



EAST AND
HORN OF
AFRICA
HUMAN RIGHTS
DEFENDERS
PROJECT
(EHAHRDP)

The situation of Human Rights Defenders in the East and Horn of Africa

Report to the Forum on the participation of NGOs at
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Regional Coordination Office

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Introduction

EHAHRD-Net welcomes the opportunity offered by the 44th Session of the African Commission on Human and People's Rights (ACHPR) to highlight some of the current human rights situations in the sub-region. EHAHRD-Net is particularly concerned by the fact that in most of the countries in the region the situation facing HRDs, in particular, has continued to deteriorate since the May 2008 report.

Since reporting at the 43rd Session of the ACHPR the human rights situation in Somalia has continued to deteriorate largely as a result of ongoing warfare between the Transitional Federal Government (TFG) forces, their Ethiopian counterparts and the insurgency, notably Al-Shabab. The humanitarian situation is dismissal and rapidly deteriorating as a result of current life-threatening food and water shortages which have been further aggravated by high inflation and the global crisis in commodity prices.¹ Fighting has continued in civilian areas of Mogadishu whilst also intensifying in towns in South and Central Somalia. This has had devastating impacts on the civilian population. Rights of women are severely violated as was witnessed by the recent stoning to death of a 13 year old girl. Attacks and targeted killings of human rights defenders continue to occur. As a result an increasing number of defenders are now living in exile. Impunity prevails. The recent agreement between the TFG and the Alliance for the Re-Liberation of Somalia (ARS) in Djibouti in June 2008, which was reconfirmed in October 2008, does however show some hopeful signs notably by setting down a plan for the withdrawal of the Ethiopian troops.

The human rights record of the Ethiopian People's Revolutionary Democratic Front (EPRDF) and security forces remain poor, not only in the Ogaden and Oromia regions of Ethiopia, but also in Somalia. Yet the international community continues to largely turn a blind eye to the record of this regime with whom many have diplomatic, economic and military ties and who is seen by certain States as a key ally in the war against terror. The Ethiopian government has tended to respond in a negative manner to the little criticisms it has received regarding its human rights record- closing the door to independent reporting and investigations rather than seeking to address the allegations. Of particular concern is the legislative affront currently being carried out by the ruling party against human rights defenders (HRDs). The Draft Proclamation on Charities and Societies which has recently been put forward to the Parliament threatens the very future of legitimate human rights work in the country. Under the provisions of this bill, organisations receiving more than 10% of its funding from abroad will not be allowed to carry out any human rights work. Given the tendency in other countries of the region to introduce increasingly restrictive NGO and Media legislations this bill might lead to an even more stringent legal affront throughout the region.

Current government restrictions on freedom of the press and expression in Rwanda must be highlighted. The authorities have been using a range of methods, from laws on divisionism and genocidal ideology, to funding restrictions, to licensing barriers as a means of silencing those who question the government's perception of the past, present and future of the country. As a result an increasing number of journalists are being forced out of the country and the independent media outlets are at risk of being forced to close.

¹ ICRC, Somalia: ICRC mounts relief operation for half a million people , 4th June 2008, <http://www.icrc.org/web/eng/siteeng0.nsf/html/somalia-news-040608?opendocument>

The violence and human rights violations committed against civilians and human rights defenders during the post-election violence in Kenya and more recently in Western Kenya revealed how easily a situation of apparent stability in the sub-region can be transformed very rapidly. The recent report by the Waki Commission of Inquiry does offer significant hope that past violations will be investigated nevertheless the willingness of the unity government to implement its recommendations is questionable. The situation facing defenders has seen some negative developments with cases of individual harassment turning into more systematic attacks on human rights organisations. The recent killings of two defenders serving as witnesses in recent Commissions are of significant concern.

Finally the situation in Eritrea has shown no changes whatsoever since the last report: freedom of expression, thought, media, religion and movement are inexistent and all forms of activism has been entirely crushed forcing an ever increasing number of Eritreans from all walks of life to risk their lives and flee abroad.

Human Rights Defenders in the East and Horn of Africa

The following report offers a series of country overviews that look at the human rights situation in East and Horn of Africa Region focussing more specifically on the situation facing human rights defenders.

Burundi

In recent months, the security situation in the country has begun to deteriorate once again as the peace talks between the government and the only remaining rebel group, the Party for the Liberation of the Hutu People-National Liberation Front (PALIPEHUTU-FNL), also known as FNL, had stalled. In August the dialogue between the two parties began once again. The continued activities of the FNL have led to significant human rights violations at the hands both of the rebels themselves and of the security forces. Furthermore, the government has of yet failed to implement some of the key components of the Arusha Peace agreement, notably regarding the establishment of a National Human Rights Commission, a National Commission for Truth and Reconciliation and an International Criminal Investigation Commission. One slightly more positive step has been the decision by the Government of Burundi to accept the renewal of the mandate of the Independent Expert on the Situation of Human Rights in Burundi until a Human Rights Commission has been established. Sexual violence and discrimination against women continues to be a significant problem in Burundi. This reality, particularly the security environment, and the currently increasing harassment on behalf of the Burundian authorities render the work of human rights defenders (HRDs) particularly challenging.

High levels of arbitrary arrest and detention continue to be recorded despite their prohibition in the Burundian constitution. The systematic use of 'preventative' detention has also been recorded. Ill-treatment and sometimes torture of suspects by the Burundian National Police and the National Security Services continue to take place. Victims of torture are often reluctant to report the cases. The majority of those arbitrarily detained and those falling victim of torture are alleged FNL supporters or members. These violations tend to occur in certain provinces more frequently than others. Those in detention are often accused of illegal possession of firearms or being FNL members.

Following recent attacks on Bujumbura by the FNL, in April 2008, for example, more than 300 supposed members of the FNL were arrested and arbitrarily detained according to Human Rights Watch, a number of who are believed to be minors.² Irregular security forces, notably demobilized combatants, also appear to have been used by the police during the arrests.³

The judicial system is weak and largely fails to adhere to international standards of independence and impartiality. Lack of resources is a considerable problem. The judiciary continues to be under the influence of the Executive. Transitional justice measures have not

² HRW, *Burundi: Release civilians detained without charges*, 30th May 2008, <http://hrw.org/english/docs/2008/05/29/burund18974.htm>

³ Ibid

yet been put in place although a chairperson for the Truth Commission was finally appointed in August 2007. Impunity continues to prevail and crimes committed by the security services in particular are rarely investigated.

The recent conviction by a military tribunal of 15 soldiers for the Musinga Massacre, in which 31 civilians were arbitrarily executed between June and September 2006, marks a significant victory against impunity. Up until now the investigations into the massacres had been insufficient. Efforts to call for the extradition of Colonel Vital Bangirinama, the commanding officer of the soldiers implicated in the massacre, who fled the country in January, have been half hearted and insufficient.⁴ As a result, the Colonel was found guilty in absentia by the court and sentenced to death.

Political freedoms are restricted and opposition party members continue to face harassment, constraints on their work and abuse. Since 2007 an increasing number of cases of attacks on the homes of opposition party members have taken place.⁵ Members or supporters of the former Chairman of CNDD-FDD have been the main victims of attacks on freedom of expression and movement.⁶ In June 2008, 22 independent National Assembly Members, all of whom were former members of the ruling party, were ousted following a Constitutional Court decision which claimed that they could not serve as 'independents'.⁷ According to information from the Ligue des Droits de la Personne dans la Region des Grands Lacs (LDGL) a new ministerial order which was recently signed seeks to further restrict the right of assembly of opposition parties.⁸ On the 11th October 2008, 21 members of a new political party, the UPD, were arrested and detained accused of holding an illegal meeting.⁹ More recently, on the 3rd November, 37 individuals, including a famous former radio journalist, Alexis Sinduhije, who are in the process of trying to form a new political party were arbitrarily arrested by the Police and accused of threatening the State security; the police spokesperson would later accuse them of holding an unauthorized meeting.¹⁰ Previous attempts by this group, known as the Movement for Security and Democracy (MSD), to register as a party have been repeatedly thwarted by the Internal Ministry.¹¹

Sexual violence continues to be prevalent particularly in the provinces where a high number of security personnel and rebel members are located. Many victims are reluctant to report violations. Perpetrators, which include military and police personnel, have largely been given impunity and many victims fear speaking out about their violation.¹² Socio-economic, political and juridical discriminations against women are widespread. Legislation continues to disadvantage women and the hard sought after inheritance law has still not been implemented. Advancement of women is hampered by the fact that only 5% of those eligible for enrolment in secondary schools are in fact enrolled.¹³

⁴ HRW, *Burundi: Suspects in Musinga killings must be returned to face justice*, <http://hrw.org/english/docs/2008/02/04/burund17970.htm>

⁵ Report of the independent expert on the situation of human rights in Burundi, Akish Okola, GA : A/62/213, 8th August 2008, <http://daccessdds.un.org/doc/UNDOC/GEN/N07/453/72/PDF/N0745372.pdf?OpenElement>

⁶ Ibid

⁷ HRW, *Burundi Constitutional Court Decision Unseats 22 Lawmakers*, June 17th 2008, <http://hrw.org/english/docs/2008/06/17/burund19144.htm>

⁸ LDGL, September 2008

⁹ Ligue Iteka, *Vingt et Un membres du parti UPD Zigamibanga arretes et incarceres dans le cachot communal de Tangara*, http://www.ligue-iteka.africa-web.org/article.php3?id_article=3295

¹⁰ HRW, *Burundi: Detention of political opponents threatens rights*, 5th November 2008, <http://www.hrw.org/english/docs/2008/11/04/burund20130.htm>

¹¹ Ibid

¹² AI, *Amnesty International Report 2008: The state of the world's human rights*

¹³ Freedom House report

Human rights defenders in Burundi are given a certain amount of space to exercise their rights. Human rights defenders organizations in Burundi have created a series of National coalition and have also joined regional initiatives. Nevertheless, in recent months the space accorded to HRDs appears to be reducing and given that the general elections will take place in 2010, these recent developments are of particular concern. There is currently no legislation, either in the constitution or in other legal instruments that offer specific protection to HRDs.

The space which had more or less been accorded to human rights defenders, most notably to journalists, in the past has recently increasingly come under threat. Human rights defenders are subjected to threats and intimidation due to their reporting and work and the government is increasing resorting to prosecution in order to silence defenders perceived as a threat to the ruling party. Defenders speaking out against cases of torture carried out at the hands of the security forces have been specifically targeted as those discussing issues of corruption by the authorities.

For example, in May 2007, the President of Burundian Association for the Promotion of Human Rights and Detained Persons (APRODH), EHAHDP-Net member organization, Mr Nahimana Pierre Clavier, was summoned for interrogations and interrogate by the prosecutor's office after he spoke out against the delays in investigating the 'disappearances' in Muyinga province.¹⁴

Criticism of the government is often not tolerated. Mr Terence Nahimana, President of the Association Civic Inyange, was incarcerated by the security services after he criticised the government for having failed to implement a peace deal with the last remaining rebel group.¹⁵

Women human rights defenders in Burundi face specific obstacles as a result both of their inherently disadvantaged position in society and as a result of the issues which they seek to defend and challenge, notably discriminatory legislation on inheritance.

Press freedom has been significantly restricted in Burundi in recent months. Recent cases of harassment, censorship and intimidation and prosecution of journalists speaking out about issues seen as contentious by the government are of a particular concern. Journalists have had their material confiscated and have been arbitrarily detained and abused often on basis of 'national security' reasons.

In August 2008, a press conference was held to mark the visit of President Kagame to the country. Prior to the event the media was told very clearly that there were certain subjects, that could not be raised despite the fact that these were of considerable interest to the Burundian general public: notably the border question, the death of President Ntaryamira and the question relating to the participation of the Burundian 'genocidaires' in the Rwandan genocide of 1994.¹⁶

Journalist Jean-Claude Kavumbagu, who is the director of the online press agency Net Press, was arrested on the 11th September and charged with defamation after he questioned whether there was a link between the President's trip to the Olympic Games and a late delay in the payment of civil servants salaries. Mr Kavumbagu has since passed before the court but

¹⁴ Report by Ligue Iteka produced for the EHAHRD-Net Strategic Planning Meeting, April 2008

¹⁵ Report by APRODH produced for the EHAHRD-Net Strategic Planning Meeting, April 2008

¹⁶ LDGL, Rapport Mensuel sur les grandes tendances, August 2008

continues to be held for 'preventative' measures. His arrest and detention generated significant mobilization on behalf of national, regional and international journalist organizations.¹⁷ The President of the Republic, when asked to comment on the arrest, apparently responded that he did not want to interfere in judicial matters and warned the press not to get overcome by 'negative solidarity'.

More recently, in October 2008, the President of the Burundian Journalists Association, Mr Jean Paul Ndyizeye, a respected journalist who has carried out in-depth reports on the Musinga Massacres in 2006, fled the country after he received reliable information that he was being searched for by the Intelligence Services.

Journalists have also been threatened and intimidated by non-State actors.

Djibouti

The human rights situation in Djibouti has not experienced significant changes since the last report to the ACHPR. One noteworthy development has been the recent establishment of a national human rights commission which may have a positive influence in the future if the commissioners are willing to work independently and abide by the Paris Principles on national human rights institutions. Nevertheless it is debatable whether the Commission will be independent given that all the commissioners were appointed by the government and several hold either positions within the Ministries or important roles within the ruling party,. Of particular concern for the future human rights situation is the current border dispute with Eritrea; if it was to take a more military turn, this could lead to a significant deterioration in the country's human rights situation.

Following Independence in 1977 the country's first President Hassan Gouled Aptidon installed an authoritarian one-party state. The Rally for Progress (RFP) party, which is now headed by Gouled's nephew, Ismael Omar Guelleh's, has been in power ever since. The first, although very limited, elections took place in 1992- yet the presidential party took all the seats in the National legislature.

Ismail Omar Guelleh, the current president, was re-elected in 2005 in what was a one-man Presidential elections seeing as Guelleh was the sole candidate of the Union for a Presidential Majority (UPM) (a coalition which includes the Rally for Progress party). The opposition parties claimed that they were prevented from campaigning as a result of government control over the media and repression of the opposition's activities and therefore boycotted the elections which they saw as neither free nor fair. The coalition continues to hold all the seats in the national legislature notably having taken all 65 seats in the February 2008 legislative elections.

