as fundraising, financial management, monitoring & evaluation and IP management. The capacity-building interventions of the SCF enabled practitioners to build relationships, share experiences and imagine new ways of working together.

The perspectives and sectoral proximity gained through implementing the SCF were advantageous in creating this report, as the SCF included a wide range of practitioners from the region. It is important to note, however, that this report does not cover South Africa, which was not eligible for participation in the SCF, in line with the guidelines of the broader ACP-EU Culture programme.

## THE SADC CONTEXT

It is important to contextualise the position of SADC on the continental CCI map. SADC holds a key position within the African continent, working towards enhanced regional integration and improved trade. The main objectives of SADC include, but are not limited to, achieving economic development, growth, peace and security, alleviating poverty, enhancing the standard and quality of life of the peoples of Southern Africa, and supporting the socially disadvantaged through regional integration. According to SADC: "These objectives are to be achieved through increased regional integration, built on democratic principles, and equitable and sustainable

development". In 2001, SADC signed a protocol on culture, information and sport. This protocol aims to create a favourable environment for talent support, the positive recognition of the potential of the creative industries and the identification of specific areas of cooperation between countries.

## The SCF grants partly complemented the SADC protocol by:

- Supporting projects and activities that facilitate the rapid production and distribution of high-quality goods within and outside the SADC region.
- Increasing knowledge and skills among professionals.
- Supporting mobility and exchange among creators.
- Enhancing access to new markets.
- Developing visual literacy (especially among underrepresented groups).
- Promoting advocacy aimed at protecting the interests of creators.
- Supporting the existence of sustainable financing structures.
- Institutionalising monitoring and evaluation.

Detailed information on the grant recipients and their implemented projects, as well as the training tutorials, approaches and learnings, among others, can be accessed via the SCF webpage: [www.musicinafrica.net/SCF](http://www.musicinafrica.net/SCF)





# Summary of research process

The research for this report was done in three approaches: firstly, a web-based literature review, to identify existing key policies, conventions and other legal frameworks, secondly, a digital questionnaire administered to CCI stakeholders in each of the focus countries, and, finally, a qualitative approach taken with key informant interviews that solicited more information.

## 2.1 LITERATURE REVIEW

Internet research was conducted to identify relevant data on global, continental and country-specific information. This included policy documents, cultural and creative frameworks, study reports, programmatic documents, good practices, and lessons learnt from the nine countries under the study. Information was reviewed from UNESCO, the IMF, the World Bank, SADC and other institutions engaged in developmental work, cultural promotion and production.

A list of the most important documents and references to the sources used in the study can be found on pages 56 and 57.

## 2.2 DIGITAL QUESTIONNAIRE AND DATA COLLECTION

A digital questionnaire was used to capture quantitative data from active practitioners in the nine countries. A questionnaire protocol was developed offline and scripted into KoBoToolbox. For respondents in the Lusophone countries of Angola and Mozambique, the survey was translated into Portuguese, with the responses translated into English for final analysis. To solicit responses, a link to this survey was shared widely via email and WhatsApp groups representing different sub-sectors within the CCIs. It is estimated that more than 1 000 people were reached with the questionnaire, and thus the exact spread per country cannot be measured. A total of 161 responses to the questionnaire were received across the countries targeted by the survey.



A research assistant was appointed in each country to spearhead, guide and overview the process and to facilitate links to the public, private and civil society sectors involved with the CCIs.

Respondents included leaders of cultural organisations, policymakers, artists, creative entrepreneurs and content creators across a variety of sub-sectors covering the performing arts, visual arts, literary arts, fine arts, music, theatre, dance, digital media, animation, film, audio-visual, cultural heritage, design and fashion.

To maximise effectiveness, the design of the survey included setting mandatory responses to ensure that important questions were not left out. This meant that the respondents could not proceed until specific sections of the survey were answered.

The lead researcher monitored incoming data on the KoBoToolbox dashboard as it was synchronised onto the server and checked for progress and irregularities.

The submission behaviour in different countries was also monitored and helped to streamline the data-collection processes. The data was analysed or downloaded onto a spreadsheet before being exported into the SPSS software for analysis.

Efforts were made to ensure the participation of female creative leaders and those with disabilities. Minority groups, representatives of different cultures and people living in rural and semi-rural areas were targeted. Despite these efforts, out of 161 respondents only 38 (24%) were females, while 123 (76%) were males. This does, however, reflect the gender disparity in the CCIs.

Initially, the research team faced difficulties in getting sufficient responses, particularly from Angola and Eswatini, and opted to take a proactive approach to contact people for their participation. Translating the survey into Portuguese was essential but the team was aware that in some cases neither English nor Portuguese were a first language for the respondents. This would have an inevitable bearing on communication. The lack of participation in Mozambique was mitigated by spending more time on key informants (see Section 2.3) and drawing on professional networks to supplement information, but this was a significant limitation.

As a result, the research team highlighted the following observations after the analysis of this process. First and foremost, there are few accessible and reliable databases of creative practitioners that can be used for the purpose of information collection and dissemination, which goes back to the mostly informal nature of the CCIs in the region. Secondly, all institutions and cultural stakeholders have their own networks, and ideally, should have been willing to support the dissemination of this survey. Thirdly, even though online surveys help overcome geographical barriers, there is unequal access to data and connectivity in many of the targeted countries. Finally, achieving equal input from every sector of the CCIs is challenging, given variations in sector activities and engagement of operators.

## 2.3 KEY INFORMANT INTERVIEWS

To add background and depth to the information collected through the online survey, key informant interviews (KIIs) were carried out by the research assistants with 74 practitioners considered to be well-informed, experienced and knowledgeable about the operating environments in the nine target countries. In particular, leaders and representatives of civil society organisations, arts education institutions, arts associations, research bodies (such as UNESCO and other UN development agencies), relevant quasi-governmental organisations as well as independent experts and prominent professionals within the CCIs were approached.

The KIIs added value not only to the understanding of the development of policies and legal matters in the CCIs, but also to understanding the extent to which policy issues affect practitioners in the real world.

Based on an estimation made by the research team of the number of key people in every country, target figures were set for the numbers of interviews for each country. Not all these targets were met, with the lowest numbers of interviews being in Malawi, Namibia and Zambia.

The following table lists the respondent numbers and key informant interviews of the online survey, by country:

Table 1: Survey respondents and key informant interviews by country

Country	Beneficiary groups	Questionnaire responses collected	KIIs
Angola	Professionals and creatives from the sectors of performing arts; literary arts; visual arts; audio-visual and multi-media production; fashion and design; cultural heritage. Culture consultants; researchers; arts administrators; public officers and creative trainers.	14	8
Botswana		20	16
Eswatini		24	7
Lesotho		12	8
Malawi		17	5
Mozambique		1	10
Namibia		27	9
Zambia		21	5
Zimbabwe		25	9
<b>Grand total</b>		161	77

# Policies and frameworks

## 3.1 DEFINITIONS

A policy is defined as a collection of ideas or a plan outlining actions to be taken in specific situations. This plan is officially agreed upon by a group of individuals, a business organisation, a government, or a political party.

Government policies have a bearing on the development and promotion of the CCIs and should be well understood by the actors. If cultural practitioners understand the general processes of policy development and implementation, they are likely to engage proactively in policy formulation. A policy only has meaning if all the stakeholders understand, contribute to, challenge, support and work with the visions outlined by that policy. A policy and its outputs are affected by the views of the stakeholders and how they engage with it.

This section describes processes of policy formulation and the various roles required in the creation, implementation and regulation of policies. Distinctions between policies and laws are also explained, together with a commentary on the legal frameworks that are important for the CCIs. A full country listing of the most important policies and laws relating to the CCIs is provided in Part 5.

## 3.2 POLICYMAKING

The responsibility of an elected government is to formulate public policies that address specific societal issues and establish guidelines for actions aimed at shaping a desired society. These policies are grounded in central principles determined by the ruling party, with the constitution typically serving as the foremost foundational guideline. It is crucial that policies align with and do

not infringe the constitution. Different ruling parties may influence policies according to their manifestos, and therefore policies often reflect the views of the ruling government.

The adoption of policies typically involves multiple stages, contingent on the type of government in operation. Throughout this process, stakeholders commonly have opportunities to engage in lobbying or advocacy, expressing their support or opposition to proposed policies.

While policy and law are distinct concepts, policies rely on laws for effective implementation. Laws establish standardised procedures and actions that must be followed to regulate social behaviour, while imposing consequences for non-compliance.

Generally, the majority of laws uphold the principles outlined in the constitution. Occasionally, the formulation of new laws is necessary to fully implement new policies. In such instances, policymakers draft additional laws, integrating them into the legal framework associated with a particular policy.

### In general, the stages of policy and lawmaking are as follows:

1. **Agenda setting:** Usually through policy conferences held by the ruling political party. This stage allows stakeholders to set the agenda, principles, goals and visions to be addressed by the policy or policies.
2. **Drafting:** Where the Executive (usually national departments through the ministries and/or their appointed advisors) write discussion documents that contain the basic

draft policy ideas, and these are offered for comment to experts and working groups. The first discussion paper to consolidate the issue and offer a course of action is called a 'green paper'.

3. **Public engagement:** According to the procedures laid out in the constitution, the green paper must be made public, reviewed by different committees, and opportunities must be provided for all stakeholders to give input.
4. **Advocacy and lobbying:** Advocacy is generally about raising general awareness of an issue with the aim of resolving or improving the situation in various ways. Lobbying is a more direct attempt to gain support for a particular piece of legislation.
5. **White paper:** When consultative processes are done, the green paper is consolidated into a 'white paper'. This is then usually presented to the relevant portfolio committee(s) of parliament, which might add more revisions before submitting the paper to the Legislative (the full parliament).
6. **Parliament approval:** Once parliament accepts and approves this version, the white paper is formally approved and adopted as national policy. Should this policy require new laws to be enforced, the department must start to draft these laws. These are called 'draft bills', which usually go through various stages before being passed into law.
7. **Draft bills:** Typically, these are initially presented to Cabinet for approval before being made available for public comment. Following public feedback, the review is returned to Cabinet to ascertain the preservation of the original objectives and the absence of conflicts with existing legislation. Then, the draft bill undergoes examination by state legal experts to confirm its adherence to prescribed formats and compliance with legal requirements. It is subsequently introduced in parliament, assuming the status of a bill, and is assigned a numerical identifier and date.

