



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

Overview of the Human Rights Situation in the East and Horn of Africa

Report presented to the 49th Session of the African Commission
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Regional Coordination Office

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Introduction

The East and Horn of Africa Human Rights Defenders Project welcomes the opportunity offered by the 49th Ordinary Session of the African Commission on Human and People's Rights (ACHPR) to highlight some of the key human rights issues in the East and Horn of Africa sub-region from November 2010 to April 2011. This report addresses the human rights situation in ten countries: Burundi, Djibouti, Eritrea, Ethiopia, Kenya, Rwanda, Somalia, Sudan, Tanzania and Uganda, and two special territories, Somaliland and South Sudan. It focuses on issues relating to civil and political rights, and in particular the situation of human rights defenders, in line with the expertise of EHAHRDP.

Over the past six months, the human rights situation in the sub-region has continued to be closely linked to the holding of national elections, with journalists particularly affected. Restrictions on civil and political rights identified in this period have ranged from the development and implementation of restrictive legislation to direct attacks on human rights defenders, which have included physical and verbal threats, legal and judicial harassment, increased surveillance, and acts of physical violence, including targeted killings.

Certain groups of human rights defenders, such as defenders working in conflict zones, journalists, women human rights defenders and LGBTI human rights defenders have all continued to face particular threats in the period covered by this report as a result of the specific context and circumstances in which they operate.

Elections in Uganda and Djibouti, and the referendum on South Sudan's independence, have all been marked by the harassment of journalists, observers or the political opposition. In **Uganda**, journalists were subjected to physical attacks, intimidation, police interrogation, criminal charges and legal challenges. At least ten journalists were attacked before, during and after the presidential, national and mayoral elections in Kampala. During the presidential and parliamentary elections on 18th February 2011, Julius Odeke a newspaper journalist was shot and injured in eastern Uganda, by security agents who were trying to confiscate his recordings of acts of violence. Six journalists were reported to have been attacked and beaten during a scuffle at a polling station in Kampala during local elections on 23rd February 2011 over accusations of electoral malpractice. As a result of this and alleged malpractice in various other locations in Kampala city, the Electoral Commission suspended and postponed the local polls until March.

Presidential elections were held in **Djibouti** on 8th April 2011, with no strong alternative offered to the incumbent president, because the opposition parties effectively boycotted the elections. The opposition chose not to nominate candidates amid claims that they had been prevented from campaigning as a result of government control over the media and repression of the opposition's activities. From February onwards all demonstrations were banned, and on 9th February, Jean-Paul Noel Abdi, president of the Djiboutian League for Human Rights, was arrested and detained after reporting on the detention of student protesters. He was released on medical grounds and then his bail conditions were lifted at the end of March. On 2nd March, the government expelled an international election monitoring mission from the country in advance of the polls.

During **Tanzania's** election period in October 2010, two newspapers, Mwanahali and Mwananachi, received warning letters from the Ministry of Information threatening to ban and de-register them if they continued portraying the country negatively and tarnishing its reputation.

EHAHRDP's fact-finding mission to **South Sudan** in December 2010 received reports of arrests, harassment and intimidation of human rights defenders, especially journalists, by state and non-state actors in the course of their work. While self-censorship by journalists was already

common practice, the mission observed that the public opinion in the South so strongly favoured secession that journalists were unwilling to express any neutral or contrary views in that period.

Another worrying trend in the region has been the use of legal and judicial harassment to silence critics. EHAHRDP reported in November on the harassment and intimidation of human rights defenders, journalists and opposition members around the presidential elections in **Rwanda** in August 2010. A number of the criminal procedures that began in the electoral period have recently been concluded, including the case of two tabloid journalists. On February 4th 2011, two journalists from the Kinyarwanda newspaper Umurabyo, editor Agnes Nkusi Uwimana and deputy editor Saidati Mukakibibi, were imprisoned for 17 and 7 years respectively after criticizing president Paul Kagame in opinion pieces they wrote ahead of the August 2010 presidential elections.

Of particular concern in **Burundi** is the case of journalist Jean-Claude Kavumbagu who is currently awaiting the judgement in his trial for treason over an article published in the online newspaper he edits after the bombings in Kampala in July 2010. At a hearing in April 2011, the prosecutor called for a life sentence. Kavumbagu was charged under article 570 of Burundi's criminal code, which penalizes "any Burundian who, in times of war... knowingly participates in an attempt to demoralize the Army or the Nation, with the object of weakening national defense," following the publication of an article questioning the capacity of the Burundian security services to respond to a potential terrorist attack. The legality of the charges has been questioned, not least because Burundi is not currently at war.

Kenyan human rights defender, Al-Amin Kimathi, remains in detention in **Uganda** on terrorism charges. A British trial monitor who came to observe his bail hearing in December 2010 was turned away at the airport, and again in April 2011, four prominent Kenyan lawyers were denied entry to the country as part of delegation meeting officials on the case.

Repressive legislation in **Ethiopia**, specifically the Charities and Societies Proclamation, continues to hamper the work of human rights defenders since it was enacted in 2009. In an apparently linked move, although there has been no official explanation, the bank accounts of two leading Ethiopian human rights organizations, EHRCO and EWLA, have had their bank account frozen, preventing access to all their funds, not just those received from abroad or from after the law came into effect.

Finally, tragically, the murder of our dear colleague David Kato in January 2011 highlights again the grave dangers faced by members of sexual minorities in Africa, as well as the vitally important work carried out by organisations concerned with LGBTI human rights in Africa. EHAHRDP reiterates its concern over the decision at the previous session and calls on the ACHPR to grant observer status to the Coalition of African Lesbians.

With limited positive developments in terms of civil and political rights in the region, and some worrying trends in a negative direction, EHAHRDP would therefore call on the African Commission on Human and People's Rights to:

- Make the fight against impunity a key focus of the ACHPR and its special mechanisms and recommend that this fight be prioritized by all mechanisms and instruments of the African Union;
- Take a proactive role in ensuring the implementation of the African Charter on Democracy, Elections and Good Governance in light of the key influence that elections continue to have on the human rights situation in the continent;

- Establish a more permanent international human rights monitoring and reporting on the ground for countries like Somalia and Sudan;
- Promote the establishment of international criminal investigations into the human rights violations being committed in countries where an impartial national investigation is unlikely to take place- notably in Somalia and Sudan;
- Publicly condemn the continuing harassment and discrimination of LGBTI persons, especially the murder of David Kato, and take the lead by integrating LGBTI rights into the AU work notably by granting Observer Status to LGBTI organizations at the Commission;
- Call for an end to all practices, notably legal restrictions, which threaten the fundamental rights, in particular the freedom of expression, and legitimate work of HRDs;
- Continue monitoring the situation facing human rights defenders (HRDs) throughout the East and Horn of Africa;
- Call on African Union member States to offer standing invitations to the ACHPR's special mechanisms, notably the Special Rapporteur on HRDs.

Country Overviews

The following report offers a series of country overviews that look at the key human rights issues in East and Horn of Africa region, with a focus on civil and political rights and the situation of human rights defenders.

Burundi

Situation of HRDs

The space accorded to human rights defenders in Burundi to carry out their work has continued to narrow in the past six months. Intimidation and threats against journalists and the media by the authorities that began in the run-up to local elections in May 2010 have continued.

The media in particular has been targeted. One clear example is the case of Jean Claude Kavumbagu, chief editor of the online newspaper Net Press, who was charged with treason and held in pre-trial detention for nine months. Kavumbagu was charged under article 570 of Burundi's criminal code, which penalizes "any Burundian who, in times of war... knowingly participates in an attempt to demoralize the Army or the Nation, with the object of weakening national defense,"¹ following the publication of an article questioning the capacity of the Burundian security services to respond to a potential terrorist attack. The legality of the detention and the charges are questionable. At a hearing held on 13th April the prosecutor Marc Ndabakeshimana requested the Bujumbura court to sentence the journalist to life imprisonment. The judges' verdict in the case is awaited. On 5th November 2010, two journalists from the private newspaper Iwacu, Elyse Ngabire and Dieudonné Hakizimana, were detained for two days with no specific charges against them.

