



## ARTICLE 19 EASTERN AFRICA

### STATEMENT AT THE 73<sup>RD</sup> ORDINARY SESSION OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS ON THE SITUATION OF FREEDOM OF EXPRESSION, ACCESS TO INFORMATION AND ASSEMBLY IN EASTERN AFRICA October 2022

#### **Distinguished Guests, Ladies and Gentlemen**

ARTICLE 19 Eastern Africa welcomes the opportunity to address this 73<sup>rd</sup> Session of the African Commission on the situation of freedom of expression, access to information and assembly in Eastern Africa.

We welcome positive developments in various States that further the realisation of the freedoms of expression, information, and assembly. For example:

- a. In April this year, the Burundi media regulator, the National Council of Communication (CNC), [lifted a ban](#) that it had imposed on the British Broadcasting Corporation (BBC) services and Voice of America. Both BBC and VOA were suspended from broadcasting in Burundi in May 2019 following some critical publications on alleged incidents of human rights abuses under the late President Pierre Nkurunziza. The authorities accused the two international media houses of breaching press laws, unprofessional misconduct and spreading what they termed as 'falsehoods'.
- b. The Kenyan High Court struck down amendments to the Supreme Court Rules governing the hearing of the Presidential Election Petition that sought to prevent litigants, their advocates, and advocates' agents from expressing their opinion on the merit, demerit or predicting the outcome of the petition filed before the Supreme Court. The Court in its judgment rendered in August 2022 observed that the Chief Justice did not conduct public participation in any shape or form before coming up with such directives.

#### **Freedom of Expression and Access to Information**

However, despite these positive developments, freedom of expression remains a distant goal. ARTICLE 19 is therefore concerned that:

- a. Ahead of the 9 August, 2022 general elections, Kenya was hit by a deluge of [misinformation](#) and [disinformation](#) that threatened its electoral integrity. A [report](#) by Mozilla Foundation showed that TikTok, in particular, became a worrying wildcard in the 2022 election, with the platform acting as a forum for fast and far-spreading political disinformation. After reviewing 130 videos from 33 accounts that had been cumulatively

**ARTICLE 19 Eastern Africa**

P.O Box 2653 – 00100 Nairobi, Kenya |

Visiting address: Chaka Place, 3<sup>rd</sup> Floor, Argwings Kodhek Road

Phone +254 727 862 230 | Email: [kenya@article19.org](mailto:kenya@article19.org) | [www.article19.org](http://www.article19.org)

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watched four million times, the research revealed an ecosystem flourishing with hate speech, incitement against communities, and synthetic and manipulated content – despite being in violation of TikTok’s very own policies.

- b. Uganda’s parliament, on 8 September, 2022, [passed a draconian law](#) that criminalises various uses of computers and digital technologies and largely curtails digital rights. Among the key regressive provisions is the prohibition of the ‘misuse of social media’, described in clause 6 as publishing, distributing or sharing information prohibited under Uganda’s laws. A highly punitive penalty has been prescribed for the offence: imprisonment of up to five years, a fine of up to 10 million Uganda Shillings (USD 2,619), or both;
- c. We are also concerned over the continued [detention of female journalist Diing Magot](#) of Voice of America in Juba South Sudan. Diing was arrested on the 7 August 2022 near Nyakuron Cultural Centre while she was coming back from covering a peaceful protest at Konyo-Konyo Main Market.
- d. [Two journalists](#) – Amir Aman Kiyaro and Thomas Enigda of Associated Press – are still languishing in Ethiopian jails since their arrest on 28 November, 2021;
- e. ARTICLE 19 is concerned by threats to freedom of expression and access to information arising from the ongoing armed conflict in Ethiopia between the Tigray People’s Liberation Front (TPLF) and the Ethiopian government. Some journalists [have been arrested](#) and others [forced to flee](#) as Ethiopia retaliates against some who cover rights abuse during the conflict.

In light of the above, we, therefore recommend that:

- a. The Commission should ensure member states guarantee the protection of journalists, address the issue of those in state custody, conduct prompt, thorough and independent investigations into all threats and attacks against journalists and media workers within their jurisdictions, and protect journalists and implement policies and practices to address future threats;
- b. States should develop national action plans for the safety of journalists. In addition, the safety of journalists should be integrated into national sustainable development strategies under the 2030 Agenda for Sustainable Development;
- c. There is a need for increased state engagement on social media to prevent misinformation and disinformation instead of a reactive approach. For example, the government needs to be an active contributor to accurate information. Similarly, civil society organisations (CSOs)

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should also engage with policymakers and media representatives on enhancing digital literacy and fact-checking skills;

- d. States should ensure that individuals and communities are free to express their views and participate in the development of policies and laws that affect them.

### Freedom of Assembly and Association

Freedom of peaceful assembly and expression are the foundations of a democratic, tolerant and pluralist society in which individuals and groups with different backgrounds and beliefs can interact peacefully with one another.

But despite common understanding as to the need for protection of freedom of assembly, we are concerned that protection of freedom of assembly is still elusive, for example:

- a. Uganda's National Bureau for Non-governmental Organisations [banned Sexual Minorities Uganda \(SMUG\)](#), a prominent lesbian, gay bisexual, transgender, and queers (LGBTQ) rights organisation, for not having officially registered with it. Before banning, SMUG has been providing education on sexuality and advocacy for health services for LGBTQ people in Uganda since 2004.
- b. [Uganda police arrested](#) six women on 30 May 2022 at Mulago roundabout in Kampala while they held placards protesting inflation, high prices of essential goods and the continued detention of Kizza Besigye, the leader of the political pressure group People's Front for Transition.
- c. [In the run-up to the August elections](#) in Kenya, civic space deteriorated as authorities systemically used brutal and lethal force against peaceful protesters; journalists faced vicious and fatal attacks for their work, while the LGBTQI+ community faced unprecedented attacks and repression.
- d. [In mid- 2022](#), striking inmates at the Kamiti Maximum Prison in Nairobi County were badly beaten by officers after they protested over the lack of food and restrictions on movement in the facility. The protests erupted when the prison began rationing food to the inmates as a punitive measure after three terrorism convicts escaped from the facility, sparking public outrage;.
- e. The [Rwandan Patriotic Front \(RPF\) continues to target](#) those perceived as a threat to the government. Arbitrary detention, ill-treatment, and torture in official and unofficial

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detention facilities are commonplace, and fair trial standards are routinely flouted in many sensitive political cases, in which security-related charges are often used to prosecute prominent government critics.

We reiterate our commitment to freedom of assembly and stress that states have a responsibility to take action to accelerate greater accountability and respect for the rule of law. In light of the above, we, therefore, recommend that:

States should ensure an enabling environment for CSOs, media, journalists and protesters and unconditionally release all those who have been arbitrarily detained for exercising their right to peacefully protest and drop all the spurious charges made against peaceful protesters;

States should refrain from misapplying the law requiring notification of protests, and observe constitutional and international standards guaranteeing the right to peaceful assembly.