The ensuing procedural steps culminate in its formal enactment into law. Usually, the bill is reviewed again by the relevant committee and also presented for public scrutiny. This is the phase when lobbying is most vigorous and when the media may be involved to influence public opinion and the committee. The committee can send the bill back for further amendments until it is satisfied. This iterative process demands time, necessitating awareness on the part of non-governmental stakeholders, who must actively engage with the proceedings to ensure that their feedback is duly taken into account.

8. **Implementation:** Additional assessments by other government committees may ensue before the ultimate version of the bill is presented in parliament for voting. Upon parliamentary approval, the president affixes his/her signature to the bill, thereby effecting its transformation into law. Subsequently, it assumes the status of an 'act of parliament', mandating compliance from all national authorities for enforcement.
9. **Evaluation:** Evaluation is crucial, as it allows stakeholders to determine the efficacy of the policy and make informed adjustments.

## 3.3 STAKEHOLDER ENGAGEMENT WITH POLICYMAKING

This process takes time but is necessary to provide opportunities for stakeholders to engage with policy development, revision and refinement. Meaningful consultation with key stakeholders holds significant importance for government entities in garnering support for policies. It is noteworthy that wider consultation necessitates a longer process and could increase the likelihood of disagreement.

The absence of prominent and legitimate umbrella organisations with which the government can actively engage could diminish opportunities for widespread participation.

Furthermore, language barriers and geographical distances can pose obstacles to comprehensive engagement, potentially causing delays in the proceedings. While the responsibility lies with the government to ensure the accessibility of green and white papers for discussion, it is equally important for citizens to understand their role, thereby enabling more informed and robust participation.

Regulation and legislative support are essential for all sectors of economic activity. The relevance of laws may vary across different industries. Therefore, when deliberating on the legal framework of the CCIs, it is crucial to consider not only the laws governed by the arts and culture ministry but also those related to allied sectors such as tourism, labour, trade & industry (relating to copyrights and intellectual property) and communications (with particular emphasis on freedom of expression).

If the CCIs are to fulfil their potential as economic drivers, CCI practitioners cannot afford to be complacent about these legal frameworks and their implications. Therefore, the listing of country policies and laws in Part 5 includes information other than cultural policies. Cultural practitioners and CCI entrepreneurs are encouraged to read this section to gain an understanding about how complementary legislation might pertain to their work. Furthermore, while not everyone may assume the role of a lobbyist, it is true that without a willingness to participate or at least some awareness of these processes, the sector will lack the foundation to advocate for supportive and meaningful legislation.

**“While there is just so much potential and bigger strides are being undertaken, there is poor infrastructure development. In addition, the legislative tools are simply not in place or enacted to help the industry.”** — **Gayighayi Mathews Mfuné, Director, Music Crossroads Malawi**

The role played by advocacy bodies, networks and NGOs to provide consultative platforms and serve as repositories of practical information is of paramount importance. Without active stakeholder participation, policies and laws can become impractical and detached from the on-the-ground issues that concern CCI practitioners.

Policies should provide logical, cohesive frameworks and outline the priorities across different bureaucratic functions and/or directorates. Policies should thus support the effective formulation of procedures, guidelines and programmes that are practical manifestations of the visions they contain.

Furthermore, considering that economic, social, environmental, political and cultural contexts are dynamic and subject to change, it is important that policies are reviewed regularly. Ideally, a review process should be conducted every three years in order to keep policies relevant and updated. This is also a way of ensuring accountability of those required to implement the policies.



# Key international and African policies and legal frameworks affecting the CCIs



This section focuses on some of the key policies and legal frameworks (international and African) that affect the CCIs in the SADC region. Dates and references of the documents are provided as much as possible. Most of these documents are accessible online for further reading.

## 4.1 KEY INTERNATIONAL INSTRUMENTS

- World Heritage Convention (1977)
- UNESCO World Conference on Cultural Policies Report (1981)
- World Commission on Culture and Development Report: Our Creative Diversity (1996)
- Action Plan on Cultural Policies for Development (1998)
- UNESCO Universal Declaration of Cultural Diversity (2001)
- World Intellectual Copyright Organization (WIPO) Copyright Treaty (WCT) (2002)
- UNESCO 2003 Convention for the Safeguarding of the Intangible Cultural Heritage
- UNESCO 2005 Convention on the Protection & Promotion of the Diversity of Cultural Expressions
- AGENDA 2030: Sustainable Development Goals (2015)
- Open Road Map for the Implementation of 2005 Convention in a Digital Environment (2019)
- Universal Declaration of Human Rights (UDHR)

These international frameworks are effectively global commitments towards balanced human development, with clearly defined principles, goals, indicators and targets. UNESCO is the primary driver for policies and plans concerning culture, whether it is with respect to trade, heritage and/or the protection of intellectual property rights.

While all sectors of society (public, private and civil) are able to engage with UNESCO's debates, positions and discussion papers, it is only national governments that can formally adopt conventions or action plans. As these are global instruments, the general aim is to create international consensus around key issues to promote collaboration, alignment and structural development that has broad resonance and uptake.

Once a country has signed agreement to a convention or policy, it is expected to implement certain actions and typically provide reports on progress within set time frames to allow monitoring and evaluation. This also allows for the collection of data to be further analysed in order to provide feedback into the cycles of policy formulation and review. In some cases, the ratification of a treaty or adoption of a convention might permit a country to apply for further assistance (financial and/or technical) from bodies such as the UN or EU.

UNESCO has a pool of cultural experts who are frequently deployed to work on specific assignments to support the implementation of policies. Failure to adopt certain policies might prohibit a country's access to resources, as would inadequate reporting and the inability to correctly manage monetary grants.

Two of the most important conventions with respect to creating common understandings about the CCIs and supportive frameworks are the UNESCO 2003 Convention for the Safeguarding of the Intangible Cultural Heritage and the UNESCO 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions. To support the 2005 Convention, UNESCO established the International Fund for Cultural Diversity and disburses funds to governments and NGOs in developing countries that are parties to the 2005 Convention.

Currently, Zambia is the only country in this study that is not a party to the 2005 Convention. Although the Zambian Parliament passed a resolution on 11 May 2021 to become a signatory, there have been delays in collating all the required documentation. This matter is still in the hands of the National Arts Council of Zambia and hopefully will be concluded soon.

Table 2: Ratification of UNESCO conventions by country

	UNESCO 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions		UNESCO 2003 Convention for the Safeguarding of the Intangible Cultural Heritage	
	Ratified	Date of ratification	Ratified	Date of ratification
<b>Angola</b>	Yes	7 February 2012	Yes	28 July 2020
<b>Botswana</b>	Yes	7 January 2020	Yes	1 April 2010
<b>Eswatini</b>	Yes	30 October 2012	Yes	30 October 2012
<b>Lesotho</b>	Yes	18 February 2010	Yes	29 July 2008
<b>Malawi</b>	Yes	16 March 2010	Yes	16 March 2010
<b>Mozambique</b>	Yes	18 October 2007	Yes	18 October 2007
<b>Namibia</b>	Yes	29 November 2006	Yes	19 September 2007
<b>Zambia</b>	No		Yes	10 May 2006
<b>Zimbabwe</b>	Yes	15 May 2008	Yes	30 May 2006

### 4.2 KEY AFRICAN CONTINENTAL AND REGIONAL FRAMEWORKS FOR CULTURE

- Africa Union Agenda 2063: The Africa We Want (2015)
- African Union Plan of Action on Cultural and Creative Industries
- AU Charter for African Cultural Renaissance (2006)
- Cultural Industries: Factors of Development in Africa
- Dakar Plan of Action for the Promotion of ACP Cultures and Cultural Industries (2003)

- Nairobi Plan of Action for Cultural Industries in Africa (2005)
- SADC Revised Regional Indicative Strategic Development Plan (RISDP) (2020)
- SADC Protocol on Culture, Information and Sport (2001)
- Southern Africa Sustainable Cultural Tourism Strategy (SCTS) (2021)
- African Charter on Human and Peoples' Rights

While not legally binding in any way, there are multiple statements and papers on the CCIs resulting from key conferences, meetings and forums such as the Dakar Plan of Action

on the Promotion of ACP Cultures and Cultural Industries (Dakar, Senegal, 2003), the UNESCO World Conference on Cultural Policies and Sustainable Development (Mexico City, Mexico, 2022), the World Summit on Arts and Culture organised by the International Federation of Arts Councils and Culture Agencies (IFACCA) (Stockholm, Sweden, 2023) and the Festival of African Cultural and Creative Industries (Rabat, Morocco, 2003) under the theme, 'For a sustainable Made in Africa'. These forums provide opportunities for debate and discussion as well as exposure to a variety of international policies and frameworks that provide a basis for comparison with SADC realities.

SADC should be the primary regional cooperation body to support the CCIs in the region. However, it is noted that despite the 2001 SADC Protocol on Culture, Information and Sport, there is no current project in the SADC portfolio that focuses on the CCIs, their development or promotion. There is also no culture desk or department that has culture or the creative industries as a primary focus area. This leaves cultural matters underrepresented within regional discussions at African Union (AU) level, and there is no intragovernmental mechanism to coordinate efforts and implement programmes that can benefit the CCIs.

The development of arts and culture will always rely on freedom of expression. Even where constitutional and legal rights exist, there is often a huge gap between laws and practice. In many ostensibly democratic countries, constitutional guarantees of free expression lack the political culture of constitutionalism and the robust institutions needed to support them.

Most African countries have ratified the main international and regional conventions related to freedom of expression. International and regional protections for free expression, artistic freedom, and the right to culture are enshrined in:

- The Universal Declaration of Human Rights, which all 54 African nations have ratified through at least one binding treaty.
- The International Covenant on Civil and Political Rights, which only the Comoros and South Sudan have not signed or ratified.
- The International Covenant on Economic, Social and Cultural Rights, which only Botswana, Mozambique and South Sudan have not signed or ratified, and which the Comoros has signed but not ratified.
- The Constitutive Act of the African Union, which all African nations except Morocco (due to the recency of its entry into the AU) have signed and ratified.
- The African Charter on Human and Peoples' Rights, which only Morocco has not yet signed or ratified and which Egypt, South Africa and Zambia have ratified despite declared reservations.
- The Cultural Charter for Africa, which is the least enforced, having been ratified by only 35 nations (about two thirds of all African nations).

In reality, freedom of expression on the continent is restricted, especially through laws and practices that governments apply so broadly that they restrict expression far beyond their stated purposes. Laws, statutes and regulations dealing with counterterrorism, cybercrime, pornography, hate speech and apostasy are sometimes deployed to restrict artistic freedom.

