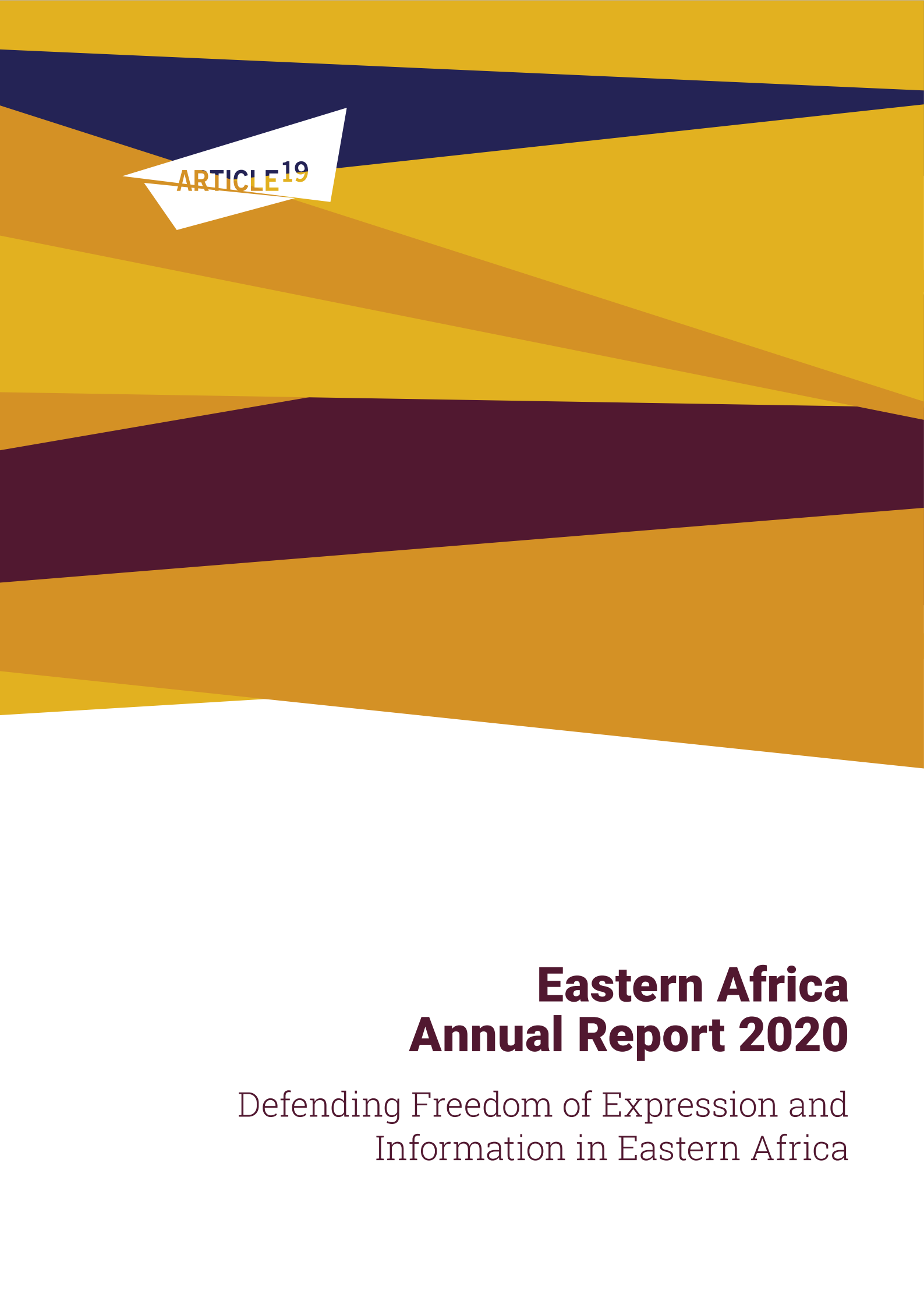


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ARTICLE¹⁹

Eastern Africa Annual Report 2020

Defending Freedom of Expression and
Information in Eastern Africa

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THE FUTURE WILL BE
KIND TO US BECAUSE
WE WILL CREATE IT



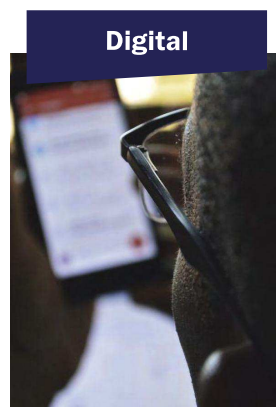
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A slogan on the walls of The Office, a coworking space for entrepreneurs, consultants, freelancers, small business owners, and IT start-ups. (Photo: Sven Torfinn)



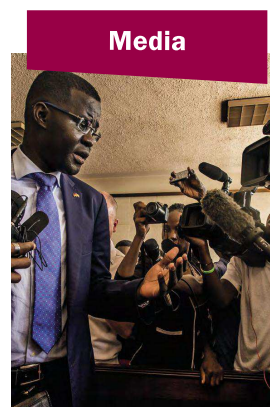
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Staff from ARTICLE 19 Eastern Africa, the Commission on Administrative Justice, and the Kenya School of Government with Access to Information Commissioner, Lucy Ndungu, at a workshop to review the Access to Information Curriculum Facilitator Manual and Standard Slides. (Photo: ARTICLE 19 Eastern Africa)



From the Regional Director: Mugambi Kiai



“From extending our programmatic work in Malawi and South Africa, to dialoguing with the police on the right to protest in Kenya, to presenting actionable recommendations for Rwanda; despite the tremendous challenges brought by COVID-19, the team’s sheer dedication and resilience has seen us deliver against all odds.”

2020 was a very challenging year because of the COVID-19 pandemic, which affected most of our field work. However, we still managed to implement our mandate of promoting freedom of expression in the Eastern Africa region. I attribute a great capacity and dedication of the staff despite the odds. The COVID-19 pandemic outbreak disrupted our natural workflow, but we worked out a strategy whereby staff are supported to work from home, and this continues to date.

