



The Shrinking Civic Space in East Africa

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Introduction

The East African region is experiencing a rise in restrictions on civic space, which have mainly manifested through enactment of retrogressive legislation targeting civic activism and civil society organisations, violent crackdown on demonstrations and the arrest, threat of arrest and intimidation of journalists. The online communication sphere has not been spared, with various countries in the region arresting and intimidating internet users, and making regulations that hamper internet access and affordability. Shrinking civic space muffles citizens' voices and threatens civil society's very existence, while also challenging citizens' collective power for sustainable development as people to determine our own futures.¹

Shrinking civic space has a direct impact on the democratic credentials of a country. According to the 2018 Democracy Index three of the region's countries – Rwanda, Burundi and South Sudan - are categorised as authoritarian, Uganda, Kenya and Tanzania are categorised as hybrid, meaning they have aspects of democracy and others of authoritarianism.²

In this brief, the Collaboration on International ICT Policy for East and Southern Africa (CIPESA) provides an analysis of the key factors leading to the shrinking civic space in East Africa, and provides recommendations for stakeholders to engage in pushing back to defend this important space.

¹ Oxfam, *Space to be heard: Mobilising the power of people to reshape civic space*, <https://preview.tinyurl.com/y38lwlwk>

² Economist Intelligence Unit; *Democracy Index 2018* <https://www.eiu.com/topic/democracy-index>

Tightening Controls Over the Internet

The region has experienced a marked retrogression in the legal and regulatory environment governing civic space. Countries have enacted laws and regulations that have negatively impacted citizens' rights to freedom of expression, privacy, assembly and access to information – both online and offline.

In May 2018, the Uganda government passed an amendment to the Excise Duty Act, which introduced a mandatory tax of UGX 200 (USD 0.05) per user per day for access to Over the Top (OTT) services such as WhatsApp, Facebook and Twitter. In the same amendment, a 1% levy was imposed on all mobile money cash withdrawal transactions, an issue that caused public outcry and prompted parliament to reduce the levy to 0.5%.

These levies have inhibited access to the internet, particularly for low income earners.³ Three months after the tax was introduced, the number of internet users in the country had declined by five million, thereby cutting the internet penetration rate from 47% to 35%.⁴ Persons with

disabilities were intensely hit by these charges as research by the communications regulator, the Uganda Communications Commission (UCC), shows that majority of persons with disabilities (66%) reduced their use of social media with the introduction of the OTT tax, while 26% were no longer using social media.⁵

In May 2018, Kenyan President Uhuru Kenyatta assented to the controversial Computer Misuse and Cybercrimes Act, 2018, which introduced offences such as publication of false information, cyber harassment, and unauthorised interference and unauthorised interception. According to activists, the Act contravened constitutional provisions on freedom of opinion, freedom of expression, freedom of the media, freedom and security of the person, right to privacy, right to property and the right to a fair hearing. Following a petition by the Bloggers Association of Kenya (BAKE) and the Kenya Union of Journalists (KUJ), the High Court suspended the implementation of various sections of the law.⁶

According to BAKE, internet users and bloggers were at risk of being arrested and prosecuted for unconstitutional offences under the newly-passed law. Kenya already has a history of stifling online critics⁷ of the state and state actors, as echoed by James Wamathai, the Director of Partnerships at BAKE.

³ CIPESA, "The State of Internet Freedom in Africa 2018- Privacy and Data Protection in the Digital Era: Challenges and Trends in Africa," https://cipesa.org/?wpfb_dl=278

⁴ Social Media Tax Cuts Ugandan Internet Users by Five Million, Penetration Down From 47% to 35%, <https://tinyurl.com/y3rptct4>

⁵ UCC, Access and usage of Information and Communications Technologies (ICTs) by People with Disabilities (PWDs) in Uganda, <https://tinyurl.com/y25xxn83>

⁶ Maureen Kakah, "High Court suspends portions of cybercrime law," Daily Nation, May 29, 2018, <https://tinyurl.com/y3trhq3x>.

⁷ New Year, Old Habits: Threats to Freedom of Expression Online in Kenya, <https://tinyurl.com/y4okezbe>

In a statement, he said: “In the past several years, there have been attempts by the government to clamp down on freedom of expression online. This Act is a testament to these efforts, especially after other sections were declared unconstitutional by the courts”.⁸ BAKE also said in court papers that in 2016, 60 Kenyan bloggers were arrested for exercising their freedom of expression online.

On March 16, 2018, the Tanzanian government issued the Electronic and Postal Communications (Online Content) Regulations which require bloggers, radio and television streaming services and owners of discussion platforms to register with the Tanzania Communications Regulatory Authority (TCRA). Owners of radio and television stations that stream content online must pay TZShs 250,000 (USD 110), with annual licence fees of USD 88. The licence must be renewed every three years at the cost of USD 88. A license for provision of online content services comes at an initial cost of TZShs 1.1 million (USD 484) comprised of an application fee of USD 44 and an initial licencing fee of USD 440. In addition, there is an annual licence fee of USD 440, and a similar amount has to be paid for licence renewal after three years.⁹

These costs are delimiting and prohibitive for the operations of online platforms and have curtailed freedom of expression online. The regulations also join a catalogue of legislation related to online content in Tanzania that threatens citizens’ constitutionally guaranteed rights to privacy and freedom of expression. The regulations are also likely to negatively impact on an already fragile intermediary liability landscape in a country fraught with increasing media repression and persecution of government critics.¹⁰

Following the issuing of the regulations on March 16, 2018, many bloggers including Aikande Kwayu and Elsie Eyakuze suspended their blogs; while JamiiForums, one of the leading whistle blowing platforms shut down for a month as they processed their licence, and had to wait for another two weeks before resuming operations as the government insisted they needed to have a hard copy of the certificate even after their license had been approved.¹¹

However, many small bloggers, who cannot afford the licence fees and other stringent licencing requirements have ceased operations altogether. Under the regulations, content providers must “have in place mechanisms to identify source of content”. They are also required to swiftly terminate or suspend subscriber accounts and remove content if found in contravention of the regulations, if directed by TCRA or by an affected person.



⁸ See the BAKE petition here; <https://preview.tinyurl.com/y3b9bz8d>

⁹ The Electronic and Postal Communications (Online Content) Regulations, <https://tinyurl.com/yyke73sw>;

¹⁰ Ashnah Kalemera, “Tanzania Issues Regressive Online Content Regulations,” CIPESA, April 12, 2018, <https://tinyurl.com/y2nk6jzh>.