# Country information and contexts

## 5.1 Angola



### Population

Estimated at 36.78 million in 2023<sup>2</sup>, made up of diverse ethnic groups that add significant value to the country's cultural diversity, and potentially to the CCIs, with the Ovimbundu, Mbundu and Bakongo being the largest ethnic groups<sup>3</sup>.



### Languages

Most of the population speaks Portuguese, Angola's only official language. However, many speak at least one of the 45 indigenous languages, with the most widely spoken being Umbundu, Kimbundu and Kikongo. None of these indigenous languages are officially recognised as part of the richness of Angola's cultural heritage<sup>4</sup>.



### Gross domestic product<sup>5</sup>

With an oil-based economy accounting for 90% of exports mainly to China and India, Angola's GDP was estimated to be 93.8 billion US dollars as of October 2023, giving an estimated per capita GDP amounting to 2 550 US dollars<sup>6</sup>.



### Internet penetration

As of January 2023, an estimated 40.62% of the population had access to the internet<sup>7</sup>, giving Angola a global ranking of 159 out of 180 countries<sup>8</sup>. Compare this to the internet penetration rates of Botswana at 73.5% and Namibia at 61.42%.



### Stand-alone culture ministry

No, the culture portfolio falls under the Ministry of Culture and Tourism.

### KEY NATIONAL POLICIES AND INSTITUTIONS:

- National Institute of Cultural and Creative Industries (INICC) (2018)
- Copyright and Related Rights (Neighbouring Rights) Law (2014)
- Note: Currently there is no national plan for the CCIs in force and this inhibits the work of the INICC.
- Note: Currently Angola does not have a national cultural policy.

**Intellectual property rights:** The Copyright and Related Rights (Neighbouring Rights) Law (known as Law 15/14 of 31 July 2014) was promulgated on 14 July 2014. Copyright covers original literary, scientific and artistic intellectual creations, or works including economic and moral rights. Registration is not required for the acquisition or maintenance of copyright rights<sup>9</sup>.

"The biggest reason for not valuing the creative industry in Angola is the widespread culture of piracy and lack of institutions that guarantee protection of intellectual property rights," says Igor Chaves, an Angolan cultural agent and consultant on IP rights. "This prevents creators from earning money from their creations."<sup>10</sup>

**Artistic freedom of expression:** Individuals were increasingly able to use private media and social media platforms to openly criticise government policies and practices. Individuals reported practising self-censorship but generally were able to criticise government policies without fear of direct reprisal. Social media was widely used in the larger cities and provided an open forum for discussion.<sup>11</sup>

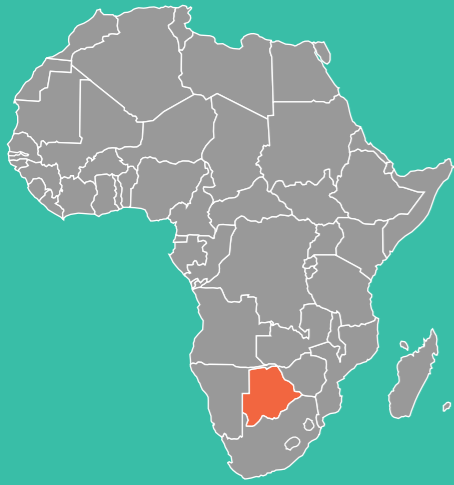
Angola scored 46 (restricted freedom of expression) and a ranking of 23rd out of 42 Sub-Saharan countries in the Global Expression Report in 2023. This was an increase of three points over the previous year. Angola has seen an upward trend, rising from a low of 22 points in 2000. The Global Expression Report ranks countries based on the openness of society, with a higher score being given to countries with greater freedom of expression. Compare this to neighbouring Namibia with a score of 73 ('less restricted' freedom of expression) and Zambia' score of 72 ('less restricted' freedom of expression).<sup>12</sup>

**Media freedom:** Reporters Without Borders ranked Angola 125th out of 180 countries in its 2023 World Press Freedom Index (dropping 26 places from a 2022 ranking of 99th as investigative reporting on corruption, poor governance and human rights abuses lead to prosecutions and heavy sentences), with a score of 43.5 and a classification as 'difficult'. Compare this to neighbouring Namibia ranked at 22nd with a score of 80.91 (classified as 'satisfactory') and Zambia ranked at 87th with a score of 59.41 (classified as 'problematic').<sup>13</sup>



# PART 5

## 5.2 Botswana



### Population

Estimated to be 2.675 million in January of 2023<sup>14</sup>, made up of 12 ethnic groups of which the largest are the Tswana (73%), Bakalanga (18%) and Basarwa (2%), also known as the Khoisan who have lived in Botswana for more than 30 000 years<sup>15</sup>.



### Languages

The official languages are English and Setswana with an estimated 77.3% of the population speaking Setswana as their mother tongue. Other minority languages include Sekalanga (7.4%) and Sekgalagadi (3.4%).<sup>16</sup>



### Gross domestic product<sup>17</sup>

An upper-middle income economy, Botswana's GDP was estimated to be 20.76 billion US dollars as of October 2023, giving an estimated per capita GDP amounting to 7.760 US dollars.<sup>18</sup>

Of the countries in this study, Botswana has the highest contribution by the CCIs to GDP at 5.46%, surpassing sectors such as water, electricity, agriculture and manufacturing, with the CCIs contributing 2.66% to employment in 2019 – more than mining, quarrying, finance, insurance, water, and electricity.<sup>19</sup>



### Internet penetration

As of January 2023, an estimated 73.5% of the population had access to the internet<sup>20</sup>, giving Botswana a global ranking of 103 out of 180 countries.<sup>21</sup> Compare this to neighbouring Zambia and Zimbabwe with internet penetration rates of 21.2% and 34.8%, respectively.



### Stand-alone culture ministry

No, culture falls under the Ministry of Youth, Gender, Sport and Culture.



### KEY NATIONAL POLICIES AND INSTITUTIONS:

- National Vision (2016-2036)
- Copyright and Neighbouring Rights Act (2000)
- National Policy on Culture (2002)  
[https://ocpa.irmo.hr/resources/policy/Botswana\\_National\\_Cultural\\_Policy-en.pdf](https://ocpa.irmo.hr/resources/policy/Botswana_National_Cultural_Policy-en.pdf)
- Industrial Property Act (2010)
- Companies and Intellectual Property Authority (CIPA) (2011)
- Establishment of the National Arts Council of Botswana (2020)
- National Strategy for the Creative Industries (2020-2025)
- Creative Industries Sector Human Resource Development Plan (2021)
- Botswana Intellectual Property Policy (2022)

**Intellectual property rights:** In Botswana, the Copyright and Neighbouring Rights Act and the Industrial Property Act are the primary laws governing IP. The former deals with protection of artistic and literary works, dramatic works, musical works, photography, computer programmes, architecture, etc. The latter deals with protection of patents, trademarks and industrial designs<sup>22</sup>. In Botswana, intellectual property rights must be registered and enforced under local laws.

**Artistic freedom of expression:** Botswana was ranked first out of 42 Sub-Saharan countries with a consistently high score of 76 in the 2023 Global Expression Report and a classification of 'less restricted' freedom of expression. Compare this to neighbouring Namibia with a score of 73 ('less restricted' freedom of expression) and Zimbabwe's score of 20 ('highly restricted' freedom of expression)<sup>23</sup>.

**Media freedom:** Reporters Without Borders ranked Botswana 65th out of 180 countries in the 2023 World Press Freedom Index (rising 30 places from a 2022 ranking of 95th as serious abuses against journalists declined), with a score of 64.61 and a classification of 'problematic'. Compare this to neighbouring Namibia ranked at 22nd with a score of 80.91 (classified as 'satisfactory') and Zimbabwe ranked at 126th with a score of 48.17 (classified as 'difficult')<sup>24</sup>.



# 5.3 Eswatini



## Population

Forecast to be 1.16 million in 2023<sup>25</sup>. The Swazi people, part of the Nguni tribe, make up 85.3% of the total population, with the Zulu and the Tsonga being the main minority ethnic groups. Eswatini is ruled by an absolute monarch.<sup>26</sup>



## Languages

The official languages of Eswatini are Siswati and English (almost 90% of the population have Siswati as their mother tongue), with minority languages being Zulu and Tsonga.<sup>27</sup>



## Gross domestic product<sup>28</sup>

Largely dependent on trade with South Africa, Eswatini's GDP was estimated to be 4.65 billion US dollars as of October 2023, giving an estimated per capita GDP amounting to 4 000 US dollars<sup>29</sup>.



## Internet penetration

Eswatini's internet penetration rate stood at 58.9% of the total population at the start of 2023<sup>30</sup>, with a global ranking of 127 out of 180 countries<sup>31</sup>. Compare this to Lesotho and Mozambique with internet penetration rates of 48% and 23.1%, respectively.



## Stand-alone culture ministry

No, culture falls under the Ministry of Sports, Culture and Youth Affairs.



### KEY NATIONAL POLICIES AND INSTITUTIONS:

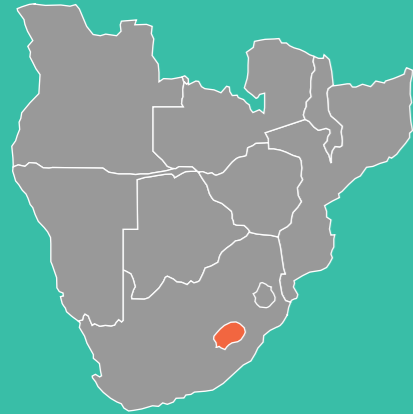
- The Trademarks Act (1981)
- Fair Trading Act (2001)
- Swaziland Education and Training Sector Policy (2011)
- National Arts and Culture Policy (2011)  
<https://www.unesco.org/creativity/en/policy-monitoring-platform/swaziland-national-arts-and-culture-policy>
- Establishment of the Eswatini National Council of Arts and Culture (ENCAC)
- National Education and Training Sector Policy (2018)
- Copyright and Neighbouring Rights Act (2018)
- Eswatini Intellectual Property Tribunal Act (2018)
- Patent and Designs Act (2018)
- Eswatini National Council of Arts & Culture Working Draft: Corporate Strategic Plan 2020-2025

**Intellectual property rights:** The Eswatini Copyright and Neighbouring Rights Society Board was launched in 2022. The board is tasked with formulating rates for the usage of copyrighted content, ensuring an increased local content of assured quality at broadcasting outlets, and consistent enforcement against copyright infringement. Original works eligible for copyright include literary, musical, artistic, audio-visual, sound recordings, broadcasts, programmes carrying signals and published editions.<sup>32</sup>

**Artistic freedom of expression:** Eswatini was ranked 39th out of 42 Sub-Saharan countries with a low score of 5 in the 2023 Global Expression Report, (dropping from a score of 12 in 2019), and a classification of 'crisis' for freedom of expression. Compare this to neighbouring Mozambique with a score of 51 ('restricted' freedom of expression) and Lesotho's score of 69 ('less restricted' freedom of expression).<sup>33</sup>

**Media freedom:** Reporters Without Borders ranked Eswatini 111th out of 180 countries in the 2023 World Press Freedom Index (rising 20 places from a 2022 ranking of 131st as serious abuses against journalists declined over the past year), with a score of 52.66 and a classification of 'problematic'.<sup>34</sup> Compare this to neighbouring Mozambique ranked at 102nd with a score of 56.13 and Lesotho ranked at 67th with a score of 64.29 (both countries classified as 'problematic').

