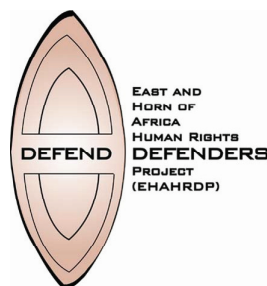
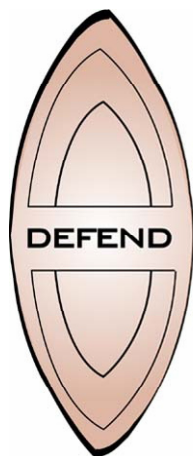


# Promoting the rights of Human Rights Defenders in the East and Horn of Africa

A comparative study into defenders and key stakeholders' efforts to promote and protect the rights of human rights defenders in Burundi, Ethiopia, Kenya, Rwanda and Uganda.







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

# Promoting the rights of Human Rights Defenders in the East and Horn of Africa

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## Foreword

In May 2008, the East and Horn of Africa Human Rights Defenders Network (EHAHRD-Net) held a strategic planning meeting with all the Network focal point persons in Entebbe, Uganda. In the course of the meeting, Network members expressed an interest in enhancing collaboration within the Network and increasing joint actions. Advocacy was identified as an excellent means through which to achieve greater interaction.

The purpose of this research is therefore twofold: first, by sharing the findings of the research with members and engaging them in joint action the East and Horn of Africa Human Rights Defenders Project (EHAHRDP) hope to build collaboration within the Network and between human rights defenders in general. Second, in the long run it is also expected that the research findings will help to build the advocacy capacity of Network members themselves.

This report is the product of intensive in-country research in which over 105 interviews were carried out. EHAHRDP hopes that it will be a thought provoking document which will help to achieve some of these key objectives which were initially identified.

Thank you,



Hassan Shire Sheikh  
Executive Director, EHAHRDP

## Description of EHAHRDP

The East and Horn of Africa Human Rights Defenders Project (EHAHRDP) is the Secretariat of a Network that seeks to strengthen the work of human rights defenders (HRDs) throughout the region by reducing their vulnerability to the risk of persecution and by enhancing their capacity to effectively defend human rights.

EHAHRDP focuses its work on **Burundi, Djibouti, Eritrea, Ethiopia, Kenya, Rwanda, Somalia** (together with Somaliland), **Sudan** (together with South Sudan), **Tanzania** and **Uganda**.

Many countries in this sub-region have experienced massive human rights abuses, long-term and large-scale impunity, single-party and military dictatorships, civil wars, and in the case of Somalia, a collapsed state; such situations and contexts render both the work and lives of human rights defenders particularly challenging. This project was established following extensive field research in the region, which identified the most pressing needs of human rights defenders in order to seek to overcome some of the resulting challenges. The key areas identified as needing to be addressed were:

- Insufficient collaboration amongst human rights organisations, especially among neighbouring countries;
- Resource constraints (notably material) which greatly undermine the effectiveness of the work carried out by human rights defenders;
- Knowledge gaps, in particular regarding international human rights instruments and mechanisms as well as crisis management
- Need to re-enforce efforts by the international community aimed at supplementing and supporting local level efforts when the rights of defenders are at risk.

The East and Horn of Africa Human Rights Defenders Network (EHAHRD-Net) was established in 2005 and currently brings together more than 65 non-governmental organisations active in the protection of human rights throughout the region. Its objectives evolve from its vision of a region in which the human rights of every citizen as stipulated in the Universal Declaration of Human Rights (UDHR) are respected and upheld, and is further emphasised in its mission to maximise the protection of Human Rights Defenders working in the region and to enhance the awareness of human rights work through linkages with national, regional and international like-minded entities.

The activities of EHAHRDP focus on three programmatic areas: protection, capacity building and advocacy.

# Acronyms

**ACHPR:** African Commission on Human and Peoples' Rights

**APAP:** Action Professionals Association for the People

**APRODH:** Association for the Promotion of human rights and detainees

**AU:** African Union

**BINUB:** United Nations Integrated Office in Burundi

**CSO:** Civil Society Organisation

**CUD:** Coalition for Unity and Democracy

**EHAHRDP:** East and Horn of Africa Human Rights Defenders Project

**EHAHRD-Net:** East and Horn of Africa Human Rights Defenders Network

**EHRCO:** Ethiopian Human Rights Council

**EPRDF:** Ethiopian People's Revolutionary Democratic Front

**EU:** European Union

**FIDH:** International Federation for Human Rights

**FRODEBU:** Front for Democracy in Burundi

**GONGO:** Governmental Non-Governmental Organisation

**HRD:** Human Rights Defender

**ICG:** International Crisis Group

**IMLU:** Independent Medico Legal Unit

**LDGL:** League for Human Rights in the Great Lakes Region LGBTI: Lesbian, gay, bisexual, transsexual and intersex

**LIPRODHOR:** Rwandan League for the Promotion and the Defence of Human Rights (NGO: Non-Governmental Organisation)

**PM:** Prime Minister

**UDHR:** Universal Declaration on Human Rights

**UN:** United Nations

## Executive Summary

Human rights defenders have a vital role to play in the East and Horn of Africa Region, a region in which human rights violations are pervasive. For defenders to be able to carry out their legitimate and essential work, whether human rights monitoring, advocacy, education or litigation, an enabling environment is needed.