Impunity continues to prevail and crimes committed by the government authorities and security services in particular are rarely investigated. Two years after the murder of Ernest Manirumva,

¹ Joint Statement by EHAHRDP, Amnesty International and Human Rights Watch, "Burundi: Free Journalist Detained on Treason Charges," 20th July 2010, <http://www.hrw.org/en/news/2010/07/20/burundi-free-journalist-detained-treason-charges>

vice-president of the anti-corruption observatory OLUCOME, in April 2009, justice is still far from being rendered. The trial of the suspects started at Bujumbura court of appeal on 14th July 2010, but was suspended due to irregularities in summonses issued, or failure to issue them in some cases. Following delays and last-minute cancellations, the next hearing was held on 19th January, but the next week the court decided to transfer the case to the Tribunal de Grande Instance in Bujumbura.

In the course their campaign for justice for Manirumva, a number of human rights defenders have faced threats and intimidation, as EHAHRDP has previously reported.² Most recently, on 8th April 2011, a peaceful demonstration by the Justice for Ernest Manirumva campaign was stopped by the police in Bujumbura, permission having been previously refused, and two members of OLUCOME were arrested and detained for several hours before their eventual release.

On a more positive note, on 28th January 2011, the Interior Minister Edouard Nduwimana reversed the ban on the Forum for Strengthening of Civil Society (FORSC) that had been in place since November 2009 on the basis of an alleged technical error in the group's registration application.³ FORSC is an umbrella group of Burundian civil society organisations. A number of civil society organisations had written to the Burundian president highlighting the human rights situation in the country and expressing their concern.⁴

General Overview

In December 2010, the National Assembly passed a law establishing the long-awaited Independent National Human Rights Commission, and the law was promulgated by President Nkurunziza in early February 2011. An ad hoc parliamentary commission received 160 nominations for commissioners, which was shortlisted to 21 candidates. The seven commissioners will be elected by the national assembly. This decision is expected shortly.

However, the Burundian government has been less cooperative with certain international human rights mechanisms, and has lobbied to postpone the presentation and interactive dialogue on the report of the UN Independent Expert on Burundi to the Human Rights Council now on repeated occasions. The expert mandate is important more than ever before given the continued narrowing space in which human rights defenders work. The mandate's role as an independent reporting mechanism is key to guaranteeing a continued focus on the human rights situation in the country. With very little opposition within Parliament, allegations of arbitrary arrests and extrajudicial executions of certain opposition activists, harassment of private media, in particular the cases of detained journalists, and attacks against civil society organizations, increased regional and international attention on the human rights situation in Burundi is needed.

The right to association of trade unions continues to be restricted with trade unionists, notably from the medical and teachers' unions, facing significant harassment at the hands of the authorities. In February, the National Council for the Primary Education Staff (CONAPES), the Free Trade Union of Burundi Teachers (SLEB), the Union of Education Workers in Burundi (STEB) and the National Trade Union of the primary education staff (SYNAPEP) went on

² EHAHRDP, Report to the 48th Session of the African Commission on Human and People's Rights, November 2010, <http://www.defenddefenders.org/images/docs/48thsessionoftheachrreportnovember2010.pdf>; Joint press release with Protection International, FORSC, 11.11.11, "Justice for Ernest Manirumva," 6th April 2011, <http://www.defenddefenders.org/index.php/our-publications/press-releases/110-justice-for-ernest-manirumva>

³ Human Rights Watch, EHAHRDP, Amnesty International, "Burundi; Reverse Ban on Civil Society Group," 25th November 2009, <http://www.hrw.org/en/news/2009/11/25/burundi-reverse-ban-civil-society-group>

⁴ Human Rights Watch, "Lifting Ban on Activist Group Positive Step," 1st February 2011, <http://www.hrw.org/en/news/2011/02/01/burundi-lifting-ban-activist-group-positive-step>

strike. The strike was sparked off by the ongoing transfers of teachers which destabilise their families. They were also demanding a raise in their wages.

Djibouti

Situation of HRDs

The human rights situation in Djibouti has not changed significantly since EHAHRDP's last report to the ACHPR.

Human rights defenders continue to face serious obstacles to their work. On February 9 2011, Jean-Paul Noel Abdi, the President of the Djiboutian League of Human Rights, focal point organization of East and Horn of Africa Human Rights Defenders Network, was arrested by the national police. He had been investigating and had reported on the arrest and detention of students after a protest four days previously in response to the quality of the education system.⁵ He was charged with participation in an insurrectional movement under article 145 and 146.4 of the Penal Code, for which the penalty is 15 years in prison and a fine of seven million Djiboutian francs. Provisionally released on health grounds on 21st February, his bail conditions then were lifted in March.

General overview

Djibouti held presidential elections on 8th April 2011, with incumbent president Ismael Omar Guelleh and the former head of the constitutional court, Mohammed Warsama Raguah, as the only candidates standing. 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 chose not to nominate candidates for the elections which they saw as neither free nor fair. From February all demonstrations were banned. On 2nd March, the government expelled an election monitoring mission from Democracy International, a US-funded group that works on democracy and governance programs.⁶

Eritrea

Situation of HRDs

The state of human rights in Eritrea has equally not seen any significant developments since the last reporting. The situation remains dire.

Eritrea has had no independent civil society or media to speak of since 2001 as freedom of speech and press are currently nonexistent. In fact, Eritrea is the only country in Sub-Saharan Africa which does not have a single operating independent or private news outlet; private ownership of media and international influence or ownership of media are banned. This absence of critical, independent reporting obscures the extent of the human rights violations occurring in the country. In their 2010 annual report, Reporters without Borders ranked Eritrea lowest of 178 countries worldwide for press freedom, and estimated that around 30 journalists were imprisoned in Eritrea at present.⁷

⁵ EHAHRDP press statement, "Djibouti: Free Human Rights Activists Jean Paul Noel Abdi," 14th February 2011, <http://www.defenddefenders.org/index.php/our-publications/press-releases/100-arrest-of-human-rights-activist-jean-paul-noel-abdi>

⁶ "US election monitoring group kicked out of Djibouti," <http://indepthfrica.com/news/east-africa/us-election-monitoring-group-kicked-out-of-djibouti/> (last visited 16th March 2011)

⁷ Reporters Without Borders, Press freedom report 2010, http://en.rsf.org/IMG/pdf/bilan_2010_en.pdf (last visited last visited 4th April 2011)

General Overview

The ongoing tensions between Eritrea and neighbouring Ethiopia shape the Eritrean government's internal and external policies. In January, Ethiopia accused Eritrea of sending terrorists to disrupt the just concluded African Union Summit that took place in Ethiopia. It is reported that Ethiopia made a change in its foreign policy to advocate for the overthrow of the Eritrean government.⁸

Eritrea is a one-party state under the control of the ruling People's Front for Democracy and Justice (PFDJ).

Ethiopia

Situation of HRDs

At present, independent human rights work in Ethiopia is more or less at a standstill. The media has been most affected and leading to self censorship. The implementation of the Charities and Societies Proclamation is having a negative impact both on the work of defenders and on individual defenders themselves. Organizations previously engaged in human rights advocacy were forced to revise their statutes and programs so as to focus on service delivery activities, while others completely abandoned the human rights aspect of their work. The few organizations like Ethiopian Human Rights Council (now renamed Human Rights Council) and Ethiopian Women Lawyers Association that decided to continue with their human rights advocacy activities have been forced to scale down the scope of their activities, reduce their work force, close down many of their branches due to the budgetary constraints they were facing, while their bank accounts were frozen. As previously reported, under the law only local organizations may work in the fields of human rights and democratization, and only organizations that receive less than 10% of their funds from foreign sources are considered local. It has become extremely challenging to investigate human rights violations as people are reluctant to volunteer information pertaining to such violations.

Due to the fear of being detained and tortured or even killed, many senior human rights defenders have fled the country. Most of the defenders who have stayed in Ethiopia have chosen to limit themselves to non-controversial activities or drop their activities on human rights altogether.