# 5.4 Lesotho



## Population

Estimated at 2.14 million in 2023<sup>35</sup>. The culturally rich Sotho people make up more than 99% of the population<sup>36</sup>.



## Languages

Sotho and English are the official languages of Lesotho (85% of the population have Sotho as their mother tongue), with minority languages being Zulu, Phuthi and Xhosa.<sup>37</sup>



## Gross domestic product<sup>38</sup>

Dependent on agriculture and small-scale industries, and economically integrated with South Africa, Lesotho's GDP was estimated to be 2.37 billion US dollars as of October 2023, giving an estimated per capita GDP amounting to 1 100 US dollars<sup>39</sup>.



## Internet penetration

Lesotho's internet penetration rate stood at 48% of the total population at the start of 2023<sup>40</sup>, giving a global ranking of 141 out of 180 countries<sup>41</sup>. Compare this to Eswatini and Mozambique's internet penetration rates of 58.9% and 23.1%, respectively.

## Stand-alone culture ministry

No, culture falls under the Ministry of Tourism, Environment and Culture.



### KEY NATIONAL POLICIES AND INSTITUTIONS:

- Copyright Order (1989)
- Lesotho Telecommunications Authority Act (2000)
- Lesotho Telecommunications Authority (Amendment) Act (2006)
- Copyright Regulations (2015)
- Lesotho National Arts, Culture and Heritage Policy (2019)  
<https://unesdoc.unesco.org/ark:/48223/pf0000069384>
- Arts, Culture & Heritage Policy (under review) (2022)
- Lesotho Economic Roadmap (2018-19 – 2022-23)
- Draft National Intellectual Property Policy and Strategy (NIPPS) (2023)
- Note: Currently Lesotho does not have a National Arts Council

**Intellectual property rights:** The creative arts industry's competitiveness is undermined by piracy and poor protection of intellectual property rights and indigenous knowledge.<sup>42</sup> The Draft NIPPS' goals include facilitating the integration of IP into the national and sectoral policies; strengthening the national IP legal and institutional framework, and linkage with the International IP System; enhancing the generation, protection and commercialisation of IP assets; promoting and boosting IP awareness, education and training; strengthening the creative industry; and enhancing the respect and enforcement of IPRs<sup>43</sup>.

**Artistic freedom of expression:** Lesotho was ranked 10th out of 42 Sub-Saharan countries with a consistently high score of 69 in the 2023 Global Expression Report (rising steadily from 58 in 2016), and a classification of 'less restricted' freedom of expression. Compare this to Mozambique with a score of 51 ('restricted' freedom of expression) and Eswatini's score of 5 (freedom of expression in 'crisis').<sup>44</sup>

**Media freedom:** Reporters Without Borders ranked Lesotho 67th out of 180 countries in the 2023 World Press Freedom Index (rising 21 places from a 2022 ranking of 88th after the adoption a new media law in 2021 that improved the legislative framework for the media and access to information), with a score of 64.29 and a classification still considered to be 'problematic'. Compare this to Eswatini ranked at 111th with a score of 52.66 (classified as difficult) and Mozambique ranked at 102nd with a score of 56.13 (classified as 'problematic').<sup>45</sup>

# 5.5 Malawi



**Population**  
 Estimated at 22.73 million in 2023<sup>46</sup>, Malawi has one of the highest population densities in the region with 211 people per square kilometre in 2021. Compare this to neighbouring Zambia and Mozambique with 26 and 41 people per square kilometre, respectively.<sup>47</sup> The major ethnic groups are the Chewa, based in the Central Region, comprising 35% of the total population, as well as the Lowe (19%), Yao (13%) and Ngoni (12%).<sup>48</sup>



**Languages**  
 Malawi is a multilingual country. Although English is the official language, only 26% of the population above the age of 14 is able to speak English (2008 census). Other major languages spoken in Malawi include Chewa (70%), Yao (10.1%) and Tonga (9.5%).<sup>49</sup>



**Gross domestic product<sup>50</sup>**  
 With a predominantly agricultural economy (tea, sugarcane, coffee and tobacco), Malawi's GDP was estimated to be 13.18 billion US dollars as of October 2023, giving an estimated per capita GDP amounting to 580 US dollars. The contribution of the CCIs to the economy is higher than that of the mining and quarrying, human health, education, construction, transport and storage sectors, while contributing 3.35% to total employment.<sup>51</sup>



**Internet penetration**  
 Malawi's internet penetration rate stood at 24.4% of the total population at the start of 2023<sup>52</sup>, with a global ranking of 165 out of 180 countries<sup>53</sup>. Compare this to Mozambique and Zambia with internet penetration rates of 23.1% and 21.2%, respectively.



**Stand-alone culture ministry**  
 No, culture falls under the Ministry of Tourism, Culture and Wildlife.



### KEY NATIONAL POLICIES AND INSTITUTIONS:

- Patent and Trademarks Act (1948)
- Copyright Society of Malawi (COSOMA) (1992)
- Tourism Master Plan of (2012)
- National Culture Policy (2015)  
<https://www.musicinafrica.net/magazine/malawi%E2%80%99s-cultural-policy>
- Copyright Act (2016)
- Trademarks Act (2018)
- National Intellectual Property Policy (2019)
- Vision 2063 (2020)
- Planned establishment of National Arts and Heritage Council (2024)

**Intellectual property rights:** The Copyright Act of 2016 makes provision for copyright in literary, dramatic, musical and artistic works, audio-visual works, sound recordings and broadcasts – as well as provisions for the rights of performers, technological measures and rights management information.<sup>54</sup>

Malawi launched the National Intellectual Property Policy<sup>55</sup> in May 2019, which acknowledges challenges with IP in the country and provides a framework to foster the generation, protection and exploitation of IP. The Copyright Society of Malawi (COSOMA) administers the Copyright Act of 2016, which protects copyright and neighbouring rights in Malawi.

**Artistic freedom of expression:** Malawi was ranked third out of 42 Sub-Saharan countries with a high score of 75 in the 2023 Global Expression Report (rising steadily from 63 in 2019), and a classification of 'less restricted' freedom of expression. Compare this to neighbouring Mozambique with a score of 51 ('restricted' freedom of expression) and Zambia's score of 72 ('less restricted' freedom of expression).<sup>56</sup>

**Media freedom:** Reporters Without Borders ranked Malawi 82nd out of 180 countries in the 2023 World Press Freedom Index (dropping two places from a 2022 ranking of 80th as political influence over the media restricts journalistic freedom while reporters continue to be subjected to threats and cyber-harassment), with a score of 60.34 and a classification of 'problematic'. Compare this to neighbouring Mozambique ranked at 102nd with a score of 56.13 and Zambia ranked at 87th with a score of 50.41 (both countries classified as 'problematic').<sup>57</sup>

# PART 5

## 5.6 Mozambique



### Population

Estimated at 33.9 million in 2023.<sup>58</sup> The major ethnic groups of Mozambique have a diverse range of languages, dialects, cultures and histories. The Makua, the largest ethnic group, occupy the northern region, the Sena and Ndau the populous central province of Zambezia, and the Tsonga (Shangaan) the south.<sup>59</sup>



### Languages

There are 43 languages spoken in Mozambique. Portuguese is the official language but is only spoken by about half of the population. The other most spoken primary languages in Mozambique include Makhuwa (26.1%), Changana (8.6%), Nyanja (8.1%) and Sena (7.1%).<sup>60</sup>



### Gross domestic product<sup>61</sup>

Despite a high rate of economic growth, Mozambique remains one of the most underdeveloped countries – ranking in the bottom 10 countries in the world on the UN's Human Development Index with a GDP estimated to be 21.94 billion US dollars as of October 2023, giving an estimated per capita GDP of 647 US dollars.



### Internet penetration

Mozambique's internet penetration rate stood at 23.1% of the total population at the start of 2022<sup>62</sup>, giving a global ranking of 174 out of 180 countries.<sup>63</sup> Compare this to Malawi and Zimbabwe with internet penetration rates of 24.4% and 34.8%, respectively.



### Stand-alone culture ministry

No, culture falls under the Ministry of Culture and Tourism with oboe player Eldevina Materula being appointed minister in 2020.

### KEY NATIONAL POLICIES AND INSTITUTIONS:

- Law on the Protection of Cultural Heritage (1988)
- Cultural Policy of Mozambique and Strategy for its Implementation (1997)  
<https://www.musicinafrica.net/magazine/cultural-policy-mozambique>
- Copyright and Related Rights Law (2001)
- Organic Statute of the Industrial Property Institute (IPI) (2003)
- Law on Telecommunications (2004)
- Affiliation of artists with the National Institute for Social Security (INSS) (2007)
- Culture and Development Program (2008-2013)
- National Institute of Cultural and Creative Industries (INICC) (2019)
- Strategic Plan for Culture (2012-2022)
- Law on Copyright and Related Rights (Updated 2022)

**Intellectual property rights:** Mozambique's copyright regime is administered by the National Institute of Culture and Creative Industries under the Ministry of Culture and Tourism, while patents are governed by the Ministry of Industry and Commerce's Industrial Property Institute (IPI).

