



Oral statement to the 69th Ordinary Session of the African Commission on Human and Peoples' Rights (ACHPR) on the situation of Freedom of Expression, Association, Assembly and Access to Information in Eastern Africa

ARTICLE 19 Eastern Africa (EA) welcomes the opportunity to address the Commission on the human rights situation in the Eastern African region

We note the **positive contributions** to promote Freedom of Expression (FOE) and Access to information (ATI) in the region which include:

- a) The liberalization of the telecommunications sector in Ethiopia by offering additional licenses to private companies
- b) The development of Community Network and Service Provider license in Kenya that promotes digital inclusion and exercise their rights online;
- c) The declaration of several sections of the Anti-Pornography Act 2014 of Uganda unconstitutional for unjustifiable restriction on the right to freedom of expression; and
- d) The operationalization of data protection legislation in Uganda and Kenya respectively that mutually reinforce Freedom of expression and Access to Information.

Nevertheless, ARTICLE 19 EA is deeply concerned with:

A. [Shrinking Civic Space in Eastern Africa](#)

We note with concern the shrinking civic space across the region with law enforcement officers using excessive force including live ammunition and teargas against protesters, arrest of government critics and crackdown on civil society actors. This directly restricts the ability of citizens to express themselves and demand accountability.

In Tanzania, we note the arrest of [Vitalis Maembe](#) and [Optatus Fwema](#) who used their creativity in music and art to criticise the government. In Rwanda, we have observed the arrest of [journalists and opposition leaders](#) in September and October who use online platforms such as youtube to raise government criticism. This includes the arrest of [Theoneste Nsengimana](#) who runs an online channel Umubavu TV that is critical of the government. In Kenya, we have

documented at least 2 cases in the last 4 months where law enforcement authorities used excessive force and live ammunition to quell protests in the country in areas like [Embu](#) and [Kahawa West](#) resulting in the deaths of at least 2 people.

The UN Human Rights Council has noted the use of excessive force against protestors in Sudan. It reported that at least 13 people have been killed while 300 people were injured by 05 November 2020. On 25th October 2021, Sudan imposed an internet shutdown following the coup in the country. This has restricted the free flow of information and ability of citizens to express themselves. We take note of a recent judgement directing ISPs to restore internet connectivity and urge Sudanese authorities to comply with this directive.

B. Legal and policy threats to freedom of expression and access to information

We note that governments are attempting to enact laws that stifle freedom of expression and violate international human rights standards. In May 2021, Kenya published the Computer Misuse and Cybercrimes (Amendment) Bill that seeks to expand the mandate of the National Computer Cybercrimes Committee, set up to receive and act on reports relating to cybercrimes, to recommending websites to be made inaccessible within the Republic of Kenya and impose an outright ban on Pornography in Kenya. This is in violation of principle 38 on non-interference under the AU Declaration on principles of freedom of expression and access to information.

Similarly, Kenya has failed to enact the Access to Information regulations required to operationalize the Access to information Act. These regulations are important in the exercise of access to information and promoting accountability in the public sector. Kenya has also failed to enact adequate whistleblower legislation. The repercussions are well evidenced in the outcome of the cases of whistleblowers like Spencer Sankale, David Munyakei, John Githongo among others who have faced reprisals.

In August 2021, the United Republic of Tanzania published the draft Electronic and Postal Communications (Online Content) (Amendment) Regulations 2021. Although the draft seeks to amend several vague and problematic provisions in the existing 2020 regulations, it still contains provisions such as licensing of online content service providers that inhibit exercise of freedom of expression and access to information online.

C. Restriction to media freedom

ARTICLE 19 EA is concerned with the growing threats to media freedom in the region. In September 2021, the United Republic of Tanzania suspended a private newspaper '[Raia Mwema](#)' for one month for what the government said was a violation of professional journalism standards, allegations that were denied by the newspaper. In August 2021, [Uhuru newspaper](#) was also suspended for 14 days.

Tanzania has also failed to comply with the [judgement of the East African Court of Justice](#) to amend several provisions of the Media Services Act 2016 of Tanzania that are restrictive to freedom of expression and bring them into conformity with the Treaty of the Establishment of the East African Community.

In Uganda, we have documented [physical violence against journalists](#) while executing their work, this includes physical violence or damage to property such as cameras. In Kenya, ARTICLE 19 has documented arrests of nine journalists in 2021 while doing their work. In [2020](#), 5 journalists were physically attacked, 4 arrested and detained while 2 were threatened by police enforcing the COVID-19 regulations.

We highlight the threat posed by surveillance in the region that potentially promotes the targeting of journalists. We highlight [research](#) by Amnesty International and Forbidden Stories that found the use of spyware in Rwanda to potentially target journalists and opposition leaders. The Law of Interception (2013) and the Sim Card regulations (2015) of Rwanda still have provisions that negatively impact encryption and anonymity protections, necessary for journalistic freedom.

In conclusion,

Through the Commission, ARTICLE 19 EA reminds States of their obligations under Article 9, 10 and 11 of the African Charter on Human and Peoples and Rights to respect and promote freedom of expression, assembly, association and access to information whether online or offline and calls on them to implement our recommendations.