¹¹ Shayera Dark, “Strict new internet laws in Tanzania are driving bloggers and content creators offline,” the Verge, July 6, 2018, <https://tinyurl.com/yb9ugqcb>

Similarly in Uganda, the UCC on March 6, 2018 issued a one-months' notice requiring all online data communication service providers, including online publishers, online news platforms and online radio and television operators to apply and obtain authorisation from the commission with immediate effect.¹² According to the notice, UCC based its decision on Section 5 of the UCC Act, which mandates the commission to monitor, inspect, license, supervise, control and regulate all communications services. This mandate extends to audio, visual or data content production or dissemination through traditional broadcast media as well as internet based platforms. The Commission indicated that measures would be enforced against non-compliant service providers and this "may entail directing Internet Service Providers (ISP) to block access to such websites and/or streams."¹³

In Burundi, the government promulgated the Code of Penal Procedure (Law No 1/09) on May 11, 2018 that introduces "special methods of investigation" which include the interception of electronic communications. It gives security services authority to install hidden cameras in suspects' homes or cars, and to check their digital devices and electronic messages. It also authorises security services to monitor electronic devices and communications remotely using hacking tools.¹⁴ According to a government official, the law was intended to deal with an environment where criminals were increasingly using ICT tools in committing crime.

The above legal and regulatory developments restrict civic space online as they negatively affect free speech, the right to privacy, access to information and increased adoption of technology. They are largely restrictive, prescribe hard to meet terms and conditions and attract unjustifiably heavy punishments and fines.

¹² Notice, Registration Of Online Data Communication And Broadcast Service Providers, <https://tinyurl.com/y6krs73e>;

¹³ Daniel Mwesigwa, "Uganda Moves to Register Online Content Providers," CIPESA, March 25, 2018, <https://tinyurl.com/yxkvdn4e>.

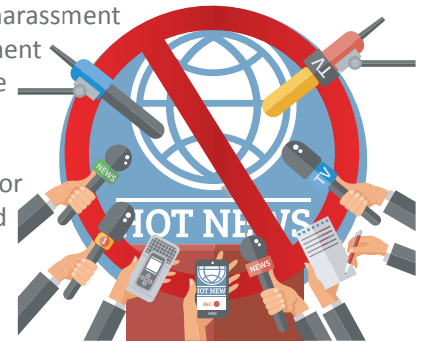
¹⁴ CIPESA, *The State of Internet Freedom in Africa 2018*, *Supra*, note 3.

Laws That Curtail Critical Media Reporting

Besides the above laws and regulations, governments in the region have also used criminal defamation over the years to silence critical reporting, prescribing heavy fines or prison sentences.¹⁵ The penalties associated with criminal defamation have a chilling effect on freedom of expression online and offline.

In Uganda, a growing number of journalists and others have been charged in courts of law with defamation lawsuits. In 2015, journalists Madinah Nalwanga and Patrick Tumwesigye of Vision Group; Benon Tugumisirize and Ronald Nahabwe of Red Pepper; and Pidson Kareire of Drone Media were charged with criminal libel and defamation.¹⁶ In 2017, eight managers and editors of Red Pepper were charged with libel, defamation, treason and computer misuse over a story which claimed Rwanda believed Ugandan president Yoweri Museveni was plotting to oust its leader, Paul Kagame.¹⁷ Criminal libel and defamation is usually preferred against journalists under Section 179 of the Penal Code Act.¹⁸ There are ongoing court actions such as that East African Court of Justice aimed at challenging sections 179 and 180 of the Penal Code Act.¹⁹ Other laws such as the Anti-Terrorism Act 2002, Anti-Pornography Act 2014, Regulation of Interception of Communication Act 2010, Computer Misuse Act 2011 and the Official Secrets Act 1964 have been used to restrict media freedom.²⁰ Specifically, the Computer Misuse Act has been used to clamp down on social media critics like Dr. Stella Nyanzi who has been charged severally over cyber harassment and offensive communication.²¹ Other victims include Member of Parliament Betty Namboze who was also charged with cyber harassment and offensive communication.²²

In Rwanda, the Penal Code N° 01/2012/OL of 02/05/2012, provides for defamation under sections 288 and 290. The two sections are restrictive and have been widely used to limit freedom of expression with many convictions and sentences of media practitioners.²³ Further, sections 447 and 449 on



¹⁵ Grace Natabaala, "Journalists renew call to scrap defamation law," ACME, October 17, 2014, <https://tinyurl.com/yxggh9we>

¹⁶ Human Rights Network for Journalists – Uganda, "Charges against journalist accused of defaming Ugandan president dropped after 5 years," ifex.org, October 14, 2015, <https://preview.tinyurl.com/y4mbb7oq>

¹⁷ Reuters, "Ugandan journalists face libel charges," November 28, 2017, <https://preview.tinyurl.com/yvwx6qap>

¹⁸ Section 179 of the Penal Code Act Cap 120 provides that "Any person who, by print, writing, painting, effigy or by any means otherwise than solely by gestures, spoken words or other sounds, unlawfully publishes any defamatory matter concerning another person, with intent to defame that other person, commits the misdemeanour termed libel."

¹⁹ Human Rights Network for Journalists – Uganda, "East African Court of Justice hears applications filed by Attorney General and Media Legal Defence Initiative," February 13, 2019, <https://hrnjuganda.org/?p=5040>; See also, Human Rights Network for Journalists – Uganda, "HRN-Uganda continues to challenge defamation law in the East African Court of Justice," November 14, 2018, <https://hrnjuganda.org/?p=4834>

²⁰ Franklin Draku, "Uganda's journalism under attack," Daily Monitor, May 3, 2018, <https://tinyurl.com/y4lk8497>.

²¹ Juliet Kigongo and Betty Ndagire, "Dr Nyanzi remanded to Luzira again," Daily Monitor, November 08, 2018, <https://preview.tinyurl.com/yxr4ezkm>

²² Anthony Wesaka & Juliet Kigongo, "Law Society Challenges Computer Misuse Law," Daily Monitor, February 5, 2019, <https://tinyurl.com/y5hm4sajl>.

national security provide for the prosecution of media practitioners especially where information considered to be “against the interests of Rwanda” is published. In the 2018 revision of the Penal Code, Law N°68/2018 OF 30/08/2018 Determining Offences and Penalties in General, verbal communication or writings or cartoons that humiliate lawmakers, cabinet members, or security officers are considered offensive and attract two years imprisonment or a fine of up to one million Rwandan francs (USD 1,113) upon conviction.²⁴ However, in April 2019, the Supreme Court in Rwanda removed provisions that criminalise drawing of ‘humiliating and defamatory’ cartoons against public servants and religious practices, but kept an exemption for the president.²⁵

Rwanda has also experienced a series of attacks on media practitioners especially in 2013 and 2014 with a characterisation of threats, harassment, arrests and detentions as well as prosecutions and death.²⁶ In 2018, Phocas Ndayizera, a contributor to the BBC's local language-Kinyarwanda service was arrested and

charged with promoting terrorism and faces a maximum of 20 years imprisonment upon conviction.²⁷ Though on non-media issues, this arrest could be potentially linked to BBC's activities that led to its suspension in 2014 to date.²⁸