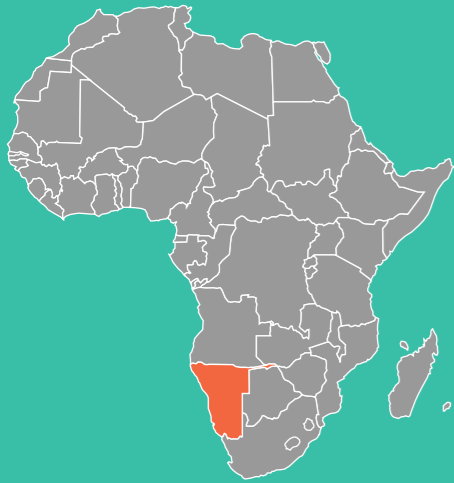
Despite the government's firm public stand against piracy, the Mozambican judicial system weakly enforces intellectual property rights. Pirated copies of DVDs and counterfeit goods are commonly sold in Mozambique, although not produced in any significant way. Enforcement is rare and highly selective.<sup>64</sup> The Copyright and Related Rights Law needs to be reviewed to better support the demands of the CCIs.<sup>65</sup>

**Artistic freedom of expression:** Mozambique was ranked 19th out of 42 Sub-Saharan countries with a score of 51 in the 2023 Global Expression Report (a steady decline from a score of 66 in 2008) and a current classification of 'less restricted' freedom of expression. Compare this to neighbouring Malawi with a score of 75 ('less restricted' freedom of expression) and Zimbabwe's score of 20 ('highly restricted' freedom of expression).<sup>66</sup>

**Media freedom:** Reporters Without Borders ranked Mozambique 102nd out of 180 countries in the 2023 World Press Freedom Index (rising 14 places from a 2022 ranking of 116th as FRELIMO's grip on most of the media continued and a culture of secrecy provided obstacles to information dissemination), with a score of 56.13 and a classification considered to be 'problematic'. Compare this to neighbouring Malawi ranked at 82nd with a score of 60.34 (classified as 'problematic') and Zimbabwe ranked at 126th with a score of 48.17 (classified as 'difficult').<sup>67</sup>



# 5.7 Namibia



## Population

Estimated to be 2.6 million as of mid-2023. Namibia is one of the least densely populated countries in the world with just 3.13 people per square kilometre, ranking 226th worldwide<sup>68</sup>. Compare this to neighbouring Angola and Botswana with 28 and 5 people per square kilometre, respectively.<sup>69</sup>

The largest ethnic group is the Ovambo (49.8%) who live mostly



## Languages

English is the only official language in Namibia. Oshiwambo is spoken by 48.9% of Namibians while minority languages include Khoekhoe (11.3%), Afrikaans (10.4%), Herero (8.6%) and Kwangali (8.5%).<sup>71</sup>

in the north of the country. Other ethnic groups include the Kavango (9.3%), the Damara (7.5%) and the Herero (7.5%).<sup>70</sup>



## Gross domestic product<sup>72</sup>

With an economy based on minerals, livestock, fishing and tourism, Namibia's GDP was estimated to be 12.65 billion US dollars as of October 2023, giving an estimated per capita GDP of 4 790 US dollars. Despite having such a high per capita GDP, Namibia has extreme inequalities in income distribution and standard of living.



## Internet penetration

As of January 2023, an estimated 61.42% of the population had access to the internet<sup>73</sup>, giving Namibia a global ranking of 134 out of 180 countries.<sup>74</sup> Compare this to neighbouring countries Botswana and Angola with internet penetration rates of 73.5% and 40.62%, respectively.



## Stand-alone culture ministry

No, culture falls under the Ministry of Education, Arts and Culture.

### KEY NATIONAL POLICIES AND INSTITUTIONS:<sup>75</sup>

- National Broadcasting Act (1991)
- Namibia Copyright and Neighbouring Rights Protection Act (1994)
- Namibia Film Commission Act 6 (2000)
- National Film Commission Amendment Act (2001)
- Policy on Arts and Culture of the Republic of Namibia (2001)  
[https://moe.gov.na/wp-content/uploads/2023/03/Namibia\\_Cultural\\_Policy-2001.pdf](https://moe.gov.na/wp-content/uploads/2023/03/Namibia_Cultural_Policy-2001.pdf)
- National Arts Fund Act (NAF) (2005)
- National Arts Council of Namibia (NACN) (2005)
- Namibia Communications Act (2009)
- Industrial Property Act (2012)
- Business and Intellectual Property Authority (BIPA) (2016)
- National Intellectual Property Policy and Strategy (NIPPS) (2019-2024)

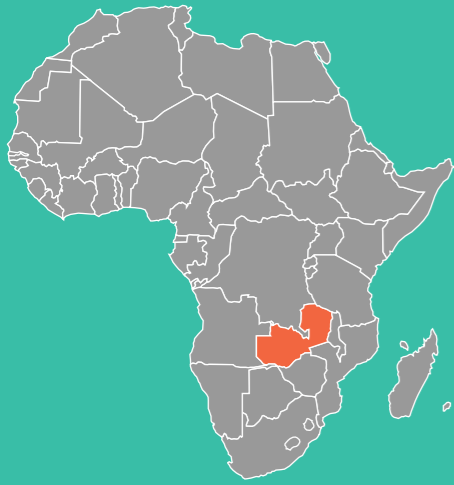
**Intellectual property rights:** The Copyright and Neighbouring Rights Protection Act (1994) was updated in 2016 to ensure that the legislation is more responsive to the needs of the creative industry while providing more protection. It also made provisions for the establishment of the Business and Intellectual Property Authority (BIPA). Copyright protections under BIPA cover literary works (such as novels, poems and plays), films, music, artistic works (such as drawings, paintings, photographs and sculptures) and architectural designs.<sup>76</sup>

**Artistic freedom of expression:** Namibia was ranked 5th out of 42 Sub-Saharan countries with a consistently high score of 73 in the 2023 Global Expression Report, and a current classification of 'less restricted' freedom of expression. Compare this to neighbouring Botswana with a score of 76 ('less restricted' freedom of expression) and Angola's score of 46 ('restricted' freedom of expression).<sup>77</sup>

**Media freedom:** Reporters Without Borders ranked Namibia 22nd out of 180 countries in the 2023 World Press Freedom Index (dropping 4 places from a 2022 ranking of 18th). Namibia is historically one of Africa's best-ranked countries with a political and legislative environment conducive to the free exercise of journalism with a score of 80.91 and a classification considered to be 'satisfactory'. Compare this to neighbouring Botswana ranked at 65th with a score of 64.61 (classified as 'problematic') and Angola ranked at 125th with a score of 48.3 (classified as 'difficult').<sup>78</sup>



# 5.8 Zambia



## Population

Estimated to be 20.57 million as of mid-2023. Comprising 72 different ethnic groups, Zambia has a rich cultural diversity and, despite this, displays of ethnic animosity are minimal. The main ethnic groups are the Bemba (22%), Batonga (11%), Lozi (5.2%) and Nsenga (5.1%).<sup>79</sup>



## Languages

There are more than 30 major languages spoken in Zambia (2010 census), with seven of

these recognised as official regional languages: Bemba, Nyanja, Lozi, Tonga, Kaonde, Luvale and Lunda. English, the country's official language, is spoken as a first language by only about 2% of the population but is the most commonly used second language. The most widely spoken languages are Bemba (spoken by 35% of the population), Nyanja or Chewa (20%), Tonga (12%) and Lozi (6%).<sup>80</sup>



## Gross domestic product<sup>81</sup>

With copper production representing a significant share of export revenues<sup>82</sup>, Zambia's GDP was estimated to be 29.54 billion US dollars as of October 2023, giving an estimated per capita GDP amounting to 1 440 US dollars.



## Internet penetration

The estimated internet penetration rate at the start of 2023 stood at 21.2% of the total population<sup>83</sup>, giving Zambia a global ranking of 170 out of 180 countries.<sup>84</sup> Compare this to neighbouring countries Angola and Zimbabwe with internet penetration rates of 40.62% and 34.8%, respectively.



## Stand-alone culture ministry

No, culture falls under the Ministry of Tourism, Arts and Culture.

### KEY NATIONAL POLICIES AND INSTITUTIONS:

- National Arts Council of Zambia (1994)
- Zambia National Cultural Policy (2003)  
<https://www.mot.gov.zm/?wpdmpro=national-culture-policy>
- Patents and Companies Registration Agency (PACRA) (2010)
- Copyright and Performance Rights (Amendment) Act (2010)
- Digital Migration Policy (2014)
- Patent Act (2016)
- Protection of Traditional Knowledge, Genetic Resources and Expressions of Folklore Act (2016)
- Media Development Policy (2020)
- Revised National Intellectual Property Policy (2020)
- Zambia Vision 2006-2030
- Zambia Reprographic Rights Society (ZARRSO)
- Zambia Music Copyright Society (ZAMCOPS)

**Intellectual property rights:** The Copyright and Performance Rights Act mandates PACRA to register and supervise CMOs. Currently two CMOs have been registered: ZARRSO, which deals with literary works, and ZAMCOPS, which administers music rights.<sup>85</sup>

Zambia has instated a legal framework that seeks to protect the use and access to traditional knowledge, genetic resources and expressions of folklore. The law, which is both defensive and positive in nature, is known as the Protection of Traditional Knowledge, Genetic Resources and Expressions of Folklore Act No. 16 of 2016.<sup>86</sup>

To address increasing levels of music piracy, the Zambia Police Service launched the Intellectual Property Unit as a way to broaden its mandate and enable it to deal effectively with all other forms of IP infringement such as trademark infringement and increasing occurrences of counterfeit products in the country.