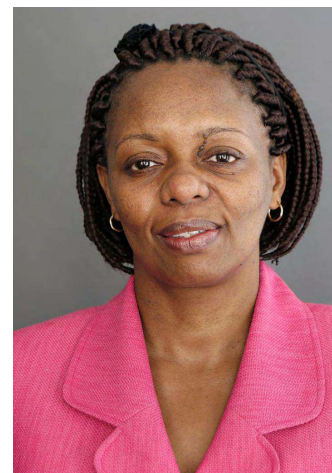
The PROTECT (Protecting Rights, Openness and Transparency-Enhancing Civic Transformation) project was launched and established in Malawi, extending our programmes to the Southern Africa region. The Transparency team was also engaged in open contracting initiatives, which saw Kenya making it to the steering committee. We also had the Protest project which brought human rights defenders together to advocate for better policing of protests and held dialogues with the police regarding managing the right to protest. Our monitoring of media freedom continued and, unfortunately, we realised a trend where harassment of journalists has increased under the pretext of COVID-19 related restrictions. Soft censorship is still widespread across Eastern Africa, and has a debilitating effect on media freedom. The Digital team held virtual briefing sessions with UN Member States, in which they reiterated Rwanda’s freedom of expression challenges and presented joint and actionable recommendations.

2021 is looking brighter in terms of workflow, although the external environment presents a picture of an enhanced assault of democracy, rule of law, and human rights. Human rights violations in Uganda are on the increase while Kenya continues to use repulsive laws such as the Computer Misuse and Cybercrime Act, and bodies, like the Kenya Film and Classification Board, stifle freedom of expression. In Tanzania, freedom of expression and media seems to be improving under the regime of President Samia Suluhu Hassan.

ARTICLE 19 Eastern Africa’s board has steadily guided the transition process of the Director and remains committed to steering the office to a brighter future. Two board members, George Kegoro and Dinah Musindarwezo, have since left and they are being replaced through a competitive vetting process. We wish Kegoro and Dinah all the best in the future and thank them for their service.

In 2021, as we launch our new five-year strategy, we expect to increase visibility of the organisation. All in all, we expect 2021 to be far more successful.

From the Chair of the Board: Patricia Munabi



2020 was a year like few others.

The COVID-19 pandemic wreaked havoc on the world, causing hardship for millions of people. ARTICLE 19 Eastern Africa was forced to change the way we work, including recognising the importance of meeting our donors’ expectations. Our office also went through major administrative changes – not least acquiring a new regional director, Mugambi Kiai, who took over the job at the difficult start of 2020.

Eastern Africa entered 2020 with mixed economic prospects and heightened political tensions, with elections held in three countries in the region: Burundi, Somalia, and Tanzania.

In Ethiopia, Prime Minister Abiy Ahmed declared a five-month state of emergency on 8 April 2020, with an emergency law that gave the government sweeping powers to respond to the pandemic. This had stark consequences for the rights to freedom of expression and association. Anyone found violating emergency restrictions faced up to three years in prison or a fine of up to 200,000 Birr (USD \$6,149). Concerns about the law being used to arbitrarily arrest journalists and government critics were well-founded – to give just two examples, journalist Yayeew Shimelis and lawyer Elizabeth Kebede were detained under the law for comments made on social media, but ultimately released without charge due to lack of evidence.

In July, Ethiopia was to have held its first democratic general elections in more than a decade. There was widespread fear that Prime Minister Abiy’s far-reaching reforms would not be realistic, breaking from the authoritarian past to holding democratic elections. Many from the opposition and journalists were being arrested and detained, which may have resonated with the electorate causing the elections to be pushed back, [citing the pandemic](#).

In Burundi, a general election was held on 20 May 2020. During the election period, the government did not allow independent international electoral observers into the country, claiming they were a COVID-19 risk. The UN claimed the elections were [marred by violence](#), with unexplained arrests of opposition candidates and members, and a crackdown on freedom of expression and information.

On 25 May 2020, the National Electoral Commission announced the provisional results. Évariste Ndayishimiye, a candidate from the ruling National Council for the Defence of Democracy–Forces for the Defence of Democracy (Conseil national pour la défense de la démocratie–Forces pour la défense de la démocratie), was declared the winner, with a reported 68.72% of the vote. On 30 May, the [Commission pronounced Ndayishimiye the winner of the presidential race](#), although the constitutional court was yet to confirm the results.

“It is clear that governments across Eastern Africa have used the COVID-19 pandemic as an excuse to gag the media, hinder access to information, and increase violence against people to further entrench repression and infringe on the rights to freedom of expression and information.”



In [Tanzania](#), things were no different; opposition party members were arrested and placed in custody on various charges, while the media was gagged, hindering access to information and freedom of expression. On the eve of the elections, police fired live ammunition at protesters, who were demonstrating against their leaders being arrested just days before the election. On the island of Zanzibar, there were also [claims](#) of protesters being killed [after](#) the elections at demonstrations against the alleged rigging of the election.

It is clear that elections in the region brought havoc, and many countries introduced tough measures – allegedly to tackle COVID-19 – that infringed on the rights to freedom of expression and information.



Campaign for #FreeToProtest at the Dandora social justice centre, Nairobi, August 2020. Photo: ARTICLE 19 Eastern Africa

At a glance: ARTICLE 19 Eastern Africa in 2020

24
publications / briefings
/ legal analyses



7
legal cases



65
people trained



Global Expression Report 2019/2020: Hindsight on East Africa

In 2019, the African Commission on Human and Peoples' Rights (ACHPR) finalised the new Declaration of Principles on Freedom of Expression and Access to Information, which put a new emphasis on digital rights and access to information. The Commission made significant progress in standard-setting, but its independence continues to be threatened by certain member states and the African Union Executive Council.



See the full [Global Expression Report 2019/2020](#) for more information.

The Global Expression Report is ARTICLE 19's most comprehensive, data-based report that tracks freedom of expression across the world. The GxR metric looks at 25 indicators across 162 countries, to create an overall freedom of expression score for every country on a scale of 1 to 100.

Based on the score, we place countries into one of five categories.

Table 1: GxR rating categories according to score	
GxR score	GxR rating
0–19	In Crisis
20–39	Highly Restricted
40–59	Restricted
60–79	Less Restricted
80–100	Open

At country level, however, many African states continue to create a near-impossible environment for communicators: journalists are regularly threatened with assault and arbitrary detention, due to their work and allegations of torture are routinely made by security services as well as police.

In Tanzania, investigative journalist Erick Kabendera was taken from his home by armed men in unmarked cars. The Dar es Salaam Special Zone Police later admitted they were holding him while they investigated his citizenship status, which is a common tactic for obstructing and intimidating government critics.