Press freedoms in Ethiopia are significantly restricted. The independent media continues to face attacks and restrictions. Journalists in Ethiopia work undercover. Printing costs have greatly increased, making it difficult for the few remaining independent papers to survive. Two independent papers have continued. One, Fiti paper, is a very small paper, publishing only 1500 copies per week. The paper's editor Temesgen Desalegne was on 22nd January summoned by police with charges against him. He was accused of 'tarnishing the image of the ruling coalition'. While he was later released, he was required to pay a bail of 500 USD.⁹ The other newspaper, Awramba Times, currently self-censors much of its content, in an attempt to avoid further charges.¹⁰ The paper has previously been harassed by government for its critical reporting.¹¹

⁸ VOA, "Ethiopia advocates overthrow of Eritrean government," <http://www.voanews.com/english/news/africa/Ethiopia-Advocates-Overthrow-of-Eritrean-Government-118333254.html>

⁹ RSF, "Newspapers and Journalists Face Threats and legal Pressure," http://en.rsf.org/ethiopia-newspapers-and-journalists-face-21-03-2011_39830.html (last visited 23rd March 2011)

¹⁰ EHAHRDP interview

¹¹ CPJ, "Ethiopian newspaper reports tempering of its mail," <http://cpj.org/2010/06/ethiopian-newspaper-reports-tampering-of-its-mail.php>

At the beginning of April 2011, the Ethiopian government jammed the transmission of Deutsche Welle, a German broadcast station. On 3rd April, the station had aired a program in which the participants said the government feared that an uprising like the ones in North Africa could also take place in Ethiopia.¹² This is not the first time that the government has jammed international radio stations broadcasting in Ethiopia; two months before the May 2010 elections, Voice of America had its signal jammed.

On 11th February 2011, Eskinder Nega a journalist was arrested by the Federal Police as he left an internet café, after he published an article referring to the protests in Egypt. The article urged that if protests did break out in Ethiopia, the army should acknowledge Ethiopians' right to peacefully demonstrate, and should protect them.¹³ He was accused of attempting to incite the public into similar protests. In 2005, Eskinder was arrested together with his wife for supporting the protests that followed the legislative elections.

Restrictions against independent journalists as well as activists have continued. The case of the Addis Neger is a telling example. Following significant surveillance by security services and a smear campaign in a series of articles in government newspapers accusing the newspaper and its staff of supporting terrorist groups, this leading independent newspaper finally shut down in December 2009 and its editors fled the country after learning that the government was preparing criminal charges against them based on the new anti-terrorism law.¹⁴ The newspaper has since been re-established in exile, although its website has been blocked in Ethiopia a number of times, most recently in March 2011. It was similarly blocked in May and August last year.

General Overview

Civil and political rights in Ethiopia are severely restricted. Political freedoms are limited by the ruling Ethiopian People's Revolutionary Democratic Front (EPRDF). The announcement by Birtukan Mideska, the head of the Unity for Democracy and Justice (UDJ) Party, in February 2011 that she was to temporarily quit politics is telling. Ms Mideska was initially amongst the group of opposition party members arrested in November 2005 after her party disputed the results of the local and parliamentary elections. Whilst in detention she was held in solitary confinement. She was later released in June 2008 only to be re-arrested after she refused to retract a statement in which she rejected having accepted to sign a governmental pardon in order to be released. Ms Mideksa was eventually released on the 6th October 2010 a day after the PM's inauguration. The official explanation given for her release was that Ms Mideksa had requested a pardon which was granted. Her arrest and detention has been described as a system used by the EPRDF where healthy challenging leaders are put in prison and only released after harming them physically and psychologically.¹⁵

Furthermore, the Ethiopian government is reported to have arrested hundreds of political activists in early 2011, in the wake of the recent uprisings that have been going on in North

¹² CPJ, "Ethiopia Should Probe Jamming of German Radio Broadcasts," <http://www.cpj.org/2011/04/ethiopia-should-allow-german-broadcasts.php> (last visited 18th April 2011)

¹³ Amnesty International, "Ethiopia: Threats against journalist are another attack on freedom of expression," 18 February 2011, <http://www.amnesty.org/en/library/asset/AFR25/001/2011/en/54b7f640-8654-461c-8a45-c629c6f0cd28/afr250012011en.html>

¹⁴ VOA, "Ethiopian newspaper shuts down, editors flee", <http://www.voanews.com/english/news/Ethiopian-Newspaper-Shuts-Down-Editors-Flee---78646927.html> (last visited 9th April 2011)

¹⁵ VOA, "Ethiopia's Best Known Opposition Leader to Quit Politics for Now," <http://www.voanews.com/english/news/africa/Ethiopias-Best-Known-Opposition-Leader--to-Quit-Politics-for-Now-116589358.html>

Africa and the Middle East. The crackdown which was mainly in Oromia region appears to be designed to scare off any one who may be planning to organise such demonstrations.¹⁶

Concerns have also been raised about the use of international development aid to fund state repression by the Ethiopian authorities. A report released by Human Rights Watch late last year demonstrated how opposition supporters are discriminated against and denied access to state resources and essential services, under programs funded by foreign donors.¹⁷

Discrimination against women in Ethiopia is still widespread especially in rural areas. Harmful traditional practices like FGM, domestic violence, rape, early marriage, and abduction of girls for marriage are perpetrated on a large scale. One telling example is the mistreatment by security forces and subsequent impunity in the case of Enat Fentie Bishu. Enat, an 18-year old female student, was repeatedly raped by Militia Head, Abbere Demellash, after he broke into her house along with Kebele Chairman, Gobie Kindie, Militia Melak Jember and Militia Bitew Belay. On September 3, 2008, she had to be taken to Beza Clinic in Bahar Dar to abort a 3-month old pregnancy. Although Enat Fentie had reported her ordeal to the police and asked that her tormentors be brought to justice, as of November 2010, no legal measure had been taken.¹⁸

Kenya

Situation of HRDs

Defenders involved in investigations into rights violations that occurred during the post election violence in 2008 as well as those working on extrajudicial killings have come under particular threat. Extrajudicial killings have also greatly increased with perpetrators going unpunished in most cases and thereby breeding a culture of impunity.

While other journalists shied away from covering the story, Sam Owida a reporter with the Daily Nation received anonymous death threats in December 2010 over a story he published on the killing of reporter Francis Nyaruri in 2009. Nyaruri was a reporter with a private weekly newspaper, Citizen. Such threats have forced Owida to frequently change locations. The Committee to Protect Journalists called on the police to ensure Owida's safety and protection, but also revive the investigations into Nyaruri's murder.¹⁹

Investigations into the killings of human rights defenders Oscar King'ara and Paul Oulu of Oscar Foundation that took place on 5th March 2009 in broad daylight have stalled, reportedly due to claims of insufficient evidence.²⁰ The Kenya National Human Rights Commission stated that this year alone they have reportedly documented 59 cases of extrajudicial killings, while the Independent Medico-Legal Unit (IMLU), an anti torture NGO, and Release Political Prisoners (RPP) have documented 17 and 15 cases respectively.²¹

Kenyan human rights defender Al-Amin Kimathi remains in detention in Kampala, Uganda. As previously reported, Kimathi was arrested on a visit to Uganda in September 2010 to observe the hearings of Kenyan suspects of the July 2010 Kampala bombings. He was charged with terrorism

¹⁶ VOA, "Ethiopia accused of Detaining Activists to Deter Uprising," <http://www.voanews.com/english/news/africa/Ethiopia-Accused-of-Detaining-Activists-to-Deter-Uprising--118543469.html> (last visited March 23rd 2011)

¹⁷ Human Rights Watch, "Donors Should Investigate Misuse of Aid Money," December 2010, <http://www.hrw.org/en/news/2010/12/17/ethiopia-donors-should-investigate-misuse-aid-money>

¹⁸ EHRCO, The State of Human Rights in Ethiopia, 34th Ordinary Report, 2011

¹⁹ CPJ, "Journalist Receives Death Threats for investigating Murder," <http://cpi.org/2010/12/kenyan-journalist-receives-threats-for-investigati.php> (last visited December 23rd 2010)

²⁰ Daily Nation, "Raila Orders Probe into Executions," <http://allafrica.com/stories/201103160075.html>

²¹ Nairobi Star, "Extra-Judicial Victims' Families Cry for Justice," <http://allafrica.com/stories/201104040285.html>

and has been detained since then. A British trial monitor who came to observe Kimathi's bail hearing was stopped at Entebbe airport and refused entry in December 2010. Four other prominent Kenyan human rights defenders concerned with the case were turned away at the airport in April 2011 (see Uganda section below for details). Some of the Kenyan suspects who were set to face trial in Uganda were released after the Ugandan prosecution dropped charges against them while charges against Kimathi and a few other suspects were sustained.