**Artistic freedom of expression:** Zambia was ranked seventh out of 42 Sub-Saharan countries with a score of 51 in the 2023 Global Expression Report (a steady increase from a score of 38 in 2020) and a current classification of 'less restricted' freedom of expression. Compare this to neighbouring Malawi with a score of 75 ('less restricted' freedom of expression) and Zimbabwe's score of 20 ('highly restricted' freedom of expression).<sup>87</sup>

**Media freedom:** Reporters Without Borders ranked Zambia 87th out of 180 countries in the 2023 World Press Freedom Index (rising 22 places from a 2022 ranking of 109th as reflection of a change in government in 2021, although the legislative framework still needs to be improved) with a score of 59.41 and a classification still considered to be 'problematic'. Compare this to neighbouring Zimbabwe ranked at 126th with a score of 48.17 and Angola ranked at 125th with a score of 48.3 (both countries classified as 'difficult').<sup>88</sup>



# PART 5

## 5.9 Zimbabwe



### Population

Estimated to be 16.82 million at the end of 2023.<sup>89</sup> The Shona is the largest ethnic group forming about 75% of the total population and occupying the east of the country. The Ndebele are the largest minority ethnic group occupying the southwest of the country and making up about 17% of the total population.<sup>90</sup>



### Languages

English, Shona and Ndebele are the most widely spoken languages. Shona is the mother tongue of an estimated 75% of the population, with Ndebele speakers accounting for 17% of the population. Zimbabwe has 16 official languages, namely Chewa, Chibarwe, English, Kalanga, Koisan, Nambya, Ndau, Ndebele, Shangani, Shona, Sign Language, Sotho, Tonga, Tswana, Venda and Xhosa.<sup>91</sup>



### Gross domestic product<sup>92</sup>

With an economy characterised by high inflation, inequality and a substantial informal sector, Zimbabwe's GDP was estimated to be 32.42 billion US dollars as of October 2023, giving an estimated per capita GDP amounting to 2 019 US dollars. The UNESCO and National Arts Council of Zimbabwe-initiated Culture for Development Indicators (CIDS) research in 2018 showed that the CCIs in



Zimbabwe contributed 6.96% to the GDP and accounted for 1.34 % of the employed population.<sup>93</sup>

### Internet penetration

The internet penetration rate at the start of 2023 was estimated to be 34.8% of the total population<sup>94</sup>, translating to a global ranking of 153 out of 180 countries.<sup>95</sup> Compare this to neighbouring countries Botswana and Mozambique with internet penetration



rates of 73.5% and 23.1%, respectively.

### Stand-alone culture ministry

No, culture falls under the Ministry of Youth, Sport, Arts and Recreation, and is further fragmented with the responsibility for cultural heritage falling under the Ministry of Home Affairs and Cultural Heritage.

### KEY NATIONAL POLICIES AND INSTITUTIONS:

- Zimbabwe Intellectual Property Office (ZIPO) (founded 1894)
- National Arts Council (1985)
- Intellectual Property Tribunal Act (2001)
- Trademarks Amendment Act (2001)
- Patents Act (Chapter 26:03) (as amended in 2002)
- Copyright and Neighbouring Rights Act (2004)
- Zimbabwe National Intellectual Property Policy and Implementation Strategy (ZNIPPIS) (2018-2022)
- National Arts, Culture and Heritage Policy of Zimbabwe (2019)
- Cultural and Creative Industries Strategy (2020-2030)
- National Music Strategy of Zimbabwe (2022-2027)

**Intellectual property rights:** Section 10 of the Copyright and Neighbouring Rights Act concerns works eligible for copyright, including literary works, musical works, artistic works and audio-visual works. The law further specifies that the author of the relevant work is the rightful owner of the copyright.<sup>96</sup>

Generally, the government seeks to honour IP ownership and rights, although a lack of expertise and manpower, along with rampant corruption, limit its ability to enforce these obligations. Pirating of books, videos, music and computer software is common.<sup>97</sup>

Despite state efforts to curb IP infringement, rightsholders<sup>98</sup> must play a significant role in policing the use of their IP in Zimbabwe. They must constantly check that the markets in which they sell their goods or services take appropriate action against IP infringement by competitors, retailers or street vendors. Zimbabwean law entitles rightsholders to take civil action against infringers to recover revenue loss and/or to have the infringing products destroyed.

ZNIPPIS recognises the value of indigenous knowledge systems as key activities "protecting and leveraging the knowledge and intellectual traditions of the indigenous peoples of Zimbabwe, by developing a national indigenous knowledge system, which effectively protects and facilitates the commercialisation of traditional knowledge".<sup>99</sup>

**Artistic freedom of expression:** Zimbabwe was ranked 33rd out of 42 Sub-Saharan countries with a consistently low score of 20 in the 2023 Global Expression Report (unchanged from 2012), and a current classification of 'highly restricted' freedom of expression. Compare this to neighbouring Mozambique with a score of 51 ('restricted' freedom of expression) and Botswana's score of 76 ('less restricted' freedom of expression).<sup>100</sup>

**Media freedoms:** Reporters Without Borders ranked Zimbabwe 126th out of 180 countries in the 2023 World Press Freedom Index (rising 11 places from a 2022 ranking of 137th and although levels of violence against journalists have declined under the current administration, they remain alarmingly high and self-censorship is routinely practised to avoid reprisals) with a score of 48.17 and a classification of 'difficult'. Compare this to neighbouring Botswana ranked at 65th with a score of 64.61 and Mozambique ranked at 102nd with a score of 56.13 (both countries classified as 'problematic').<sup>101</sup>



# Common themes regarding policy formulation, implementation and evaluation

This chapter provides common themes identified in the formulation, implementation and evaluation of policies in the focus countries. The summary is generalised, providing only specifics and particular country examples where possible.

- The same practitioners being included over and over again, without including emerging artists and younger people.
- Policy formulation events being restricted to urban areas, with peri-urban and rural areas not being fully represented.
- The technology used for communication and engagement (in the form of online meetings and seminars) excludes certain groups.
- Lack of functioning national associations or umbrella bodies within the sector that can ensure ongoing engagement with officials on behalf of their members, while disseminating information and providing feedback.
- Practitioners are discouraged from participating in policy work because they are not remunerated for their time. This is different for civil servants who are paid to do the work.

Key informants who were government officials acknowledged the need for adequate representation of stakeholders but said that getting representatives from different areas, age groups, experience levels, languages and genres while maintaining sensitivity to the process was very difficult and expensive. Selection criteria to identify representatives were not always transparent and there was an ongoing temptation to draw in the same people again and again, either because there was an 'elite' group close to the ministry officials, or this was simply easier than trying to broaden the group in the face of various barriers.

## 6.1 POLICY FORMULATION

### 6.1.1 INCLUSIVITY AND REPRESENTATION OF STAKEHOLDERS AT ALL LEVELS

Most key informants commented on the degrees to which the policy formulation process was able to be inclusive of key stakeholders.

#### Difficulties included:

- Policy formulation and information workshops only including civil servants and not enough cultural practitioners.

Most key informants highlighted the lack of up-to-date, sector-specific data about potential participants who could be included in formulation processes. Additionally, there was a deficiency in functional institutions capable of raising awareness and disseminating information. The key informants also pointed out that practitioners frequently faced time constraints, limiting their ability to respond or participate adequately.

Out of 161 respondents, 123 (76%) were male and 38 (24%) were female

### 6.1.2 INSUFFICIENT ADVOCACY

The topic of how creative practitioners can be more involved and what options are available to them was noted from various perspectives:

- Outside government departments, there is a poor understanding in general about policy formulation processes.
- Creatives are mostly unaware of the role(s) they could play in policy formulation. They do not proactively seek to get involved or believe that they have the right to do so.
- The lack of comprehensive and consistent communication from public departments about the policies to be developed does not make it easy for practitioners to contribute.
- The lack of knowledge and information also leads to a general mistrust of the processes,

which reduces a sense of ownership of the policies.

- Time lags and insufficient feedback from official channels about results reinforce the notion that the whole process is inefficient and ultimately ineffective. In Lesotho, a review and reformulation of the 2005 Cultural Policy began in 2019 but has not been completed yet, leaving Lesotho without a basis for the implementation of support mechanisms. In Malawi, some policies have taken more than a decade to be approved.

"For instance, the National Cultural Policy was formulated in 2015, yet most of the stakeholders including me got to learn about it in 2021 when we engaged in the reviewing process," commented a Malawian respondent.

There is a widespread belief that many policymakers lack a comprehensive understanding of the practical challenges faced by CCI practitioners. This deficiency results in policies that lack a solid foundation in reality and consequently fail to contribute meaningful value to the lives of practitioners. Policies are thus seen as government-centred rather than people-centred, and this further reduces the faith practitioners have in the process.

Figure 1: Participation in policy formulation

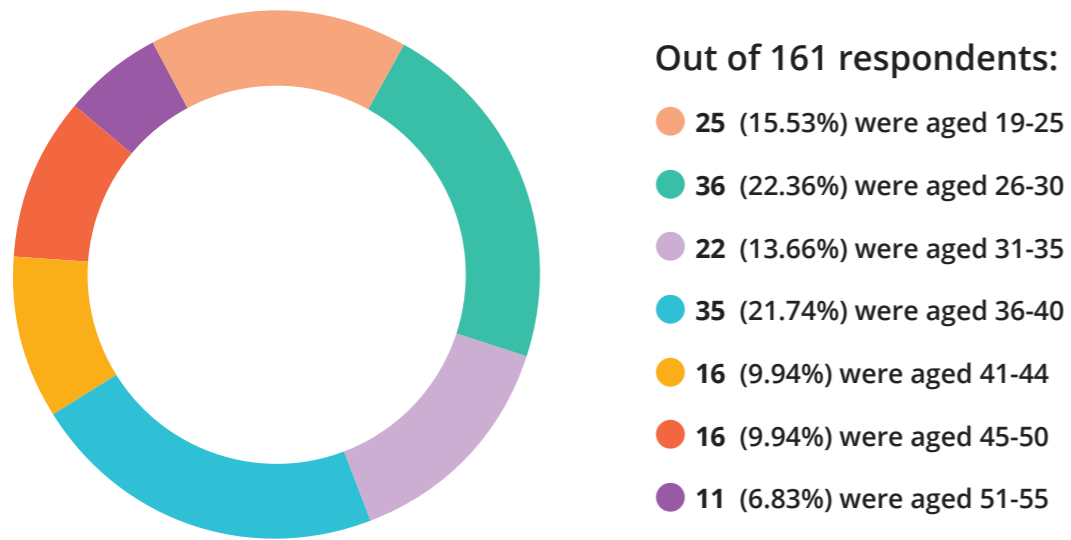


Out of 161 respondents:

- 110 (68%) DID NOT participate in policy formulation
- 51 respondents (32%) DID participate in policy formulation



Figure 2: Breakdown of respondents by age



## 6.2 POLICY IMPLEMENTATION

### 6.2.1 LACK OF FINANCE MADE AVAILABLE FOR IMPLEMENTATION

In general, there is a sense of disappointment regarding inadequate implementation of policies. A majority of respondents reported that there is insufficient funding to implement programmes that can stimulate policies. Culture and its associated activities are undervalued against other public needs such as sanitation, housing and welfare, and, as such, they are seldom funded sufficiently. It was also noted that there is insufficient data and evidence to demonstrate the value of the sector, which could influence budgeting.