Tanzania's Media Services Act of 2016 provides for criminal defamation on the internet and social media usage. Under Part V, section 35 provides for criminal defamation against publication of injurious materials to the reputation of living persons and dead persons.²⁹ On the other hand, section 36 provides for criminal defamation in the print media called libel. Where the media is in breach, they risk heavy fines or imprisonment or both under sections 50, 51, 52 and 53 under the Act, including the possibility of revocation of their operating licences as stipulated in the highly restrictive Media Services Regulations of 2017.³⁰

Tanzania's Cybercrimes Act 2015 also criminalises the publication of false information through the internet and social media, and has been used severally to restrict freedom of expression.³¹ In December 2016, Maxence Melo, a freedom of expression activist and one of the founders of Jamii Forums, was arrested and

²³ Article 19, “Shadow Report On Freedom Of Expression And Access To Information In Rwanda- Submitted by Article 19 To The 60th Review Session Held 8-22 May 2017 Niamey, Niger,”

²⁴ Article 233 of the Law N°68/2018 OF 30/08/2018 Determining Offences and Penalties In General, available at <https://preview.tinyurl.com/yxqyh6l2>. Article 233 provides that any person who, verbally, by gestures or threats, in writings or cartoons, humiliates a Member of Parliament when exercising his/her mandate, a member of the Cabinet, security officers or any other person in charge of a public service in the performance or in connection with the performance of his/her duties, commits an offence. Conviction attracts a prison term of 1-2 years and a fine of FRW 500,000 -1,000,000. If contempt takes place during a session of the Parliament or if it is directed to any of the top ranking authorities, the penalties are doubled.

²⁵ Rwanda's Supreme Court decriminalizes cartooning, except for president, <https://www.independent.co.ug/rwandas-supreme-court-decriminalizes-cartooning-except-for-president/>

²⁶ *Ibid*; see also ARTICLE 19, “Individual Submission to the Universal Periodic Review of Rwanda For consideration at the 23rd session of the Working Group to be held in October/November 2015”, <https://preview.tinyurl.com/yxjhltsn>

²⁷ Xinhua, Rwandan journalist working for BBC arrested in Rwanda over terror charges, <https://tinyurl.com/y36qay2p>

²⁸ BBC, “Rwanda suspends BBC broadcasts over genocide film,” October 24, 2014, <https://tinyurl.com/y3ccepr>.

²⁹ The Media Services Act, 2016, <https://preview.tinyurl.com/y593wcby>

³⁰ The Media Services Regulations, 2017, <https://tinyurl.com/y2zptym8>

³¹ Benedict Alex Ishabakaki, “Defamation in Social Media (Cyber Defamation) Legal Perspective in Tanzania,” <https://tinyurl.com/yymnd5oh>.

detained under section 22 of the Cybercrimes Act for failing to comply with disclosure notices that had been issued to him, which required him to disclose the identities of the platform users who posted what the government termed as “sensitive information”³² Other individuals who have faced the wrath of the Cybercrimes Act include Isaac Habakuk Emily who was arraigned before court on allegations of insulting the country’s president;³³ producer Sospiter Jonas who was charged with internet misuse in 2015;³⁴ and in the same year, eight communication volunteers of the main opposition party in Tanzania who were charged with publication of wrong presidential results.³⁵

Additionally, in January, 2018, five television stations were fined 60 million Tanzanian shillings (USD 27,000) by TCRA over alleged broadcast of “offensive and unethical” content detailing the deteriorating state of human rights in Tanzania.³⁶ According to the TCRA content committee chair, the broadcasts were seditious, threatened peace and jeopardised public safety.³⁷

In Kenya, courts ruled in February 2017 that section 194 of the Penal Code that provided for criminal defamation was unconstitutional following a successful case, but its existence on Kenya’s law books had already had a chilling effect on the right to freedom of speech and expression.³⁸

In Burundi, the 2015 Press Law, under article 19 criminalises the publication of defamatory, abusive, libellous or offensive communication against public or private persons.³⁹ While article 16 of the same law protects journalistic sources of information, article 250 of the Penal Code empowers courts to compel journalists to reveal sources of their information. The East African Court of Justice (EACJ) in 2015, declared some provisions of the 2013 Burundi Press Law in contravention of the principles of freedom of expression and other media freedoms. That was after the law had been challenged by the Burundi Journalists Union.⁴⁰ The state has since taken some action to reform the Press Law, with amendments being tabled before the Senate.⁴¹ However, journalists in Burundi continue to face further harassment by the state for publications considered highly critical of government, defamatory or libellous.^{42 43}

³² CIPESA, “Tanzania Should Immediately Release Digital Rights Activist Maxence Melo,” December 14, 2016, <https://tinyurl.com/y6pl5uoq>.

³³ Ndesanjo Macha, “Tanzania’s Cybercrime Act Makes It Dangerous to ‘Insult’ the President on Facebook,” *Global Voices advox*, April, 18, 2016, <https://tinyurl.com/y6g62y73/>.

³⁴ Sharon Sauwa “Man charged over Pinda internet jibe,” *The Citizen*, October 14, 2015, <https://tinyurl.com/y2n5hdpk>.

³⁵ Rosina John and Gadosa Lamtey, “Chadema volunteers charged with publishing wrong results,” *The Citizen*, October 28, 2015, <https://tinyurl.com/yyl9aed5l>.

³⁶ *The East African*, “Tanzania fines 5 television stations for seditious broadcast,” January 3, 2018, <https://tinyurl.com/yytxrku>

³⁷ *Ibid*

³⁸ Maureen Kakah, “High Court strikes out Kenya’s criminal defamation law,” *Daily Nation*, <https://tinyurl.com/y4bgtyhr>; see also, Nani Jansen Reventlow and Catherine Anite, “Kenyan Court Knocks Down Criminal Defamation, Safeguards Freedom of Expression,” <https://tinyurl.com/y66offcr>.

³⁹ Diane Uwimana, “Press Law Needs Application Texts for Greater Fulfillment,” *IWACU English News*, November 15, 2017, <https://tinyurl.com/y34uynby>; see also <http://kellywarner-law.com>, “Defamation Laws In Burundi,” <https://tinyurl.com/yxl5zsej>.

⁴⁰ Jonathan McCully, “Case Law: Burundi Journalist’s Union v Attorney-General of Burundi, A positive judgment in the midst of a crisis,” *Inform’s Blog*, <https://tinyurl.com/y4lxand2>.

⁴¹ *Ibid*

⁴² Freedom House, “Freedom in the World 2018,” <https://tinyurl.com/y5634w6h>.

⁴³ Matthew Russell Lee, “In French Court Burundi Nkurunziza Goes After Writer and Lawyer For Defamation UN of Guterres Silent,” *Inner City Press*, <https://tinyurl.com/y4egfdkn>.