General Overview

Impunity for extrajudicial killings by the Kenyan police remains a serious concern. A police shooting in early 2011 raised concerns of a renewed wave of extrajudicial killings, similar to those characterized by the UN Special Rapporteur Philip Alston in 2009 as "systematic, widespread and carefully planned." The failure to investigate such killings in the past has escalated the culture of impunity. On 19th January 2011, three suspected criminals were killed in broad daylight in Nairobi by plain clothes police officers. Images of the killings photographed by a passing motorist were subsequently printed on the front page of one of Kenya's daily newspapers.²² The three policemen were thereafter temporarily suspended by the government to allow for investigations and possible prosecution for the killings.²³

Witnesses to extrajudicial killings have been targeted. In March 2011, Kenneth Irungu, a key witness in a murder trial in Nairobi, was abducted and subsequently killed after attending the mention of the case at Makadara Law Courts, and his body was found a few hours later outside Nairobi.²⁴ Prime Minister Raila Odinga responded by instructing the Police Commissioner to investigate Irungu's killing and ordered investigations into the extrajudicial killings that had recently taken place.

Investigations by the International Criminal Court (ICC) have led to much debate in Kenya on how those responsible for the post-election violence in 2007-2008 should be prosecuted. After the Kenyan government signed an agreement in September with the ICC allowing the court to set up a base in the country,²⁵ on 15th December 2010, the prosecutor named six people for whom he had sought from the pre-trial chamber summons to appear. The six include member of parliament William Ruto; Finance Minister Uhuru Kenyatta; Henry Kosgey, the minister responsible for industrialization; journalist Joshua Arap Sang; civil service head Francis Muthaura; and Major General (retired) Hussein Ali, the former police commissioner. A week later, the Kenyan parliament passed a motion on December 22, 2010, urging the government to withdraw from the Rome Statute, the ICC's founding treaty.²⁶ While this motion is not binding on the Kenyan government, it has been reported that a group of Kenyan parliamentarians are preparing to table a bill, which if enacted, would effectively require the Kenyan government to withdraw from the Rome Statute. The "Ocampo Six" appeared before the pre-trial chamber on 7th April 2011, and their confirmation of charges hearings are scheduled for September. Efforts by the

²²Daily Nation, "Kenyan police execute three men point blank," <http://www.nation.co.ke/News/Kenyan%20police%20execute%20three%20men%20point%20blank/-/1056/1092592/-/item/0/-/4x1quvz/-/index.html>

²³ Daily Nation, "Officers suspended over street execution," <http://www.nation.co.ke/News/Officers%20suspended%20over%20street%20execution/-/1056/1093136/-/item/0/-/p6qj9n/-/index.html>

²⁴Daily Nation, "Key Murder Case Witness Abducted From Market," <http://allafrica.com/stories/201103140136.html>; Daily Nations, "Body of Abducted Key Witness Found with Bullet Wounds," <http://allafrica.com/stories/201103140050.html>;

²⁵Daily Nation, "Govt signs deal for ICC base in Kenya," <http://www.nation.co.ke/News/Govt%20signs%20deal%20for%20ICC%20base%20in%20Kenya/-/1056/1002892/-/p83bme/-/index.html>

²⁶ New York Times, "Efforts to Spare Top Politician from Charges," http://www.nytimes.com/2010/12/24/world/africa/24briefs-Kenya.html?_r=1 (last visited 24th December)

government to lobby the UN Security Council to defer the cases were unsuccessful. A decision is pending on the application filed by the Kenyan government in April 2011 challenging the admissibility of the cases.

A national witness protection agency was created on 7th April 2010 following the passing of the Witness Protection (Amendment) Act, 2010.²⁷ The lack of an ineffective and viable witness protection mechanism has been of great concern in the country, and the law establishes a Witness Protection Agency mandated to institute and maintain a Witness Protection Program to protect crucial witnesses who require protection from a threat or risks on account of their testimonies.²⁸ However the agency is not yet fully operational and questions surrounding its credibility persist.²⁹

The rights of women continue to be violated and the number of cases of sexual violence has been particularly high in situations of conflict, notably during the post election violence and the military deployment in the Mount Elgon region. Domestic violence is widespread, and yet a domestic violence and family protection bill first introduced into parliament in 2000 has still not been passed.³⁰

The rights of minority groups have also been restricted. On 25th March 2011, the African Committee of Experts on the Rights and Welfare of the Child found Kenya in violation of the rights of Nubian children to non-discrimination, nationality and protection against statelessness. The Committee is the only child rights treaty monitoring body with the power to determine cases. It monitors the implementation of the African Charter on the Rights and Welfare of the Child, which Kenya ratified on 25 July 2000.³¹

Activists report the LGBTI community in Kenya is increasingly coming under attack with beatings by police and raids on their parties. They are discriminated against in the communities where they live calling them outcasts. The family of the victims are reported to be the main source of discrimination which is mainly fuelled by politicians, religious leaders and some cultures.³²

Rwanda

Situation of HRDs

The space accorded to human rights defenders in Rwanda is limited. Independent media, particularly newspapers, continue to bear the brunt of the government's attacks. In 2010 a number of journalists were threatened, several arrested and one journalist was killed while others fled the country. Those that flee the country continue to be intimidated and harassed.

The right of freedom of expression and association of human rights activists are also severely restricted. In December 2010, Nelson Gatsimbazi, the managing editor of the Kinyarwanda

²⁷The Witness Protection (Amendment Act) 2010,

<http://www.kenyalaw.org/Downloads/ammendmentacts/THE%20WITNESS%20PROTECTION%20%28AMENDMENT%29%20ACT%202010.pdf>

²⁹ ISS, "Lack of Political Will Undermines Witness Protection in Kenya," <http://www.the-african.org/blog/?p=470>

³⁰ Rights-Kenya, "He Dismissed Me to Return Home and Satisfy My Husband,"

<http://ipsnews.net/africa/nota.asp?idnews=35755>

³¹ IHRDA, "Kenya violates african children's charter as Nubian children suffer discrimination and statelessness,"

<http://www.ihrda.org/2011/03/kenya-violates-african-children%e2%80%99s-charter-as-nubian-children-suffer-discrimination-and-statelessness/> (last visited 1st April 2011)

³² VOA, "Kenyan Gays battle Prejudice," <http://www.voanews.com/english/news/africa/Kenyan-Gays-Battle-Homophobia---115113734.html> (last visited February 4th)

bimonthly Umusingi, was accused by Brigadier General Richard Rutatina, a presidential advisor of working with “enemies of the state.” The accusations were made at a human rights forum in response to a question that was asked on the prolonged pretrial detentions of Lieutenant Colonel Rugigana Ngabo, a brother of exiled former military leader General Faustin Kayumba Nyamwasa.³³

On February 4th 2011, two Rwandan journalists, Agnes Nkusi Uwimana, editor of the private Kinyarwanda tabloid newspaper, Umurabyo, and her deputy editor, Saidati Mukakibibi, were imprisoned for 17 and 7 years respectively after criticizing president Paul Kagame through opinion pieces they wrote ahead of the August 2010 presidential elections. Agnes was found guilty of threatening state security, genocide ideology, divisionism and defamation, while Saidati was found guilty of threatening state security.³⁴

On a more positive note, during the review of Rwanda at the 10th session of the UN Human Rights Council in January 2011, Rwanda accepted recommendations to review a number of laws that restrict the media, freedom of expression and political activity. The targeted laws are the media law, which was enacted in 2009; the criminal defamation provision in the old penal code; and the genocide ideology law which was passed in 2008.³⁵

General Overview

Political space continues to be restricted in Rwanda. Individual opposition party members continue to face a series of threats and attacks. Restrictions on freedom of association prevented new opposition parties from contesting the presidential elections in August 2010, which President Kagame won with 93 percent of the vote.

