



DEFENDDEFENDERS

East and Horn of Africa Human Rights Defenders Project



DEFENDERS
COALITION

UN Human Rights Council – 45th regular session
Item 6: Adoption of the report on the UPR of Kenya
Oral statement

Delivered by: Kamau Ngugi (video message)

Madam President,

The Defenders Coalition and DefendDefenders welcome the acceptance by the Government of Kenya of a large number of UPR recommendations. Kenya's January 2020 review was a milestone for human rights advancement. It was also a consultative process with various stakeholders. We salute the fact that the Kenyan Government displayed political will to engage on human rights challenges, including past and ongoing violations. There have been notable instances where the human rights environment has improved since the second review. We warmly welcome Kenya's engagement with civil society, at the national, regional, and international levels.

We welcome Kenya's acceptance of recommendations on:

- (1) *Ensuring proper, transparent, and effective investigations in cases where human rights defenders (HRDs) have been harmed*, and specifically to adopt a law protecting HRDs in accordance with international standards. We recommend that Kenya implements this recommendation by domesticating the model HRD protection policy and making public pronouncements supporting the work of HRDs;
- (2) *Upholding the rights to freedom of expression and association*, including of media organisations and HRDs, in accordance with Article 19 of the International Covenant on Civil and Political Rights (ICCPR) which Kenya is party to. We recommend that Kenya also considers the role of whistleblowers in promoting respect for human rights. We ask that the Government enacts the Whistleblowers Protection Bill 2018, reviews the Associations Bill 2018, and ensures that laws governing the operations of NGOs are in line with the right to free expression. We welcome the acceptance of recommendation 142.157;
- (3) *Creating a safe and enabling environment in which HRDs and civil society can operate free from hindrance and insecurity*, including through the full operationalisation of the Public Benefit Organisation Act 2013. We welcome the acceptance of recommendations 142.45, 142.56, 142.162, and 142.164; and
- (4) *Revising and enacting the draft Data Protection Bill*, particularly to create a data protection framework in line with international standards on the right to privacy. Whereas we welcome acceptance of this recommendation and note that the Act was enacted, the implementation of the guidelines is lengthy and there have been cases of privacy rights violations since January 2020, which need a recourse.

We regret that Kenya did not go a step further in its replies to ratify the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT). It is not too late, as the UPR is an ongoing process. We encourage the Government to reconsider its position on all "noted" recommendations.

Thank you.