In South Sudan, there have been several attempts and appeals to the government to decriminalise defamation in media laws by different stakeholders in the media sector.⁴⁴ The law has, however, been maintained with a recent conviction and respective sentences of two journalists for publication of false news and two others for defamation in March 2018.⁴⁵ Generally, the media in South Sudan faces threats including the closure and expulsion of certain broadcasts such as the suspension of a UN-backed radio station⁴⁶ and outright bans from covering certain events.⁴⁷

Moreover, South Sudan has had a number of news websites including Sudan Tribune and Radio Tamazuj blocked by government. In 2017, Al-Jazeera's English channel was suspended in South Sudan over its coverage of clashes between government forces and rebel troops; and a website that covers Sudan's war-torn regions, Nuba Reports, was hacked in 2014 after publication of the popular "Khartoum's War on Sudan", which circulated widely during the 27th Session of the UN Human Rights Council in Geneva. Further, some blogs including Nyamilepedia and Paanluel Wel have in the past been blocked by some internet service providers.

⁴⁴ UNESCO, "South Sudan Media Stakeholders Appeal for Decriminalization of Defamation in Media Laws," <https://tinyurl.com/y36fk58g>.

⁴⁵ Committee to Protect Journalists, "Sudan sentences 2 journalists for "false news," 2 others for defamation," March 30, 2018, <https://tinyurl.com/y9jtolpo>.

⁴⁶ CPJ, "South Sudan suspends broadcast of UN-Backed Radio Station," March 9, 2018, <https://tinyurl.com/y97qecsn>

⁴⁷ CPJ, "South Sudanese media regulator bars newspaper from covering Sudan crisis," January 18, 2019, <https://tinyurl.com/y8lktby7>

Threats to Personal Safety and Security of Journalists

On top of the restrictive legal and regulatory regime, journalists are facing various safety and security challenges as they are often targeted by security agencies through arbitrary arrest and harassment in the course of their duty.

During 2018, the Press Index Report⁴⁸ published by the Human Rights Network for Journalists (HRNJ) - Uganda documented 163 cases of violations and abuses, compared to 113 cases recorded in 2017. It reported that, for the tenth consecutive year, police was the leading offender of media rights (accounted for 53% of all cases reported during the year), followed by the army (17%).⁴⁹ Additionally, in 2017, there were 45 cases of arrests and detention of journalists, and 27 cases of assault on journalists while 11 cases of blocking journalists from accessing news locations and 10 of malicious damage to journalists' equipment and two cases of switching off radio stations on the orders of the UCC were also reported.

According to HRNJ, journalists were also forced to delete footage from their cameras and phones by soldiers and some media houses were forced not to live broadcast images of clashes between security agencies and protesting civilians in different parts of the country.

In September 2017, the UCC suspended the live broadcast of the parliamentary debate on the bill to remove the age limit provision from the constitution, claiming the broadcasts were inciting the public, stirring up hatred and promoting a culture of violence.⁵⁰ In the last half of 2018, NTV journalists Herbert Zziwa and Ronald Muwanga were ambushed and assaulted by security officers as they reported live following the killing by shooting of Mr Yasin Kawuma, the driver of independent Member of Parliament Robert Kyagulanyi, a.k.a. Bobi Wine, during the by-election campaigns for the member of parliament for Arua Municipality, in Northern Uganda.⁵¹ The two journalists were later charged with inciting violence and malicious damage to property.⁵² In the same month, James Akena, a photographer working for the foreign news agency Reuters was assaulted by soldiers, arrested and detained for several hours as he covered the protests against Kyagulanyi's arrest, in Kampala. His equipment was confiscated. NTV journalists Ronald Galiwango and Juma Kirya as well as Observer photographer Alfred Ochwo were also assaulted during coverage of the same protests.⁵³

⁴⁸ *Press freedom index Report 2017 – Uganda, Human Rights Network for Journalists-Uganda*, <https://tinyurl.com/y47py96l>

⁴⁹ *HRCJ, Launch of Press Freedom Index Report 2018*, <https://tinyurl.com/y3z2mjtc>

⁵⁰ *John Masaba, Betty Amamukirori, "UCC bans live coverage of Parliament, New Vision, 27 September 2017*, <https://tinyurl.com/y27z7xep>

⁵¹ *Serestino Tusingwire, "Media rights groups condemn torture, detention of journalists in Uganda," Daily Monitor, August 22, 2018*, <https://tinyurl.com/y22c4y7d>.

⁵² *Ibid.*

⁵³ *Lilian Namagembe, "Media Under Siege: Battered in line of duty,"* <https://tinyurl.com/preview.php?num=y6pa53rt>

Meanwhile, Tanzania has witnessed disappearances of a journalist, arrests, and detention and threats on media practitioners.⁵⁴ Journalist Azory Gwanda disappeared in November 2017 and his fate remains unknown. The freelance journalist disappeared at a time when he was investigating mysterious killings, and to-date he remains at the top of a list of the 10 most severe threats to press freedom around the globe, according to the One Free Press Coalition.⁵⁵

In February 2019, the government issued a seven-day suspension on the publication license of The Citizen newspaper, after accusing it of publishing reports that were “false,” “misleading,” and “seditious.” The order extends to the newspaper's online publications.⁵⁶ The suspension order cited two articles: one published on February 23, 2019 about the depreciation of the Tanzania Shilling, which the government's Information Services Department considered false and misleading; and a July 22, 2018 article quoting a statement by American Senator Bob Menendez about the erosion of democracy in Tanzania.⁵⁷

On November 7, 2018, Tanzanian authorities arrested and detained two journalists working with the Committee to Protect Journalists (CPJ) - Angela Quintal and Muthoki Mumo. The two, who were in the country on a reporting mission for the CPJ, were released the same day after interrogation. Tanzania government officials accused the two journalists of misrepresenting their intentions for visiting Tanzania.⁵⁸



In Kenya, journalists often face arrests, detention and threats of arrest in the course of doing their work. In February 2018, Linus Kaikai, NTV's then general manager (now with Royal Media Services) and news anchors Larry Madowo (now with the BBC) and Ken Mijungu spent a night on a studio floor following a leaked plot to have them arrested.⁵⁹ Irene Mugo of the Daily Nation and Lydia Nyawira of the Standard were arrested in Nyeri in September 2018 for interviewing relatives of the man who wore a T-shirt portraying a message believed to be against Deputy President William Ruto. Authorities confiscated their notebooks and mobile phones.⁶⁰

⁵⁴ Azori Gwanda, “Tanzanian journalist Azory Gwanda goes missing for 28 days,” *Daily Nation*, December 18 2017, <https://tinyurl.com/yyp4abl>; see also News24, “Journalists ‘suffocating’ in Magufuli’s Tanzania,” May 3, 2017, <https://tinyurl.com/yxoanqg6>; and, Fundikila Wazambi, “Media landscape dogged by challenges in 2017: report,” *The Citizen*, April 26, 2018, <https://tinyurl.com/y2mtk6j7>; see also the *Conversation*, “Magufuli has steadily tightened the noose on media freedom. Here’s how,” January 21, 2019, <https://tinyurl.com/y29y9emg>