On 11th February 2011, the High Court in Kigali sentenced Bernard Ntaganda, president of the PS-Imberakuri party, to two years after he was found guilty of inciting ethnic divisions and attempting to organize demonstrations without official authorization. Ntaganda, who was arrested on 24th June 2010, just a month before the presidential elections, was an outspoken critic of the government. The charges against him relate to his public statements criticizing government policies. He was arrested along with other party members who were threatened, harassed and beaten. On another occasion, Sylvain Sibomana, Alice Muhirwa, and Martin Ntavuka of the FDU-Inkingi were also fined 100,000 Rwandan francs each for attempting to organize demonstrations without official authorization.³⁶

Another political figure Victoire Ingabire, president of the FDU-Inkingi, was once again arrested on 14th October 2010 and remains in prison awaiting trial. She was arrested from her house and taken to the Criminal Investigation Department for questioning in line with a testimony from a former commander of the Democratic Forces for the Liberation of Rwanda implicating her in activities of forming a new armed group.³⁷ Her application for bail has been rejected several times. She was first arrested in April 2010 and accused of collaboration with armed groups but

³³ CPJ, “Rwandan Advisor should retract Accusation Against Editor,” <http://cpj.org/2010/12/rwandan-adviser-must-retract-accusation-against-ed.php> (last visited January 2011)

³⁴ BBC News, “Rwandan Journalists on Umurabyo newspaper sent to jail”, <http://www.bbc.co.uk/news/world-africa-12370738> (last visited 10 February 2011)

³⁵ VOA, “Rwanda to Review Laws Said to Restrict Freedoms,” <http://www.voanews.com/english/news/africa/decapua-rwanda-human-rights-26jan11-114649314.html> (last visited 29th January 2011)

³⁶ Amnesty International, “Rwandan Opposition Politician jailed for exercising rights,” <http://www.amnesty.org/en/news-and-updates/rwandan-opposition-politician-jailed-exercising-rights-2011-02-14> (last visited on 16th February 2011)

³⁷ Human Rights Watch, “Rwanda: Protect Rights and Safety of Opposition Leaders,” <http://www.hrw.org/en/news/2010/10/15/rwanda-protect-rights-and-safety-opposition-leaders>

later released on bail with travel restrictions. Members of her party have suffered repeated intimidation and threats.

The rights of minority groups, notably the Batwa, are severely restricted as a result of the government's policies of national unity which stipulate that everyone is a Rwandan and that there is no ethnic minority in the country. As a result, ethnic minorities and indigenous people are not recognised, no data is collected on them and therefore despite the recognition by the government that there are certain communities within society which have been marginalised, the lack of concrete data makes any effective program to overcome this marginalisation very difficult. To this effect, the UN Independent Expert on Minority Issues visited Rwanda in early 2011 to look into whether certain groups felt disadvantaged relevant to others, and identify challenges and best practice.³⁸

Somalia

Situation of HRDs

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, leaving defenders with no protection to speak of.

Press freedom in Somalia is severely restricted in part due to the general security situation but also due to targeted attacks on the media. On 27th March 2011, Abdi Mohamed Ismael the editor of the independently owned Radio Shabelle and the station's director Abdi Omar Qase were detained by the Somali Intelligence Unit. It is alleged that their arrest is as a result of a report released by the station about the heavy fighting between Al Shabaab and government troops with help of AU peacekeeping force in Mogadishu.³⁹

General Overview

The human rights situation in Somalia has not changed since the last reporting. International humanitarian law and human rights violations continue to be committed by all the parties involved in a conflict that has brought about severe suffering for the civilian population. The perpetrators of these violations, whether government or members of insurgency groups, clan militias or warlords, have all been accorded virtual impunity. Despite the international attention to the crisis there have been no concrete developments on the ground.

Massive violations of international humanitarian law (IHL) and human rights are committed against civilians during the fighting by all actors involved in the conflict. Such attacks include indiscriminate attacks, shelling, exchange of mortar fire in civilian areas, the use of human shields (notably by launching missiles from highly populated areas in Mogadishu but also near IDP camps), and the deployment of insurgent forces into civilian areas. On 18th December 2010, at least three people were killed and more than five others injured in Mogadishu as a result of clashes in which Al Shabaab attacked government and African Union peacekeepers' military bases in Bondheere district. Two days earlier, on 16th December, attacks had also been reported between Al Shabaab and the government forces.

³⁸ Rwanda News Agency, "UN Expert Coming to Review 'Ethnic Diversity' in Rwanda," <http://rnanews.com/politics/4725-un-expert-coming-to-review-ethnic-diversity-in-rwanda/> (last visited 11 February 2011)

³⁹ Xurmo Newsletter March 2011 issue

Right to life has been gravely violated notably as a result of the continued fighting in Mogadishu and in South and Central Somalia, as well as a result of targeted killings of politicians and journalists.

The culture of impunity is deeply entrenched as the country has not seen any form of accountability or redress for the serious abuses that have been committed by any of the warring parties.

Gender-based discrimination in Somalia is manifest in various ways. Polygamy is culturally sanctioned, allowing men to marry more than one woman, while the opposite is forbidden, and few women hold positions of high responsibility at the local and state levels. Even though more women than men participate in commercial activities, they control petty trade, whereas large business is male-dominated. The continued fighting has also greatly affected women as many of those living in displacement camps are particularly vulnerable to sexual and gender-based violence (SGBV), and being raped by TFG forces and the insurgent groups, but also resulting from inter-clan rivalry, is widespread. The increase in application of sharia law in areas dominated by Al-Shabab further undermines women's basic rights. Furthermore, the practice of Female Genital Mutilation continues to be practiced, even outside Somalia including by the Somali community in Kenya. This is done for religious and cultural purposes. It is a painful process which may lead to debilitating complications.⁴⁰

At the beginning of April 2011, the prime minister of Somalia, Mohamed Abdullahi Mohamed, ordered the UN agencies working on Somalia but based in Nairobi, Kenya to move to Mogadishu within 90 days. He stated that this was in order to make it stated will make it easier for the agencies to know the situation on ground.⁴¹

Somaliland

Situation of HRDs

Somaliland has witnessed increasing attacks on independent media, public meetings and cases of torture in the past months generally in the name of national security. Attacks on media freedoms are evident. Mohamud Abdi Jama, editor of the private daily Waheen was sentenced to three years, in addition to a fine of \$900. He was charged with defamation and the spreading of false news. The sentence was as a result of a story published last year in which a state electricity company manager is accused of hiring 50 employees from his clan.⁴²

On 14th December 2010, Mr. Bolaleh of Somaliland Human Rights Organizations Network was attacked by four men in civilian clothes. The attackers entered the main office of SOHIRA-Net at a time when he was alone in office. He was beaten, threatened with death and interrogated while his mobile was taken away, and asked why he was criticizing the governor of Hargeisa, Mr. Abdilahi Hamarje. He recognized his attackers as members of the KULMIYE party and as close friends to the governor.⁴³

⁴⁰ CARE, "Female Genital Mutilation," <http://www.care.org.au/Page.aspx?pid=932> (last visited 20th February 2011)

⁴¹ BBC News, "Somali PM Mohamed Orders UN to Return to Mogadishu," <http://www.bbc.co.uk/news/world-africa-12970992> (last visited 1st April 2011)

⁴² CPJ, "Somalia Editor Sentenced to Three Years in Prison," <http://www.cpj.org/2011/01/somaliland-editor-sentenced-to-3-years-in-prison.php> (last visited 30th January 2011)

⁴³ Press Statement by Somaliland Impartial Human Rights Network, "Attack against Somaliland Human Rights Defender"

During celebrations in the week of International Human Rights day organized by members of the Somaliland Human Rights Organizations Network, (SOHIRA-Net) held at Imperial Hotel Hargeisa, defenders highlighted numerous human rights violations, notably rampant corruption in government circles, violations of minority rights in both the public and private sphere, unlawful firing of government officials, violations of freedom of expression and association by Hargeisa governor Mr. Abdilahi Hamarje.⁴⁴

General Overview

With no laws specifically addressing domestic violence against women, it remains a serious problem in Somaliland. Sexual violence in the home is a serious problem and linked to general gender discrimination.