In reality however defenders in this region are faced with a range of challenges that affect and thwart their work, from more blatant and traditional forms of repression to more recent legislative efforts by the authorities to restrict their space and criminalise their legitimate activities.

Advocacy aimed at protecting and promoting the rights of Human Rights Defenders (HRDs) is perceived as an effective means of helping to overcome some of these challenges.

It is questionable however whether defenders in the region have the means, the capacity and the support necessary for them to advocate for their rights as defenders in an effective and sustainable manner.

EHAHRDP sought to investigate this issue further in the hope of identifying the challenges which affect defenders' abilities to advocate for and promote their own rights, but more importantly to pinpoint good and replicable practices of such advocacy efforts.

This report is the result of an extensive examination which identified a range of challenges facing defenders including political, social and capacity challenges as well as structural restrictions in the areas of law and security, which currently undermine efforts to promote the rights of defenders. It provides a thorough analysis of the current situation facing HRDs and, drawing on key findings, makes specific recommendations to HRDs, the diplomatic community and regional governments

on how to best protect and promote the work of HRDs in the East and Horn of Africa.

The challenges identified were found to restrict the space in which defenders are able to carry out their advocacy, determine the receptivity of their public and shape the defenders' efforts and willingness to react to increasing constraints. As a result very few human rights organisations or individual defenders take part in formal, systematic advocacy aimed at protecting and especially promoting their rights.

Nevertheless, in spite of these challenges HRDs in this region are mobilising, particularly around individual cases and on a one-off basis.

Regular collaboration and joint efforts to speak out against violations or threats to their rights do take place, particularly in countries with more favourable contexts, notably Burundi and Kenya.

It is essential at this point for such efforts to become more systematic and for one-off collaborations amongst HRDs, both organisations and individual defenders, to be transformed into more concrete and long-term relationships. Initiatives currently taking place can be replicated and explored even in places where the potential advocacy channels might at first seem unwelcoming.

### Summary of Key Findings:

- The political, social and legal context in the region is discouraging and undermines advocacy efforts aimed at promoting the rights of HRDs;
- Defenders tend to be perceived as political opponents by the national authorities;
- A non-mobilised and even antagonistic general public generates social challenges to defenders' abilities to promote their own rights;
- The current legislative affront to defenders in the region, witnessed by the passing of restric-



tive NGO bills and Media Acts, is placing added limitations on HRDs' advocacy;

- Issues of capacity, mistrust amongst organisations and competition over funding also limits HRDs' abilities to effectively and sustainably promote their rights;
- The channels available for HRDs to carry out their advocacy are limited;
- HRDs are not involved in systematic and long-term efforts aimed at promoting their own rights;
- HRDs do mobilise on a one-off basis when individual defenders come under threat or when legislation which threatens the rights of defenders, whether Media or Communication Acts or NGOs bills, are put forward;
- HRDs do reach out in one way or another to the actors key to advancing their rights;
- Efforts to explore new advocacy channels and to approach them in a strategic manner (even those which at first appear closed to defenders) would enhance advocacy efforts by HRDs.

## 10 steps to improve HRDs' advocacy

In order to protect and promote their rights in a more systematic, sustainable and effective manner, HRDs should seek to follow the following ten steps aimed at improving their efforts to promote and protect their rights:<sup>1</sup>

1. Create a forum for regular interaction with other human rights organisations
2. Make use of all advocacy channels
3. Share key contacts with partners in other human rights organisations
4. Maintain collaboration with international human rights organisations
5. Collaborate with regional networks

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<sup>1</sup> These ten steps are described in more detail at the end of this report.

6. Read, disseminate and use the EU guidelines on Protection of Human Rights Defenders
7. Approach key stakeholders with concrete evidence and demands
8. Perceive the fight for defenders' rights as a long term struggle
9. Be strategic in your approach
10. Think global

In theory there are a range of actors responsible for the protection of the rights of HRDs; first and foremost this responsibility lies with the national authorities in the respective countries.

In practice, given the current economic, political, social and legal reality in the region, certain stakeholders appear more willing, interested or able to advocate on behalf of HRDs.

Recommendations to the diplomatic community and international actors

The diplomatic community based in the region as well as the international community as a whole are at present among the key actors which can help to create an enabling environment for defenders.

In order to fulfil its responsibility towards HRDs, the diplomatic community and international community as a whole must seek to:

1. Ensure that financial aid to national governments in the East and Horn of Africa region is made conditional on the basic rights of HRDs being upheld, both in theory and in practice.
2. Take proactive measures to encourage the relevant authorities and actors to immediately end all practices which threaten the human rights of HRDs.
3. Implement and promote the EU guidelines on the protection of HRDs and encourage other donors to put in place similar guidelines committing them to improving their interaction with and support for HRDs.