Ethiopia and Sudan's popular uprisings, each of which brought regime change, bring cautious hope for real reform, though accountability for ongoing human rights violations by military and security forces remains elusive. However, in 2020 Ethiopia saw alarming violence against protesters, often intersecting with ethnic tension: more than 150 people were killed amid violence by security forces.

Over the last 15 years, nine countries in Africa have adopted legislation or policies which restrict non-governmental organisations (NGOs) and their work: Sudan, Rwanda, Ethiopia, Zambia, South Sudan, Uganda, Sierra Leone, Burundi, and Tanzania. These measures range from imposing onerous bureaucratic requirements for registration, funding, or hiring, to restricting areas of work or allowing state interference in operations.

Kenya, Uganda, and Tanzania continued to repress and persecute those who are LGBTIQ+ via homophobic legislation and raids on LGBTIQ+ NGOs. In Uganda (GxR score 26), a member of parliament threatened to reintroduce the infamous 'Kill the Gays' bill, and Brian Wasswa, LGBTIQ+ activist, died after he was attacked at his home.

Under Tanzania's (GxR score 41) President Magufuli, state capture stretches further and civic space closes: Figure 19 of the *Global Expression Report 2019/2020* illustrates the erosion of freedom of expression since his arrival to office in 2015.

Burundi (GxR score 6) continues its decade of decline and criminalisation of expression: more than 100 journalists have fled the country in the face of intimidation and attacks by the state security forces and the Imbonerakure – the youth wing of the ruling party. Only one daily newspaper – *le Rovenau* – remains operational in the country: it is owned and directed by the state. Burundi continues to refuse to cooperate with the UN Working Group on Enforced or Involuntary Disappearances, which has expressed particular concern around the country's situation.

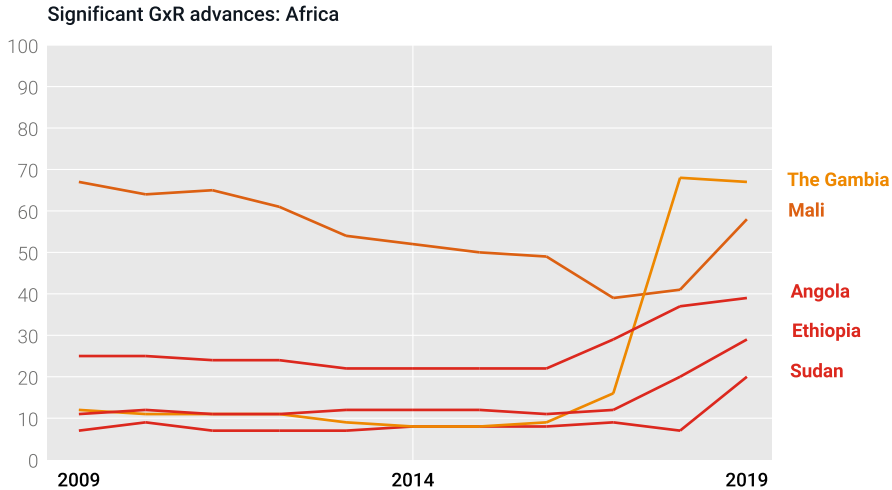


Figure 18: Africa: countries with significant advances in GxR scores 2009–2019

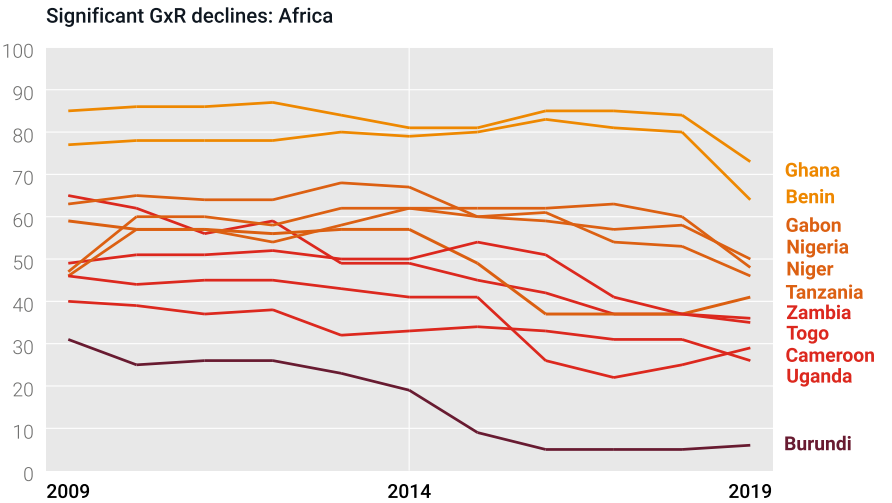


Figure 19: Africa: countries with significant declines in GxR scores 2009–2019

The above two figures for Advancers and Decliners were taken from page 43 of the [Global Expression Report 2019/2020](#)



Civic Space

Civic space is where individuals realise their rights. It can be a physical, virtual, or legal place. It is the space where we participate, express, assemble, and inform ourselves, and is the cornerstone of a democratic and accountable society.



Dialogue session during
#FreeToProtest concert in Mathare.
(Photo: ARTICLE 19 Eastern Africa)

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Governments use COVID-19 to undermine right to protest

Civic space in the Eastern African region continued to shrink in 2020. At the start of the year, most countries in the region reported their first cases of COVID-19, leading governments to introduce measures to curb the spread of the virus. These regulations enforced maintaining social distance and wearing masks and prohibited public gatherings.

Unfortunately, however, governments used the guise of preventing the spread of COVID-19 to suspend all protests, undermining freedom of speech and the right to protest. Law-enforcement officers also applied excessive force to enforce these measures in Kenya, Uganda, and Rwanda.

In the run up to, during, and after the presidential and parliamentary elections held in Uganda in January 2021, the government used the COVID-19 pandemic to crack down on dissenting voices and opposition figures. They used excessive force and live ammunition to block them from attending their campaign rallies and disperse crowds during campaign meetings and gatherings under the pretext of enforcing COVID-19 containment measures.

During the #SabaSabaMarchOfOurLives2020, protesters were arrested from across Nairobi and detained for the whole day without charge. Although they were released in the evening, their march was paralysed, and they were unable to present their petition to government bodies.