Women's rights are poor in Djibouti but very little effort has been made by the government to improve this situation. Female Genital Mutilation (FGM) remains rampant and the criminal legislation dealing with FGM is not enforced; the number of girls going to primary school

¹⁷ See for example

lags behind that of boys and women continue to suffer from discriminations as a result of customary laws, notably regarding inheritance practices.¹⁸ Many of the organisations working on women's rights are in fact linked to the regime. No laws currently exist on sexual harassment.

Restrictions on the free operation of trade unions are numerous. Members of trade unions have themselves in recent years been arbitrarily detained.

Opposition parties are in theory allowed to organise but in reality are faced with many restrictions. Permits are required in order to hold assemblies and the government continuously monitors the activities of the opposition. Opposition members have been subjected to harassment, police repression as well as to more subtle legal and logistical constraints. Certain opposition leaders resort to self-censorship and refrain from organising popular demonstrations in order not to face the reprisals of the authorities. Several leaders of the opposition have as a result been forced into exile notably the President of the opposition party Mouvement pour le Renouveau et le Développement (MRD) who was forced into exile in 2005 and has still not returned. On the 10th July 2008 the government published a decree in which it order to dissolution of the MRD accusing it of treason as a result of their alleged call for the Eritrean regime to invade Djibouti.¹⁹

There is a significant number of what could be considered as civil society organisations but most have links with the government. Certain groups are allowed to work with relatively little government interference but human rights groups do not operate freely. As a result there are currently only a few human rights organisation in operation in Djibouti. The main organisation is EHAHRD-Net Focal Point, the Djibouti League of Human Rights (Ligue Djiboutienne des Droits Humains- LDDH).

Mr Jean Noel Abdi, President of LDDH, has been subjected to ongoing intimidation and harassment in recent years; nevertheless, he has not been subjected to any new such incidents since the last Commission report.

Freedom of expression is almost inexistent thereby greatly hampering the work of human rights defenders (HRDs). There are currently no legal mechanisms in place offering protection to HRDs.

The constitution provides for freedom of press yet this is rarely adhered to. There are very few media outlets in Djibouti. The government owns the main newspaper, La Nation, as well as the national radio and television broadcasting agency. There are no private broadcasters in Djibouti. Le Renouveau, the sole independent newspaper was closed in May 2007. .

Although private newspaper are allowed to circulate many journalists resort to self-censorship- notably by refraining from dealing with taboo issues such as the human rights situation in the country, the army and relations with Ethiopia. This helps them to protect themselves against the country's defamation laws and escape government controls, which have in the past seen bans imposed on publications whose reports were perceived as being critical of the government.

¹⁹ Ligue Djiboutienne des Droits Humains (LDDH), unpublished communication, received on 11th July 2008

Government control over the electronic media has increased after the authorities came to realise that the internet was gaining in popularity and was being widely used- notably amongst the Djiboutian youth. The government has as a result blocked access to a number of sites- notably those of the LDDH, the Association for Respect of Human Rights in Djibouti (ARDHD) and certain of the opposition parties' sites.

The Djibouti authorities are largely responsible for the series of violations described above but impunity reigns and the perpetrators have not been held accountable or brought to justice.

Eritrea

The situation in Eritrea is unfortunately unchanged since reporting to the 43rd Session of the ACHPR and yet the international community and most notably the European Union fails to take action against what is clearly an authoritarian regime.

The regime of President Isayas Afewerki, who has officially been in power since independence in 1993, maintains an authoritarian grip over the country. The President uses the continued border dispute with Ethiopia and to a lesser extent with Djibouti as a justification for his oppressive rule and for severe curtailments on the human rights in his country by claiming that the implementation of the 1997 Constitution would not be possible until the border demarcation with Ethiopia had been finalized. The President himself has described the Constitution as 'just a piece of paper'.

Political freedom is inexistent. Eritrea is a one-party state with the ruling People's Front for Democracy and Justice (PFDJ) being the only party allowed to exist. The presidential elections which were planned for 1997 have never taken place. On the 18th September 2001 a more reformist group of the ruling party, which included several generals and ministers, were arbitrarily arrested after they called for the implementation for democratic reforms, including the implementation of the Constitution. This group continues to be held incommunicado and none of them have been charged or brought to court. It is believed that several have since died as a result of the harsh prison conditions and the torture and cruel, inhumane and degrading treatment or punishment to which they are believed to have been subjected to. As a result opposition parties are forced to operate in exile and are making extensive use of the internet.

Torture at the hands of the security forces, notably during interrogations, is systematic within the prisons in Eritrea. Some of the forms of torture which have been identified and are frequently used are the helicopter technique and Jesus Christ.

The prison conditions in Eritrea are terrible. Besides the make-shift prisons that are found in every sizable military unit, there are hundreds of conventional prisons, open-air prisons, under-ground dungeons, and metal shipping containers being used. Prisoners, notably political and religious prisoners as well as draft evaders, are, according to reports and rare testimonies, held incommunicado, underground or in shipping containers. 'Track B' for example is a military prison in the suburbs of Asmara and consists of underground cells which are believed to hold about 2000 detainees. Recently the authorities have begun to detain prisoners in houses in the centre of towns in order to obscure the violations taking place. Several high interest prisoners are detained in the notorious and remote Eirareiro centre.

The authorities refuse to allow local and international NGOs to monitor the prison conditions, with the notable exception of allowing the International Committee of the Red Cross to visit certain Ethiopian soldiers and to visit and register Ethiopian civilians.²⁰ Therefore, although it is very difficult to monitor the fate and the conditions facing detainees the very few reports and investigations which are carried out reveal that many detainees have in fact died in custody as a result of torture and lack of access to medical facilities.

Arbitrary arrest and detention without trial are a serious problem in Eritrea. People are regularly arrested without warrants, in particular during clampdowns on draft evaders and members of non-registered churches.

Of concern has been the recent practice of neighbouring countries, notably Egypt, of forcibly returning Eritrean asylum seekers to Eritrea, thereby violating their responsibility under the principle of non-refoulement not to return people to a country where they may face torture. Amnesty International recorded the cases of 1200 asylum seekers being deported from Eritrea in the space of one week during June 2008 from Egypt. Of this group the majority of the men and the single female who were detained have been maintained in military camps and prisons ever since.²¹

Prolonged and repeated military and national service continue to be compulsory in Eritrea and are violently enforced; the service has become more military in nature as a result of a renewed fear of conflict with Ethiopia and a worsening situation on the border with Djibouti. Conscription continues to be enforced through mass round-ups and house-to-house sweeps; the men and women that are detained during the raids are forced to serve for periods much longer than the required 18 months. Eritrea spends about 25% of its budget on the military and of a population of about 4 million, 300,000 are in active military service and many more in the reserve.²² As a result, almost on a weekly basis, hundreds of young Eritreans seek refuge in neighbouring countries in order to evade conscription. The regime is therefore turning to increasingly younger layers of the population and drafting underage members of the population to make up for these numbers.²³ Draft evaders and their families are severely punished. Parents are either expected to pay an incommensurate fine or, if they are unable to meet such costs, detained indefinitely, harshly interrogated, and in some instances tortured.²⁴ In addition to risking torture – draft evaders also risk their lives: a number of evaders caught trying to escape abroad have been killed. Family members have been fined, arbitrarily detained and, according to reports, sometimes even forcefully conscripted, to replace missing relatives.²⁵

Forced labour is according to EHAHRDP focal point, Human Rights Concern-Eritrea, a widely used and enforced practice.²⁶ Both conscripts and prisoners are being used to work on government- run farming, dam building, housing, road construction projects and more

²⁰ US Department of State, Eritrea: Country Reports on Human Practices, March 11 2008, <http://www.state.gov/g/drl/rls/hrrpt/2007/100480.htm>

²¹ Amnesty International, Eritrea/ Egypt: Up to 1,200 forcibly returned asylum seekers, , 13th august 2008, <http://www.amnesty.org/en/library/asset/AFR64/004/2008/en/1a74c9f5-69ed-11dd-8e5e-43ea85d15a69/af640042008eng.pdf>

²² Informal report sent to EHAHRDP by Human Rights Concern-Eritrea, November 2008

²³ Informal report sent to EHAHRDP by Human Rights Concern-Eritrea, November 2008

²⁴ Ibid

²⁵ Human Rights Watch

²⁶ Informal report sent to EHAHRDP by Human Rights Concern-Eritrea, November 2008

recently on mining projects. Some are forced to work on the private farms of generals and ruling party allies.

Religious freedom is not respected or guaranteed. In fact members of minority churches, notably Pentecostal churches, continue to be persecuted in Eritrea. The Government still operates according to a 2002 Decree that compels all religious groups to register. The only four religions allowed a certain amount of freedom in the country are the Eritrean Orthodox, Evangelicals (Lutheran) of Eritrea, Islam, and the Roman Catholic Church. Minority churches notably independent evangelical groups, Pentecostals, and Jehovah's Witnesses have seen their registration applications ignored or rejected by the authorities. Public religious activities as private activities involving more than five people of unregistered churches are banned. Members of minority denominations continue to be subjected to intimidation and arbitrary arrests by the armed forces. A considerable number are believed to be held in detention at any one time, some are released, others held indefinitely. Torture is often used against these prisoners in the aim of forcing them to renounce their faith. As a result, an increasing number of members of these minority churches are seeking refuge abroad. According to Amnesty International, on the 13th and 14th august 2008 40 Muslim scholars and clerics were arbitrarily arrested and have been held incommunicado ever since. This incidence highlights once again that even members of the official religion are not given the space to practice their religion freely.²⁷

Violence against women, and notably domestic violence, is pervasive. Although the law prohibits domestic violence the government has not enforced it. FGM continues to be widespread. Women undertaking their military service face harassment, discrimination and at times sexual violence. Many high level commanders take women undergoing their service as their 'wives' expecting them to do their chores and also carry out sexual favours. Those that refuse are subjected to heavy military duties, torture and severe punishment. Unwanted pregnancies and HIV infection rates are high amongst these groups. Women who fall pregnant of rape in the military are expected to remain silent concerning the identity of the perpetrator. As a result, in order to escape military conscription, Eritrean women and girls are getting married increasingly younger.²⁸

There is currently no human rights movement to speak of in Eritrea. Human rights organisations can only operate from outside of the country and are perceived by the regime as subversive and as a tool used by the Ethiopian authorities to undermine Eritrean sovereignty. There are currently no international human rights organisations working in Eritrea; the only attempt to establish a domestic human rights organisation, the Regional Centre for Human Rights and Development, only lasted for a year and was closed in 2003.²⁹

NGOs working on non-rights issues have been systematically dismantled. The authorities have on several occasions expelled international organisations and employees of NGOs, aid agencies and the UN. In fact the staunch registration requirements make it almost impossible for international NGOs to establish a presence in the country.

²⁷ Amnesty International, Eritrea: Torture, AFR 64/005/2008, 4th September 2008, <http://www.amnesty.org/en/library/asset/AFR64/005/2008/en/f358f6b0-7d8c-11dd-8e5e-43ea85d15a69/af640052008en.pdf>

²⁸ IBID

²⁹ Eritrean Movement for Democracy and Human Rights (EMDHR), Unpublished report presented at EHAHRD-Net Strategic Planning Meeting on 28th April 2008 in Entebbe

Freedom of speech and press are largely inexistent in Eritrea.³⁰ Eritreans live in complete dearth of information – with the rare exception of news which they can get from the odd foreign radio station which they can pick up in their country. Private ownership of media and international influence or ownership of media is banned. Eritrea is in fact the only country in Sub-Saharan Africa which does not have a single independent news outlet. The government has had total control over the media since September 2001, following the calls for the implementation of the constitution, which was followed not only by the arbitrary arrest of ruling party members but also by a massive crackdown by the authorities on the independent media. . This ended with the arrest of thirteen journalists and the closure of the few independent media houses in operation. The incarcerated journalists were transferred in 2002 to secret detention centres. As a result of government control over the national media, a fear of reprisals amongst the prisoners' families along with the tight restrictions on foreigners' movement within Eritrea it is very difficult to shed light on the fate of these journalists.³¹ Nevertheless, it appears that several of the journalists are still being held incommunicado in secret locations without being charged or given a fair trial. Furthermore, reports suggest that at least 4 of the journalists, notably Fesshaye 'Joshua' Johannes a prominent journalist and intellectual, have died in detention.³² One of the journalists, Fetisha Khaled, arrested has reportedly been forced into prolonged military service.

At least 19 journalists have fled from Eritrea since 2002, and this number could be much higher.³³ The decision to flee ones country is never an easy one but in Eritrea it has even more serious repercussions. Those caught whilst trying to escape have been immediately imprisoned and thereafter detained incommunicado. Furthermore, as is the case of the situation facing families of draft evaders, the families of journalists who flee the country have also been targeted with government reprisals. Reporters without Borders have recently finally discovered the fate of one journalist who had tried to escape from Eritrea in 2006. Mr Daniel Kibrom, who had worked for the State-run Eri TV, was arrested whilst trying to escape into Ethiopia in October 2006. He has, according to one of his former interrogators who later fled the country himself, been detained in a prison camp since that time and is serving a sentence of five years of forced labour.³⁴

The very few foreign journalists allowed to operate in Eritrea are under staunch control and risk expulsion at the smallest reference made to the country's human rights situation.³⁵

Ethiopia

The human rights situation in the country has deteriorated since the disputed 2005 general elections. The elections were followed by extensive protests throughout the country which the government responded to by carrying out a widespread crackdown on civil society leaving hundreds dead and tens of thousands detained. The mass arrests which took place were

³⁰ See EHAHRD-Net Index: ERIT 025/002/2007, *Eritrea must respect media freedom*, at <http://www.protectionline.org/Eritrea-Must-Respect-Media-Freedom.html>

³¹ Committee to Protect Journalists (CPJ), *Attacks on the media in Africa in 2007: Eritrea*, <http://www.cpj.org/attacks07/africa07/eri07.html>

³² Amnesty International, *Eritrea: prominent journalist reported dead in a secret prison*, 15 February 2007

³³ Ibid

³⁴ Reporters without borders, *State TV journalist secretly sentenced in 2006 to five years of forced labour*, 30th October 2006, http://www.rsf.org/article.php3?id_article=29140

³⁵ Ibid

followed by a series of unfair political trials involving opposition leaders and members, including human rights defenders, journalists, publishers and ordinary citizens, who were accused, without reliable evidence, of offences of genocide, treason and attempts to overthrow the constitutional order.