4. Help implement and support a forum for regular interaction between HRDs and other stakeholders, including the diplomatic community and state authorities.
5. Establish regular meetings between human rights organisations and the diplomatic missions.
6. Appoint a focal point person for HRDs within missions whose contact details are made available to HRDs.
7. Support national human rights organisations to develop organisational priorities.
8. Offer logistical and financial support to forums established by national HRDs to support their rights, for example the Secretariat of a national HRD coalition or an HRD protection programme.

Recommendations to governments in the region:

1. Immediately end arbitrary arrests, harassments and killings of all HRDs, and more particularly journalists.
2. Desist introducing new legislation and recall any existing legislation that threatens HRD rights and prevents HRDs and human rights organisations from pursuing their legitimate work.
3. Incorporate the protection of HRDs into the mandates of national human rights entities, including human rights commissions.
4. Support new and existing forums for interaction between government and national NGOs.

# I] Introduction

Human Rights Defenders (HRDs) are vital actors in the struggle to ensuring that the economic, social, cultural, political and civil rights described in the Universal Declaration on Human Rights (UDHR) are implemented, respected and upheld. HRDs are individuals working either alone or in groups to defend and promote internationally recognised human rights in a peaceful manner.

## Current context in which orgs are working

The socio-political environment of the East and Horn of Africa is particularly hostile to HRDs and their work. Many states in the region have experienced mass human rights violations, long-term and large-scale impunity, single-party or military regimes and weak states.<sup>2</sup> These factors clearly affect the work of HRDs, the treatment of individual defenders and the space in which they can manoeuvre. In such contexts, the rights which defenders promote are often perceived as controversial or as a threat to those in power, to insurgent groups or to other segments of the population. As a result HRDs are often amongst the first to feel the brunt of restrictive situations; many therefore choose to work within the confines of non-governmental organisations.

In fact, time and again, HRDs working on the frontline to promote and protect human rights are themselves victims of human rights violations and see their rights, as defenders, violated. This occurs despite an increasing array of mechanisms available for the protection of HRDs, primarily at a regional and international level, but also to a certain extent at the national level; HRDs continue to face a range of violations of their rights.

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2 For the purpose of this study and the work of EHAHRDP- the 'region' of the East and Horn of Africa is comprised of ten countries notably Djibouti, Eritrea, Ethiopia, Somalia, Sudan and Burundi, Kenya, Rwanda, Tanzania and Uganda.

HRDs have over time been subjected to different patterns of repression. Intimidation, harassment, death threats or targeted killings are some of the means through which state and non-state actors seek to silence those speaking out, often about violations that would otherwise too easily be obscured, neglected or marginalised. The extent of these restrictions is such that for many HRDs in the region, such occurrences have been internalised and are now perceived as being part and parcel of the job.

Over the course of 2008, the situation facing HRDs in the East and Horn of Africa region has deteriorated. In fact in most countries in the region, notably those visited during this research project, HRDs felt that the situation they face is worsening, and the space accorded to human rights work is narrowing after a short period of greater openness.<sup>3</sup>

A more subtle, legalistic and bureaucratic system of repression is being put in place in this region as a means of undermining or impeding the work of Human Rights Defenders. In many ways the governments in power are legalising more traditional forms of restrictions. NGO legislation and media bills, for example, are being drafted or have been passed in most of the countries and are narrowing the space in which HRDs can legally operate. Key basic rights of defenders, such as the right to

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3 This was highlighted during interviews in Burundi and Kenya in particular where the situation has deteriorated in the last few months. In Kenya, the first two or three years of the Kibaki government (2002-2005) are generally depicted as a period of greater openness where HRDs, after years of repression, were generally given greater space. The referendum on the Constitution of November 2005 is seen as a turning point however and the beginning of a deterioration which has continued to this day. In Ethiopia this opening and closing up dates back to the run-up to the 2005 elections. Somalia and Eritrea are very evident exceptions to this current pattern as the space accorded to civil society has not ever been significantly opened up.

freedom of expression and freedom of assembly, which are guaranteed in the constitutions or other legal instruments of the majority of the countries in the region, are rarely guaranteed in practice. In recent months most countries have experienced a deterioration of these rights; a deterioration which is consolidated by the implementation of this new body of legislation that is at odds with constitutional guarantees. The current legal constraints and restrictions are intricately linked to, if not the result of, the current political context in many countries in the region. It is noteworthy that most of the countries visited in the course of this research will hold elections in the next two years.<sup>4</sup>

HRDs have a fundamental role to play in this region which has seen continued and widespread rights violations. In many countries impunity prevails and violations continue to occur at the hands of the very bodies and entities responsible for ensuring the protection and promotion of human rights. Impunity is a significant problem, most specifically in war-torn Somalia and authoritarian Eritrea, but also to a certain extent in other countries which have experienced either temporary or longer term violations and violence, notably Kenya, where time and again efforts are made to undermine accountability mechanisms, and Ethiopia, where the mass violations committed following the 2005 elections were never investigated or dealt with in a significant or independent manner. HRDs are therefore essential to ensuring that in spite of a lack of will or in some cases means on behalf of the authorities, such violations do not go unnoticed.