Impunity remains a problem in Somaliland as police and security agencies use excessive force. Abuses committed by the police and other militia groups are rarely investigated thereby further nourishing a culture of impunity.

Sudan

Situation of HRDs

Human rights defenders working in Khartoum and Darfur have increasingly faced harsh situations especially after the 9th January 2011 referendum. Attacks on freedom of expression and the press that were prevalent during the elections in April 2010 continue to date and newspaper censorship has resumed. Freedom of expression and freedom of association are protected by the Interim National Constitution (INC) of 2005, but significant restrictions and attacks on these rights continue to take place.

While demonstrating against the government's price increase, the Youth for 30 January Change Alliance called on President Omar al-Bashir to revoke measures imposed with the intention of combatting the economic effects of South Sudan's secession. The demonstration was sparked by the protests that have recently taken place in North Africa and comprised thousands of Sudanese students and their supporters gathered in Khartoum and other northern cities on 30th and 31st January 2011. The use of water pipes, sticks and teargas by the dispatched armed riot police in response to the demonstrations was disproportionate. The demonstrations continued into a second week and the National Intelligence and Security Services (NISS) treatment of the detained protesters worsened, with the use of sleep deprivation electric shocks.⁴⁵

Following the January demonstrations, nine journalists who reported on them were arrested. Four have since been released, but four newspapers have also been censored since the protests: Ajras Alhurria, Al Sahafa, Al Alyoum, and now Al-Midan. The first two newspapers also had their distribution banned after they covered the demonstrations. On the evening of 2nd February, National Intelligence and Security Services surrounded the offices of Al-Midan, a Communist Party-affiliated newspaper in Khartoum and confiscated the newspaper's 1st February issue covering the mass demonstrations.⁴⁶ Jaafar Alsabki Ibrahim, a journalist from Darfur working for the opposition newspaper Al Sahafa, was arrested by the National Intelligence and Security Services (NISS) on 3rd November 2010 at their office in Khartoum. When the newspaper's offices were raided, Jaafar was taken from the editing room, his phone was taken from him and

⁴⁴ Ibid

⁴⁵ FIDH, "A Protest for Freedoms inspired by events in Tunisia and Egypt severely repressed by national intelligence and security service," <http://www.fidh.org/A-protest-for-freedoms-inspired-by-the-events-in> (last visited 10th February 2011)

⁴⁶ As South Builds for Secession, Crackdown in North Sudan Begins

he was later taken to undisclosed place. His arrest follows the known arrests of eight other activists from Darfur between 30th October and 3rd November 2010.⁴⁷

General Overview

In the lead up to and shortly after the referendum, the Khartoum government stepped up its crackdown on northern Sudanese human rights activists, journalists, critics, and opponents of the ruling party. In Darfur, where rebels and government forces continue to clash and peace remains distant, the Khartoum government has resumed attacks on civilians.

The ongoing civil conflicts in Darfur as well as the tensions between the north and south continue to shape the human rights situation in Sudan. The attacks have been carried out by both the Sudanese army and the Janjaweed on unarmed civilians living in Darfur. According to the UN, more than 300,000 people have been killed while 2.7 million displaced since 2003.⁴⁸

In a speech made by President Bashir on 19th December 2010, he stated that after the separation of the North from the South, Sudan would return to sharia law, with Arabic as the official language and there would be no ethnic and cultural diversity. Such kind of speech could fuel discrimination especially among minority groups notably some Southerners who might continue living in the North. The reverse could also be true for Northerners staying in the South.⁴⁹

Threats to freedom of expression, association and peaceful assembly are manifested. These include violent dispersal of peaceful protests and demonstrations, arbitrary arrests and detention of journalists and observers, and intimidation of voters. In March, the Sudanese security forces stormed a rally that was organised by anti-government supporters in Khartoum and beat up the protesters while others were arrested. The demonstrators were calling for the downfall of President Omar al-Bashir. It is reported that about 500 police wielding batons, moved in against the protesters soon after the rally began. Among those arrested were three of the organisers, one from the Baath party and two from the Communist party. In another incident, police beat and arrested 40 women who gathered to protest against rape and human rights abuses.⁵⁰

Since the beginning of the year, sexual harassment has been on the increase especially at the hands of security officials. Cases of rape have been reported. On 13th February 2011, a female activist was reported to have been raped. This was during the anti-government demonstrations that were organized by the youth on 30th January. In response, some women protested publicly against the incident, but some were beaten and arrested during the demonstrations.⁵¹

Torture and other forms of ill-treatment of human rights activists are still reported in the country. This is particularly in the Darfur region mainly at the hands of the National Intelligence and Security Services (NISS). New forms of torture have been reported as being based on ethnicity and gender.⁵²

⁴⁷ Journalist held incommunicado in Sudan: Jaafar Alsabki Ibrahim <http://www.amnesty.org/en/library/info/AFR54/038/2010/en>

⁴⁸ Time to Push for Darfur Agreement; <http://www.voanews.com/english/news/africa>

⁴⁹ Omar al-Bashir: northern Sudan will adopt sharia law if country splits <http://www.guardian.co.uk/world/2010/dec/19/omar-bashir-sharia-sudan-referendum>

⁵⁰ Dozens Beaten, Arrested at Sudan Anti-Government Rally last visited 20th March 2011 <http://www.voanews.com/english/news/africa/east/Sudan-Police-Beat-Arrests-Dozens-at-Anti-Government-Rally-117646699.html>

⁵¹ Sudan used Sexual Violence Against Female Activist Right Group Says http://www.peacewomen.org/news_article.php?id=3109&type=news

⁵² Report from African Centre for Justice and Peace Studies

Humanitarian groups have also been affected notably; recently, the French aid organisation Doctors of the World (Medecins du Monde) was accused of working with a rebel group in Darfur fighting against the Sudanese government and making negative reports about the country.⁵³

South Sudan

Situation of HRDs

In the lead up to the January 2011 referendum a fact-finding mission that was carried out by East and Horn of Africa Human Rights Defenders Project in December 2010, noted self-censorship as a key issue. The team also observed the tension and emotions that characterized the period leading to the referendum. According to testimonies received by the team, torture continues to be used by the security forces in order to extract information.⁵⁴

In addition to the restrictions of self-imposed censorship, the media has also faced direct threats and restrictions by the government. In early April, for example, all copies of one edition of the Juba Post, which contained an interview with a rebel commander, were confiscated. Threats to media houses and the press from the government are becoming more frequent. Linked to the confiscated edition, the Juba Post editor was threatened by the government over the publication of information about the current revolutionary movement within South Sudan.

In what appears to be an attempt to stifle strong journalism, a female journalist from the Citizen newspaper was denied access to the Equatoria conference and arrested simply on the grounds of not being “dressed well.” The incident has echoes an attack earlier this year in northern Sudan, on a journalist from Labna FM, who was beaten and accused ostensibly because of her dress.