⁵⁵ *Time*, *Here Are the 10 ‘Most Urgent’ Threats to Press Freedom Around the World*, <https://time.com/5599094/one-free-press-10-most-urgent-june/>

⁵⁶ *Monitor Correspondent*, *Tanzania bans Citizen newspaper*, <https://www.monitor.co.ug/News/National/Tanzania-bans-Citizen-newspaper/688334-5002850-r04j4z/index.html>

⁵⁷ CPJ, “Tanzania imposes 7-day publication ban on *The Citizen*,” March 1, 2019, <https://cpj.org/2019/03/tanzania-citizen-7-day-publication-ban.php>

⁵⁸ Mel Frykberg, IOL, “Why we detained Angela Quintal, Muthoki Mumo,” November 9, 2018, <https://tinyurl.com/yxb35o8m>

⁵⁹ Njoki Chege, “NTV journalists spent night on studio floor to escape arrest,” *Daily Nation*, February 1, 2018, <https://tinyurl.com/y5evaj5l>

⁶⁰ Mark Mwithaga, “Nation & Standard Journalists Arrested in Nyeri After Interview,” *kenyans.co.ke*, September 10, 2018, <https://tinyurl.com/yjyz7lta>

Further, Kenyan authorities in September 2018 arrested and detained a Chinese journalist in an immigration crackdown although he possessed the necessary documents to operate in Kenya.⁶¹ There have also been reports of assaults and abductions of journalists in Kenya, such as that of Barrack Oduor of the Daily Nation over a story regarding the impregnation of a woman by a prominent politician in Migori County in western Kenya.⁶²

The situation in Rwanda is no different with reports of arrests and attacks against journalists and the media, including shutting down of media houses. In 2014, the BBC was blocked for broadcasting a documentary on genocide, “the Untold Story.”⁶³ And as recently as February 2018, the Rwanda Media Commission shut down a radio over alleged “denigration of women” which angered Rwanda women groups including the National Women’s Association and the Women’s Journalist Association.⁶⁴

In Burundi, President Nkurunziza continues to tighten his grip and control over independent media and critical online publishers. Frivolous sanctions have been slapped against media houses, and access to some online publishers’ websites restricted. For example, CCIB FM+, a media outlet, was suspended in September 2017 after it broadcast an editorial critical of the government’s response to the shooting of 36 Burundian refugees by security forces in the Democratic Republic of Congo (DRC). In April 2018, the Media Regulator, CNC, suspended the online commentary column of the Iwacu newspaper for three months. Since October 2017, the websites of independent local news publishers <http://www.iwacu-burundi.org>, <http://www.isanganiro.org>, and <http://www.ikiriho.org> are inaccessible within Burundi except through the use of circumvention methods such as proxies. The Burundi government also blocked access to social media platforms Twitter, Facebook and WhatsApp in 2015 following protests that erupted during President's quest for a third term presidency.

The sum total of these actions has been to cower media practitioners and other actors from reporting or even commenting on key developments in the different countries, or holding leaders accountable. The threats of suspending broadcasting licenses, coupled with the physical assaults on journalists and confiscation or destruction of equipment, has taken a toll on free expression.

⁶¹ *The East African*, “Kenya Police Detain another Chinese Journalist: Embassy,” September 7, 2018, <https://tinyurl.com/y6csetks>.

⁶² Committee to Protect Journalists, “Newspaper journalist assaulted and briefly abducted in Kenya,” September 6, 2018, <https://tinyurl.com/y8qwwj6g>.

⁶³ BBC, “Rwanda suspends BBC broadcasts over genocide film,” *supra*, note 32.

⁶⁴ *Softpower News*, “Rwanda Media Commission Shuts down Radio for Denigrating Women,” February 13, 2018, <https://tinyurl.com/y6b8rq9z>.

Targeting of Civil Society actors

The operating environment for civil society organisations has been deteriorating, with governments tightening their grip through threats of closure and deregistration, freezing of bank accounts and restrictive legislation.

In Tanzania, the space for human rights defenders (HRDs), civil society, journalists, bloggers, LGBTI persons, opposition and dissenting voices has continued to shrink under the leadership of President Pombe Magufuli.⁶⁵ One study has showed that whereas previously organisations working on sexual orientation and gender identity issues, and CSOs working on civil and political rights were most at risk of being targeted, threats now increasingly extending to organisations working on economic, social, and cultural rights.⁶⁶

On April 17, 2019, the NGOs Coordination Board decided to de-register six CSOs - the Community Health Education Services and Advocacy (CHESA), Kazi Busara na Hekima (KBH Sisters), AHA Development Organization Tanzania, Pathfinder

Green City, Hope and Others, and HAMASA Poverty Reduction (HAPORE). The organisations were accused of “promoting unethical acts in society which violate Tanzania law, ethics and culture.”⁶⁷

Earlier in August 2017, NGOs in Tanzania were given a 10-day period to submit their original registration certificates as well as copies, fill verification forms and all annual fee payment receipts for verification, failure of which would result in deregistration.⁶⁸ The government also suspended the registration of new NGOs until the verification exercise of the existing entities was completed.⁶⁹ In January 2017, government agents raided an NGO meeting on reproductive rights of sexual minorities including women and the LGBTI sexual community.⁷⁰ In April 2018, the Tanzania president threatened to close all NGOs perceived to be anti-government or whose work is critical of the government,⁷¹ a common tactic by the governments in the region used to target human rights and good governance- focused organisations.

However, CSOs are fighting back against the restrictive environment. In 2018, a number of CSOs issued a joint call highlighting the hostile environment in which they operate in, calling upon leaders in the country and the general public to respect and observe their efforts in defending public interests, sustainable development and other reforms in the society.⁷²

⁶⁵ *Open letter to States on preventative engagement with, and action on, Tanzania at the Human Rights Council's 41st session*, <https://tinyurl.com/yy6sug3l>

⁶⁶ *DefendDefenders, Spreading Fear, Asserting Control: Tanzania's assault on civic space*, <https://www.defenddefenders.org/wp-content/uploads/2018/06/Spreading-Fear-Asserting-Control-web.pdf>

⁶⁷ *Tanzania: Board revokes six NGOs' license*, <https://www.thecitizen.co.tz/News/Tanzania--Board-revokes-six-NGOs--license/1840340-5079110-ruc0iqz/index.html>

⁶⁸ *The Citizen, "NGOs now brace for looming crackdown,"* August 14, 2017, <https://tinyurl.com/y288yxk2>.

⁶⁹ XINHUA, “Tanzania suspends NGOs registration,” *Business Daily*, August 22, 2017, <https://tinyurl.com/y3mnc5x8>

⁷⁰ Andrew Green, “In an apparent crackdown, Tanzania government raids NGO meeting on reproductive rights,” *Devex*, January 06, 2017, <https://tinyurl.com/y6s294f9>.