Unfortunately, HRDs are often either unaware of their own rights as defenders or feel that they have little time or space to actively promote and advocate for these rights. Nevertheless, without

creating an enabling environment for HRDs to work in - notably by highlighting their own rights and the legitimacy of their work - it is very difficult for them to do their work such as monitoring, advocacy, education or litigation, in an effective manner. As a result, channels which in theory could offer support to HRDs both in times of need and in their daily activities, and which could serve to promote the rights of defenders are either underutilised or not being used at all.

## **Rationale of the research**

HRDs in the East and Horn of Africa continue to face a range of challenges which undermine and affect their everyday activities. Advocacy aimed at promoting the rights of HRDs, i.e. activities such as lobbying/ media campaigns/ report writing/ mass protests aimed at promoting specific rights, are perceived as an effective means of helping to overcome some of these challenges. Constraints on advocacy affect both the protection of HRDs and their capacity to carry out legitimate and vital work. Identifying these constraints along with potential strategies to overcome them is key to enabling defenders to achieve an improved respect for their rights, enhance their protection and ultimately also reinforce both their advocacy and more general capacity.

This research therefore seeks first and foremost to identify general constraints facing HRDs in their daily activities, whilst focusing on current constraints that are thwarting advocacy aimed at promoting and protecting HRD rights. In doing so, EHAHRDP hopes to identify effective advocacy channels and best practices which are or could be used both by EHAHRDP itself, network members and other defenders in the region to promote and ensure the respect of their own rights. At the same time through this research, given the current constraints being imposed on defenders and the narrowing space accorded to civil society in several countries in the region, EHAHRDP also hopes to identify alternative channels of advocacy which

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<sup>4</sup> Burundi – 2010; Ethiopia – 2010; Uganda- 2011; and Rwanda – 2010. Kenya- 2012 is the notable exception, however the current constraints on HRD activity in Kenya are seen as an outcome of the contested 2007 elections and the resulting establishment of the grand coalition government.

could be used but are not yet being utilised to assist HRDs to bypass current constraints.

## Methodology

EHAHRD-Net members work in ten countries throughout the East and Horn of Africa. HRDs working in this region evidently share a lot of similar challenges in their daily activities.<sup>5</sup> Nevertheless, in order to ensure that the research and its findings is of relevance and of use to as large an array of defenders in the region as possible, a comparative study which includes several country contexts was seen as being the most appropriate method. The research was carried out in 5 countries: Ethiopia, Uganda, Rwanda, Burundi and Kenya. These countries were chosen for varying reasons.

Ethiopia was included as a country for research, and indeed was the first country visited, due to the then impending draft of the *Charities and Societies Proclamation*, which was passed by the Ethiopian Parliament in January 2009. This piece of legislation threatens the very future of human rights work in Ethiopia. EHAHRDP hoped to use the findings of the research in order to carry out immediate advocacy activities prior to the reconvening of parliament in October 2008 and also to identify potential advocacy channels for our members to use if and when the bill was passed.

Uganda was chosen as it is often perceived as one of the countries in the region which offers the most space to civil society activism and it was felt that this might offer good case studies of advocacy for the rights of HRDs. In particular, EHAHRDP hoped to identify and analyse some of the activities being organised by NGOs around the NGO Policy and Regulations that were in the process of being discussed in Uganda.

Rwanda and Burundi were chosen for two reasons. Firstly, in both countries restrictions on HRDs, both informal and formal, had been increasing in recent months and therefore the visit was seen as timely. Secondly, these two countries were new members of the network and therefore the missions were seen as the perfect opportunity to build EHAHRDP's understanding of the situation and context facing defenders in these two countries and extend its contacts on the ground.

Finally, the mission to Kenya was organised for several reasons. First and foremost to identify means through which HRDs, several of whom had come under threat during the post-election violence, had been working to protect and promote their rights in a very unexpected context as well as in its aftermath, notably in light of the ongoing investigations into election violence and the more recent investigations into extrajudicial killings. Also, similarly to Uganda, it was hoped that Kenya, as a country with a long history of civil society mobilisation would offer some concrete examples of advocacy around the rights of defenders.

Prior to the missions the EHAHRDP Human Rights Officer, who headed this research initiative, along with EHAHRDP's focal point organisation in the respective country, compiled a list of key stakeholders to meet with. Some interviews were organised prior to the visit but most were set-up in the course of the mission in order to take into account recommendations made by previous interviewees.

In order to gain a broad yet in-depth picture of the situation currently facing HRDs and an accurate picture of the research topic, EHAHRDP carried out interviews with:

- members of human rights organisations;
- prominent journalists, lawyers, opposition parliamentarians;
- members of regional bodies;

<sup>5</sup> As described above the 'region' of the East and Horn of Africa for the purposes of EHAHRDP's work consists of Djibouti, Eritrea, Ethiopia, Somalia, Sudan and Burundi, Kenya, Rwanda, Tanzania and Uganda.



- members of the national human rights commissions;
- relevant members of the authorities (judiciary and legislative); and
- key actors within the diplomatic community.