During the #ArrestCOVID19Millionaires march in Kenya in August 2020, protests were disrupted in Nairobi, Nakuru, and Kisumu, while six activists in Mombasa were arrested and charged with unlawful assembly and contravening COVID-19 regulations. Throughout the year, we continued to witness governments using the COVID-19 pandemic to clamp down on individuals' rights to freely express themselves – including their right to protest.

#FreeToProtest petition handed to Inspector General

In August 2020, due to the COVID-19 pandemic and restrictions, ARTICLE 19 Eastern Africa and our coalition members handed our #FreeToProtest petition to the Kenyan Inspector General of Police on Twitter, using the hashtags #EngageTheIG and #FreeToProtest. However, we received no feedback from the Inspector General.

Raising public awareness of the right to protest

In Kenya, we held public awareness sessions about the right to protest with students, religious leaders, and activists in grassroots organisations in Meru County, Nakuru County, Mombasa County, and Kisumu County.

Advocating for better policing of protests

We held community dialogues with the Kenyan police regarding managing the right to protest in Huruma, Kawangware, and Rongai.

In Mombasa County, we have witnessed a trend of undermining the right to protest since 2019. In 2020, ARTICLE 19 Eastern Africa, in partnership with Muslims for Human Rights, paid advocacy visits to senior security personnel in Mombasa County regarding the management of protests. We visited:

- Kasauni Officer Commanding Police Division and Directorate of Criminal Investigations
- Changamwe Deputy Officer Commander, police station
- Independent Policing Oversight Authority
- Coast Regional Commandant
- Mombasa County Police Commandant
- Mombasa County Commissioner

We also trained Mombasa County Inspectorate Officers – who are involved in managing protests – on the best human rights standards in the management of protests. Our training drew heavily on the ACHPR's [Guidelines on Freedom of Association and Assembly in Africa](#), as well as their [Policing of Assemblies Training Manual](#).



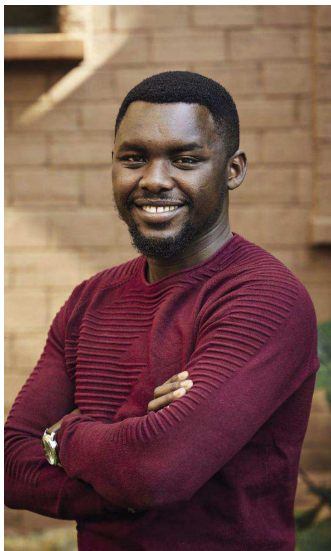
Training session with Mombasa County Inspectorate police officers. (Photo: ARTICLE 19 Eastern Africa)

Press briefing condemning harassment of protesters

At the conclusion of our advocacy visit to Mombasa County, ARTICLE 19 Eastern Africa – together with some #FreeToProtest coalition members (Civil Society Reference Group, Muslims for Human Rights, Changamwe Social Justice Centre, and Kituo Cha Sheria) – held a press briefing. At the briefing, we condemned the continued attacks on and harassment of protesters and called on the county government of Mombasa County to ensure the right to protest for all Mombasa residents.



Participation



Over the years, governments in Eastern Africa have used security policies to restrict public freedoms and the role of civil society. This has led to the targeting of civil society actors with threats of physical violence and attacks by authorities. These restrictive policies and threats disproportionately affect women's ability to participate in civic and media spaces, on the basis of their gender and because of patriarchal norms.

These challenges have become more pronounced during COVID-19. Government restrictions to combat COVID-19 have seen an increased risk of gender-based violence with reports indicating a spike in sexual offences due to the lockdown measures and greater difficulty in seeking justice and healthcare.

As a result, and in continuation of our interventions aimed at fostering open societies based on expanded and protected civic space, in Kenya we have begun engagements with underrepresented communities, under the PROTECT project. These have a specific focus on women in human rights with forums that hold discussions on the role of women in protecting civic space, highlighting their lived realities and their opportunities for participation.

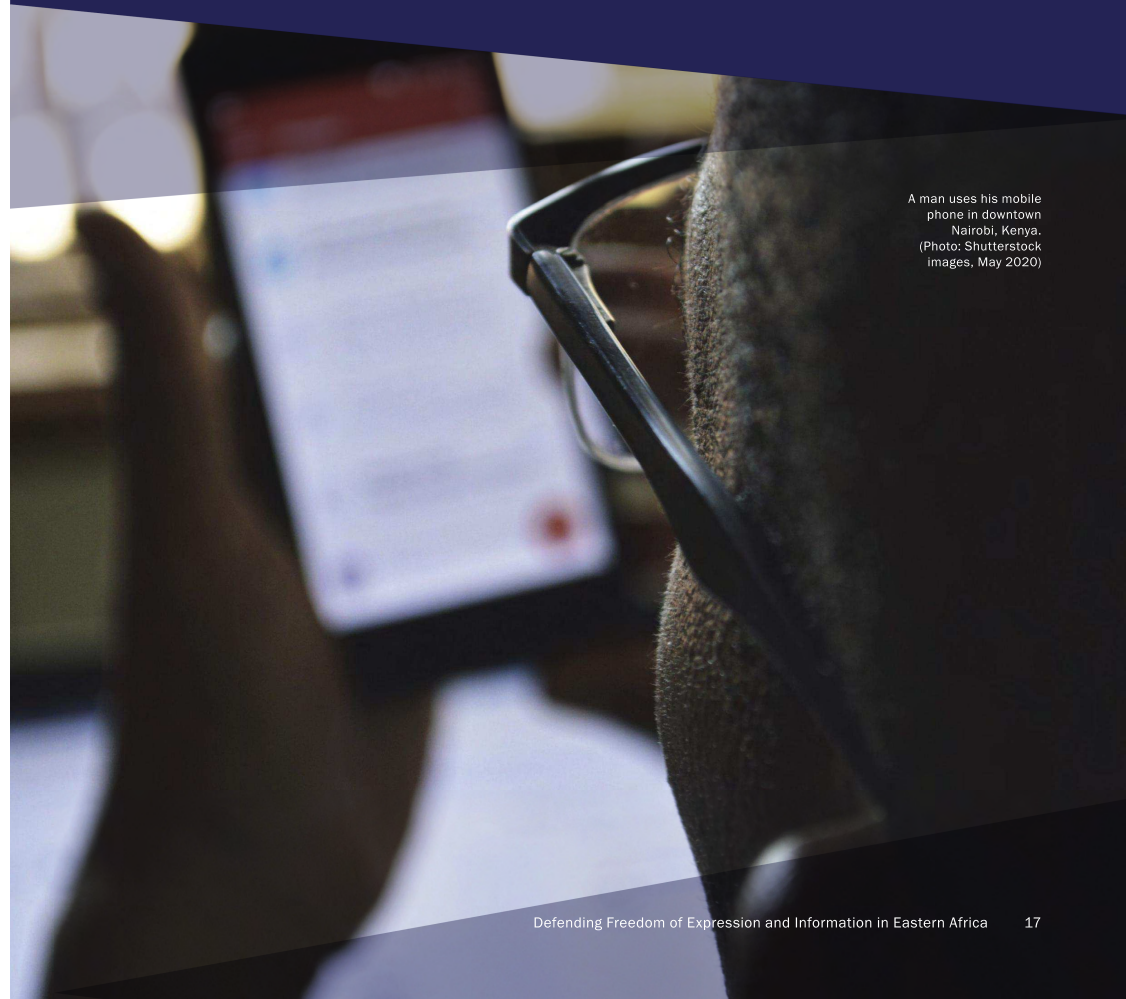
Going forward, we will increase interventions geared towards rebalancing the power structures that control the social and political discourse, by giving female civic actors the tools to fight back, build strong counter narratives, and reframe key debates.