Since the elections of 2005 the government has come to perceive the political landscape in a binary manner and all form of criticism of the regime, whether from the political opposition or members of civil society, as an attack on the State. The recent legislative and bi-elections of April 2008 clearly revealed that political freedom continues to be hampered.³⁶ In the months leading up to the elections the number of cases of arbitrary arrests, prolonged illegal detentions, interrogations and threats by the police as well as by local administrators, affiliated to the ruling EPRDF, of leaders or members of opposition parties, notably of the Oromo Federalist Democratic Movement (OFDM), greatly increased.³⁷

Much of the repression against government critics is carried out by local authorities who have become increasingly powerful as a result of the government's decentralisation policies and who justify their actions by accusing the victims of being sympathisers of the insurgent Oromo Liberation Front (OLF). Several alleged 'sympathisers' of the OLF arrested prior to these elections in Oromia were brought to Addis Ababa and were still being illegally detained in August 2008.

The Ethiopian Human Rights Council (EHRCO), EHAHRD-Net focal point in Ethiopia, has reported on a number of cases of extrajudicial killings – notably of people who had in the past been linked to opposition parties and who had suffered from human rights violations at the hands of the authorities in the 2005 clampdown.³⁸

Authorities, and notably the police forces, continue to arbitrarily detain people without arrest warrants, denying access to counsel and family members for periods longer than the Constitutionally stipulated time restrictions of 48 hours and at times in defiance of court rulings particularly in the more remote regions and notably in Oromia. Most cases of arbitrary arrest and detention involve people suspected of being opposition members or sympathisers of insurgent groups, notably the OLF or of the Ogaden National Liberation Front (ONLF), another outlawed group which has been carrying out low-level insurrection against the government.³⁹ EHRCO has recorded several cases of people being arrested upon leaving the court after they were released on bail for previous charges.⁴⁰ Although prisoners are by law supposed to be detained in official detention centres- many continue to be held in unofficial local detention centres.

The Constitution and law prohibit torture; however, reports show that torture continues to be practiced by the security forces, notably those working at the Maikelawi in Addis Ababa, against people suspected of having links with the Oromo Liberation Front.⁴¹

³⁶ HRW, *Ethiopia: Repression sets stage for non-competitive elections*, 11th April 2008
<http://hrw.org/english/docs/2008/04/10/ethiop18510.htm>,

³⁷ IBID

³⁸ EHRCO, *The human rights situation in Ethiopia : 28th Regular Report*

³⁹ EHRCO, *The human rights situation in Ethiopia : 28th Regular Report*

⁴⁰ EHRCO, *The human rights situation in Ethiopia : 29th Regular Report*, January 2008,
<http://www.ehrco.org/reports/reg29eng.pdf>

⁴¹ EHRCO, *The human rights situation in Ethiopia : 28th Regular Report*

Besides the 2005 incidents, there have also been serious accusations of human rights abuses arising from the long standing fighting between the Ethiopian army and the Ogaden National Liberation Front (ONLF) rebels in the country's Somali Regional State. The Ethiopian troops have responded to the increase in attacks by the ONLF which has taken place since the Ethiopian troops invaded Somalia, by subjecting the civilian population to extrajudicial killings, rape, forced disappearances and arbitrary detentions during supposed counterinsurgency campaign. These actions have been carried out with impunity.

Despite these persistent and large-scale violations, particularly of civil and political rights, the government continues to receive foreign support and assistance. In the immediate aftermath of the elections, many members of the European Union had cut direct aid to Ethiopia in protest; nevertheless, this was only temporary and many are now channelling more aid in than ever before.

The situation facing human rights defenders in Ethiopia has significantly deteriorated following the disputed elections of May 2005, the demonstrations of November 2005 and the subsequent unfair political trials; the space accorded to civil society organisations, in particular human rights organisations, has been greatly restricted.

Human rights organisations and activists have continued to be subjected to threats, harassment and attacks on their personal security at the hands of the authorities ever since 2005. Human rights defenders (HRDs) are constantly being watched and are often trailed. Their offices are under surveillance. Government censorship of reports, press releases and statements by human rights organisations persists and has in fact recently increased and as described above the Ministry of Justice has on several occasions called on organisations to refrain from making certain statements deemed 'undesirable' and not valid for public consumption. Intimidation of defenders is exerted by many different levels of the authorities. Several activists and organisations have been personally summoned and cautioned by the authorities as a result of their work. Last year, the Executive Director of Action Professionals Association for the People (APAP) was told by the Minister of Justice himself to stop APAP's activities relating to a series of forced evictions and to retract the press statement which they had released highlighting the ways in which these evictions represented human rights violations. The Minister threatened to shut the organisation if a new statement was not released rejecting the initial claims. Human rights organisations, notably EHRCO, have also had their bank accounts frozen and had their request for licences denied. Activists working outside of Addis Ababa face even greater risks given the lack of exposure they receive.

Human rights defenders have, as a result, had to exercise much more caution in their legitimate work and have often resorted to self-censure. Defenders are, in particular, reluctant to take on civil and political rights issues or to push for what could be seen as political aims. Furthermore, human rights defenders are often cautious about publicly and concertedly supporting other defenders e.g. to promote the rights of defenders not member of their own organizations. In fact, despite the significance of the cases of Daniel Bekele and Netsanet Demissie there was in fact no large-scale mobilization by defenders at a national level around the cases.⁴² Human rights organizations also often limit the types of activities which they

⁴² In the aftermath of the November 2005 demonstrations, 38 members of the main opposition party, the Coalition of Unity and Democracy (CUD) including several human rights defenders, in particular journalists were detained. In July 2007 they were sentenced by the Ethiopian Federal Court ranging from one year to life imprisonment, after a lengthy trial, which failed to meet international standards of impartiality and

undertake; EHRCO is in fact one of the only organizations carrying out advocacy and monitoring on human rights especially civil and political rights. Activists are also reluctant to use certain channels for their work out of fear of reprisals notably: litigation at national and regional level and mass mobilization.

The authorities are increasingly using more subtle 'legal' constraints to further increase their oversight and control over the legitimate work of human rights defenders. The draft Charities and Societies Draft Proclamation that will certainly be under review by the Ethiopian Council of Ministers when it reconvenes in October 2008 is of particular concern.

The current draft of this CSO bill, which is the third to be released since June 2008, seeks to set-up a supervisory agency - the Charities and Societies Agency (CSA) - that will be appointed by the Minister of Justice. The powers accorded to this Agency further extends government control over NGO registration notably by granting it the power to deny registration and cancel licences for reasons which are largely unclear and arbitrary. Under the current draft all organizations would have to notify the Agency seven days before holding any meeting of their General Assembly. The many different registration and bureaucratic requirements put in place render it almost impossible for organizations to ensure complete compliance.

The third draft, although containing some improvements, has in fact introduced more stringent criminal penalties notably against anyone deemed to have links with 'unlawful' organizations, i.e. organizations failing to meet these staunch registration and bureaucratic requirements. The law clearly contravenes international law and the Ethiopian constitution which guarantees freedom of association.

Of particular concern, is that the draft proclamation stipulates that charities and societies established by Ethiopians under Ethiopian law are deemed to be foreign institutions solely for receiving more than 10% of their income from external sources. This clearly poses a significant risk given that the majority of NGOs in Ethiopia do receive some form of foreign funding and once considered to be 'foreign' may not engage in issues relating to human rights, governance, gender, democratization and conflict resolution, amongst others. Furthermore, the bill also imposes restrictions on local fundraising and therefore undermines the opportunity for these organizations to increase the very minimal funds they currently generate from their national membership and from internal sources. These provisions clearly threaten the very existence of an organization such as EHRCO and if passed might force them to close or to significantly limit their activities thereby greatly undermining their vital work. It also risks criminalising human rights work carried out by international human rights organisations.

independence.⁴² After the sentencing many of those detained were in fact released, having received a presidential pardon after they agreed to sign 'an acknowledgement of mistakes' for their activities during and after the 2005 elections.

However, two human rights activists, Daniel Bakele and Netsanet Demissie, refused to sign this acknowledgement and decided to defend themselves in a trial. In December 2007 they were sentenced to 30 months imprisonment having been accused of inciting violence and provoking 'outrages against the constitution', a decision which was based on weak and implausible evidence. They were held until the end of March 2008 when they finally agreed to sign the acknowledgement and received a presidential pardon, the provisions of which the activists have been told must remain strictly confidential.⁴²

The government recently submitted the bill to the Parliament when it reconvened in October. Given that no bill put forward by the ruling party has of yet been rejected by the EPRDF-dominated parliament, this is of great concern.

Although the Constitution and law provide for freedom of expression the government has greatly restricted these rights. The authorities continue to harass, intimidate and prosecute journalists, publishers and editors thus forcing many journalists to exert self-censure. Of particular concern is the increasing use of criminal law by the authorities as a means of stifling critical journalism.⁴³

The new Media and Freedom of Information Law, which was passed in July 2008 rather unexpectedly and without taking into account the amendments called for by media professionals and lawyers, contains many provisions which are at odds with the Constitution, notably by introducing severe criminal charges against the media. The law notably allows the authorities to prosecute the media for defamation cases even if the allegedly 'defamed' government official does not initiate legal proceedings.

Independent media outlets remain scarce. Several of the independent media outlets shut during the post elections clampdown remain closed, notably Asqual, Netsanet and Menilik. Over the last six months a few independent media outlets have been allowed to open-up but their 'independence' is often threatened or undermined. Prosecution is used as a means of restricting the freedom of the media. Over the course of the last three months alone, three journalists working for independent newspapers have been arrested.⁴⁴ Mr Mesfin Negash, the editor of *Addis Neger*, an independent current affairs paper, was arrested and imprisoned on the 4th August on contempt charges after he interviewed the lawyer of a famous pop star, who is currently on trial. He was later released on bail.

On the 22nd August Mr Amare Aregawi, managing editor of *The Reporter* weekly newspaper, was arrested in Addis Ababa on alleged defamation charges. The arrest followed the publication of an article reporting on a labour dispute between the employees and management of a government-run brewery. The chair of the board of directors of the brewery is in fact the former minister of information and the current public relations advisor of Prime Minister Meles. Following his arrest Mr Aregawi was illegally transported to a prison in Gondor where he finally appeared before a judge on Monday 25th August and subsequently released on bail on the 27th. The libel suit against him was withdrawn soon after. On the 31st October however Mr Aregawi was attacked outside his son's school leaving him seriously injured on the head and unconscious.⁴⁵ Two of the attackers were arrested immediately, and a third soon after.⁴⁶

On the 3rd November 2008 the Ethiopian High Court sentenced Mr Tsion Girima, the editor of the private weekly Enbilita, was convicted of criminal charges of "inciting the public through false rumours" after the paper wrongfully named the judge in the trial of a famous pop star (see above) eventhough the paper used the correct name in the subsequent edition.⁴⁷ Mr Girima is still being detained pending his sentencing.

⁴³ CPJ, *Ethiopia: Two newspaper editors, publisher arrested for Libel*, March 6th 2008, <http://www.cpj.org/news/2008/africa/ethiopia06mar08na.html>

⁴⁴ EHAHRDP, EHAHRD-Net Index 025/003/2008, EHAHRDP welcomes the release of Ethiopian news editor Mr Amare Aregawi whilst being about the narrowing space for media freedom, 1st September 2008

⁴⁵ RSF, Ethiopia. Leading newspaper editor beaten unconscious outside of son's school, 3rd November 2008

⁴⁶ Ibid

⁴⁷ CPJ, Ethiopian Editor convicted over misidentification, 3rd November 2008

Kenya

Kenya was for a long time seen as one of the more stable and peaceful countries in the sub-region. Nevertheless the events that unfolded following the contested December 2007 elections, and more recent violations of the rights to life and protection of witnesses revealed the significant human rights violations which continue to take place. According to reports by the Independent Medico-Legal Unit, (IMLU), EHAHRD-Net focal point organization, the harassment of human rights defenders is slowly beginning to shift from targeting of individual defenders to more systematic targeting of human rights organizations. This trend confirms previous concerns that the establishment of the Grand Coalition government would in fact have a negative impact on civil society notably by bringing both the government and the opposition together in a shared consensus to limit the space accorded to civil society and to restrict efforts to shed light on violations committed by both parties.

Authorities, and notably the police forces, continue to arbitrarily detain people, particularly alleged terrorists, without arrest warrants or charge, denying them access to counsel and family members for prolonged periods. Lengthy pre-trial detentions are a problem. Prison conditions, although improving, continue to be harsh and at times life threatening. According to a recent report by HRW, the Kenyan authorities have also been involved in rendition flights- arresting a number of suspects along the Somali border and handing them over to the Ethiopian forces in Somalia.⁴⁸

The deployment of Kenyan military to the Mount Elgon region of western Kenya in order to put down an insurgency by the Sabaot Land Defence Force (SLDF) in March 2008 has been marked by severe violations- which include mass detentions, rape, torture, disappearance and killings. However, the recent report of the Waki Commission (see below) failed to investigate the violence in Mount Elgon or to include it into its recommendations of issues to be dealt with once a national tribunal is established. SLDF was formed in 2006 supposedly to defend land owned by a clan, which belongs to the Kalenjin ethnic group, against government eviction policies. The SDLF has, according to reports, been responsible for hundreds of death, kidnappings, torture and rape of those who opposed them in the region as well as extensive looting and forced appropriation of land. In the run-up to the elections the actions of the SDLF took on a political tint when it sided with certain candidates and attacked political opponents.⁴⁹ Following the December 2007 presidential elections SLDF abuses increased. The military was deployed and initiated a strategy aimed at rounding up the entire male population in the district; including children, in the process not only arbitrarily detaining thousands but also torturing many of those detained and deliberately killing a significant yet as of yet unknown number. According to reports 37 people who were arrested by the security services remain 'disappeared'.⁵⁰ An investigation by IMLU reveals that the military are the main perpetrators of the cases of torture identified but in some cases victims reported to having been tortured by police.⁵¹ The government has launched an internal police inquiry but continue to deny that torture was carried out.