Prior to the missions, a questionnaire was sent to EHAHRD-Net members in the research countries to gain an initial insight into current activities and challenges facing HRDs in the respective countries (see Annexure I). The questionnaire focused on the issue of the defenders' capacity to advocate for and realise their own rights. The responses formed the basis of the final questionnaire which was used during the semi-structured interviews carried out during the research missions. Two semi-structured questionnaires were developed for the in-person interviews; one aimed at HRDs themselves and another developed for those considered to be potential advocacy targets (see Annexure II).

Journalists, although clearly considered to be HRDs, were placed in the category of potential advocacy targets given the role which the media could play in promoting the rights of defenders. The delegation therefore used the questionnaire when interviewing journalists.

EHAHRDP carried out a total of 105 interviews. The interviews were carried out in person, in English and in French, between August 2008 and January 2009. The interviews were carried out on the basis of anonymity therefore no findings will be attributed to individual interviewees.

### **Limitations of the research**

In the course of the research EHAHRDP did meet with a wide range of individuals operating as autonomous HRDs. Nevertheless, the findings and recommendations of this study are primarily focused on and aimed at defenders working within human rights organisations. There are several reasons for this. Firstly in the countries visited it is difficult, with the exception of individu-

als working within human rights organisations themselves, to classify entire groups or professions as being HRDs. In each country there are individuals, particularly within the media or the legal profession, operating individually as HRDs, but these individuals were not typical of the entire profession. It is therefore difficult to come up with a clear picture on whether or not these are defenders who have the capacity, the knowledge and the will to be advocating for their own rights. Furthermore, although there is still a limited but growing constituency of citizens who are speaking out and mobilising for their rights, seen most recently in Kenya, it was very difficult given the scope of this study to meet with such ordinary defenders and to come up with concrete recommendations that would be of use to them.

Given obvious security constraints this research was not carried out in Somalia or in Eritrea, which are two countries in which the situation facing HRDs is particularly harsh and where defenders are continually at risk of losing either their freedom or their lives. As a result, the relevance of the findings of this report in those two countries is at present limited.

A further limitation imposed upon this research comes from the lack of capacity to evaluate the impact of the different advocacy channels which were identified as the key channels that defenders could or should be using. Such evaluation is clearly very difficult and would require an entire study in itself. The strengths and potential impact of each channel is therefore not discussed in this report.

EHAHRDP only met with a limited number of representatives of regional and international human rights mechanisms, notably the Office of the High Commissioner for Human Rights in Ethiopia and Burundi. From a preliminary assessment it emerged that such organisations had at present little direct interaction with domestic HRDs and, although this was revealing in itself, given the scope of the study and limits of the missions, it

was felt worthwhile not to spend too much time following these avenues of inquiry.

Finally, EHAHRDP chose not to meet with members of African diplomatic missions as it was felt that at the moment the focus should be on promoting the EU guidelines on the Protection of Human Rights Defenders in order to ensure that at least the EU missions serve as potential advocates for the rights of defenders. African diplo-

matic missions do not operate within clear, published guidelines as to the protection of HRDs, thereby rendering their relationship with HRDs more contingent and less susceptible to ready analysis. The attitude of individual diplomatic missions to HRDs remains a key operational focus of EHAHRDP, and one that is intended to be the subject of future reports and forthcoming advocacy efforts.

## II] Rights of Human Rights Defenders

The last ten years have witnessed significant improvements in the legal framework for the protection of HRDs both at a regional and international level.

The notion of an HRD itself was formalised with the passing in 1998 of the *UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms* (known as the UN Declaration on Human Rights Defenders).<sup>6</sup> In this Declaration, an HRD is defined as anyone either individually or in a group seeking to promote and protect universally recognised human rights and fundamental freedoms in a peaceful manner. Although not a binding document, the Declaration has helped to concretise and legitimise the notion of HRDs, their work and their rights. The Declaration lists a series of rights, which are already stipulated in other key human rights instruments, but are specifically relevant to the protection of defenders and their human rights work. The key rights listed include the right to freedom of expression, assembly, association and the right to participate in government affairs. The Declaration also underlines the responsibility and duty of the state towards the protection and promotion of human rights in general and the rights of defenders.

In 2000, the UN Commission on Human Rights called for the establishment of a mandate of a Special Rapporteur on Human Rights Defenders to help promote the implementation of the Declaration. The mandate was initially held under the title of Special Representative appointed by the Secretary General, which was appointed by the Secretary General by Mme Hilani Jilani, a hu-

man rights attorney from Pakistan, who worked very hard to include a wide range of actors within her mandate. In 2008 she was replaced by Mme Margaret Sekaggya, the now former Chairperson of the Uganda Human Rights Commission, who was appointed this time as Special Rapporteur. The principal activities of the Special Rapporteur are to:

- Seek, receive, examine and respond to information on the situation of Human Rights Defenders;
- Establish cooperation and conduct dialogue with governments and other interested actors on the promotion and effective implementation of the Declaration;
- Recommend effective strategies to better protect Human Rights Defenders and follow up on these recommendations.