“It is high time that the governments in the Eastern Africa region recognise that a vibrant civic space is an important element of a contemporary social and political life and a precondition for democratic development and popular participation. Governments must commit to protect and expand civic space.”

Muthuri Kathure, Senior Programme Officer – Civic Space, ARTICLE 19 Eastern Africa

Digital

The right to freedom of expression and information is crucial in networked spaces, just as it is offline. The exercise of human rights online depends on an open and free Internet.



A man uses his mobile phone in downtown Nairobi, Kenya. (Photo: Shutterstock images, May 2020)



Rwanda urged to ‘respect, protect, and fulfil’ digital rights in Universal Periodic Review

Respect, protect, and fulfil: This was the clarion call of 99 UN Member States, which urged Rwanda to improve its human rights situation at the country’s third Universal Periodic Review (UPR) on 25 January 2021.¹

In advance of Rwanda’s UPR, ARTICLE 19 Eastern Africa and Access Now submitted a joint report to the UN Human Rights Council. This involved collecting, examining, and verifying five years’ worth of data using a variety of virtual and in-person tools. The joint report detailed positive developments, including the alignment of the revised Penal Code with international freedom of expression standards at the parliament and judiciary levels, as well as positive efforts to protect personal data and expand public Internet access.

However, the report also highlighted day-to-day and systemic challenges affecting individuals’ and communities’ rights to expression and information, which the Rwandan Government responded to in an inadequate or untimely manner – when they responded at all. Spaces to dissent, criticise the president, and question government initiatives – whether online or off – shrunk, despite expanding digitisation efforts.

The continued use of civil and criminal sanctions – including criminal defamation, insult, and false-information provisions – restricts opportunities for legitimate expression, and affects users of online and digital technologies, including bloggers, human rights defenders, politicians, and civil society organisations. These sanctions operate in a broader surveillance context in which government can monitor individuals’ messages on public electronic communications networks. Rwanda’s ‘kill switch’ environment is legally sanctioned by provisions in the [Information and Communication Technology Law](#), which permits the interruption or suspension of Internet and communications services and networks.

Purveyors of access to information – including journalists and media houses – reported offline and online attacks, raids, forced relocation, intimidation, and harassment by state agents. All of these took place in an overly restrictive and regulatory media environment, in which Rwanda’s access-to-information law is poorly implemented due to state agencies’ non-compliance.

¹ The report was released in 2020, and ARTICLE 19 held meetings with embassies during the same year. The review was also supposed to be held in 2020, but the timetable was altered due to COVID-19 considerations.

Advocacy and coalition-building – from the UN to local NGOs

ARTICLE 19 Eastern Africa, together with Access Now, liaised with various stakeholders – including local and international NGOs – as part of our awareness-raising and advocacy work.

We also held virtual briefing sessions with UN Member States, in which we reiterated Rwanda’s freedom of expression challenges and presented our joint and actionable recommendations.

Submitting recommendations to the Rwandan Government

In January 2021, ARTICLE 19 Eastern Africa and Access Now directly submitted recommendations to Rwanda, verbatim. Of the 284 recommendations submitted to Rwanda about its human rights environment, 35 related to freedom of expression and access to information. The message from Rwanda’s peers was clear: Rwanda’s commitment to its human rights obligations is still in question.

The Rwandan Government noted – rather than supported – numerous freedom of expression recommendations, which we have urged the government to reconsider. The next five-year cycle presents new opportunities to transform Rwanda’s human rights situation. We will continue to contribute to efforts to strengthen Rwanda’s human rights environment, including monitoring implementation of its obligations to respect, promote, and fulfil those rights.

Strengthening Kenya’s Data Protection Act 2019 in court

The rights to freedom of expression, access to information, and privacy are mutually reinforcing. The unsupervised collection of individuals’ personal data, both online and off, poses a great threat to these rights. To mitigate against these threats, and to ensure both state and non-state actors collect and process personal data in a rights-respecting manner, ARTICLE 19 Eastern Africa joined calls for the enactment of a comprehensive data-protection law in Kenya. In November 2019, the Data Protection Act 2019 was enacted.

Despite our warm welcome of the Act, it is riddled with curable deficiencies, which have been raised (including by ARTICLE 19 Eastern Africa) – but not addressed – numerous times. In November 2019, Okiya Omtatah filed Petition 454 of 2019, which calls on the judiciary to pronounce itself on the curable deficiencies in the Act.



“The COVID-19 pandemic revealed fragilities but also strong instances of resilience and innovation in Eastern Africa’s digital environment impacting Internet access, individuals’ ability to express themselves freely online, and the protection of personal data. Despite the importance of online platforms to human rights and democratic processes such as elections, sustainable and affordable access to the Internet and digital technologies was restricted by Internet disruptions, licensing and digital tax regimes, and poor, limited, or non-existent information about universal access/service mechanisms.”