An example was made of the current National Strategic Development Plan (NSDP) of Lesotho, which highlights the CCIs as a priority sector for economic growth, but there is no allocation of budget to implement any programmes to support its development. Even though the NSDP has been extended to 2027-28, there is no information about additional budgetary allocations.

In certain instances, the cultural sector was commonly viewed as unproductive and undeserving of investment. Specifically in Angola, there was an observation that fiscal attention predominantly targeted the banking and oil sectors, with little to no acknowledgment of culture in terms of policy or the implementation of supportive programmes.

There were reports of weak or nonexistent government institutions to design programmes and action plans that can be implemented. CCI practitioners in Malawi have been lobbying for the establishment of a national arts and heritage council to govern the affairs of the sector, but this body is only expected to be established in 2024.

### 6.2.2 LACK OF COORDINATED CAPACITY AND OUTDATED LEGISLATION

Many respondents expressed frustration at government bodies that were perceived to lack sufficient knowledge and critical skills that could positively benefit the sector. There is a perceived gap between the actual needs of practitioners on the ground and what government officials think is needed. It was also noted that some government bodies seem to only occupy a regulatory or 'policing' role in the sector, with the collection of

Figure 3: Satisfaction of policy formulation

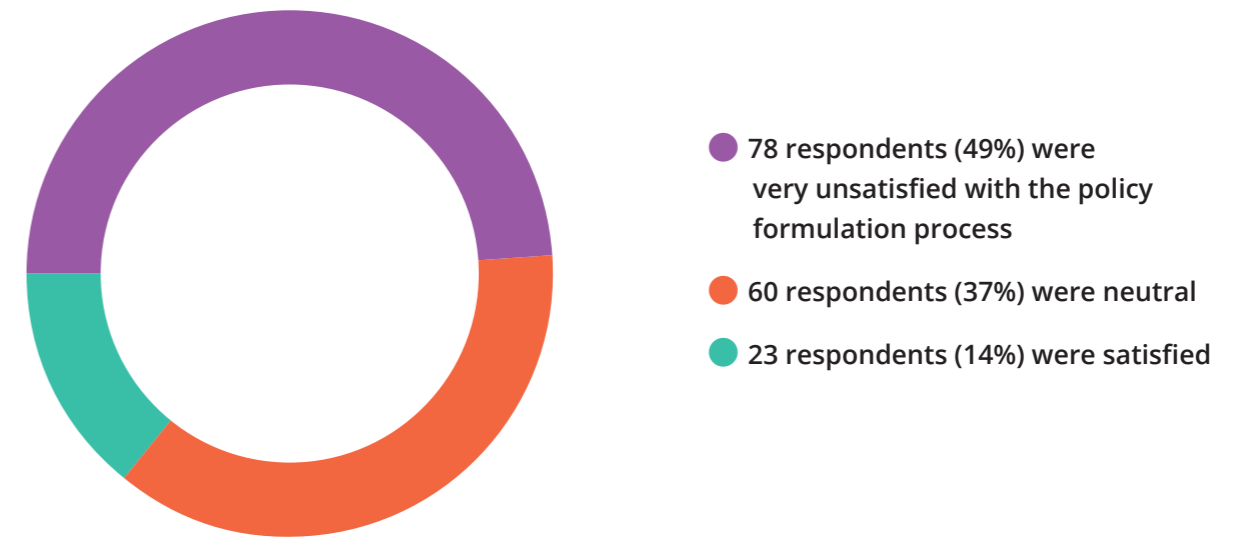
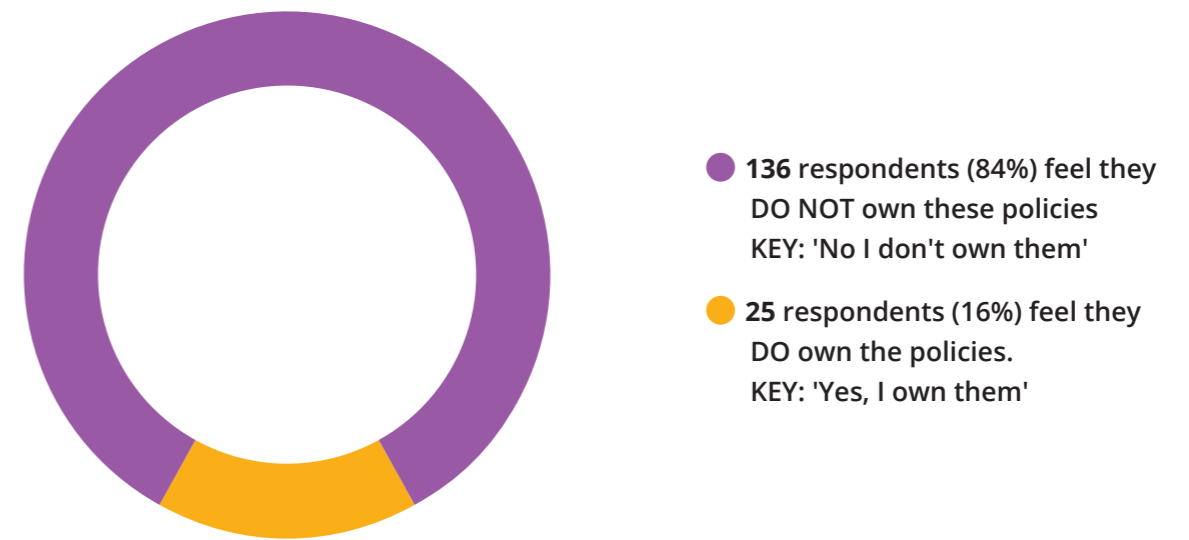


Figure 4: Policy ownership



fees or awarding of permits being the primary interaction. Many respondents said there were no real action plans to implement policy.

In some cases, where elements of culture and creativity are embedded in different ministries, there is no clear allocation of priority areas and coordination, even if there is an integrated plan of action.

In Malawi, for example, the Copyright Society of Malawi is housed in the Ministry of Arts, Culture and Tourism, while the Registrar General's Office, which is responsible for IP, is housed in the Ministry of Justice and Innovation under the Ministry of Education.

In Zimbabwe, arts and culture is found in five different ministries that each have their own approach, and practitioners reported that they did not understand how these approaches were coordinated and implemented.

A majority of Namibian respondents, however, reported that their CCIs were well represented by the various institutions and organisations that report to the Ministry of Education, Arts and Culture. This has enabled positive engagement between the Namibian Society of Composers and Authors of Music and the National Arts Council, for example, to safeguard the property rights of creative practitioners.

Conversely, in some cases, just one institution carries the whole policy mandate and is therefore overburdened, as in the case of Botswana. There is no capacity to properly engage with the various industries and activities within the sector. Consequently, even though the National Policy on Culture was drafted in 2001 and advocated for the use of mother-tongue languages in education, no implementation of this has taken place as yet.

In addition, current issues facing the sector are not properly researched and there is a lack of useful data to help guide implementation. Another consideration regarding implementation was in relation to outdated or unrevised policies that do not reflect the current realities.

**6.2.3 IMPROVED COMMUNICATION AND DATA COLLECTION REQUIRED**

The lack of reliable data collection and useful analysis was noted as a key impediment in policy formulation and implementation. A more comprehensive understanding of the CCIs, encompassing both general information and specific insights into the needs of diverse genres and enterprises, would bolster the case for implementing more tailored policies. This, in turn, could facilitate the development of directly supportive and targeted action plans.

This theme is a foundational one and was present throughout the study. It has huge implications for the future development of CCIs in general.

Some respondents emphasised the need for better communication platforms to facilitate discussions about policies and optimal strategies for supporting the sector. Improved communication channels would not only foster a better grasp of existing programmes but also facilitate feedback mechanisms crucial for monitoring and evaluation purposes.

CCI practitioners can help close this gap by actively participating in structured advocacy efforts and joining dedicated arts associations. Through these channels, they can influence policy implementation and gain better awareness of how their contributions can improve understanding.

In Botswana, respondents unanimously expressed concerns about the lack of balanced ownership of CCI policies. Practitioners felt marginalised due to a lack of meaningful engagement with the government, leading to a widening gap between stakeholders. Once more, there is a lack of clarity surrounding the specific roles of government officials and sector stakeholders, underscoring a persistent issue of misunderstanding. The effective implementation and evaluation of policies demand technical skills and knowledge, ideally present within the designated government departments. However, practitioners are not always aware of this.

**6.3 POLICY EVALUATION**

**6.3.1 LACK OF TRANSPARENCY AND TECHNICAL CAPACITY**

It is not feasible to monitor CCI contexts that lack policies and implementation. In particular, respondents from Botswana felt that there was hardly any framework within the sector that they could track. They noted that most people with skills and capacity simply left the country to work in South Africa, where there is a common language and better conditions. This further reduced the capacity of the sector to offer constructive dialogue with the government.

Angolan respondents felt that existing policies should be more accessible and in the public domain, to enable better engagement. There was a perception that policies are the property of the government and there was limited urgency towards their implementation. They reported a lack of transparency and the need for more dialogue between policymakers and cultural practitioners.

Respondents said there were no or few evaluation frameworks to monitor policy implementation, and very little information available to the sector on how progress was being made against any active programmes to support the sector.

The majority of Namibian participants expressed that while they only had a basic understanding of the policy creation and implementation process, they would be willing to invest an effort in learning more. This willingness was contingent on their

government counterparts being open to including them in the process. Specifically, they were confident that increased engagement beyond urban areas would result in greater acceptance and collaboration from practitioners.

**6.3.2 RELEVANCE AND EFFECTIVENESS OF POLICIES NEED IMPROVEMENT**

More pertinent perhaps are the responses referring to the degree to which policies and programmes were perceived as actually supporting the CCI sector. In other words, the relevance and effectiveness of the policies.