The main means available for the Special Rapporteur to carry out the mandate is through allegation or urgent action letters dealing with individual cases of violations committed against HRDs and through country visits. The Special Rapporteur must be invited by the state in question in order to carry out a visit. In the course of her mandate, Mme Jilani carried out fourteen official country missions. To date, the East and Horn of Africa region has not been visited by this specific mandate.<sup>7</sup>

At the regional level protection mechanisms are also available to HRDs. As a result of the grave risks facing defenders on the African continent, the African Commission on Human and Peoples' Rights (ACHPR) created, in 2004, the mandate of the Special Rapporteur on Human Rights

<sup>6</sup> For more information please visit : [http://www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.RES.53.144.En](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/A.RES.53.144.En) Accessed on 3 March 2009.

<sup>7</sup> The UN SR on HRDs has not yet been extended an invitation by a single country in the region. The only countries which the Rapporteur has received direct communications from are Kenya, Uganda, Sudan and for very specific cases Rwanda.



Defenders in Africa.<sup>8</sup> The main objectives of the mandate are very similar to that of the UN mandate. Evidently, one of the key aims of the mandate is to promote the implementation of the UN Declaration on Human Rights Defenders at a continent level, and as a result the Special Rapporteur is often called on to work hand in hand with their UN counterpart. In fact, the UN and ACHPR Special Rapporteur carried out a joint-mission to Togo in 2008.<sup>9</sup> One of the main activities carried out by the mandate holder is the drafting of a bi-annual report on the situation of HRDs which is presented at the session of the ACHPR. The Special Rapporteur also carries out country visits. The Special Rapporteur has recently begun to produce a bi-annual newsletter in which the key activities carried out by the mandate holder are described and the key issues affecting HRDs in the continent are discussed. Contributions by HRDs to the newsletter are welcomed.

The African Court of Human and Peoples' Rights will potentially be another avenue for African HRDs to seek protection and promotion of their work, although it is not yet operational.<sup>10</sup> The court however faces grave difficulties notably that its jurisdiction is limited to the few member states that have ratified the constitutive treaty, with that treaty itself taking approximately six years to come in to force. One of the main limits of the court is that individuals and non-governmental organisations cannot directly submit cases to the court to denounce human rights violations by a state, except when the state in question has actually explicitly conferred this right on these

two groups. The court is therefore competent to receive cases from state parties, the ACHPR and African intergovernmental organisations. These issues represent a clear lack of political will on the part of AU member states to establish a strong and accessible human rights mechanism. Nonetheless, the experience of the Organisation of American States Inter-American Court of Human Rights as well as the European Court on Human Rights has shown the value that such forums can have and the positive evolutions which can take place.

Another protection mechanism available to HRDs in Africa which has significant potential on the frontline is the EU Guidelines on the Protection of Human Rights Defenders.<sup>11</sup> The guidelines were adopted in 2004 by the EU and seek to promote and push for the implementation of the UN Declaration on Human Rights Defenders through the activities of the EU member states outside of the EU. The guidelines identify a range of practical activities that individual EU missions should implement in order to strengthen their efforts to protect HRDs. Some of the activities include listing the situation facing HRDs in annual mission country human rights reports; enhancing their involvement with and support for defenders; giving defenders greater visibility by attending events held by defenders and attending trials; encouraging EU officials on mission in a specific country to meet with defenders and raising individual cases; and finally, offering more sustainable support to defenders (through capacity building efforts and public awareness campaigns).

In certain EU countries, specific legislation aimed at protecting HRDs has been passed.<sup>12</sup> At a regional level, this concept has been floated by the African Commission on Human and Peoples'

8 For more information please visit [http://www.achpr.org/english/\\_info/index\\_hrd\\_en.html/](http://www.achpr.org/english/_info/index_hrd_en.html/) Accessed on 3 March 2009.

9 The joint-mission took place from the 28<sup>th</sup> July 2008 to the 5<sup>th</sup> August 2008. For more information please see Alapini-Gansou Reine, Intersession report, Point II, p. 5, May 2008-November 2008, , at <http://www.achpr.org/english/Commissioner's%20Activity/44th%20OS/Special%20Rapporteurs/Human%20Rights%20Defenders.pdf>

10 For more information please visit [http://www.achpr.org/english/\\_info/court\\_en.html](http://www.achpr.org/english/_info/court_en.html) or [http://www.achpr.org/english/\\_info/index\\_hrd\\_en.html/](http://www.achpr.org/english/_info/index_hrd_en.html/) Accessed on 3 March 2009.

11 For more information please visit <http://ue.eu.int/uedocs/cm-sUpload/GuidelinesDefenders.pdf>

12 Belgium, Spain and to a more limited extent Germany, have each passed parliamentary resolutions specifically relating to the protection of HRDs.

Rights. A group of human rights organisations has also been lobbying to get a similar piece of legislation passed in the Eastern Democratic Republic of Congo, however despite their significant efforts this initiative appears to have failed.<sup>13</sup> Similar legislation has been passed in a few Latin American countries. Nevertheless, these examples are exceptions to an arguable deficiency in legislative protection for HRDs in both the African region and beyond.

In addition to these more formalised mechanisms, in recent years there has also been an increase in the establishment of more informal mechanisms in Africa notably regional networks of Human Rights Defenders organisations, such as the EHAHRD-Net, and also national HRD coalitions. Given their regional accessibility and their efforts to collaborate, share experiences and advocate at a regional level for the protection of HRDs, such networks and coalitions play a vital role for the everyday protection of defenders.