Sigi Waigumo Mwanzia,
Digital Programme Officer,
ARTICLE 19 Eastern Africa



In September 2020, ARTICLE 19 Eastern Africa was enjoined as an Interested Party in the petition. We argued that parliament erred by:

- creating a state agency, rather than a constitutional commission, to protect and promote Article 31 of the Constitution;
- failing to align the definition of personal data under the Data Protection Act 2019 with the definition under the Access to Information Act 2019;
- failing to define certain vulnerable groups, including children, placing them and their personal data at risk;
- failing to balance the right to data protection with mutually reinforcing rights, including freedom of expression and media freedom; and
- providing ‘claw back’ clauses, which violate the Constitution and international standards.



“Restrictive laws and policies were also used to stifle legitimate criticism of public health measures and authorities, and to monitor and control COVID-19 narratives, whereas digital anonymity protection was watered down in several countries. While these fragilities persist, we will continue to push for more stories of resilience and innovation in our digital environment, including the provision of a wide array of digital connectivity solutions, the utilisation of new and existing online platforms to share knowledge, opinions, and ideas, and the implementation of existing data protection laws.”

Sigi Waigumo Mwanzia, Digital Programme Officer,
ARTICLE 19 Eastern Africa

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Media

For meaningful freedom of expression and information, we need the broadest possible diversity of sources, information, and ideas. This enables individuals to inform themselves, participate in society, and hold the powerful to account.



Lawyer, Nicholas Opiyo,
talks to the press.
Kampala, Uganda.
(Photo: Frederic Noy/
Panos Pictures)

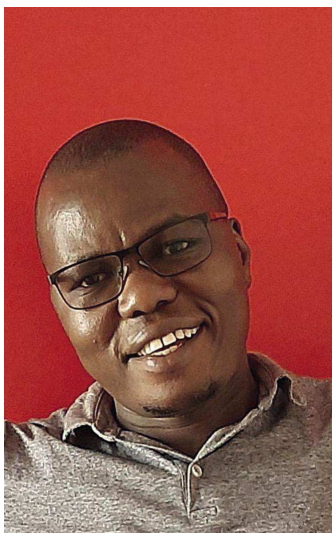
Exposing 'soft censorship' of the media in Eastern Africa

Advertisers continue to influence media coverage in Kenya – a form of 'soft censorship' that is increasingly replacing outright repression as the preferred means of controlling the media and journalists, and yet is relatively subtle and generally unrecognised.

Soft censorship is widespread across Eastern Africa, and has a debilitating effect on media freedom – including the financial sustainability of media organisations, which are having to explore alternative revenue streams. For example, Nation Media Group – one of the largest privately owned media houses in Eastern and Central Africa – has added a paywall to its news content, requiring readers to have a paid subscription before accessing most of its stories.

ARTICLE 19 Eastern Africa published a study in 2020 revealing the nature and impact of soft censorship as a means of controlling the media. Our study exposed how the state and corporate advertisers offer lucrative adverts to sweeten any coverage of them, or threaten to stop adverts if a media house writes or reports critically about them.

Our study not only generated demand for advertising policy changes but also triggered internal reflection on media houses' exploration of alternative revenues. We engaged with media stakeholders at the report launch, including via a sensitisation workshop on soft censorship through advertising, which was attended by the head of Nation Media Group's digital department.



“2020 has been a grim year for press freedom with unprecedented security challenges for journalists. Governments used the coronavirus outbreak as an opportunity to further entrench repressive measures, and far overreach the limits in place under international human rights laws on their powers during such times. Even though journalists and other media workers are essential service workers, many were routinely targeted, harassed, attacked, and even killed in extreme cases. Security agents used excessive force on civilians and on realising that journalists were documenting such excesses, they turned violent against journalists with impunity. We have also witnessed an increase in surveillance, restrictions on the free flow of information, and unjustifiable limits on public participation.”

Robert Wanjala, Programme Assistant, Media and Protection, ARTICLE 19 Eastern Africa

Promoting pluralistic, diverse, and independent media in Kenya

In 2020, we took an active role in developing a National Media Policy Guideline to promote a pluralistic, diverse, professional, independent, publicly spirited, and self-sustaining media in Kenya. The media policy sets out a framework that will ensure freedom of expression is upheld and enables journalists, media practitioners, and media owners – as well as media-services users, advertisers, and public-relations practitioners – to independently and responsibly operate. It spells out the core regulators, as well as the contours they should follow as they exercise their regulatory functions.

Challenging laws that endanger journalists' safety and freedom of expression

Besides calling on governments to respect media freedom and other human rights, ARTICLE 19 Eastern Africa published statements throughout 2020 restating global norms and standards and challenging restrictive laws that impact negatively – both online and offline – on journalists' safety and freedom of expression.

Through our statements, we have urged governments to create enabling legal and institutional frameworks on freedom of expression, independence of the media, and the safety of journalists – particularly female journalists – and to ratify the Protocol establishing the African Court of Human and Peoples' Rights.



Police brutality against citizens and journalists, Kenya, April 2020. (Photo: Standard Media group)



Protection

Worldwide, attacks on communicators and human rights defenders are perpetrated with impunity, creating a toxic cycle of intimidation and self-censorship. Increased citizen journalism, blogging, and information activism have placed more individuals and groups on the frontline than ever before. They must be supported and protected holistically, with tools, training, and effective networks with strong legal frameworks.

Robert Wanjala of ARTICLE 19 Eastern Africa, is interviewed during safety and protection training for journalists. (Photo: K24tv, 22 November 2020, Muranga)



Violence, harassment, self-censorship, impunity: Protection of journalists remains elusive in Eastern Africa

“2020 saw the implementation of a new intervention at ARTICLE 19 Eastern Africa aimed at addressing the challenges and opportunities of media and civil society actors working to push for transparent, accountable governance in a protective and enabling environment. Together with our consortium partners HIVOS, ICNL, and INTERNEWS, we finally welcomed the PROTECT project, whose interventions seek to strengthen and promote the ability of media, journalists, human rights defenders, and civil society organisations to protect civic and media space and push for accountable and transparent governance at the local and national level.”

Moses Opiyo, PROTECT Coordinator for Kenya, ARTICLE 19 Eastern Africa

Safety and protection – in particular of journalists and social communicators – remains an elusive dream in many Eastern African countries, despite governments in the region enacting laws and signing up to international treaties that obligate them to ensure security for media practitioners. Journalists and social communicators are threatened and harassed; many have lost their lives, ‘disappeared’, or forced into exile. Impunity levels are high, and many states in the region are unwilling to address it.