⁷¹ Deogratias Mushi, “Magufuli warns anti-govt NGOs,” *Daily News*, April 13, 2018, <https://tinyurl.com/y2lwrnkc>.

⁷² *Africans Rising, "Civil Societies Call Regarding the Security of Citizens Human Rights and Rule of Law in Tanzania,"* March 5, 2018, <https://tinyurl.com/y6qmvsow>

The right to freedom of association and assembly is greatly hindered in Tanzania, especially since 2016 when the government banned political rallies and demonstrations without giving proper justification, according to the 2016 Tanzania Human Rights report 2016.⁷³ The Tanzanian parliament has come under scrutiny for partly contributing to the current state of affairs by giving control of political party activities to the government.⁷⁴ In January 2019, the Tanzanian parliament passed amendments to the 1992 Political Parties Act that give a government-run registrar sweeping powers to de-register parties and provide for up to a year in jail for anyone engaging in unauthorised civic education – for example, a voter registration drive.⁷⁵

In 2016, the government Uganda, passed the 2016 Non-Government Organisations Act (NGO Act, 2016), which is very restrictive to the operations of civil society actors. Section 44 prohibits NGOs from carrying out activities in any part of the country without the approval from the District Non-Governmental Monitoring Committee (DNMC) and the local government, and a signed memorandum of understanding (MoU) to that effect. Additionally, NGOs may not extend their operations to new areas unless they have received a recommendation from the National Bureau for NGOs through the DNMC of that area. Section 5 establishes a National Bureau for NGOs that is granted broad powers, including to revoke an NGO's permit.⁷⁶

Besides the restrictive regulatory environment, NGOs in Uganda face other challenges including raids by security agencies, threats of deregistration, and break-in during which office equipment and files are stolen. Moreover, in some instances, meetings by civic groups and human rights defenders have been stopped by police, which deemed them illegal, particularly in the case of event related to sexual minorities.⁷⁷ In May 2019, a meeting to meeting to commemorate the International Day Against Homophobia, Transphobia and Biphobia (IDAHOT) was blocked on orders of the Minister for Ethics and Integrity.⁷⁸



⁷³ Louis Kolumbia, "Political, Civil Rights Under Threat in Tanzania: Report," *The Citizen*, May 10, 2017, <https://tinyurl.com/y2l34gsv>; see also, Louis Kolumbia, "Tanzania Human Rights Worsen, Says LHRC Report," *The Citizen*, August 1, 2017, <https://tinyurl.com/yxbm4vlg>.

⁷⁴ Eric Oteng, "Tanzania's Parliament Gives Government Sweeping Powers Over Political Parties," *Africa News*, January 30, 2019, <https://tinyurl.com/y2wdydcw>.

⁷⁵ Eric Oteng, "Tanzania's parliament gives government sweeping powers over political parties", <https://tinyurl.com/y2wdydcw>

⁷⁶ *Civic Freedom Monitor: Uganda*, <https://tinyurl.com/y2anxzc8>

⁷⁷ Rodney Muhumuza "Uganda gay pride event "blocked by police" after government minister declares it illegal, <https://tinyurl.com/y57dlup4>. Also see Mildred Europa Taylor, "Why Uganda Hates Homosexuality So Much That It Wants To Ban A Popular Festival," *Face2Face*, September 05, 2018, <https://tinyurl.com/y5g9pgcm>

⁷⁸ *Uganda police stops LGBTI rights celebrations on orders of Minister Lokodo*, <https://www.whispereye.com/2019/05/18/uganda-police-stops-lgbti-rights-celebrations-on-orders-of-minister-lokodo/>

The Ugandan police regularly uses force to disperse people at opposition gatherings, citing violations of various laws, notably the Public Order Management Act (POMA) passed in 2013, which gives the Inspector General of Police wide discretion to permit or disallow public meetings. Opposition leaders say police often ignores notification about upcoming meetings by the opposition, or denies them permission to hold the meetings. In some instances, opposition organisers have been told on the day of the event that they cannot access the venue of the scheduled meeting.⁷⁹ Similarly, journalists who cover demonstrations have severally been arrested and detained.⁸⁰ Most recently, the Uganda Communications Commission has been at loggerheads with media houses including; kaboozi FM, Beat FM, Capital FM, CBS FM, Pearl FM, Sapientia and Simba Radio stations and Bukedde, BBS, Salt, NBS, NTV, and Kingdom television stations requiring them to among others suspend them for covering arrest of a political activist Bobi Wine.⁸¹

In 2017, a number of organisations in Uganda including ActionAid International, Uhuru Institute, and the Great Lakes Initiative for Strategic Studies (GLISS) were raided by the police which conducted a search with authorisation to access computer accessories, mobile handsets, money transfer related documents and bank related transaction documents.⁸² The raid was followed

by the freezing in October 2017 of the bank accounts of these organisations, which were accused of funding anti-government activities at a time the ruling party was driving a campaign to remove the presidential age limit provisions from the national constitution.⁸³ Also in October 2017, government directed 25 NGOs to declare their financial information to the national NGO bureau.⁸⁴

Later in July, 2018, the Uganda Electoral Commission (UEC) suspended accreditation for election-related activities of the Citizens' Coalition for Electoral Democracy in Uganda (CCEDU). Without granting CCEDU the right to be heard, the group was accused of being partisan and failing to adhere to the legal framework and guidelines of the UEC. Although the ban has since been lifted,⁸⁵ the suspension did not allow CCEDU to observe the municipal elections, by-elections, and elections in newly created districts.⁸⁶

In Kenya, civil society organisations continue to face threats and intimidation despite the passage of the 2013 Public Benefits Organisation (PBO) Act that had given much hope in addressing the challenges that CSOs were facing under the previous 1990 Non-Government Organisations Coordination Act. Unfortunately, the PBO Act has yet to be operationalised and implemented despite several court orders for the government to do so.⁸⁷

⁷⁹ Human Rights Watch "Uganda, End Police Obstruction of Gatherings", <https://tinyurl.com/yyyycpzv>

⁸⁰ Wambi Michael, "The Shrinking Space for Media Freedom in Uganda," *Inter Press Service*, September 27, 2018, <https://tinyurl.com/y52pud9l>.

⁸¹ *Daily Monitor*, "Bobi Wine coverage: UCC to review content of 13 media houses," May 7, 2019, available at <https://www.monitor.co.ug/News/National/Bobi-Wine-coverage-UCC-13-media-houses-Radio-Simba/688334-5104494-d3kqsz/index.html> (accessed June 26, 2019); see also, John, "Uganda fires 39 journalists for covering opposition activities," *Region Week*, May 3, 2019, available at <https://regionweek.com/uganda-fires-39-journalists-for-covering-opposition-activities/> (accessed June 26, 2019).

⁸² *Daily Monitor*, "Police raid offices of civil society organisations," *Daily Monitor*, September 20, 2017, <https://tinyurl.com/y5cdpvyz>.