General Overview

With nearly 99% of the southern Sudanese population voting for secession, South Sudan is set to become the world’s newest independent state on 9th July 2011. The holding of the Southern Sudan independence referendum on 9th-15th January 2011 was internationally commended for being free, fair and peaceful, except for the clashes in the disputed oil rich region of Abyei in which 30 deaths were reported.⁵⁵ The referendum, which is part of the 2005 Comprehensive Peace Agreement (CPA) between the Government of Sudan (GoS) and Sudan People’s Liberation Movement (SPLM) that ended 20 years’ civil war in which over two million lives were lost, was a step towards finding lasting peace in the Sudan.

Insecurity has, however, continued to be a major problem in the South even after the referendum, with reports of killings in some states. The UN humanitarian coordinator reported in April 2011 that over 800 people had been killed and almost 94,000 displaced since January.⁵⁶ The security situation is of particular concern given that the oil rich Abyei did not vote. Abyei was scheduled to have its own referendum on 9th January to decide whether to join the North or South. However, there was no commission in place to conduct the referendum, and there were disputes in regard to voter eligibility.

⁵³ Governor expels French Aid Group from South Darfur <http://www.voanews.com/english/news/africa/Governor-Expels-French-Aid-Group-From-South-Darfur-116168139.html>

⁵⁴ Interviews from the fact finding mission carried out by EHAHRDP in December 2010

⁵⁵ Reuters 2011. Clashes escalate in Sudan's Abyei as south votes. <http://www.reuters.com/article/idUSTRE70814A20110109>

⁵⁶ http://news.yahoo.com/s/afp/20110413/wl_africa_afp/sudanunrestsouthun

While dispute over where the oil-rich region of Abyei will belong remains unresolved, it is expected that the tensions and clashes between the North and South will continue. This is besides the clashes between the South's military, the Sudan People's Liberation Army (SPLA), and the breakaway forces of George Athor, a former commander who took up arms against Juba after losing a bid to be governor of Jonglei in Sudan's April 2010 elections. Equally concerning is the uncertainty over internal political dynamics within South Sudan itself and to keep the focus on ensuring democratic solutions.

In the justice system in South Sudan, the absence of a clear legal framework fosters impunity. The justice system is weak, largely due to a lack of capacity resulting from the legacy of the region's 21 year conflict and confusion over responsibilities, which can allow government actors to manipulate the system. Judges are often unqualified and absenteeism is high.⁵⁷ Customary justice is presently the main form of justice available in South Sudan even though the judges of these courts are rarely aware of key national and international legal standards.

Tanzania

Situation of HRDs

Human rights defenders in Tanzania have increasingly faced a number of challenges. In a training that was conducted by East and Horn of Africa Human Rights Defenders Project and Protection Desk Uganda for HRDs in Tanzania in October last year, journalists, minority defenders and pastoralist defenders were seen as the main targets of harassment, intimidation and threats.

Tanzania's media came under threat during the October 2010 elections and critical reporting on the government during this time proved to be risky. Media houses, especially the print media, have been most affected. On 11th October 2010, two newspapers, Mwanahalist and Mwananachi, received warning letters from the Ministry of Information threatening to ban and de-register them if they continued portraying the country negatively and tarnishing its reputation.⁵⁸ Such threats not only restrict freedom of expression, but also limit the general public's access to information.

Human rights organizations' freedom of expression has also been infringed on. During the electoral period, the Executive Director of Tanzania Media Women Association (TAMWA), which advocates for gender equality and human rights development, received threats after issuing a statement opposing police and army involvement in matters related to the electoral process.⁵⁹

Intimidation of activists, notably by district commissioners, through administrative means amongst others, is frequent. A researcher from the Legal and Human Rights Centre (LHRC) - the focal point organization of EHAHRD-Net - in Tanzania was barred from accessing public information in Kigoma region in western Tanzania by the regional commissioner.

Discriminatory laws which fuel violence against women still exist in Tanzania, notably the Law of Marriage Act which allows a girl below 18 years to get married and restricts women's right to own property.⁶⁰ Harmful practices like Female Genital Mutilation continue to be practiced by certain

⁵⁷ Report of the Special Rapporteur on the Situation of Human Rights in Sudan, Sima Samar, A/HRC/9/13, 2 September 2008

⁵⁸ Government threatens to de-register two newspapers <http://allafrica.com/stories/201010280057.html>

⁵⁹ Your threats will lead to bad leadership-activists tell government <http://allafrica.com/stories/201010220626.html>

⁶⁰ The Law Reform Commission of Tanzania (LRCT) Report, 1994 on the Law of Marriage Act, 1971.

groups in the population, notably by the Maasai.⁶¹ Those carrying out these practices are rarely held accountable.

The economic, social and cultural rights of pastoralists continue to be violated. The eviction of pastoralists, agro-pastoralists and hunter gatherers from their land by the government has caused human suffering. These groups are a minority and marginalized in Tanzania. In December 2010 the Legal and Human Rights Centre (LHRC) and seven other non-governmental organisations (NGOs) filed a constitutional suit against the government petitioning the evictions of pastoralists from their lands in Loliondo, Arusha region.⁶² The government of Tanzania does not recognise their land rights and is designating their land for national parks.⁶³

Uganda

Situation of HRDs

The media in Uganda has faced a series of challenges in the recent months since the start of the official election campaigns in November 2010. Journalists have been subjected to physical attacks, intimidation, police interrogation, criminal charges and legal challenges while those outside Kampala have faced significant levels of intimidation and in some cases violent attacks, by civilians as well as police. According to the Human Rights Network for Journalists, civilians are second to the police in harassing and committing crimes against journalists, ahead of resident district commissioners, paramilitary groups, the state and the army (Uganda People's Defence Forces). The report also revealed that the most targeted are the electronic media journalists whose equipment is confiscated.⁶⁴

At least 10 journalists were attacked before, during and after the presidential, national and mayoral elections in Kampala. During the presidential and parliamentary elections on 18th February, Julius Odeke a journalist from the Red Pepper and the Razor was shot and injured in Budadiri West constituency in Mbale district, eastern Uganda, by security agents who were trying to confiscate his recordings of electoral violence.⁶⁵

During local elections on 23 February 2011, six journalists were reported to have been attacked and beaten during a scuffle that ensued at Kakeeka polling station in Rubaga division in Kampala, when voters suspected that ballot boxes had been stuffed with voting papers in favour of the NRM mayoral candidate Peter Sematimba. As a result of this and alleged malpractices in various locations in Kampala city, the voting process was suspended by the Electoral Commission and postponed until 14th March.⁶⁶ Investigations are ongoing.

Prior to the elections, on 3rd November 2010, four armed men kidnapped Nzito Arafat, a reporter with Radio Simba, who spent 10 days locked up in a dark room with his hands and legs handcuffed. He was only released after Human Rights Network for Journalists filed a habeas corpus petition compelling the army commander, the attorney general, and the head of a security agency to produce the journalist.

⁶¹ According to LHRC Fact Finding report on FGM conducted on 2010-2011, find out that more than 3000 were mutilated at Mara Tarime.

⁶² LHRC files petition on eviction <http://allafrica.com/stories/201012061125.html>

⁶³ Pastoralists of Northern Tanzania face extinction says activist <http://www.voanews.com/english/news/africa/east/Pastoralists-of-Northern-Tanzania-Face-Extinction-say-Activists--119488944.html> last visited 18th April 2011

⁶⁴ The Unwanted Witness <http://www.hrnjganda.org>

⁶⁵ For more information see EHAHRDP and FHRI, Attacks against journalists during elections in Kampala, Uganda condemned, 24th February 2011

⁶⁶ Ibid.

On 11th January 2011, a month before the presidential elections, Mustapha Mugisa, the Chief Executive Officer and Managing Editor of the Summit Business Review magazine, was arrested. Three months earlier, Mugisa had published a cartoon which depicted the president cutting a cake to mark 48 years of Uganda's independence and also examining the president's challenges during his 24 years in power. He was arrested by security operatives in civilian clothes, who stormed the magazine offices in Kamwokya suburb, Kampala and detained him. He was later released on police bond, which however did not mention the charges against him.