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<sup>13</sup> The organisation leading this campaign is the Congolese Initiative for Justice and Peace (ICJP in French) but there are also 28 other national organisations which are part of the campaign.

### III] Brief overview of human rights organisations in the sub-region<sup>14</sup>

#### Human rights issues covered

Human rights organisations in the region have much in common. Overall, organisations deal with a large range of issues. Women's rights are well covered and there are many general human rights organisations working on issues of violence against women despite them not being a specific women's rights organisation. There are a relatively wide range of organisations working on the rights of detainees, offering legal aid to detainees or carrying out advocacy for better prison conditions and police training to stem the use of torture and other inhumane and degrading practices. In certain countries, notably Kenya, where the human rights movement is more developed, the array of rights which are covered in a systematic manner is much larger.

Organisations working on civil and political rights generally face the greatest constraints and threats to their work from the state, particularly in their advocacy and monitoring activities. For example, election monitoring activities are carried out, but as was seen in Ethiopia and more recently, although to a lesser extent, in Rwanda, such activities can create problems for NGOs who are often restricted or prevented from carrying out their work.<sup>15</sup> Economic, social and cul-

tural rights are perceived as much less risky issues to work on, however regardless of the nature of the rights being advocated for, once advocacy efforts affect or threaten the ruling party, security forces or the status quo, all rights are seen as controversial and can create problems for activists engaged on these issues especially when they take a more vocal and public stance. In the Kenyan context it was often felt that all rights, in one way or another, affect the political order and can therefore place those working on them at risk, rather than the rights themselves being the determining factor. Sexual rights and the rights of minorities are seen in most of the countries as highly contentious issues either for historical, social or cultural reasons and most groups working on these issues have at times faced specific constraints or received targeted threats.

#### Rights of defenders that are violated

Freedom of assembly is one of the rights most violated in Uganda and Kenya. The government of Uganda has more or less nullified a 2008 Constitutional Court ruling which declared, section 32(2) of the *Police Act* 2005 granting the service the power to stop a public demonstration or assembly of more than 25 if deemed to risk breaching the public peace, unconstitutional. In Kenya, since the 2007 contested elections, including the recent protests against the *Kenya Communications (Amendment) Act* 2008 and the gatherings of the Bunge la Mwananchi, a community-based

<sup>14</sup> This overview is based on an analysis of the responses to interviews that focuses on the first half of the questionnaires. It therefore might leave out certain aspects of the NGO landscape which might not have been included in the questionnaire and will evidently also reflect the reality in the countries visited rather than that in the region as whole.

<sup>15</sup> Ethiopia: Defenders who had been working specifically on the elections or produced reports on the contested elections were amongst the first to come under threat from the ruling party. Daniel Bekele of ActionAid for example who was tried, sentenced and later released for a range of issues including inciting violence to overthrow the government had taken, along with a group of human rights organisations, the government to court prior to the elections claiming that the restrictions being imposed on NGOs seeking to monitor the elections was uncon-

stitutional. Rwanda: Rwandan League for the Promotion and the Defense of Human Rights (LIPRDHOR in French) which was legally entitled and had the capacity to carry out monitoring of the 2008 legislative elections was prevented from doing so after it refused to join the electoral monitoring platform. League for Human Rights in the Great Lakes Region (LDGL in French) monitored these same elections but has been subjected to significant threats (both public and private) and pressures following the release of its report.

civic forum organisation, most public demonstrations have been met with staunch police aggression. The right to participate in government affairs is also largely non-existent. Although the space to engage in dissent is increasingly being made accessible to NGOs, in reality regional governments rarely listen to human rights organisations or respond to their calls. Freedom of expression is another right regularly and in some cases increasingly being violated in all of the countries visited. The most visible form of restrictions of this right are imposed on the media, which is increasingly subjected to both legal and financial restrictions, for example threats to revoke radio broadcasting licenses, imposition of licenses for individual journalists, raids on media houses and confiscation of key recording equipment. Access to and dissemination of information is limited in many countries, particularly for more outspoken or critical actors in Rwanda and Ethiopia; throughout the region certain issues are deemed taboo and are rarely discussed without repercussions.

### **Main activities of human rights organisations**

The activities undertaken by human rights organisations in the region vary depending on the country context. Education and training in human rights are among the most favoured activities. Given the political, social and cultural contexts in the region, advocacy is often limited, most notably in Rwanda and Ethiopia. Women's rights organisations tend to be the most active on this front. Organisations in Burundi and Kenya have most frequently carried out advocacy at a regional and international level, notably using treaty reporting bodies. Human rights monitoring is carried out but often under significant constraints. As a result, in Ethiopia for example, the Ethiopian Human Rights Council (EHRCO) is the only human rights NGO carrying out significant human rights monitoring. Litigation is very rarely used with the exception of Uganda and Kenya where this channel has in recent years begun to be explored by

human rights organisations and other defenders. Many organisations in this region offer legal aid services either to the general public or to more specific groups, notably victims of gender-based violence. In fact, there appears to be a growing regional trend towards offering legal aid services, with organisations in Rwanda and Ethiopia also doing so, a service which the authorities rarely provide. This is generally as a result of the political and legal context which places increasing restrictions on human rights advocacy per se whilst increasingly legislating to push NGOs towards service provision