⁸³ Andrew Bagala, *Money-laundering case against top NGOs stalls*, <https://www.monitor.co.ug/News/National/Money-laundering-case-against-top-NGOs-stalls/688334-4979294-prn4haz/index.html>

⁸⁴ Alon Mwesigwa, "Govt directs 25 NGOs to give financial information," *The Observer*, October 16, 2017, <https://tinyurl.com/y2oypts>.

⁸⁵ Electoral Commission lifts ban on CCEDU, <https://tinyurl.com/y4lczg2w>

⁸⁶ The International Centre of Not-for-Profit Law, *Civic Freedom Monitor: Uganda*, <https://tinyurl.com/y2anxzc8>

⁸⁷ FIDH, "Kenya: Last warning from the court to implement the PBO Act 2013 within 30 days," <https://tinyurl.com/y3hjs8c>

As of February 2019, consultations were continuing on the PBO Act between the Government and civil society and the feedback is expected to inform the preparation of a bill to amend the PBO Act.⁸⁸ The government has thus been capitalising on this limbo to continue its onslaught of NGOs. In December 2016, the Kenyan government shutdown operations of a US funded programme on electoral education, the International Foundation for Electoral Systems (IFES) on allegations that the foundation was not a non-governmental organisation having failed to register as one.⁸⁹

Further, in August 2017, the government attempted to deregister two human rights organisations - the Kenya Human Rights Commission (KHRC) and the Africa Centre for Open Governance (AfriCOG) - for allegedly failing to pay taxes and operating without a license, respectively.⁹⁰ The deregistration of the two organisations was later suspended by the then Interior Cabinet Secretary, Fred Matiang'i pending an investigation by a committee that he set up.⁹¹

The threats and intimidation to CSOs escalated in the lead up to the presidential election petition when the government started targeting NGOs that were perceived to be preparing to challenge the election outcome. Three NGOs, Inuka Kenya, Katiba Institute and Muslims for Human Rights (MUHURI), were summoned to appear before the NGO Coordination Board to respond to charges of money laundering and employing foreigners without valid work permits.⁹²

The rights to freedom of assembly and association in Kenya are further stifled by the other restrictive laws such as the Public Order Act of 1950 and the Security Laws (Amendment) Act, 2014 as well as violent crackdowns on assemblies and demonstrations.⁹³ In 2017, General Service Unit officers beat up university students who were protesting the arrest of Member of Parliament Babu Owino for allegedly insulting the president.⁹⁴ In its annual human rights report, the Kenyan National Commission for Human Rights has accused the government of using excessive force when dealing with demonstrations.⁹⁵

⁸⁸ ICNL "Civic Freedom Monitor: Kenya, <https://tinyurl.com/y3h9kjs9>

⁸⁹ News24.com, Kenya 'shuts' US NGO working on 2017 election," December 20, 2016, <https://tinyurl.com/#>.

⁹⁰ Stella Cherono and David Mwere, "NGOs: We were shut over plan to contest poll result in court," Daily Nation, August 16, 2017, <https://tinyurl.com/y2n4gh92>.

⁹¹ Government orders a 90-day freeze on action against AfriCOG and KHRC, <https://tinyurl.com/y3jq9p3k>

⁹² Micheal Musyoka "Government's Plan to Block Election Petitions in Supreme Court Exposed", <https://tinyurl.com/yyge9v2w>

⁹³ Steve Ogolla, "Return To Darkness: Civil Vigilance Necessary To Resist Attacks On The Freedom Of Assembly,"<https://tinyurl.com/y6b494sb>; The Security Laws (Amendment) Act, 2014, <https://tinyurl.com/#>

⁹⁴ Demas Kiprono, "Limiting free speech, assembly and problem with insult laws," Daily Nation, October 3, 2017, <https://tinyurl.com/y647jpbv>.

⁹⁵ Dominic Kabiru, "Status of Human Rights: KNCHR Annual Statement 2018," Kenya National Commission on Human Rights, March 19, 2018, <https://tinyurl.com/y2wtkgcq>

Rwanda's civic space has been on a downward trajectory since 2013 when the leadership of the then independent Rwandan League for the Promotion and Defence of Human Rights was ousted in a manner that was inconsistent with its internal rules and regulations. The new leadership was quickly recognised by the regulator, the Rwanda Governance Board.⁹⁶ Although the country has relatively progressive laws governing the operations of non-state actors, in practice CSOs and human rights defenders must operate within extremely confined boundaries if they are to avoid harassment or censure. Organisations focussed on monitoring human rights or promoting a more open society are particularly targeted.⁹⁷ Under the current National NGO Law No. 4/2012 that regulates national civil society organisations, CSOs suffer from excessive bureaucratic requirements, including in obtaining registration. According to Articles 20 and 40 of the law, national NGOs may be denied registration or subject to termination for failing to comply with legislation or when there is "convincing evidence that the (applicant) may jeopardise security, public order, health, morals, and human rights."

In April 2018, the government ordered the closure of over 700 churches and mosques in what the government claimed was an initiative to "save the lives of the followers", but which was widely

perceived as the country's attempt to gain more control over the religious community and an affront to freedom of expression and worship.⁹⁸ In July 2018, the government followed up on the onslaught with the passage of a new legislation that requires pastors to have a theology degree before they can start their own churches. It also requires faith-based organisations to declare grants to the regulator, the Rwanda Governance Board.⁹⁹

Besides the attack on religious institutions, opposition politicians in Rwanda have also been a target of attacks, arrests and intimidation by the government. In the lead up to the 2017 presidential election, and shortly after Diane Rwigara announced her candidacy in May, she complained to the police and the electoral commission that her representatives were intimidated as they travelled the country collecting the signatures needed to stand as an independent candidate.¹⁰⁰ Eight leaders and members of the unregistered United Democratic Forces-Inkingi (FDU-Inkingi), who were arrested¹⁰¹ in September over the alleged formation of an irregular armed group and with offences against the President, remained on trial as of March 2019.¹⁰²

In December 2016, the Burundi government passed a new law, the General Framework for Cooperation between the Republic of Burundi and Foreign NGOs,¹⁰³ mainly targeting international NGOs operating in the country.

⁹⁶ Human Rights Watch, "Rwanda: Takeover of Rights Group," <https://tinyurl.com/y4qlt4rq>

⁹⁷ Monitor Civicus, "Rwanda Overview," June 1, 2016, <https://tinyurl.com/y5h9a9oh>

⁹⁸ Steve Warren, "Rwanda's Government Closes Churches to Gain More Control," CBNNews, April 4, 2018, <https://tinyurl.com/yxwc55wj>.

⁹⁹ Xinhua, Rwanda parliament passes law to regulate churches, <https://tinyurl.com/y4af99n3>

¹⁰⁰ Amnesty International, "Rwanda 2017/2018," <https://tinyurl.com/y5fzjll6>.