Human rights activists continue to be threatened, harassed and restricted from carrying out their work. On 13th April 2011, four prominent human rights defenders were returned to Kenya shortly after their arrival at Entebbe airport. The activists were due to meet the Chief Justice of Uganda Justice Benjamin Odoki the following day, to discuss the case of Mr. Al-Amin Kimathi, the Kenyan human rights defender being held in Uganda on terrorism charges (see section above on Kenya). The four who were denied entry to the country were Mr. Samwel Mohochi, a trustee of the Kenya National Coalition of Human Rights Defenders; Mr. Hassan Omar Hassan, vice chairperson of the Kenya National Commission on Human Rights (KNCHR); Mr. Hussain Khalid, from Muslims for Human Rights (MUHURI); and Mr. Muhdhar Khitamy, chairman of the Coast province branch of SUPKEM (the Supreme Council of Kenya Muslims). The eight other members of the legal delegation, which included two British nationals, were allowed to enter the country.⁶⁷

Discrimination against the LGBTI community has escalated. Individuals presumed to be LGBTI are harassed, subjected to verbal and legal attacks, including death threats, and ill treatment whilst in detention. The community has been particularly exposed following the death of one of its most prominent activists, David Kato, who was murdered on 26th January 2011 at his home in Mukono, Kampala. David was the Advocacy and Litigation officer of Sexual Minorities Uganda (SMUG), one of the founding member organisations of the East and Horn of Africa Human Rights Defenders Network. Prior to his death, he had been receiving death threats since a local newspaper, the Rolling Stone, published names and photos of a number of LGBTI activists under the headline "Hang Them". Kato was one of three activists who filed a successful law suit against the newspaper for violating their right to privacy and to life. On 3rd January, just weeks before his murder, the high court issued an injunction ordering the paper to stop any further publication about the activists.

The Anti-Homosexuality Bill (2009), which seeks to criminalise homosexuality, is currently on hold pending parliamentary deliberations.⁶⁸ The Bill would allow for the death penalty for consensual homosexual sex, punishes support or promotion of sexual minority rights with prison terms and calls for the nullification of international treaties at odds with the spirit and provisions of the Bill. If such a bill is passed into law, it could also have a serious impact on the fight against HIV/AIDS and access to health of HIV/AIDS affected LGBTI individuals as well as hampering the work of human rights organisations and activists in Uganda due to the bills' reporting requirements. While the Anti-Homosexuality Bill appears to have lost momentum at present, similar discriminatory provisions against LGBTI individuals are contained in the Sexual Offences Bill and Marriage and Divorce Bill which are still open for consideration by parliament.

⁶⁷ EHAHRDP and FHRI press statement, "Kenyan Human Rights Defenders Deported," 13th April 2011, <http://defenddefenders.org/index.php/our-publications/press-releases/108-uganda-kenyan-human-rights-defenders-deported>

⁶⁸ For more information see Video: Uganda: "5 LGBTI activists' views on the anti-homosexuality bill" (8 min 15 EN) by Protection International, <http://vimeo.com/15420132>

General overview

The human rights situation in the country has seen ongoing human rights violations mostly related to the just concluded elections. On 18th February 2011, Uganda held its presidential and parliamentary elections in an exercise that was largely reported to be free and fair by international electoral observers but with some cases of voters' names missing on the registers, late opening of the polling stations and incompetence of the polling officials. However, stronger irregularities were witnessed in mayoral elections in Kampala, which led to the postponement of the elections⁶⁹. In the run up to the elections, civil society and the opposition criticised and challenged the credibility of the Electoral Commission, questioning their impartiality and ability to conduct free and fair elections in light of the irregularities that marred the last general elections in 2006.⁷⁰

During the campaigns, it was noted that the field was not leveled for all candidates notably the unfair allocation of airtime favouring the ruling party was reported by some civil society organizations and media houses.⁷¹ In addition, civil society groups monitoring the election process also received threats from several sides including threats to their life when they highlighted irregularities in the electoral process. The Democracy Monitoring Group Uganda that was monitoring the elections was hindered from publishing a report they had compiled highlighting the irregularities since the campaign season started.

Restrictions on the rights to freedom of expression, peaceful assembly and association have also increased. In November 2010, Ethics and Integrity Minister Nsaba Buturo banned a three day workshop organised by Akina Mama Wa Afrika that was meant to discuss human rights issues of concern to sex workers in Uganda and other East African countries.⁷² The Public Order Management Bill, 2009, which has created an outcry amongst rights activists, seeks to regulate the conduct of public meetings and grants the Inspector General of Police and Minister of Internal Affairs excessive powers over the management of public meetings. The bill violates a number of provisions of the 1995 Constitution of Uganda notably the right to freedom of assembly and to demonstrate freely. It also infringes the African Charter on Human & People's Rights, the UN Declaration on Human Rights Defenders and the International Convention on Civil and Political Rights. The use of force to disperse protesters and demonstrators has been condemned by many. On 11th March 2011, protests in the campaign 'walk to work' against the raise in fuel and food prices were dispersed by police. A number of people were arrested including opposition leaders and members of parliament.⁷³

Torture and extrajudicial killings continue to be reported. A report released by Human Rights Watch covering the period November 2009-January 2011 indicated that more than 100 people had been arrested and detained by the Rapid Response Unit- one of the military groups in the country.⁷⁴

⁶⁹ Daily Monitor, "Low turn up, confusion mar sub-county elections," 8 March 2011, <http://www.monitor.co.ug/News/National/-/688334/1121004/-/c41f8fz/-/index.html>

⁷⁰ Human Rights Watch (HRW), "Uganda: Election Irregularities Require Judicial Probe," <http://www.hrw.org/en/news/2006/03/01/uganda-election-irregularities-require-judicial-probe>

⁷¹ Dem-Group, Demgroup Statement On The Nominations And On Going Presidential Campaigns, 18 Nov 2010, <http://demgroup.org/sites/default/files/DEMGGroup%20Statement%20on%20Local%20Council%20Nominations%20and%20Presidential%20Campaigns%20Nov%202010.pdf>

⁷² Amnesty International, "Uganda: Government should reverse decision to ban workshop intended to discuss human rights issues affecting sex workers," 19th November 2010, <http://www.amnesty.org/en/library/asset/AFR59/014/2010/en/c9104dfc-d01a-4a6b-b49c-c3b413b25b22/afR590142010en.html>

⁷³ VOA, "Uganda Opposition leader hit by Rubber Bullet," <http://www.voanews.com/english/news/africa/east/Uganda-Opposition-Leader-Hit-by-Rubber-Bullet-119842594.html> (last visited 18th April 2011)

⁷⁴ VOA, "Uganda Police and Military Unit accused of Torture," <http://www.voanews.com/english/news/africa/east/Ugandan-Police-and-Military-Unit-Accused-of-Torture-033111.html>

The NGO Act of 2006 along with the draft NGO Regulations put forward to parliament as they currently stand severely restrict and hamper the legitimate work of NGOs and HRDs. It is now over a year since civil society organisations in Uganda petitioned the constitutional court for interpretation of the NGO Registration Act, however their efforts are being frustrated as the hearing has been repeatedly postponed. Recently, the NGO petition in the high court was scheduled for 24th November 2010, but was once again postponed to 10th March 2011. However, for the fifth time, the hearing was postponed due to lack of quorum. The petition seeks an order stopping the NGO Board from implementing the NGO act and the regulations which are a subject of constitutional court. The petition followed an order in August 2010 where all NGOs were required to submit annual returns within a week to the NGO board. A temporary injunction was issued then pending a final decision on the matter.

The regulations define NGOs in a very limited manner, primarily as service delivery organizations and reflect a deep distrust towards these organisations. Extensive bureaucratic procedures are 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) and to provide significant details of their activities, excessive requirements for NGOs with limited resources. Under the NGO Regulations the NGO board is granted significant power over NGOs, notably with discretion to deregister, disband NGOs and impose conditions on permits as to areas of operation thereby threatening their autonomy.⁷⁵ 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. Besides, the postponement of the hearing is also in violation of Article 126 of the constitution which provides that justice shall not be delayed.

⁷⁵ See NGO Petition on the NGO Act 20611(2)