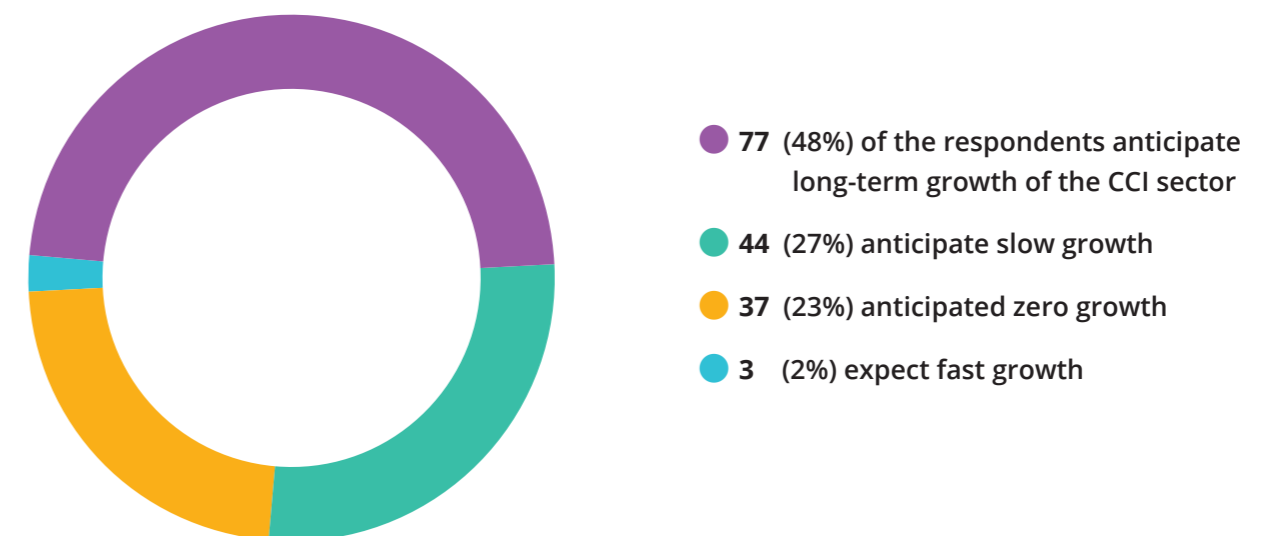
The majority of respondents acknowledged that they lacked knowledge about policies in general. Their responses are therefore understood as limited to the extent of their knowledge and exposure, and could be challenged as not coming from positions of expertise. However, for the sake of appreciating the qualitative aspect of practitioners' experiences, this input has been included with two main themes identified.

Firstly, that policies are generally equated with regulations such as taxes and permissions to be applied and paid for, which are restrictive and to be avoided if possible. Government departments and most of their programmes are seen as divorced from reality, bearing little relation to the needs on the ground while the benefits are focussed on 'elite' groups of preferred partners. This is why there was no sense of ownership of policies, very little engagement and a feeling of distrust and separation.

A variation on this theme of non-relevance is the additional perception that government programmes do not sufficiently capture new and emerging trends shaped by new digital media and hybrid creative practices. It would seem there is a reluctance from the government to engage with more contemporary art forms and products, found in urban and popular cultural spaces, using virtual and extended-reality elements, as well as alternative music, dance, fashion and art forms that might not fit into historical categories. Public funding and acknowledgements through national awards tend to remain focused on traditional art forms. This further reinforces the notion that creativity is not supported by government policy and, in fact, takes place outside of government frameworks. The motivation to engage with the government and policy processes is therefore reduced, as there is 'no point'.

Secondly, and following on from the first theme, there seems to be a general lack of knowledge about how the CCIs could be best positioned to flourish, apart from 'funding'. When asked how they perceived the growth of the CCIs, the majority of respondents felt that the sector would grow but extremely slowly, and many believed that this would happen on its own, outside of public support. The creative sector does not see the benefits of government support, and does not look to legal frameworks to provide anything particularly valuable.

**Figure 5: Confidence in growth of CCIs**



# Conclusions

As previous UNESCO and UNCTAD documents have noted, the creation of an enabling environment to enable the CCIs to flourish requires multiple approaches. There also needs to be a strong vision capable of adequately embracing the complexity of the various mechanisms that need to be integrated. This vision must embrace economic, cultural and artistic aspirations, at both social and individual levels, and must be informed by reliable and contemporary data. A strong CCI sector can impact the population in a variety of ways, but at the same time needs a variety of interventions to realise this potential.

“Improving the creative cultural industry in Lesotho requires a multifaceted approach involving legislative reforms, collaborative efforts, educational initiatives, and enhanced organisational outreach.” — **Sechaba Moqoko, Chairperson, Lesotho Music Rights Association**

This research study focussed on policies and legislative frameworks, as these are the foundation for building social structures of support. As the results show, there is a range of instruments in place across the focus countries, as well as mechanisms by which these instruments can be updated or implemented more effectively

This information should be useful for stakeholders to better appreciate the gains made and the gaps that need to be addressed. While policies and laws are the remit of the government, civil society has a role to play in contributing to growing knowledge and understanding. CCI practitioners need to be able to participate in public engagements and lobby for the legislation that best represents their interests. This study allows for broad comparisons to be made across these countries, which could support additional advocacy for improved services and support.



## THERE ARE SEVEN MAIN CONCLUSIONS TO BE DRAWN FROM THIS RESEARCH:

**7.1** Regulation in the creative industries is a complex issue and relevant frameworks may not only be found within a single ministry tasked with culture and/or the arts. National legislation also cannot be drafted in isolation, but has to be aligned with commitments already made under multilateral processes and global instruments, such as World Trade Organization (WTO) rules, World Intellectual Property Organization (WIPO) regulations, United Nations Educational, Scientific and Cultural Organization (UNESCO) conventions, and other similar international legal instruments. Understanding these global conventions is vital for practitioners who wish to hold their public servants to account if their country is a signatory to these global instruments. Being a signatory to these protocols is also important for governments to take advantage of such technical and financial support as may be available.

**7.2** National legislation has to be compatible with regional cooperation treaties and integration agreements, such as those of the African Union (AU) and the Southern African Development Community (SADC), and with EU-ACP economic partnership agreements, etc. Therefore, developing countries may have limited autonomy or policy space to review national policies in areas related to the creative industries, particularly in sensitive areas such as audio-visual and other creative services. This research has noted that there is no formal CCI forum in the SADC region that facilitates and brings stakeholders together to discuss, debate, dialogue and strategise collectively on these matters. SADC does not have a culture desk, which also means that CCI needs in the region will be underrepresented at many levels, including the AU. This is a lost opportunity, particularly where there are advantages to be secured through regional trade agreements, import/export reciprocity and other cooperation mechanisms.

**7.3** While every country must develop a cultural policy that speaks directly to its particular society and population, there are many existing policies that can provide initial inspiration. Similarly, there is a need for a harmonised definition of the CCIs in order to set up methodologies for information capturing that will underpin the development of appropriate support. Once again, there is a great deal of previous research that can be drawn from international bodies, and in particular, more recent reports from UNCTAD. As 2021 was declared the International Year of Creative Economy for Sustainable Development, there has been extra information circulating with credible data drawn from a variety of countries, including Less Developed Countries globally.

**7.4** As the CCIs have a strong business element, trade, financial and economic policies are relevant for practitioners. As the KIs of this study frequently noted, funding support to the CCIs is generally weak, but there are various ways in which this component can be addressed from policy perspectives. This could include actions such as: (a) direct subsidies, (b) tax relief on income to promote investment, (c) granting preferential credit, (d) financial guarantees to help cover risks, (e) financial transfers (as mentioned above, industry transfer organised through public authorities), and (f) microcredit for independent artists, and for artists and artisans from all communities. All of these endeavours will necessitate that the designated CCI authorities understand the industry's need for recognition across various ministries and possess the capability to navigate diverse pathways to formulate the most effective array of action points. The disparities among these actions, including those that may necessitate a phased-in approach, must be effectively communicated to stakeholders. This will enable them to orient themselves optimally as they develop their practices.

**7.5** At the core of the CCIs lies creativity, emphasising the need to prioritise the protection of IP. Practitioners must be ensured protection in their work, with their business and royalty incomes secured. Competition policies need to be cognisant of the nature of CCIs to protect and promote this work. WIPO provides historical and situational input on this aspect. Most of the countries in this study have some form of IP regulation and it is important that practitioners are able to correctly and beneficially work within these systems.

**7.6** Additionally, creativity requires freedom of expression to flourish. How this is enabled or hindered by other forms of legislation that co-exist with cultural and trade policies will influence the promotion of the CCIs. The balance and tensions between various policies and government positions need to be understood and correctly navigated. Practitioners also need to understand how they can advocate for change, while public servants implementing CCI support need to be aware of such implications.

**7.7** There is a critical need for long-term data collection, analysis and dissemination of findings to support lobbying efforts and policy reviews, not only within the countries examined in this study but across the whole of Africa. The establishment of cultural observatories in some countries (Mozambique and South Africa) is a starting point but not sufficient. Ongoing mapping processes are needed that work within already defined conceptual parameters and with accepted indices that allow for longitudinal data collection and analysis. With this information collection, there needs to be ways in which independence and confidentiality are respected while useful data and conclusions are made public for the enhancement of the sector. Once more, a multitude of actions and the integration of plans, as well as information-sharing, will need to be established and sustained. Consistency, reliability and validity will be key elements in improving the legislative frameworks of the CCIs.



# Footnotes

<sup>1</sup> <https://www.sadc.int/pages/sadc-objectives>

<sup>2</sup> <https://www.statista.com/statistics/440690/total-population-of-angola>

<sup>3</sup> <https://unctad.org/publication/mapping-cultural-and-creative-industries-angola>

<sup>4</sup> <https://unctad.org/publication/mapping-cultural-and-creative-industries-angola>

<sup>5</sup> <https://www.imf.org/external/datamapper/NGDPD@WEO/OEMDC/ADVEC/WEOORLD>

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# Photo captions

**Cover image:** The filming of a traditional community for the Rhythmic Africa Unearthed project in Botswana.  
Photo: Gosego Feb Mosalaesi

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Photo: Daniel Toro

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Photo: Curate Mussagy

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Photo: Bruce BATTERY

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Photo: Simz Mkhwanazi

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Photo: Thabo Mohloboli

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Photo: Simz Mkhwanazi

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## CONSULTING TEAM:

Development Focus (Dev-Focus)

- Simbarashe Mudhokwani; ZIMBABWE (lead researcher)
- Rufus Makuluve; MOZAMBIQUE
- Maanka Adrian Chipindi; ZAMBIA
- James Thole; MALAWI
- Tokelo Mapena; LESOTHO
- Bathusi Lesolobe; BOTSWANA
- Dr Agnela Barros Wilper; ANGOLA

## TEXT AND EDITING:

Simbarashe Mudhokwani  
Cultural Radius

## FINAL EDIT AND PROOFREADING:

Cultural Radius  
Kalin Pashaliev  
Eddie Hatitye  
Priscilla Mwasinga  
Carolin Christgau

## LAYOUT AND COVER DESIGN:

Trevor Ou Tim

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