¹⁰¹ Rwanda arrests supporters of jailed opposition figure, <https://www.reuters.com/article/us-rwanda-security/rwanda-arrests-supporters-of-jailed-opposition-figure-idUSKCN1BH2T0>

¹⁰² The turnout of FDU-Inkingi members to attend the show trial of their members sends shivers in the spine of Rwanda security services, <http://www.therwandan.com/rwanda-the-turnout-of-fdu-inkingi-members-to-attend-the-show-trial-of-their-members-sends-shivers-in-the-spine-of-rwanda-security-services/1>

¹⁰³ General Framework for Cooperation between the Republic of Burundi and Foreign NGOs, <https://tinyurl.com/yyc7pwvt>

The law requires all international charities and rights groups to keep their accounts in foreign currency at the central bank, with a third of their annual budget to be placed there before the government agrees to cooperate with them.¹⁰⁴ In November 2017, the Burundian government issued a Ministerial order 530/1597 temporarily suspending 10 human rights organisations from operating in the country. These included; Christians Action for the Abolition of Torture (ACAT-Burundi), the Association for the Protection of Detainees and Human rights (APRODH), the Association of Non-active Military (AMINA), the Forum for Consciousness and Development (FOCODE), the Forum for the Strengthening of Civil Society (FORSC), the Fountain Isoko of Good Governance for Integrated Development (FONTAINE-Isoko), the Association Maison Shalom (Shalom House), Word and Action for the Awakening of Consciences and Evolution of Mentalities (PARCEM), the Network of Honest Citizens (CPR) and Synergy of Partners for the Promotion of Women’s Rights (SPPDF) from operating in the country.¹⁰⁵

In October 2018, operations of all international NGOs in Burundi were suspended for allegedly violating a provision within the amended law related to the recruitment of national staff, which provides for ethnic quotas.¹⁰⁶ By December 31, 2018 all international organisations were expected to have complied with the law requirements. However, 130 foreign entities were listed as non-compliant and some have phased out operations in Burundi.¹⁰⁷

In the lead up to the controversial May 2018 referendum in Burundi, numerous political opponents were arrested, intimidated, or held incommunicado in unknown locations, including members of the National Liberation Forces (Forces nationales de libération, FNL), the Movement for Solidarity and Democracy (Mouvement pour la solidarité et la démocratie, MSD), and other opposition parties. Some were accused of voter influence against the referendum.¹⁰⁸

¹⁰⁴ Africa News, “Burundi passes law cracking down on foreign NGOs,” December 24, 2016, <https://tinyurl.com/y4u5pa8n>.

¹⁰⁵ World Wide Movement for Human Rights, “Burundi: temporary suspension of 10 NGOs defending human rights,” *Fidh*, November 25, 2015, <https://tinyurl.com/y6rt6hlv>.

¹⁰⁶ *Ibid.*

¹⁰⁷ *The East African*, “Foreign NGOs leave Burundi as ethnicity law takes effect,” January 12 2019, <https://tinyurl.com/y4utm6f>.

¹⁰⁸ Human Rights Watch, “Burundi: Events of 2018,” <https://tinyurl.com/y27325vn>

In South Sudan too, the operating environment for civil society has steadily deteriorated, including following the enactment of laws on the civil society and non-governmental organisations sector.¹⁰⁹ In July 2018, medical aid group, Médecins Sans Frontières (MSF) was raided by armed men, during which their property was vandalised, stolen or set ablaze, thereby paralysing its work.¹¹⁰ There are also regular threats to media. For instance, in January, 2019 the Editor in Chief of Al Watan newspaper was summoned by South Sudan's Media Authority, for publishing articles on on-going demonstrations in neighbouring Sudan. After he was ordered to stop covering the demonstrations, the editor fled the country in fear for his life.¹¹¹

Further, the United Nations has alluded to the fact that freedom of expression has dropped, arbitrary arrests and detention been implemented, enforced disappearances have occurred, with hundreds of victims.¹¹² Since 2010, it has been made clear that the LGBTI community is not welcome in South Sudan.¹¹³ The community continues to suffer at the hands of government, religious leaders and the entire community.¹¹⁴

¹⁰⁹ ICNL, "Civic Freedom Monitor: South Sudan," November 13, 2018, <https://tinyurl.com/q726fm3>

¹¹⁰ Reuters, "Medical aid group MSF suspends work in part of S.Sudan after office overrun," July 24, 2018, <https://tinyurl.com/y244aj6c>.

¹¹¹ South Sudan editor flees after receiving gag order, <http://en.rfi.fr/africa/20190129-south-sudan-editor-flees-covering-sudan-crisis-gag-order>

¹¹² United Nations Human Rights Office of the High Commissioner, "Report On The Right To Freedom Of Opinion And Expression In South Sudan Since The July 2016 Crisis, 2018," <https://tinyurl.com/y6htb8bn>.

¹¹³ Sudan Tribune, "Homosexuality Will Not Be Tolerated, Says South Sudan President," August 1, 2010, <https://tinyurl.com/y2ntfw7>.

¹¹⁴ Chol Duang Chan, "Religious leaders encourage LGBT exclusion in South Sudan," Religious News Service, February 2, 2018, <https://tinyurl.com/y3kwk95g>.

Conclusion and Recommendations

The operating environment for civil society organisations, the media, HRDs and civic groups continues to narrow across the region, with freedom of speech and expression online and offline continuing to shrink thus constraining their operating environment. Additionally, as watch dogs in monitoring public service delivery especially by advocating for accountability and transparency by encouraging public participation, they face a lot of resistance from governments and are sometimes considered opposition to the government.

Recommendations

Government

- Governments should renew their commitment to the respect, protection and promotion of the enjoyment of these rights by the citizenry especially through enactment of human rights based legal and policy regimes that promote citizen participation in governance and providing channels to demand for transparency and accountability from their leaders. For example, the Burundian government should repeal the hurriedly passed NGO law that targets the operations of international charities and non-profits. In Kenya, the government should operationalise the PBO Act.
- Governments should cultivate the will for justice and ensure that crimes and violations committed against their citizens are condemned and the perpetrators punished. The continued lack of action against those cracking down on freedom of expression and civic space only emboldens the perpetrators to extend their boundaries of impunity.
- Governments should desist from the practice of circumventing enacted laws to clamp down on critical voices and freedom of expression spaces.

Civil Society Organisations and Actors

- CSOs should continue to challenge and litigate against retrogressive provisions within national laws that infringe on the right to freedom of expression, assembly and association.
- CSOs should also challenge, in the courts of law, actions, especially the highhandedness with which state actors treat civil society actions, such as peaceful demonstrations.
- CSOs should monitor, document and expose the illegalities in the laws, policies as well as actions by the state and state officials.

Media

- In partnership with CSOs, the media should investigate and publicise the illegal actions and practices by the state that restrict civic space.
- Media houses should challenge, through courts of law, provisions within the penal code that decriminalise defamation.



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