⁴⁸ HRW, Why am I still here? The Horn of Africa Renditions and the fate of the missing <http://hrw.org/reports/2008/estafrica1008/estafrica1008web.pdf>; October 2008, <http://hrw.org/english/docs/2008/10/01/ethiop19896.htm>

⁴⁹ HRW, Kenya: Punish war crimes in Mount Elgon, <http://hrw.org/english/docs/2008/07/25/kenya19471.htm>

⁵⁰ Ibid

⁵¹ IMLU, *Preliminary Report of Medico-Legal Investigation of Torture by the Military at Mount Elgon 'Operation Okoa Maisha'*, April 2008, http://www.nationmedia.com/dailynation/downloads/mt_elgon_Investigations_IMLU_report.pdf

Internal displacement has been a continuing problem within Kenya, particularly displacement from within the Rift Valley region. At least 4 000 000 were forcefully evicted or forced to flee from their homes following the elections in order to escape from the ethnically and politically motivated violence. Their resettlement was to be a key aspect of the peace accord signed between the two protagonists in the elections; nevertheless many IDPs, up to 20 000, have still not been able to return home and remain in camps which apparently fail to meet their basic needs. The resettlement package which was supposed to be offered to the IDPs has also been criticized. A significant number of people, with estimates ranging from 66,000 to 200,000 have also been displaced as result of the violence in Mount Elgon.⁵²

The rights of women continue to be violated. Although Female Genital Mutilation has been made illegal in Kenya it continues to be practiced particularly in rural areas and amongst specific ethnic groups. The practice is increasingly becoming medicalised. The authorities have been very slow to implement the law which criminalises FGM. Unequal property rights are a significant problem to women.

Human rights defenders in Kenya continue to face harassment, intimidation and prosecutions. One of the main challenges facing defenders is the complacency of the authorities and the lack of willingness and effort to respond to defenders calls. The work of human rights defenders has been made particularly complicated by the establishment of the Government of National Unity, following the contested elections of December 2007, as this coalition has brought the opposition to power and therefore poses a risk to defenders and their ability to serve as effective watchdogs.

The government continues to use prosecution as a means of undermining the work of defenders. The police for example brought criminal charges against a doctor who had participated in a forensic investigation into cases of torture perpetrated by the military in Mount Elgon, an investigation which had been commissioned by the Kenya National Commission on Human Rights. The charges related primarily to supposed administrative irregularities of the doctor, charges which were later dismissed by the court, but he is still being charged on basis of having provided false information.

Over the last 6 months several cases have taken place that have revealed the authorities' new efforts to undermine the work of human rights organizations which are perceived as being overtly critical.

As has been previously reported the deployment of Kenyan military to the Mount Elgon region of western Kenya, in order to put down an insurgency by the Sabao Land Defence Force (SLDF) in March 2008, has constituted a significant threat to HRDs who are speaking out against the violations currently taking place. Several activists are reported to have been intimidated and interrogated. More recently Mwatikho, a human rights region working in Western Kenya, was deregistered on the basis that they were carrying out activities of an NGO when in fact they had registered as a community organisation but this was clearly linked to their release of a report accusing the government of torture and enforced disappearances in Mount Elgon district.⁵³

⁵² HRW, "All men have gone. War crimes in Kenya" http://hrw.org/reports/2008/kenya0708/1.htm#_Toc204069462

⁵³ Informal report sent to EHAHRDP by IMLU in October 2008

Members of Bunge la Mwananchi, a community based civic forum organization, has been repeatedly harassed and arrested in recent months. For example, during a routine gathering in a public area, the police interrupted the meeting and arrested 20 members of the organization, five of which were later brought to caught and charged with 'idling'. They later pleaded guilty, upon their lawyer's recommendation, and were each fined KShs 500.⁵⁴

Regulations are increasingly being interpreted in a manner so as to undermine the work of defenders and their rights, notably the freedom of assembly. IMLU, along with several other civil society organizations sought, to organise a peaceful procession for the 26th June 2008, in honour of the UN's International day in support of torture survivors and victims'. In order to comply with Kenyan law, which stipulates that the police must be notified before the holding of such event, IMLU informed the police prior to the event only to see their 'notification' rejected on security grounds. The march was called off but participants gathered on the given day but they were soon dispersed by the police using tear-gas. IMLU is seeking to bring this case to court based on notion that the police's decision to reject the notification was illegal and unconstitutional given that only a notice is sufficient under the Public Order Act.⁵⁵

Of utmost concern, given the current inquiries into the killings of members of the Mungiki sect at the hands of the security services and into the post-election violence for which many witnesses are coming forward, is the lack of protection accorded to human rights defenders willing to speak out about human rights violations. The recent case of Mr Kiriinya Ikunyua is a particularly tragic example.

A day after the release of the report by the Kenyan Commission of Inquiry into the post-election violence, Mr Kiriinya Ikunyua, a human rights defender was shot dead on his front door on the morning of the 16th October 2008 by what are believed to be colleagues of his within the police force. Mr Ikunyua had been working as a driver for the police for several years. In 2007 he witnessed over a dozen unlawful killings at the hands of the police. Mr Kiriinya had decided to give evidence on the violations to two national human rights bodies. It is possible that the evidence provided by Mr Kiriinya Ikunyua and information on his whereabouts may have been leaked.

This incident occurred despite the fact that a bill on witness protection was recently passed into law stipulating that the government must ensure the safety of all witnesses in danger. According to the provisions, witnesses may be given new identities and relocated to other countries in case their lives are perceived to be in danger, the state will cater for transport, meals and accommodation if need arise of safe keeping of a witness. The Attorney General is granted a particularly important role to play in guaranteeing this protection. This recent incident does however put into question the potential of this bill to guarantee the protection of those speaking out against the authorities.

Civil Society Organisations have been trying to offer each other support in these attacks and calling for greater freedom of association notably in the press but neither the President nor the Prime Minister have responded to these complaints.⁵⁶

⁵⁴ Ibid

⁵⁵ Ibid

⁵⁶ IMLU

A significant challenge facing human rights defenders is the lack of accountability for those responsible for human rights violations- particularly state actors. When efforts are made to hold individuals and entities accountable, notably through the release of key recommendations relating to the given issues, the State has time and again sought to delay the implementation of the recommendations.

Following the election violence, a Commission of Inquiry led by Justice Philip Waki was set-up to investigate the violations that occurred during the post election violence. The Commission released its report on the 15th October 2008, after three months of investigations; in its recommendations it called for the overhaul of the Kenyan Electoral Commission and for the establishment of a national special tribunal for people involved in last year's post election violence. Given the authorities track record on ensuring accountability and fearing that delaying tactics will be used by the new Coalition to undermine and stem the implementation of these recommendations the Commission has sought to set up a mechanism to prevent such delays from occurring. In their recommendations they stipulate that if the proposed tribunal is not established or efforts are made to undermine it then a list of those believed to be responsible for the most serious crimes will be sent to the International Criminal Court in the Hague.

The media continues to play a key role in Kenya notably helping to push for government accountability and yet there are still no legislation relating to freedom of information despite the fact that Kenya is party to several international and regional treaties guaranteeing freedom of expression and the media.

Accountability for these violations remains largely inexistent yet for peace to be lasting and concrete the climate of impunity which continues to reign in Kenya will need to be dealt with by the new coalition government.

Rwanda

The human rights situation in Rwanda has seen some improvements in recent months, notably with the enactment of legislation abolishing the death penalty and a reduction in the number of cases of torture and abuse in official detention centres. Nevertheless, many improvements must still be made notably regarding the situation of prisons. Rwanda has signed up to many international and regional human rights instruments yet they have not all been domesticated and are therefore rarely put into practice. The current pressure, stemming in particular from outside of Rwanda, to ensure that members of the Rwandese Patriotic Army (RPA) are held accountable for their crimes has received very negative responses from within the government who have tended to accuse those calling for such accountability of 'genocidal ideology'. The national human rights movement is still in its initial phase and continues to be shaped and largely influenced by the legacy of the genocide. The government is increasingly seeking to make civil society organizations form larger umbrella organizations and platforms. Many activists, notably journalists, resort to self-censorship. Restrictions on freedom of expression and the press are numerous and independent journalists, in particular, are faced with persistent harassment and persecution. The current conflict in the Eastern part of the Democratic Republic of Congo (DRC) risks to lead to a further level of censorship or self-censorship

amongst the private media, both those based in Rwanda but also reporters from neighbouring countries reporting on Rwanda.

Detention without trial continues to be widespread, the country's prisons are overcrowded with people awaiting trial for genocide-related crimes and the conditions are extremely harsh. Significant efforts have been made by the authorities to improve these conditions and to deal with the large prison population, notably through a series of mass releases since 2003. According to the Rwandan League for the Promotion and the Defense of Human Rights (LIPRODHOR), EHAHRD-Net member, the number of cases of torture and abuse in detention at the hands of the security services and the police has decreased.⁵⁷

Gacaca trials, a system of community based courts that was established in 2001 has helped to deal to a certain extent with the problem of the massive prison population. Nevertheless, these courts fail to meet the minimum international standards of impartiality and independence; for example, the courts do not have the mandate to look at human rights violations committed by the RPA during the genocide and are prone to being influenced by the authorities. The trials were supposed to end in December 2007 but Kagame ordered the transfer of thousands of cases from the conventional courts to the *Gacaca* courts and the *gacaca* law was amended to allow these courts to impose life imprisonment.⁵⁸ Furthermore, the protection of victims and witnesses appearing in *gacaca* trials has not been guaranteed, and reports show that several witnesses and survivors have been killed by unidentified individuals since 2007.⁵⁹

Fair trial standards continue to be violated in Rwanda: crimes committed by the RPA have not been adequately investigated. The recent case in which two Rwandan Patriotic Army captains were sentenced for the murder of 13 Catholic Priests during the 1994 genocide reveals some attempt to overcome this – nevertheless they were given reduced sentences as it was judged that their actions were not premeditated and were carried out by soldiers under their command.

In reality most victims of the crimes of the RPA have not been granted access to justice and the government has made it an important part of its foreign policy to undermine efforts by other national jurisdictions to prosecute RPA soldiers.⁶⁰ Furthermore, in July 2008, the Constitution was amended to give former presidents, who had not been charged whilst in office, immunity for life.⁶¹ This clearly once again reveals the country's one-sided accountability mechanisms as this amendment will certainly protect Kagame from ever having to be held accountable, at a national level, for his potential involvement in the crimes committed during and following the genocide by the RPA.

The Executive continues to exert significant control over the judiciary particularly over the *Gacaca* trials and cases relating to 'genocide ideology' and 'divisionism'. Steps aimed at ensuring the transfer of individuals from the International Criminal Tribunal for Rwanda (ICTR) in Arusha to Rwanda have been initiated, notably with the enactment of legislation abolishing the death penalty; nevertheless this has been replaced by a maximum criminal punishment of life imprisonment with solitary confinement. There are still many

⁵⁷ US Department of State, *Rwanda: Country reports on human rights practices*, March 11th 2008, <http://www.state.gov/g/drl/rls/hrrpt/2007/100499.htm>

⁵⁸ HRW, *Country Summary: Rwanda*, January 2008, <http://hrw.org/wr2k8/pdfs/rwanda.pdf>

⁵⁹ US Department of State, *Rwanda: Country reports on human rights practices*

⁶⁰ HRW, *Rwanda: Law and Reality. Progress in Judicial reform in Rwanda*, July 2008

⁶¹ BBC, *Rwanda gives ex-leaders immunity*, Thursday 17th July, <http://news.bbc.co.uk/1/hi/world/africa/7511094.stm>

improvements needed before the Rwandese justice system will adhere to international standards of independence and impartiality.⁶² In fact a recent decision by the International Criminal Tribunal on Rwanda (ICTR) declared that it would not initiate the process of transferring cases from the tribunal to National Rwandan courts for a range of reasons notably that those accused may be sentenced to life imprisonment with solitary confinement and that they may not be guaranteed fair trial rights.

A new law on genocidal ideology that was adopted by the Parliament in June 2008 is of particular concern given the rather vague list of criteria it sets down as defining genocide ideology and due the fact that it fails to consider the question of intent in the manifestations of behaviour deemed to fit into this definition.⁶³

The current president, Paul Kagame, was elected following a landslide, in what appears to be a rather irregular election in 2003, the first elections since the genocide. Political freedom continues to be restricted in Rwanda both as a result of a rather dismissive political culture linked to the post-genocide climate, the moral and physical dominance of the RPF, its policy of 'National Unity' and restrictions on the opposition. Nevertheless, in 2007, some positive steps were taken which have increased the political space: former President Bizimungu was released, having served 5 years of a 15 year sentence for inciting civil disobedience, criminal association and embezzlement of state funds, when he tried to establish an opposition party in 2002; and, on 1st June a new political party law was passed which lifted a ban on political activities at a local level.⁶⁴ During the recent legislative elections of September 2008 most opposition parties formed a coalition party with the FPR and those which remained outside of this coalition were rather invisible during the campaign. The elections were observed as having taken place in a correct manner. The FPR led coalition won 78.76% of the votes. Of those elected into the Parliament, 56.2% are women. Nevertheless, according to the Ligue des Droits de la Personne dans la Region des Grands Lacs (LDGL), a regional human rights organization, Cases of intimidation against leaders or members of the opposition were witnessed.⁶⁵ Very few observers working on behalf of the opposition parties were present during the vote and some were forced out of the voting offices.⁶⁶

Land rights continue to be a significant problem in Rwanda and the recent land law has created much controversy notably given its attempt to create a more centralized control over the land in Rwanda and the fact that it stipulates that those holding a certain amount of hectares must give part of their land to others without compensation. Another issue which has resulted in significant violations has been the recent evictions taking place in Kigali as part of a plan of urban development. A large part of those evicted have not been sufficiently compensated and have been forced to resettle at a distance from the capital.

The 2003 Constitution stipulates that at least 30% of seats in parliament must be filled by women. The law prohibits rape and the government has taken significant measures to put this law into practice. Domestic violence however is not criminalized and is widespread. Women continue to face societal discrimination although efforts have been made to overcome such

⁶² Ibid

⁶³ HRW, Rwanda: Law and Reality. Progress in Judicial reform in Rwanda, July 2008

⁶⁴ Freedom house, *Freedom in the World : Rwanda*, 2nd July 2008,

http://www.freedomhouse.org/inc/content/pubs/fiw/inc_country_detail.cfm?year=2008&country=7476&pf

⁶⁵ LDGL, August 2008

⁶⁶ LDGL, September 2008

challenges notably by putting in place measures to increase girls' access to education and women's involvement in the workforce.⁶⁷

Discrimination based on sexual orientation is a problem. Homosexuality is not illegal in Rwanda but the new draft penal code prohibits people from encouraging others to engage in same sex relations, which might inadvertently be used to criminalise a partner in a relationship. Furthermore, recently certain members of the government have called for homosexuality to be made illegal.