Key elements undermining efforts to protect journalists in the region include:

- lack of political will;
- poor coordination among media stakeholders;
- lack of systematic monitoring and documentation of violations;
- lack of progressive media regulatory frameworks;
- weak journalists' associations; and
- numerous normative frameworks that have not been translated into practical interventions to address journalists' safety concerns.

Negative political rhetoric and judicial intimidation – including threats of exorbitant fines for airing or publishing stories deemed critical of the governments and their officials, private entities, or political establishments – have all put undue pressure on journalists in the region.

The COVID-19 pandemic further complicated things for journalists. As in the rest of the world, many governments in the region took the opportunity to further entrench repressive measures on journalists and online communicators.

Despite reporting and filing complaints to various government authorities, cases of attacks and threats against journalists were rarely investigated in 2020, suggesting an ongoing high level of impunity. Failure to hold those responsible for such attacks accountable continued to send the signal that the media could be silenced through violence – and continued to coerce journalists into self-censorship – with a chilling effect on the right to free expression.



Charges dropped against journalists represented by ARTICLE 19 Eastern Africa

In 2020, we provided legal representation to Jack Okinyi and Milton Were, who were charged with publishing false information under the Computer Misuse and Cybercrimes Act 2018 after they published stories about a corruption scandal. The provisions of this law continue to be used to stifle press freedom and freedom of speech. The Directorate of Criminal Investigations ultimately dropped the charges against them. ARTICLE 19 Eastern Africa is now supporting a High Court decision declaring the impugned provisions, which reintroduced criminal defamation and the publication of false information, unconstitutional.

Kenyan Government must recognise it violated journalist's rights

Following the arrest and harassment of online media practitioner Edwin Kiama, and based on the prevalence of (and impunity for) attacks against journalists, ARTICLE 19 Eastern Africa – together with Journalists for Justice, ICJ Kenya, Defenders Coalition, and the Kenya National Human Rights Commission – came together to draft a petition. The petition seeks, among other things, a declaration that the government violated Kiama's right to freedom of expression by arresting and detaining him without charge, and violated his right to privacy by confiscating his work gadgets without a warrant.

Delivering protection training for journalists

ARTICLE 19 Eastern Africa trains journalists on holistic safety and protection practices, as a first line of defence of freedom of expression in the region. In 2020, we trained and built the capacity of at least 200 journalists directly – and over 250 others indirectly – including training on physical, digital, and legal frameworks and psychosocial tools. We also provided security guidance and tips, as well as referrals for financial support, to more than 100 journalists who sought asylum in Kenya due to persecution from their governments.



Training of journalists in Kitale town in Trans Nzoia, November 2020.
(Photo: ARTICLE 19, Eastern Africa)

Eastern Africa Journalists Network launched

We also supported journalists to establish strong associations and solidarity groups, as part of our work consolidating and strengthening coordination among media practitioners in the region. Journalists have since created a network, Eastern Africa Journalists Network (EAJNet), to support their work, which also acts as a repository for resources and data on violations against them.

Tackling harassment of female journalists in Kenya

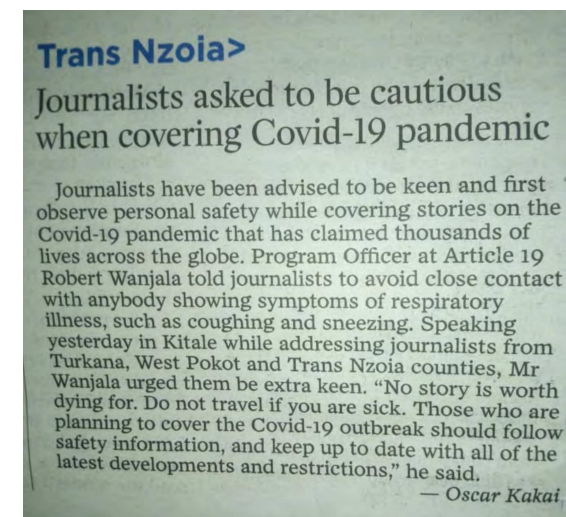
Since female journalists face additional safety threats, ARTICLE 19 Eastern Africa developed specific safety tools for female media practitioners in 2020, including guidance on how to be safe online and ensuring media houses have effective safeguards – including gender and sexual harassment policies.

In the last quarter of 2020, we carried out a survey on sexual harassment and sexual misconduct within and outside newsrooms in Kenya. The findings of this survey will inform policy reforms within media houses, as well as the overall safety and protection of media workers while in the field.

New reports on the impact of COVID-19 on journalists

ARTICLE 19 Eastern Africa released two reports monitoring the media in Kenya in 2020, which highlighted the dire situation for journalists and social communicators – including insecurity challenges brought about by terrorism in the region, and the difficulties faced by journalists during the COVID-19 pandemic.

We also developed a [reporting guideline for journalists and media houses](#) on COVID-19, which many journalists and community media establishments – particularly in Kenya – adopted.



Daily Nation newspaper, 23 March 2020, Kitale



Transparency

Transparency empowers us to hold leaders accountable, ensures that human rights are being protected, and enables us to develop a fuller understanding of the world.

Staff from ARTICLE 19 Eastern Africa, the Commission on Administrative Justice, and the Kenya School of Government with Access to Information Commissioner, Lucy Ndungu, at a workshop to review the Access to Information Curriculum Facilitator Manual and Standard Slides. (Photo: ARTICLE 19 Eastern Africa)



Access-to-information curriculum for public officials launched



“The COVID-19 pandemic has reinforced the centrality of the right to access reliable, accurate, and timely information. This is key in mitigating the risk of transmission of coronavirus and countering disinformation. In facing this unprecedented challenge, we’ve observed governments across the region enacting highly restrictive measures that have negatively impacted on the right to information and limited citizen’s ability to hold their governments accountable. Restricting the right to know limits people’s ability to understand what their governments are doing to address the pandemic and consequently affects public trust in the government’s actions. Without information the public cannot act accordingly to protect themselves and their communities.”

Sarah Wesonga, Programme Assistant,
ARTICLE 19 Eastern Africa

ARTICLE 19 Eastern Africa is collaborating with the Commission on Administrative Justice and the Kenya School of Government to develop an access-to-information curriculum, which will guide facilitators in delivering training for all public officials. The curriculum – titled *Access to Information in the Public Service* – will target key implementors of access to information, including chief executive officers, information-access officers, mid- and top-level directors, heads of human resources, and complaints-handling committees.

