

The Forum on the participation of NGOs in the 71st session of the African Commission on Human and Peoples' Rights

Sub regional update on democracy, rule of law and human rights in East and Horn of Africa

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As the continent grapples with a post covid 19 period, democracy, rule of law and realisation of human rights continue to be tested in the East and Horn of Africa. The region continues to witness a downward trend with increased reports of violations of the rights to freedoms of opinion and expression, association, and peaceful assembly. Despite risks and threats, human rights defenders continue their work to promote and protect human rights.

Burundi's civic and democratic space remains severely restricted. While President Evariste Ndayishimiye made a few attempts to release pressure over civil society and Burundian citizens in general, including by releasing prisoners in January 2022, some HRDs arrested in the aftermath of the 2015 political crisis remain in jail. The government continues to exert its control and curtail the rights to freedoms of expression, peaceful assembly, and association. Reports of extrajudicial killings, arbitrary arrest, torture, and enforced disappearances of opposition members and government persist. Impunity remains widespread, including for violations and abuses related to the 2015 political crisis.

Djibouti and **Eritrea** remain the most repressive governments in the sub-region. The rights to free expression, association, and peaceful assembly continue to be severely restricted, making it virtually impossible for independent human rights organisations or individual HRDs to operate in the country.

The **Ethiopian** conflict has wreaked havoc on millions of people in Tigray and the neighbouring regions of Afar and Amhara, as well as in Benishangul Gumuz and Oromia, which continue to experience intercommunal conflict and localised violence. Gross and systematic violations and abuses, including attacks against civilians, sexual violence, arbitrary arrests, and ethnic cleansing, continue to occur. Ethiopian citizens' enjoyment of their freedom of expression has further declined during the reporting period. Ethiopian authorities declared a nationwide state of emergency on 4 November, giving the government broad powers that increase the risk of arbitrary arrest and detention of at-risk communities. Several journalists have been harassed, intimidated, or arrested. The government has made a few positive steps recently, including declaring a ceasefire to allow relief to reach afflicted citizens and releasing several political opposition members from prison. The state of emergency was lifted in early 2022. Recently, Prime Minister Abiy Ahmed has pointed to talks with the Tigray People's Liberation Front (TPLF), increasing prospects for peace.

Kenya is set to hold general elections in August 2022. The pre-election period is characterised by grave violations, including extrajudicial killings, enforced disappearances, and torture often committed by security forces. Gender-based violence, primarily against women and girls, continues, and the LGBTQI community continues to

be targeted. To date, Kenyan authorities have used the Covid-19 pandemic as an excuse to restrict freedom of peaceful assembly. In the reporting period, the Magistrate Court in Mombasa found six activists guilty of illegally gathering and failing to maintain physical distances in a public place.

Rwanda continues to stifle its civic space and target those it perceives as critics. Arbitrary arrests, torture, threats, and unfair trials remain commonplace for political opponents, critics, journalists, and bloggers. Several critics continued to be targeted in this reporting period, including Paul Rusesabagina. The civic space environment does not allow for criticism, and as a result, citizens, journalists, media, and civil society self-censor.

In Somalia, the presidential election originally scheduled to take place in late 2020 is postponed until an agreement is reached. The lower house elections, initially scheduled for November to December 2021, have been postponed, and the deadline continues to be further extended. During the reporting period, the right to freedom of opinion and expression remained limited, with both state and non-state actors targeting journalists. Several journalists were harassed, abused, and arbitrarily arrested. **In Somaliland**, authorities increased the censorship of journalists and the media.

In South Sudan, concerns have been raised over the ongoing conflict and the possibility of resumption of the armed conflict at national level. Gross human rights violations and abuses of international humanitarian law continue, including rape, sexual and gender-based violence (SGBV), and increased attacks on humanitarian workers and convoys. An increase in violence in Upper Nile State and other parts of the country threatens the 2018 peace agreement (R-ARCSS). On 22 March 2022, the main opposition force, Sudan People's Liberation Movement/Army in Opposition (SPLM/A-IO), suspended its participation in the security mechanisms tasked with overseeing the implementation of the R-ARCSS. SPLM/ A-IO claimed the suspension was based on the security mechanism's ineffectiveness in implementing the peace agreement. On 31 March 2022, the UN Human Rights Council adopted a resolution that extended the mandate of its Commission on Human Rights in South Sudan (CHRSS). Civic space is increasingly restricted as the government continues to crack down on journalists and government critics.