The genocide and its consequences continue to influence the human rights community in Rwanda and to shape the discourse used by the authorities to restrict and repress critical defenders. The government, for example, continues to use 'divisionism' as a justification for its oversight and restrictions on human rights activities. The movement is still in its early phases and remains rather reluctant to overtly criticize the government. NGO regulations are constraining. The authorities tend to see human rights organisations as political entities and deal with them as such. The mechanisms in place which are in theory supposed to protect defenders, notably the Human Rights Commission or the High Council of the Press, are often either still rather weak, as is the case of the former, or in fact often antagonistic to the independent defenders as the case of the later.

As a result of the post-genocide climate and in particular as a result of significant repression against human rights organizations in 2004, during which a number of NGOs, notably la Ligue Rwandaise pour la Promotion et la Defense des Droits de l'Homme (LIPRODHOR), EHAHRD-Net Member, were accused of propagating 'genocide ideology'⁶⁸ by a parliamentary commission who called for these organizations to be banned, self-censorship remains widespread amongst the human rights community. Certain issues have been made more or less taboo by the authorities. The *gacaca* courts are one of these taboo issues. HRDs who have denounced the failings of the *gacaca* trial proceedings have been subjected to harassment and have been accused of treason or 'genocidal ideology'.⁶⁹ Defenders seeking to raise awareness amongst witnesses, defendants and victims involved in the trials of their rights, have been assaulted.⁷⁰

The recent case of Mr Francis Xavier Byuma has generated significant concern amongst human rights organizations. Mr Byuma was the President of *Turengere Abana*, an NGO working on child rights'. Mr Byuma was investigating the rape allegations made against a Judge of a *gacaca* tribunal when he was himself placed on trial and accused by that very same court. He was sentenced to 19 years imprisonment for complicity to genocide. The law establishing the *gacaca* courts specifically states that the accused and the judges could not have had personal conflicts in the past.⁷¹ By going ahead with this trial despite the conflict of interest, the court denied Mr Byuma his right to a fair and independent trial. A *gacaca* appeals court upheld the decision in August 2007. No progress has been made since.

Mistrust amongst individual defenders and organizations, as a result of the prevailing situation in the country, is rife and undermines collaboration amongst human rights defenders. Reports

⁶⁷ US State Department, *Rwanda: Country reports on human rights practices*

⁶⁸ Freedom house, *Freedom in the World : Rwanda*

^{69/69} OMTC, *Steadfast in protest: Annual report 2007*,

http://www.omct.org/pdf/Observatory/2008/annual_report_2007/report2007obs_eng.pdf

⁷⁰ OMTC, *Steadfast in protest: Annual report 2007*

⁷¹ HRW, *Appeals Court Confirms sentence against activist*, 22nd August 2007,

<http://hrw.org/english/docs/2007/08/21/rwanda16714.htm>

suggest that the government has in fact put pressure on certain NGOs to keep them informed about the activities of other NGOs.⁷² This mistrust has been further accentuated by the recent Byuma trial.

Given the current climate many donors are reluctant to fund national human rights directly and are increasingly either funding through direct budget support to the government who then gives money to the official civil society platform or to this platform directly. Many national organizations are therefore facing significant financial difficulties. As a result the only human rights organisations which have the means of speaking openly about the situation are often the foreign ones.

Activists working on civil and political rights face particular challenges. Most recently there was a significant debate in Rwanda when LIPRODHOR decided to independently carry out election monitoring rather than working through the civil society platform which they were part of. They were denied permission to observe the elections by the Electoral Commission despite the fact that they met all the necessary legal requirements. LIPRODHOR has still not been given its license this year. The LDGL also carried out election monitoring activities; their final report however generated a negative reaction from the authorities with the National Election Commission President publicly criticizing and rejecting all the findings of the report.

Minority rights activists, notably those seeking to promote the rights of indigenous minorities, have often fallen prey to government claims of divisionism given that since the genocide all references to ethnic groups are banned. This has had a particular impact on the Community of Indigenous Peoples in Rwanda (CAURWA), an organization that seeks to promote the rights of the Batwa minority, were accused of violating the constitution and were forced to remove the word 'Indigenous' from the name of the organisation.

The very small group working on the rights of sexual minorities faces staunch opposition both from the authorities and the general population. On the 27th February 2008 two lesbian Rwandese human rights defenders were arrested at the Airport in Kigali on their way to Maputo, Mozambique, to attend the 3rd Leadership Institute of the Coalition of African Lesbians (CAL). They were transferred to the Criminal Investigation Department (CID) and accused of forging the invitations for the conference. They remained in detention until their trial which started on the 3rd March. They have since been released on bail pending further investigations and have as of yet still not received their passports. This group has received no support for other human rights organizations or from the Human Rights Commission.

NGO registration and reporting requirements are extensive and time consuming. Domestic NGOs have to, for example, register on a yearly basis at the Ministry of Justice; they must also present significant documentations to the authorities in all the districts in which they work in. Such regulations place significant burdens on their human resources. A recent NGO Bill also grants the government significant oversight over the activities of foreign NGOs. The space which is open for a constructive, professional and independent civil society to grow is often restricted.

Freedom of expression and media continued to come under threat as the government increases its attacks on independent media outlets and its harassment and persecution of independent and critical journalists.

⁷² US Department of State, *Rwanda: Country reports on human rights practices*

Given the involvement of the press in the Genocide the press continues to be viewed with suspicion. The authorities have at times used this fear as a justification for their crackdown on critical reporting and have on numerous occasions accused journalists of treachery and inciting ethnic hatred.⁷³ Laws on divisionism and genocide ideology are often used as a powerful tool to restrict freedom of expression. The government, as many other governments in the region, has increasingly sought to use restrictive legislation as a means of undermining freedom of expression. The Press law in Rwanda imposes criminal sanctions which continue to be used to limit freedom of expression.

Journalists, notably those working for independent outlets such as Umuseso and Umuco, have faced harassments, threats, intimidation, violent attacks and persecution.⁷⁴ Journalists who have dared to criticize the ruling party or the government's vision of the past, present and future of the country have faced harsh consequences. Criticisms of the government are often misinterpreted and portrayed as inciting divisionism.

Most recently, on 14th July 2008, the deputy editor of Umuseso, Furaha Mugisha, who had already been interrogated in July 2007 by the security services, was expelled from Rwanda on claims that he had fraudulently sought Rwandese identity papers when he was in fact a Tanzanian national. Mr Mugisha has a Rwandese mother and previously held a Rwandese identity card yet the authorities refused to renew it in 2005.⁷⁵

In April 2008, Robert Mukombozi, a journalist who had been working for the Ugandan newspaper, the Daily Monitor, was declared *persona non grata* by the Rwandan authorities after he was accused of having written articles which were defamatory to the Kigali government. Mr Mukombozi had previously been a reporter for the pro-governmental New Times in Rwanda until he was fired for having published information which supposedly placed the relations between Rwanda and Uganda in jeopardy.⁷⁶

In March 2008, the founder and editor of Umuco, Bonaventure Bizumuremyi, went into hiding the day before a police raid was carried out on his house. The police spokesperson then made a statement in which he claimed that Bizumuremyi was wanted on defamation charges; the spokesperson subsequently went on Radio Rwanda and called on citizens to help the security services track him down. The High Press Council subsequently suspended Bizumuremyi's press card for six months following a petition by other journalists who also called for the suspension of Umuco. Bizumuremyi had already been charged in 2006 with defamation and divisionism for having supposedly insulted Kagame.⁷⁷ The most recent harassment and attacks came after Bizumuremyi published an editorial and a series of articles in which he questioned the future of Kagame, claiming his path lay either in front of the International Criminal Court, in exile or that he would commit suicide as Adolf Hitler. The other articles pointed at the role of the army and the ruling party in the death of a group of Spanish priests. In October 2008 a colleague of Bizumuremyi sought once again to bring out a new edition of Umuco but after having printed the paper in Uganda, it was confiscated by the

⁷³ Amnesty International, *Amnesty International Annual Report 2008. The State of the World's Human Rights*, 2008, <http://thereport.amnesty.org/>

⁷⁴ Amnesty International, *Amnesty International Annual Report 2008. The State of the World's Human Rights*

⁷⁵ LIPRODHOR, *Expulsion du rédacteur en chef adjoint de l'hebdomadaire*, 14th July 2008, <http://www.liprodhor.org.rw/RwandaPress%20expulsionFuraha.html>

⁷⁶ LIPRODHOR, <http://www.liprodhor.org.rw/Robert%20Mukombozi.html>

⁷⁷ State Department Report

police at the border. This confiscation has no legal grounding given that the government had not accepted the Media Council's call for a suspension of the paper.

That these restrictions are targeting private papers first and foremost is clear. On the 6th May 2008, while celebrating World Press Freedom Day, three of Rwanda's popular private Newspapers Umuseso, Rushyashya and Umuvugizi, were dismissed from Serena Hotel by the Information Minister, Louise Mushikiwabo, stating that she wanted "to teach them a lesson" to become professional in their careers. Since this event, journalists from neither paper have been allowed to attend any events held by the Minister.

Somalia

The human rights situation in Somalia has been of grave concern ever since the overthrow of President Siad Barre in 1991 ending years of his violent rule. Over the last two decades the rights of Somali civilians have been violated time and again by all actors involved in the struggle to fill the power vacuum which resulted from Barre's overthrow. The perpetrators, whether governmental or members of insurgency groups, clan militias or warlords, have all been accorded virtual impunity.

The human rights situation in Somalia has significantly deteriorated following the December 2006 invasion of Ethiopian troops in support of the Transitional Federal Government of Somalia (TFG). The invasion succeeded in pushing the Union of Islamic Courts (ICU), which had emerged as a powerful political force in Mogadishu in early 2006 and later in the southern and central regions, out of the capital.

The TFG continues to be incredibly weak and largely lacks the essential support of the Somali population where as the ICU is once again gaining control over certain areas. Lawlessness prevails in many parts of the country as the TFG has failed to consolidate control over the Somali territory. The failure of the TFG to even gain control over certain areas of Mogadishu and its inability to assure the security of the civilian population has given free reign to al-Shabab fighters, clan-based insurgents and warlords. 'War-lordism' is in fact on the increase in many parts of the country.

In June 2008 an UN-brokered peace deal was reached between the Transitional Federal Government of Somalia (TFG) and the Alliance for the Re-liberation of Somalia (ARS), one of the main opposition groups. Meeting once again in October 2008, both parties agreed to form a unity government including members from both sides and to observe the former ceasefire agreement which had not yet come into effect. During this meeting the withdrawal of Ethiopian troops from strategic areas was agreed to along with their replacement by additional African Union forces, from Uganda and Burundi, and in the long term by a joint police force.

Somali civilians continue to bear the brunt of the deteriorating security and human rights situation in the country. The fighting between TFG forces backed by the Ethiopian forces and the insurgents has resulted in the killing of more than 2,000 civilians. Sixty percent of the civilian population of Mogadishu is believed to have deserted the town since the fighting started as the different warring parties have indiscriminately attacked civilian areas and

terrorized the population of the capital.⁷⁸ Those fleeing Mogadishu have often been injured, assaulted, raped and looted of all their property during their flight. The internally displaced camps are overcrowded and lack access to basic sanitation.⁷⁹

Right to life has evidently been gravely violated notably as a result of the fighting in Mogadishu and in south and central Somalia. According to reports, 60% of those killed during the fighting have been women, children and elderly.⁸⁰ The number of cases of unlawful executions, notably at the hands of TFG and Ethiopian troops, has greatly increased since October 2007 – as both forces increase their raids on civilian areas suspected of supporting or hiding insurgents. Amnesty International has reported on a number of horrific extra-judicial and indiscriminate killings by Ethiopian forces, notably involving the slitting of the victim's throat. Human rights defenders, and in particular journalists, humanitarian workers, peace activists continue to be the victims of targeted killings.

Targeted attacks, kidnappings and killings of humanitarian workers continue to occur. On the 5th November 2008 four aid workers, working for the French organisation, Action Against Hunger, were kidnapped at gun point from a town in central Somalia.⁸¹ Aid operations are also hampered by attacks from the different warring parties. The abduction and attacks carried out on humanitarian personnel has forced many NGOs to pull out. As a result access to greatly needed humanitarian assistance by the Somali population is further thwarted. The TFG has also been involved in actions aimed at obstructing the delivery of humanitarian aid.

Human rights violations against civilians by the TGF forces and their Ethiopian allies have been increasing since late 2007. In response to the insurgents' actions in Mogadishu the TFG and their Ethiopian counterparts have carried out a series of mass arrests and arbitrary detentions. Many of those detained have been transferred to unknown locations, kept in makeshift prisons as well as in some of the more notorious prisons where they have been held without trial.⁸² Reports have revealed that in some instances people arrested are brought to Ethiopia to be interrogated. In their supposed search for Al-Qaeda members in 'insurgent strongholds', both forces have carried out raids on villages, looting, arbitrarily arresting and killing people in the process. Sexual violence, notably gang rape, is also prevalent during these raids.