ARTICLE 19 Eastern Africa was engaged as a subject matter expert in drafting the curriculum. We were also the lead resource organisation at a workshop held to validate the curriculum, and the head of the final review of the curriculum.

After the review we assisted with the development of a facilitator’s manual that will be used by trainers to disseminate the curriculum. We will go on to review and validate the facilitators’ manual and develop standardised materials for the trainers in 2021.



Leading the development of access-to-information regulations in Kenya

In 2020, ARTICLE 19 Eastern Africa was at the forefront of developing access-to-information regulations – and the only civil society organisation involved in this process.

We led by holding consultations on the content of the regulations with other civil society organisations and relevant government agencies. We then developed an initial draft of regulations. A task force was subsequently established to develop and review the regulations, in which ARTICLE 19 Eastern Africa was the only civil society organisation.

The final draft of the regulations has been tabled to the Cabinet Secretary in the Ministry of Information Communications and Technology for adoption.

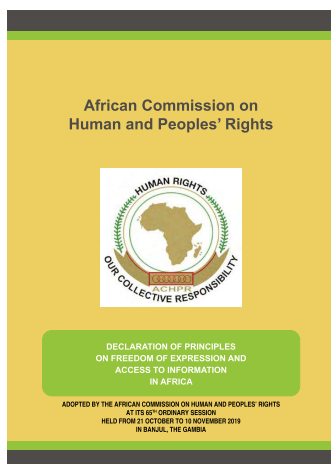
The Commission on Administrative Justice, as the main oversight and enforcement body in the Access to Information Act, acknowledged the technical and subject matter expertise of ARTICLE 19 Eastern Africa in access to information issues.

African Union Declaration on Freedom of Expression and Access to Information revised

The ACHPR adopted the Declaration of Principles of Freedom of Expression and Access to Information in Africa ('the Declaration') in 2019. Its adoption, however, was subject to amendments. In January–February 2020, ARTICLE 19 Eastern Africa – as part of the technical drafting team – researched and drafted some of these amendments. We also undertook programmatic work for the technical drafting meetings, and provided technical support to the Special Rapporteur.

The amended draft of the Declaration was finalised in the ACHPR's 28th Extraordinary Session in March 2020. On 17 April 2020, [the Declaration was published](#).

This Declaration is significant to ARTICLE 19 Eastern Africa's work, as it sets updated standards for African states on their obligations under The African Charter. It was especially relevant during 2020 when COVID-19 hit Africa. Part IV of the Declaration – on freedom of expression and access to information on the Internet – was a particular breakthrough; prior to the Declaration, the importance of the Internet was not legislated for in any other African human rights mechanism.



Declaration of Principles on Freedom of Expression and Access to Information in Africa 2019.
(Photo: African Commission on Human and Peoples' Rights Banjul, November 2020)

ARTICLE 19 Eastern Africa recognised for work on Sustainable Development Goals in Kenya

ARTICLE 19 Eastern Africa is the lead convener of Sustainable Development Goal (SDG) 16 (Peace, Justice and Accountable Institutions) in Kenya, under the auspices of the SDGs Kenya Forum.

We were voted second runner-up in the SDG awards at an annual SDGs forum, held jointly between the government and civil society organisations in Mombasa, Kenya, on 15–17 December 2020. The awards recognise achievements in leading and coordinating groups working on the different SDGs, including engagement in national, regional, and international SDG processes; identification of priorities; and involvement in reporting processes.



Certificate awarded to ARTICLE 19 Eastern Africa by the State Department of Planning and the SDGs Kenya Forum



Our Partners

Ethiopia

- Ethiopian Women Lawyers Association

Kenya

- Access Now
- Association of Freelance Journalists
- Association of Media Women in Kenya
- Bloggers Association of Kenya
- Center for Reproductive Rights
- Coffee Kenya
- Commission on Administrative Justice (CAJ)
- Communications Authority of Kenya
- Creative Economy Working Group
- Defend Defenders
- East Africa Internet Governance Forum
- Facebook
- Groots Kenya
- Human Rights Defenders
- Katiba Institute
- Kenya Correspondents Association
- Kenya ICT Action Network
- Kenya Human Rights Commission
- Kenya Internet Governance Forum
- Kenya National Commission on Human Rights
- Kenya Private Sector Alliance
- LakeHub iHub
- Lawyers Hub, Namati
- Liquid Telecom
- Local Development Research Institute (LDRI)
- Ministry of ICT
- Mozilla Foundation
- Mugambi Laibuta (individual)
- Mzalendo
- National Steering Committee on Peacebuilding and Conflict Management
- Network of African National Human Rights Institutions (NANHRI)
- Okiya Omtatah (individual)
- Open Contracting Partnerships (OCP)
- Police Oversight Authority
- RoGG Kenya
- Safaricom
- Strathmore Law – Centre for Intellectual Property and Information Technology, Law and Business Schools
- SwahiliPot Hub

- The Institute for Social Accountability (TISA)
- The Institute of Economic Affairs (IEA Kenya)
- The Kenya Section of the International Commission of Jurists (ICJ Kenya)
- Transparency International Kenya
- UNESCO
- Usalama Reforms Forum
- Women Empowerment Link

Tanzania

- Pan African Lawyers Union
- Paradigm Initiative
- The East African Court
- The East African Law Society

South Sudan

- Defy Hate Now
- South Sudan School of Internet Governance

Uganda

- Collaboration on International ICT Policy in East and Southern Africa
- Unwanted Witness

Membership / Coalitions

- African Declaration on Internet Rights and Freedoms Coalition (AFDEC)
- Africa Internet Rights Alliance (AIRA) Coalition
- Free to Protest Coalition (Constitution and Reform Education Consortium, Kenya National Commission on Human Rights, Kenya Human Rights Commission, Civil Society Reference Group, Social Justice Centres Working Group, Defenders Coalition, Kenya College of Accountancy, Crime Si Poa, Civicus, Red Vests Movement, Tribeless Youth)
- SDG Kenya Forum
- Strong in Diversity – Bold on Inclusion (SiDBol) consortium partners (Hivos East Africa, Kaleidoscope Trust, African Men for Sexual Health and Rights, Coalition of African Lesbians, University of Pretoria, University of London)
- The Civil Society Parliamentary Engagement Network



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- Omidyar Network Services LLC
- Google
- Association for Progressive Communications



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