Sudan's humanitarian, security, and economic situation has been deteriorating since the coup on 25 October 2021. Security forces continue to violently suppress protests and target protestors. The country has been immersed in a political and social crisis since the beginning of January, following the resignation of Abdallah Hamdok as prime minister of the transitional period. The country remains without a functioning government. Several protestors are held without charges and are refused access to their lawyers and families. Moreover, the value of Sudan's currency is depreciating. Consequently, the prices of bread, fuel, electricity, health care and public transport have all skyrocketed. UN Special Representative Volker Perthes warned that while the protests began as an "anti-coup protest," they developed an additional socio-economic character. Additionally, intercommunal violence in Darfur has intensified.

Since the swearing in of President Samia Suluhu Hassan, in March 2021, **Tanzania** has taken positive measures to improve its civic space. The government issued new publishing licenses to four newspapers banned during the late President John Magufuli's rule. Additionally, it announced its intention to amend the restrictive Media Services Act

(2016). President Samia Suluhu met with Tundu Lissu, the exiled opposition figure residing in Belgium. Authorities also freed opposition leader Freeman Mbowe and his co-accused after the Director of Public Prosecutions submitted a motion to dismiss the terrorist accusations against them. Despite the positive measures taken, the situation remains tense for media freedom. In the first two months of 2022, eight journalists were arrested.

The human rights situation in **Uganda** deteriorated in the reporting period. Restrictions on critics and opposition leaders have increased. Security forces arbitrarily detained, abducted, and tortured critics and political opponents. In December 2021, author Kakwenza Rukia was kidnapped and tortured whilst held incommunicado. Further, the rights to freedoms of opinion and expression, peaceful assembly, and association are increasingly under pressure. The authorities targeted and arrested several journalists and raided two media houses. The main opposition leader Robert Kyagulanyi, also known as Bobi Wine, was under house arrest ahead of his scheduled campaign for the by-elections in December. To date, close to 30 of the 54 NGOs suspended arbitrarily by the NGO Bureau continue to be under indefinite suspension. Chapter Four Uganda challenged the arbitrary actions of the NGO Bureau; courts are yet to rule on the matter. HRDs and journalists face arrest, harassment, intimidation, and assault in reprisal for their work.

Recommendations

Considering the updates and trends observed, DefendDefenders makes the following recommendations for action by the African Commission on Human and Peoples' Rights:

- Urge all member States to ensure the protection of human rights defenders, notably by observing the African Charter on Human and Peoples' Rights;
- Call on all member States to adopt specific legislative measures to recognise and protect the status of HRDs, and provide a working environment conducive for civil society, as per Res. 376 (LX) 2017 adopted by the Commission during its 60th Ordinary Session Niamey, Niger;
- Urge member States to cease the harassment and arbitrary detention of HRDs, including those working on LGBT rights;
- Call on States to abide by the Guidelines on Freedom of Association and Assembly adopted by the Commission during its 60th ordinary session;
- Call on all member States who have not done so to deposit the declaration under article 34 (6) of the protocol of the African Court on Human and Peoples' Rights to allow individuals and NGOs to directly submit their cases to the Court;
- Call on the Federal Government of Ethiopia through independent and impartial bodies to investigate allegations of human rights violations thoroughly and effectively and to hold those responsible accountable, and urge the government to cooperate with African and international mechanisms, including the African Commission-established Commission of Inquiry on Tigray and the International Commission of Human Rights Experts on Ethiopia established by the UN Human Rights Council;
- Adopt a resolution that strongly condemns the military coup in Sudan and calls for restoration of the civilian-led Transitional Government and urges respect for

human rights and fundamental freedoms including the right to freedom of association and peaceful assembly; and

- Adopt a resolution urging, among other things, the government of South Sudan to immediately establish and operationalise the Hybrid Court for South Sudan and other transitional justice institutions as per Chapter V of the Revitalised Peace Agreement (R-ARCSS), and to ensure accountability for crimes committed since 2013, and to put an immediate end to harassment, intimidation, and repression, including by the National Security Service, of independent human rights actors and those reporting on human rights in the country.