Although torture is prohibited by the TFG Charter, there are reports that both the TFG forces and militia groups have tortured their detainees. According to the Independent Expert on Somalia, some efforts are being made to ensure that police trainees were receiving human rights training and that some monitoring of prisons was taking place to tackle arbitrary detention. Nevertheless these efforts were minimal.⁸³

Women's rights have always been poor in Somalia. Nevertheless, the current lawlessness, insecurity and forced displacement have led to a further deterioration of the reality facing

⁷⁸ HRW, The Human Rights Situation in Somalia. Statement prepared by HRW FOR THE 'Arria Formula' meeting on Somalia, 31 March 2008, <http://hrw.org/english/docs/2008/03/31/somali18408.htm>

⁷⁹ Report by the independent expert appointed by the Secretary- General on the situation of human rights in Somalia (A/ HRC/ 5/2)

⁸⁰ Ibid

⁸¹ Report by the independent expert appointed by the Secretary- General on the situation of human rights in Somalia (A/ HRC/ 5/2)

⁸² <http://news.bbc.co.uk/1/hi/world/africa/7710782.stm>

⁸³ HRW , Country Report: Somalia, January 2008, <http://hrw.org/wr2k8/pdfs/somalia.pdf>

⁸⁴ Report by the independent expert appointed by the Secretary- General on the situation of human rights in Somalia (A/ HRC/ 5/2)

women and girls. Sexual and gender-based violence (SGBV) is a significant problem. Many of those living in displacement camps are particularly vulnerable to SGBV. Women continue to be discriminated against in access to land and property. FGM, notably the most serious forms, continues to be practised. Rape at the hands of TFG and Ethiopian armed forces, the police but also resulting from inter-clan rivalry is widespread but perpetrators are rarely held accountable. The recent stoning of a 13 year old girl in Kismayo, which is currently under the control of an Islamic insurgent group, charges with adultery by men who had reportedly raped her reveals once again the extreme violations to which women and girls are subjected to.⁸⁴

Civilians in general have suffered from massive rights violations but certain groups of the population, notably human rights defenders (HRDs) and in particular journalists, have been subjected to persistent and targeted violations from all parties involved in the conflict, from the TFG, to Ethiopian troops to insurgent groups leaving defenders leaving them with no protection to speak of.

Human rights activists have come under considerable attack. Those still operating on the ground, notably the Peace and Human Rights Network (PHRN) have resigned themselves to using self-censorship in order to protect themselves from TFG and insurgent attacks. In spite of this they continue to be subjected to intimidations and threats. On the 11th June 2008 Somali peace activist, Executive Director of the Women Care Organisation (WOCA) and founding member of the Peace and Human Rights Network (PHRN), Mr Mohammed Abdulle Mahdi “Qeylow”, was killed in Swk Ba’ad in Northern Mogadishu.⁸⁵ One month later, on Friday 11th July, Mohamed Mohamud Khayre, Deputy Director of Daryeel Bulsho Guud (DBG), a local humanitarian organisation was killed. In July 2008 the staff of the Coalition for Grassroots Women Organization (COGWO), a prominent coalition of women’s rights organizations based in Mogadishu, received a series of death threats accusing them of being ‘infidels’ as a result of their efforts to empower women. Eleven of the staff members were subsequently evacuated from Somalia. This is just one example of the significant number of defenders who have been forced into exile since the TFG was put in place: According to the Independent Expert on the Situation of Human Rights in Somalia, on the 25th October, Ms. Duniya Sheikh Doon chairwoman of the local branch a Somali women’s development organization in the town of Guriel was killed as was Ms. Mariam “Dabayarey” on the 3rd November Aden Mohamed, chairwoman of the Bay region women’s organization in Baidoa.⁸⁶

Somalia is at present the second most deadliest place in the world to be a journalist, after Iraq, and the situation has continued to rapidly deteriorate ever since the Ethiopian invasion.⁸⁷ This has created a climate of intimidation and fear which greatly hampers freedom of expression amongst these key proponents of human rights. Journalists and media organisations in all regions have reported harassment, killings, detention without charges and assaults.

This crackdown on independent media is largely due to the fact that following the closure of prominent human rights organisations and the flight of key human rights activists, journalists are at present one of the few voices still speaking out against the massive human rights

⁸⁴ BBC, Stoning: Victim begged for Mercy, 4th November 2008, <http://news.bbc.co.uk/1/hi/world/africa/7708169.stm>

⁸⁵ See EHAHRD-Net Index Som 022/005/2008: EHAHRDP/Net condemns the death in Somalia today of peace activist Mohammed Abdulle Mahdi

⁸⁶ African Press Organisation. Somalia: killing of human rights defenders continues warns UN expert, 5th November 2008

⁸⁷ CPJ, *Attacks on the Press in 2007: CPJ annual report*, see www.cpj.org

violations being perpetrated against innocent civilians in the country and have thus become prime targets of these attacks.

The attacks on the media and media workers have come from all sides and parties in the conflict- from TFG forces, to insurgents, to Ethiopian troops. All of the warring actors accuse journalists of siding with the opposition and covering the abuses of certain parties in the conflict more than others. In October 2007, for example, TFG security forces closed Radio Simba after it conducted a telephone interview with a former Islamist leader.

In fact, the leading independent radio stations, HornAfrik, Radio Shabelle and Holy Q'uran Radio, have been repeatedly attacked. All of these have been closed at one time or another by the TFG forces.

Journalists have been subjected to systematic attacks: arbitrarily arrested and detained without charges, threatened with imprisonment or death, followed and harassed in the streets and intimidated at their place of work. Several journalists have had their houses searched, property destroyed, members of their families intimidated, received death threats, and some have seen members of their families kidnapped. Journalists have been detained for prolonged periods by the TFG without charge in an apparent attempt to thwart independent reporting. At least nine journalists have been the victims of targeted killings since the beginning of 2007 at least five of which were assassinated. Only recently, on the 7th June 2008, Nasteah Dahir Farah, Vice President of the National Union of Somali Journalists (NUSOJ) and correspondent for BBC and for the Associated Press News Agency, was shot dead on his way home by gunmen who are believed to have links with Islamic insurgents.

As a result, many journalists have either been forced to exert self-censure, notably by reducing their reporting on 'taboo' issues such as human rights violations and military operations, forced into hiding or forced to seek refuge abroad. Although the exact number of journalists that have fled from Somalia is not known there are at present over a hundred scattered around the sub-region. The number of exiled journalists and HRDs in the sub region continues to rise.

Nevertheless, human rights violations in general and more specifically those committed against human rights defenders, continue to occur in a climate of impunity and no efforts have been made by the TGF to end these violations and bring the perpetrators to justice.

Somaliland

Somaliland declared its independence from Somalia in 1991, following the overthrow of former Somali dictator Mohamed Siad Barre. It has since enjoyed relative stability but has still not been recognised as a sovereign state by the international community. Somaliland has witnessed increasing attacks on free press, public meetings and cases of torture.

The rivalry between the two breakaway semi-autonomous regions of Somaliland and Puntland seems to be worsening with clashes during 2007 claiming the lives of at least 30 people and forcing another wave of displacement. The two territories are conflicting over the control of the city of Las Anod, the capital of Sool region. The fighting which escalated in

October, involving exchanges of heavy artillery fire, took place in and around Las Anod, a town near the Ethiopian border.

The government continues to use its current legal status, or lack of recognition, as a means of restricting civilians' political rights. The opposition is viewed with hostility and their movements are restricted, any criticism made of the regime by the opposition is countered by hostile propaganda in which they are accused of endangering peace and stability. Opposition parties are prevented from staging public gatherings in key, symbolic locations. In July 2007 three opposition members who had recently set-up a party, the Qaran, were arrested by the Somaliland police and sent to a high security prison. They were given an unfair trial, with no access to legal assistance. In spite of national and international pressure the President refused to release the three politicians and in fact ordered the rounding up of friends and relatives of one of the detainees, Dr Mohamed Abdi Gabose. The three politicians were finally released on the 29th December 2007 following extensive pressure from the international community.

The municipal elections which were supposed to take place on the 15th December 2007 were postponed for a year; the Council of Elders, which is largely unrepresentative of the population and plays a significant part in maintaining negative traditions, saw its' term extended for a further 4 years and the Presidential elections which were due to take place in April 2008 will now take place in May 2009.

The security services continue to unlawfully arrest civilians under the pretext of protecting national peace. The Somaliland authorities persist in rounding up refugees from Somalia and Ethiopia and handing them over to the Ethiopian authorities on the pretext of belonging to Oromo Liberation Front, Ogaden National Liberation Front, AL-Qaeda or Union of Islamic Courts. Others have been arrested and 'disappeared'.

Societal discrimination against women continues to be a serious problem in Somaliland. According to EHAHRD-Net's Focal Point in Somaliland, Samotalis Coalition of Human Rights, the bill approved by parliament on quotas set for the minority groups and women which was supposed to be initiated during the Municipal Elections of December 2007 has since been disregarded by the government. Most forms of violence against women are widespread in Somaliland. Rape, including gang rape, continues to take place in a climate of impunity as cultural norms prevent women from seeking redress. In fact, on many occasions women who speak out end up being forced to marry their violators. The perpetrators go unpunished and the victims are left untreated, un-rehabilitated and without reparation. Women continue to face physical, sexual and psychological abuses throughout the country. The practice of female genital mutilation, in its worst form, is pervasive. The judicial system in Somaliland which is made up of three parallel legal systems- Sharia law, traditional Somali customary law and a more modern legal component- has a very negative impact on women in particular with regards to the fight against FGM.

Religious freedoms are curtailed notably by customary law which make it illegal to proselytize for any religion except Islam.

The Somaliland authorities are determined to gain control over human rights organizations and transform them into GONGOs (Governmental NGOs). The excuse of national peace is

often used as a means of restricting public gatherings. Stringent registration criteria greatly undermine the space accorded to human rights NGOs. Human rights defenders are denied access to key information and continue to be branded as enemies of the nation. Nevertheless according to EHAHRD-Net member, human rights activists are able to a certain extent to pursue their work.

Freedom of expression, though constitutionally provided for, continues to be restricted. The Somaliland government has openly banned the opening of private radio stations. Journalists are cruelly dealt with by the police and subjected to frequent unlawful arrests, beatings, harassments, having their offices raided and properties destroyed by police units acting on the orders of the Government.

The editor of Somaliland's leading independent newspaper, the Jamhuuriya, Hassan Said Yusuf, has been arrested more than fifteen times. Restrictions and attacks on free expression have been justified as being carried out in the name of national unity. Mr Yusuf's last arrest in September 2007 followed the publication of a report he had written on the Somali Peace Conference, which included comments by Somali warlords accusing the Somaliland authorities of being soft.⁸⁸

The Haatuf Media Network and its journalists have come under attack on several occasions. In a recent case, Ahmed Adan Dhere, a journalist from Haatuf newspaper, was arrested by the Police in Berbera "on the false pretext of printing anti-government slogans and mobilizing young people to stage a demonstration."⁸⁹ However, independent sources suggest that the main reason behind his arrest had been his involvement in critical reporting against government actions. He has since been released.

In November 2007 two journalists were arrested without charges and badly treated at the hands of the security forces; one of the journalists, Abdiqani Hassan Farah, believes that he was arrested after he reported on the issue of the disputed Las Anod region which the Somaliland authorities make claim to.⁹⁰

Another example of the authorities lack of respect for freedom of expression and press was the threat made against Somali journalists that arrived in Hergeisa in December 2007 that they would be expelled from Somaliland as their presence risked to undermine relations with Ethiopia; this was clearly in disrespect of international law and largely ignored the fact that the lives of these journalists were at risk. The authorities eventually gave into pressure for human rights groups and did not expel the journalists.

⁸⁸ AFROL News, *Somaliland Editor Freed, paper deplores oppression*, 08th September 2008 <http://www.afrol.com/articles/13905>

⁸⁹ Somaliland Times, 11th August 2007 <http://www.somalilandtimes.net/sl/2007/290/01.shtml>

⁹⁰ CPJ, in *Somaliland two journalists arrested in separate incidents*, 29th November 2007, http://www.cpj.org/cases07/africa_cases_07/somalia29nov07ca.html

Sudan

The situation in Sudan has become much more complex in recent months as a result of a series of developments. First of which are the attacks by the rebel Justice and Equality Movement (JEM) on Omdurman, part of greater Khartoum on the 10th May 2008, which the government and security services have responded to with a wave of arrests, particularly of people of darfuri origin. The release of a request by the prosecutor of the International Criminal Court on the 14th July 2008 for an arrest warrant for President Omar al-Bashir has also created a very negative reaction on behalf of the authorities. The political context, notably the obstacles regarding the implementation of the Comprehensive Peace Agreement (CPA) as well as the forthcoming 2009 general elections, continue to shape and influence the human rights situation in the country and notably the situation facing human rights defenders. At the same time curtailment on freedom of expression and press has increased notably in Khartoum as have attacks on civil society. Many fear that the situation will only get worse in the months leading up to the 2009 elections.⁹¹

Key provisions of the Comprehensive Peace Agreement (CPA) of 2005 notably the Bill of Rights have still not been implemented. The National Human Rights Commission for example has of yet still not been established largely as a result of continued political disagreements between the National Congress Party (NCP) and Sudan People's Liberation Movement (SPLM) – the two main parties on making-up the current Government of National Unity.⁹² Insecurity remains high in South Sudan where the disarmament process has still not been fully implemented.

On the 14th July 2008 the Chief Prosecutor of the International Criminal Court, Mr Luis Moreno Ocampo, requested an arrest warrant for President al-Bashir for war crimes, crimes against humanity and genocide in Darfur. The UN Security Council, which has the power to delay the proceedings, has not chosen to do so but Judges at the ICC have called for more evidence to be gathered before they decide on whether or not to released an arrest warrant.⁹³

As a result of Ocampo's decision, the Khartoum government has been repeatedly seeking to persuade the international community that the situation in the region is improving and has been launching a series of initiatives which critics have said are a means of thwarting the ICC investigations given that international mechanisms can only be used when national courts have neither the means nor the will to carry out the necessary investigations.⁹⁴ A noteworthy example of this was the arrest in mid October of the former senior Janjaweed leader Ali Mohamed Ali Abdel-Rahman, also known as Ali Kushayb, that the ICC had issued an arrest warrant against on charges of war crimes and crimes against humanity in 2007.

In reality, according to reports, rights violations in Darfur, which include unlawful killings, gender-based violence, arbitrary arrests and torture, continue to occur on a massive scale,

⁹¹ BBC, *Key Sudan census gets underway*, 22 April 2008, <http://news.bbc.co.uk/2/hi/africa/7360066.stm>

⁹² The report by the Independent Expert on the Situation of Human Rights in Sudan, <http://daccessdds.un.org/doc/UNDOC/GEN/G08/114/97/PDF/G0811497.pdf?OpenElement>

⁹³ BBC, *Bashir War Crime Charges Delayed*, 17th October 2008, <http://news.bbc.co.uk/1/hi/world/africa/7675381.stm>

⁹⁴ HRW, *Sudan. Khartoum War Crimes are mere window dressing*, 20th October 2008, <http://hrw.org/english/docs/2008/10/20/sudan20015.htm>

primarily at the hands of the Sudanese Security Forces as well as the Khartoum-backed Janjaweed militia. Civilians, most of who are living in internally displaced people's camps in Darfur, bear the brunt of these mass violations.⁹⁵ The United Nations-African Union Mission to Darfur (UNAMID) appears to be failing in its mandate of offering protection to the civilian population.

Much of the legislation currently in place still needs to be brought into line with the standards established by the Interim National Constitution and other international agreements to which Sudan is party. Current laws regarding the National Intelligence and Security Services (NISS), for example, give the NISS sweeping powers to arbitrarily arrest and detain people for up to nine months without charge. According to EHAHRD-Net Focal Point in Sudan, the Sudanese Organization against Torture (SOAT), this legislation allows for individuals to be held for six months with no right to challenge their detention. Incommunicado detention continues to be used for indeterminate periods of time.

Although torture is prohibited under Sudan's Interim National Constitution as well as by several of the international agreements that Sudan is party to, in practice, however, physical abuse in custody is widespread in Sudan and is encouraged by a culture of impunity underpinned by mechanisms including immunity laws, pardons and amnesties for state officials responsible for human rights violations. Individuals of Darfuri origin in particular when under the control of the National Intelligence and Security Services (NISS) are particularly vulnerable to being subjected to torture or ill-treatment. Certain provisions also grant immunity to members of the military, including militia, the security services and the police.

Arbitrary arrests, against HRDs, peace activists, journalists and individuals believed to be linked to Darfuri rebel groups or to the opposition party, Popular Congress Party, have increased in Khartoum notably since the attack by the rebel Justice and Equality Movement (JEM) on Omdurman, part of greater Khartoum on the 10th May 2008. The Sudanese security forces have responded to these attacks through mass arrests, torture and disappearances; up to 3000 people are believed to have been arrested, hundreds of which were held for prolonged periods without charge and without access to their lawyers. A large number of those arbitrarily rounded up and detained are or appear to be of Darfuri origin, mainly of the Zaghawa ethnic group, and a significant number have reported to have been subjected to physical abuse and torture in custody.⁹⁶ Reports also suggest that several detainees have in fact died as a result of the appalling conditions.⁹⁷ The authorities refused to inform the relatives of many of those detained of their whereabouts.

Thirty individuals have been sentenced to death by Anti-Terrorism Special Courts for their alleged involvement in the May 10th JEM attacks. According to reports those detained were tortured and forced to confess to their crimes.⁹⁸ The court however refused the request for an

⁹⁵ HRW, Sudan: New Darfur Attacks Show Civilians Still at Risk, 24th October 2008, <http://hrw.org/english/docs/2008/10/24/sudan20061.htm>

⁹⁶ SOAT, Human Rights Alert 23: Reported transfers of large number of prisoners to East Sudan following Mass arrests in and around Khartoum, 23 May 2008, <http://www.soatsudan.org/Human%20Rights%20Alerts%20and%20Miscellaneous%20Documents%202008/Human%20Rights%20Alert%2023,5,08.pdf>

⁹⁷ <http://hrw.org/reports/2008/darfur0608/darfur0608web.pdf>

⁹⁸ <http://www.amnesty.org/en/news-and-updates/news/sudan-holds-hundreds-without-charge-after-10-may-attack-20080820>

investigation into the claims of allegations of torture and degrading treatment. These proceedings mark a significant violation of international fair trial standards.⁹⁹

Women's rights continue to be systematically violated in Sudan. Some of the issues of key concern are early and forced marriages, widespread violence against women and practice of FGM and the frequent detention of women for lack of payment of dowry, family debts, and acts committed by family members or on adultery charges.¹⁰⁰ Women and girls in Darfur, and particularly those that are internally displaced, are particularly vulnerable to sexual and gender based violence where much of the violence occurs at the hands of armed groups.

The current harassment of Eritrean asylum seekers and the refoulement of many back to Eritrea is of particular concern and marks a grave breach of international law given that those returned to Eritrea risk to face harsh treatment, prolonged detention, torture and even death.

Sudan is in certain ways an exception in the region as despite increasing levels of censure and restrictions by the Khartoum regime it continues to have quite a diverse independent media and an often outspoken civil society. Nevertheless, although the Interim Constitution guarantees freedom of assembly, expression and press, in practice restrictions on human rights defenders, arbitrarily detentions and harassments have increased in Darfur since 2006 and in Khartoum most dramatically since the attacks by the JEM rebel group on Khartoum.¹⁰¹ HRDs have increasingly faced harassment, intimidations notably by being subjected to lengthy interrogations by the NISS.

At the end of May 2008, Sudanese human rights activists, journalists and MPs, joined together to form a National Committee for the Protection and Defense of Individuals and Groups, in response to the mass arrests of individuals of Darfuri origin in Khartoum. One of the lawyers', member of the organization, was recently arrested and intimidated and told not to involve himself in matters which were not of his concern given that he is not a Darfuri.

Given the current climate and the restrictions on human rights organizations donors are increasingly reluctant to fund national human rights organizations.

Human Rights Defenders working in Darfur face a particularly harsh situation. The authorities are keen to silence any voice of dissent in this war torn region and therefore human rights defenders, along with foreign aid workers, leaders of displaced communities and politically active students are often harassed and their legitimate work curtailed.

Systematic attacks on freedom of expression, notably through case-by-case pre-print censorship, public information bans, legislation, intimidation and arrests of journalists, continue to occur and the legislation imposed on the independent media is more in-line with pre-2005 legislation and largely at odds with the Interim Constitution. This recent attack on freedom of expression is the toughest since the signing of the Comprehensive Peace Agreement in 2005 and is in clear contravention of the Interim National Constitution which firmly guarantees freedom of press and media.

⁹⁹ <http://www.amnesty.org/en/news-and-updates/news/sudan-holds-hundreds-without-charge-after-10-may-attack-20080820>

¹⁰⁰ Ibid

¹⁰¹ Human Rights Watch, *Sudan, Country Summary*, January 2008, <http://hrw.org/wr2k8/pdfs/sudan.pdf>

Laws guaranteeing press freedom which is stipulated in the Interim Constitution have not yet been passed. In fact the NISS appears determined to control the media and to prevent it from undermining the Khartoum regime.¹⁰² Censorship has further intensified since the May 10th attacks.

Since the 6th November 2007, NISS officials inspect the content of reports on a nightly basis and regularly order the withdrawal and replacement of articles deemed unacceptable. Editions of the independent papers are regularly banned. Due to the increasing censorship journalists are often forced to resort to self-censorship and overlook the taboo issues, notably developments in Darfur, the ICC indictment and the implementation of the CPA, human rights, as well as issues regarding the government's response to the May 10th attacks as they know that the risks involved in taking on such issues are increasingly significant.

As a result, on the 4th November 2008, in protest against the increasing censorship, Sudanese journalists launched a mass hunger strike and three of the leading independent newspapers stopped work for three days.¹⁰³ The journalists sought in particular to highlight the fact that the current practices and restrictions being placed on the media was in violation of the Interim Constitution which protects freedom of expression and the press.

The authorities are increasingly making use of restrictive licensing regulations as a means of thwarting the work of the independent press and silencing those resisting censorship and restrictions. Most recently at the beginning of September 2008, two newspapers which are produced in English, the Citizen and the Sudan Tribune, had their licenses suspended by the National Press Council (NPC). The NPC claimed this was the result of procedural irregularities of the two papers, but Nhial Bol, the Editor of the Citizen, later explained that the Security Services had asked him to get rid of a Darfuri Editor on his team and that he had refused.¹⁰⁴

In its efforts to undermine the independent media, the Khartoum government has recently initiated a campaign in the Akhir Lahza governmental newspaper in which it accuses the independent papers of being funded by the USAID in order to promote the CPA. This appears to be linked to an increasing apprehension within the government about the CPA which if implemented would radically alter the power structure, and notably the ethnic relations, which have been at the heart of politics in Sudan for so long.

This harassment is not subjected to the private media alone but to any journalists, even those working for the pro-governmental media who write about issues deemed taboo by the Khartoum authorities. Restrictions and repressions of journalists working in Darfur is particular harsh.

Journalists are also subjected to more outright forms of repression. More recently, following the May 10th attacks, a freelance journalist, Al-Ghali Yahyda Shegifat, who heads the Association of Darfuri journalists, was arrested and held incommunicado.¹⁰⁵

¹⁰² Reporters without borders, *Sudan: Annual report 2008*, http://www.rsf.org/article.php3?id_article=25406

¹⁰³ AFP, Sudan journalists on mass hunger strike, 4th November 2008, <http://afp.google.com/article/ALeqM5imRg-aY13q9P6DzBxPXQSjjMbJyA>

¹⁰⁴ Sudan Tribune, South Sudan authorities arrest the Citizen Editor, <http://www.sudantribune.com/spip.php?article28897>

¹⁰⁵ RSF, Freelance Reporter Held Incommunicado for Past Week, 21st May 2008, at http://www.rsf.org/article.php3?id_article=27113

Furthermore, the Khartoum regime is not alone in seeking to silence the independent media. On the 10th October 2008, Nhial Bol was arrested and charged with defamation and false information relating to an article in which he had criticised the high salaries being paid to the government of South Sudan.¹⁰⁶ He was released after 3 days.

In June the Eritrean and Ethiopian Journalist in Sudan and Human Rights Organization, as Swwera Center For Human Rights- Eritrean Human Rights Organization , both of which had been set-up by individuals who had come to Sudan to escape persecution in their respective countries, were recently shut by the Sudanese authorities.¹⁰⁷

This current clampdown on the independent media is of particular concern given that Sudan has recently initiated its national census process which is supposed to pave the way for the elections in 2009, journalists, as all HRDs, will play a crucial part in ensuring that any abuses in this process are brought to public and international attention; such restrictions however are likely to prevent them from playing their role as watchdogs.¹⁰⁸

Sudan's National Intelligence and Security Services are the main perpetrators of these rights violations in Khartoum and yet they continue to work in a climate of impunity. In Darfur this culture of impunity is particularly widespread and once again most investigations into violations are generally thwarted by a lack of cooperation this time on the part of the military.

South Sudan

According to sources the human rights situation in the region has seen some improvements. However, much work still needs to be done for even basic human rights to be guaranteed. Lack of resources is a considerable problem and at present there are no mechanisms in place to protect and promote human rights as the Southern Sudanese assembly has largely failed to implement key legislation of the Comprehensive Peace Agreement.

Military personnel continue to carry out illegal arrests. Cases of sexual assault involving Sudanese People's Liberation Army units continue to occur and yet local police are often unwilling to investigate the reports. Ill treatment in order to gain information continues to be practiced by the security forces.¹⁰⁹

Political freedom is largely undermined by the fact that majority of members of parliament are members of the SPLM- thus running the risk that Southern Sudan could turn into a one-party state. This also clearly thwarts attempts to bring an end to impunity. In fact, most legislation which has been promulgated so far by the SPLM tends to protect the government from future prosecution.

Torture continues to be used by the security forces in order to extract information despite attempts by human rights organizations to carry out trainings in order to raise awareness of

¹⁰⁶ Ibid ; RSF, Editor of South Sudan newspaper arrest on eve of week-end, 13th October 2008, http://www.rsf.org/article.php3?id_article=28921

¹⁰⁷ Informal Communication from the Khartoum Centre for HR and Environmental Development

¹⁰⁸ SOAT, *Human Rights Alert* 18th April 2008.

¹⁰⁹ Ibid

the fact that this constitutes a human rights abuse. Customary justice is presently the main form of justice available in Southern Sudan.

Civil society is largely inexistent in South Sudan as a result of the years of warfare which have thwarted the development of a national civil society. As a result, most of the human rights work is carried out by International NGOs or UN agencies and this is likely to persist given that donor attention is currently focusing on institution building rather than on offering greatly needed support to civil society.

Efforts to challenge or critique government practices by human rights activists tend to be perceived as treason or offences against the state. The few human rights organizations which operate on the ground face considerable constraints; the Legal Aid Centre, which is run by South Sudan Law Society, has been threatened with closure as a result of their work on land rights and access to land in urban areas.

Activists are concerned by the fact that one of the only domestic human rights entities in existence on the ground is the Human Rights Commission, which has been established as part of the CPA, and is a governmental entity.

Tanzania

Tanzania is the country in this sub-region with the most positive human rights record. However there are clearly gaps between the political and legal commitments and the reality on the ground.

The death penalty continues to be retained in the Penal Code and used in Tanzania. Extra judicial killings continue to occur.

Mob violence is also an issue of concern according to EHAHRD-Net Focal Point, the Legal and Human Rights Centre (LHRC), as it violates the victims of this violence of their right to life and presumption of innocence.¹¹⁰ It also highlights the need to increase the population's confidence in the justice and policing system, increase awareness of legal proceedings and tackle corruption.

Discrimination against minority groups persists. Members of the Hadzade tribe for example have seen their access to and control over land restricted. The government recently decided to evict the tribe from their ancestral land in two districts in order to sell the land to an investor. The right to life of albinos has been violated over the last year by a series of targeted killings in the country which are believed to have been carried out by witchdoctors who perceive albinism as a curse.¹¹¹ The President has vowed to investigate these murders: many arrests have been made although no prosecutions have yet been carried out.

Female Genital Mutilation continues to be practiced by certain groups in the population notably by the Maasai. Those carrying out these practices are rarely held accountable.

¹¹⁰ LHRC, Newsletter, July 2008, http://alpha.web2-netshine-hosting.co.uk/~lhrc/index.php?option=com_letterman&task=view&Itemid=65&id=12

¹¹¹ Mail and Guardian. Another albino murdered, 21st October 2008, <http://www.mg.co.za/article/2008-10-21-another-albino-murdered-in-tanzania>

Although violations of the rights of human rights defenders are rare in Tanzania defenders continue to work in a climate which is not always productive and does not guarantee the protection of their rights and their ability to carry out their legitimate work. According to, LHRC, Human Rights Defenders continue to be perceived as a threat to the government rather than an actor with which to work with so as to improve the country's record. Human Rights Defenders are not specifically mentioned or recognized by the Constitution or any other law in Tanzania. There are therefore insufficient safeguards available to HRDs in Tanzania as compared to those made available in international human rights instruments. The concept of human rights defenders continues to be misunderstood both by the authorities and by many human rights defenders. As a result HRDs are forced to be affiliated with human rights organizations in order to have access to some sort of formal protection and support

LHRC reports that some of their paralegals and collaborators have been victimized by the Tanzanian authorities for their human rights work. The cases brought against these activists are generally never carried through and are clearly aimed at merely intimidating and harassing the defenders.

As a result of social and cultural norms prohibiting women's involvement in the public sphere there are very few women human rights defenders in Tanzania. In fact even feminist organizations tend to be headed by men.

Tanzania has a relatively diverse and outspoken media community. Nevertheless the Right to Information Bill which many hoped would help to further entrench this and offer journalists' concrete protection has still not been passed. In fact, the authorities continue to exert a certain amount of control over the country's media through a series of laws – notably the National Security Act and the Prevention of Corruption and Combating Act of 2007. The former allows the government to control information which goes out to the country and is disseminated abroad and the later which prevents the media and individuals from reporting alleged offences under investigation by the Prevention and Combating of Corruption Bureau (PCCB) and prevents the disclosure of the names of the individuals under review.¹¹²

Uganda

The human rights situation in Uganda has seen some improvements in recent months, notably with the reduction of the cases of prolonged and illegal detention of suspects in safe houses, and significant improvements in Northern Uganda. Nevertheless cases of torture and prolonged detention continue to be reported and the Supreme Court has still not rendered its judgment on the legality of the death penalty leaving hundreds of people lingering on death row. The lack of clarity over the role given to the different security organizations is also a cause for concern. The situation of human rights defenders has seen some deterioration in recent months, notably as a result of the developments around the Draft amendments to the NGO Laws and new cases of harassment of journalists. Sexual minority rights activists in particular continue to be harassed, intimidated, prosecuted and subjected to inhumane and degrading treatment.

¹¹² International Press Institute, World Press Freedom Review, 2007, http://www.freemedia.at/cms/ipi/freedom_detail.html?country=/KW0001/KW0006/KW0179/

The peace talks between the LRA and Museveni's government, which began in July 2006 and saw the signing of the Cessation of Hostilities Agreement (CHA) in August of that year, have stalled over recent months, and the CHA has expired. The LRA leader, Joseph Kony, has demonstrated little commitment to the peace talks. Since the issue of arrest warrants by the International Criminal Court (ICC) in 2005, against Kony and other LRA leaders, the LRA has been trying to portray the warrants as an obstacle to peace. Those engaged in the Juba peace talks had considered the option of establishing domestic trials for serious crimes committed in northern Uganda. However, there remain serious concerns about the capacity of the national justice system to offer effective prosecutions and convictions in fair trials, which meet international standards of due process.¹¹³ Furthermore, over the last few months the LRA has committed a range of human rights violations, from abductions of children, acts of sexual violence to pillaging in neighbouring Democratic Republic of Congo, the Central African Republic and South Sudan highlighting a lack of their commitment to the peace process. As a result the ICC has recently sought to step up the proceedings by appointing a senior lawyer to defend Kony and two other commanders for crimes against humanity.¹¹⁴

The impact of the long-term conflict in the North between the Lord's Resistance Army (LRA) and Ugandan military forces continues to affect the population of this region and the current and former IDPs. The conflict has led to the murder of tens of thousands of people by both sides over the course of the last 22 years, and the uprooting of around two million people in Northern Uganda alone. The most recent figures available report that, as of March 2008, 940,000 internally displaced persons (IDPs) remain in camps plus transit sites.¹¹⁵ The major camps in the northeast regions of the country are still overcrowded. IDPs in Pader, Kitgum and Gulu have more or less all returned to transitional or occasional camps. The prolonged conflict continues to have an immense impact on the social and economic structure of the Acholi society, consequences which are further accentuated by the continued violations of certain segments of this populations' right to food, health and housing due to the inability at times of the government and the donor community to cater for the returnee and IDPs basic needs. The current reports on the renewed activities of the LRA in neighbouring countries as well the failure to reach a final peace agreement clearly heighten the fears of the returnee population particularly in certain districts such as Mojo where LRA groups are still active.

The death penalty continues to be retained in the Penal Code thereby violating the right to life. The Penal Code stipulates that eight offences are punishable by death and since the passing of the Terrorism Act in 2002, terrorism has been added as the ninth.¹¹⁶ According to EHAHRD-Net Focal Point, the Foundation for Human Rights Initiative (FHRI), as of January 2008, there were 640 individuals on the death row.¹¹⁷ The Supreme Court has not yet ruled on the appeal pending in its jurisdiction which questions the legality of the death penalty.

The conditions in the prisons have shown some improvements in recent months. Nevertheless, detention without trial, for longer than the 48 hours stipulated in the Constitution continues to take place, particularly of individuals suspected or alleged to be 'terrorists'. Torture at the hands of the army and to a lesser extent the police has been recorded. Of particular concern is

¹¹³ AI Index: AFR 59/001/2008, *Uganda: Agreement and Annex on Accountability and Reconciliation falls short of a comprehensive plan to end impunity*, 21 March 2008

¹¹⁴ The Daily Monitor, ICC appoints lawyer to defend Kony, 31st October, http://www.monitor.co.ug/artman/publish/regional-special/ICC_appoints_lawyer_to_defend_Kony_73974.shtml

¹¹⁵ UNHCR, October 2008

¹¹⁶ FHRI, Land Rights. The Ugandan Experience. January- June 2008

¹¹⁷ Ibid

the fact, as highlighted by FHRI, that the law does not criminalise acts of torture, except under the Anti-Terrorism Act of 2002 and that only applies to officers involved in anti-terrorism activities.¹¹⁸

The freedom of assembly and association of political activists continues to be threatened by the police imposed bans on holding rallies in certain key, central or symbolic areas of the capital. The police, which under the recent Police Act have been charged with the duty of providing security during demonstrations, have often used these provisions as an excuse to break up demonstrations organised by members of the opposition or peaceful protests calling for government accountability on human rights issues. On the 27th May 2008 the Constitutional Court nullified provisions in the Act granting the police the power to allow or not allow rallies to take place but this decision has not been put into practice in reality.¹¹⁹ On several occasions the police forces have used very heavy handed tactics to deal with protestors.

The controversial Land Amendment Bill continues to create a lot of unease throughout the country. In July 2008, three officials from the Buganda Kingdom were arrested, and then re-arrested and detained for a week despite a court order calling for their immediate release. They were initially accused of sedition and then of inciting violence. These charges were clearly linked to their campaigning activities against the ruling party's Land Act (Amendment) Bill that could lead to a significant reduction in the land owned by the Buganda kingdom.

Violence against women is a significant problem in the whole of Uganda and SGBV has been particularly rife in Northern Uganda as a result of the conflict and avenues for redress are still scarce. Women's land and property rights continue to be violated as some of the recent efforts to offer legal guarantees to women in these areas have failed to be implemented and fail to take into account the everyday reality facing Ugandan women.¹²⁰

Sexual minorities are severely discriminated against. 'Carnal knowledge of any person against the order of nature' is illegal in Uganda and in recent months certain members of the government, lead by the Minister of Ethics, have sought to further entrench legislation that could be used against homosexuals.

Uganda's record regarding human rights defenders has improved in recent years; nevertheless recent repression against minority rights activism and constraints on freedom of expression are of concern.

Minority rights activists, notably members of Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) organizations, continue to be harassed, subjected to verbal and legal attacks and ill treatment whilst in detention primarily at the hands of the Ugandan police. . In June 2008, Pepe Julian Onziema, Valentine Kalende and. Usaam Mukwaya, three LGBTI activists, were arrested by the Uganda Police Force at the 2008 HIV/AIDS Implementers' Meeting. The peaceful protest had organized, sought to highlight the current failure by the government to offer HIV/AIDS prevention programs and treatment to LGBTI persons in Uganda. On June 6, 2008, the three defenders were released on bail after having been charged with 'criminal trespass'. After several months of trial, the prosecution withdrew the case. More recently, in

¹¹⁸ FHRI, Land Rights. The Ugandan Experience. January- June 2008

¹¹⁹ FHRI, Land Rights

¹²⁰ See FHRI, Land Rights. The Ugandan Experience. January- June 2008

September 2008, two other activists were arbitrarily detained, without charges or without being brought to trial within the 48 hours stipulated in the Uganda Constitution. The police also denied medical treatment to one of the two activists who suffers from diabetes. Given that homosexual acts are illegal in Uganda, many NGOs and activists are reluctant to take-up the issue.

The Draft NGO Registration (Amendment) Act 2006 and more specifically the NGO Regulations 1990 currently being considered by the Ministry of Internal Affairs do not create an enabling environment for NGOs to function and carry out their legitimate work in Uganda. They define NGOs in a very limited manner, primarily as service delivery organizations and reflect a deep distrust towards these organisations. The process is ongoing yet the most recent drafts appear to reveal that very few of the areas of concern which had been raised by NGOs during a series of National Stakeholders Meeting had been taken into consideration. Of particular concern are the extensive bureaucratic procedures required of NGOs for them to register, notably having to renew licences on a regular basis (after the first year the licence is renewed every three years) but also requiring that NGOs applying for registration must provide written recommendations by two entities deemed 'acceptable' to the NGO Board- this acceptability issue is unclear and risks being used as the Board sees fit at the detriment of more critical NGOs. Such requirements are clearly time-consuming for organizations that often tend to have limited human resources and can also undermine to a certain extent organisations' involvement in more contentious issues. Another issue is that the NGO board, established to regulate NGOs, includes only a very limited number of members of civil society; in fact the majority of the Board members come from different ministries including of Internal and External Security, whose staff is unlikely to have a profound understanding of the work and activities of civil society organizations. Finally the provision in the NGO Regulation which stipulates that organizations are prevented from making direct contact with local people in rural areas without giving 7 days notice in writing to the district authorities clearly further undermines their work, particularly activities of human rights monitoring.

Legislative and administrative measures in Uganda continues to limit the space accorded to critical reporting as does government interference with the legitimate work of journalists and broadcasters, notably through public statements, intimidation, threats and arbitrary police actions against those seen as errant or too critical of the government.

The authorities exert at times more subtle constraints on the media- notably calling talk show hosts and telling them who should appear on their shows, or using the Broadcasting Council as a means through which to dismiss presenters who host guests or tackle issues which are deemed unacceptable or 'immoral'.

Sedition laws and other criminal laws continue to be used against journalists who are seen as overtly critical of the authorities or are willing to tackle certain 'taboo' issues, notably the government's war against terrorism.

On the 27th October 2008 the coordinator of the Human Rights Network for Journalist, Mr Sebagala Wokulira, was physically assaulted by unidentified men in Kampala who subsequently tried to kidnap him. Mr Wokulira had three days earlier been interviewed on a radio programme in Kampala, Metro FM, where he had asserted that hundreds of people were

being detained and tortured in military safe houses and had also spoken of cases of extra-judicial killings of Ugandans.¹²¹

Many of the cases brought against journalists are not heard till their conclusion but several journalists are forced to continue to report to court nevertheless. The government and ministry of information continue to claim that government monitoring activities are for security reasons.

¹²¹ HURINET, The State must stop continued harassment and threats on media practitioners and human rights defenders, 31st October 2008

Recommendations

As stated in the last report presented at the Commission accountability continues to be one of the key issues which should be prioritised in all agendas focusing on the region. Bringing an end to the prevalence of impunity and establishing independent and impartial accountability mechanisms can help to ensure the protection of HRDs and the further promotion of human rights and lasting peace in the region.

Actions aimed at ensuring the respect of freedom of expression and freedom of the media must also be prioritised given the significant rise in violations of these rights in most of the countries focussed on above.

Finally it is essential for the ACHPR Commission to ensure that an enabling environment is created for human rights organisations to carry out their legitimate work in the region and to ensure that recent attempts in several countries to put in place highly cumbersome and restrictive legislation are thwarted.

EHAHRD-Net therefore calls on the governmental authorities in the countries concerned to:

- To end impunity by bringing those responsible for current and past abuses to justice whilst ensuring that they are ensured access to a fair trial which adheres to international standards;
- To ensure prompt, impartial, effective and independent investigations into all cases of human rights violations, both past and present, particularly those affecting human rights defenders;
- To ensure the establishment of National Human Rights Commission which are independent and impartial and adhere to the Paris Principles;
- To support the establishment of accountability mechanisms which conform with international standards of independence and impartiality in order to bring an end to impunity and ensure that all actors responsible for current and past abuses are held accountable for their actions;
- To bring an immediate end to arbitrary arrests, harassments and targeted killings of all human rights defenders, and more particularly journalists;
- To end all practices which threaten the freedom of expression and prevent human rights defenders from pursuing their legitimate work;
- To ensure the protection of Human Rights Defenders, notably by observing the provisions the African Charter on Human and People's Rights and other human rights treaties to which most of these countries are signatory, in particular Article 12 (1 and 2) of the UN Declaration of Human Rights Defenders which states that *"Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms"*;
- To end all practices which threaten the freedom of the press notably by
 - Ending all ill-treatment of journalists, for example arbitrary arrests,

- Ending attacks on the independent media – notably by reopening all media outlets that have been shut-down and allowing them to operate normally,
- Introducing legal reforms in line with international standards,
- Removing all criminal sanctions for press offences such as defamation;
- To ensure strict compliance with the regional and international mechanisms put in place for the protection of the media; notably to adhere to the African Charter on Human and Peoples' Rights, which guarantee freedom of expression (Article 9);
- To facilitate any eventual future visits by the Special Rapporteur of the ACHPR on Human Rights Defenders in Africa.

EHAHRDP-Net calls on the African Commission on Human and Peoples Rights:

- Initiate international criminal investigations into the human rights violations being committed in countries where an impartial national investigation is unlikely to take place- notably in Kenya, Somalia and Ethiopia;
- Use their influence to bring an end to impunity and ensure that all actors responsible for current and past abuses are held accountable for their actions;
- Provide support - logistical, political and financial - to entities and bodies that can help to establish accountability mechanisms, notably to the field offices of Office of the High Commissioner for Human Rights (OHCHR) and ensure that these entities receive the necessary support and cooperation from the relevant State authorities;
- Continue monitoring the situation facing HRDs in these countries, notably by re-enforcing the capacity of the Special Procedures' mandate-holders, notably the Special Rapporteur on Human Rights Defenders, to pay specific attention to the situation of human rights in the region;
- Ensure that human rights is at the heart of all diplomatic and peace and reconciliation dialogues, notably in Somalia and in Kenya;
- Support initiatives by HRDs in the countries concerned to strengthen their position, notably through joint initiatives and networks;
- Ensure that all HRDs in particular journalists that have been forced into exile can pursue their vital work by providing them with assistance, protection and training, notably Eritrean HRDs.