The advocacy methods and channels used by human rights organisations throughout the region are generally similar, with some exceptions. Report writing and other written materials seem to be one of the most widely used method. Hosting events and conferences is also common. The use of the media varied from one country to the next, with media campaigns being frequent in Burundi and Uganda and very rare in Ethiopia and Rwanda given the media context. Mass mobilisation is another form of activism in the region - with the exception of Kenyan activists who never use this type of advocacy. One-on-one lobbying using personal contacts is often a favoured method, especially when dealing with individual cases of defenders at risk which cannot be discussed in public.

### **Urban based organisations**

Human rights organisations are generally based in the national capitals with some of the bigger organisations having field offices. Activists working outside the capital cities are generally perceived as being more vulnerable than those working inside the capital. Greater visibility (or if necessary, anonymity), the presence of the diplomatic community and higher levels of training and human rights education amongst both activists and stakeholders are key factors enhancing security in capital cities. Activists working in rural areas are

seen to “stick out” much more and are therefore more visible to potential state and non-state actors. Local governments and representatives are at times seen as posing a greater risk to defenders due to a lack of awareness and understanding of human rights issues, but at other times are perceived as being much more approachable, notably by activists working at the local level. Attitudes of local government officials are critical as they often influence and shape the attitudes of those in higher levels of government. Where activists are regularly ignored or attacked by national governments, such behaviour is likely to be replicated at the local level.

### **Influence of donors**

Foreign donors are the main source of funding for human rights organisations in all of the countries visited. Very limited funds are accrued through local fundraising or membership fees. Although in the past the activities of human rights organisations were clearly defined by donors, there does appear to be some slight efforts to change this and there is a new awareness on behalf of both activists and donors that such a change is necessary. NGOs, particularly the bigger, more established ones, are increasingly succeeding in developing their own strategic long-term plans of action and are moving towards a more programmatic approach. In Ethiopia and Kenya, basket funds have been set-up for individual organisations which help to guarantee the financing of organisational plans of action. Once again, the situation in certain countries is not so clear cut and organisations do remain dependent on donors’ agendas. A significant problem is the tendency among several donors to move towards direct budget support, notably in Rwanda and initially in 2002 in Kenya; such funds are usually only accessible to organisations that are part of ‘umbrella’ organisations, or organisations which are indentified by the authorities. Furthermore, even in countries with highly developed human rights organisations donors continue to seek to impose

specific programs, issues and targets on the organisations.

### **Gaps in capacity**

Lack of training and skills continues to impede and undermine the work of human rights organisations. Reporting and documentation skills in particular are still at times below the expected standards. Organisations lack strategy and act at times in a counterproductive manner. NGOs are often criticised by stakeholders for their inaction or their absence, with the exception of Burundi and Kenya. A lack of awareness about key human rights issues and instruments, notably regional and international human rights mechanisms is widespread. Non-existent or weak protection mechanisms is also an impediment to the work of defenders; very few organisations in the region, even the bigger and more established organisations, put in place basic protection measures to protect both their information and ensure their own basic security. This clearly undermines the effectiveness of their work particularly in times of heightened threat.

Nevertheless, most of the activists interviewed were more or less aware of their rights as defenders. Although the definition itself was not always internalised or described by defenders as those contained in the UN Declaration on Human Rights Defenders, when prompted most activists were aware of the rights key to their work.

High staff turnover is a significant problem for many human rights organisations. This phenomenon is in large part due to the nature of the work itself but also the extreme pressure many have to face as a result of the context in which they are working. In Rwanda and Ethiopia, some of the organisations which have come under threat from the government in the past find it particularly hard to find and retain staff. Limited human resources and poor remuneration is also a significant impediment in countries where poverty is still so



widespread; many individuals, once having spent a short time with a national NGO, will choose to move onto the much more secure and better paid international organisations or to government. This clearly undermines the capacity of national NGOs; in fact, the tendency in many countries for activists to move into government undermines the credibility of NGOs as it plays into claims that they are not independent but merely political organs. Furthermore, in certain cases, activists who enter into politics are often aware of how to undermine human rights organisations, where to target them, what space to restrict and how to talk the human rights language - once again further undermining the work and sapping the legitimacy of human rights organisations.

### **Main violators of rights of defenders**

The state and different organs of the state clearly pose the greatest threat to human rights organisations and defenders in this region. The Executive branch of government tends to use all the state arms and mechanisms - legislative, judicial and in particular the security/military - to undermine human rights work. In certain countries new non-state actors have become a threat to HRDs. The developments in Kenya in the lead up to and following the contested elections of 2007 proved to be particularly challenging for many HRDs as they were faced with threats from new, non-state actors, notably members of their ethnic communities, and although many of the perpetrators were acting on behalf of more traditional violators, notably political leaders, the human rights community was taken off-guard by this new threat. Activists working on the rights of sexual minorities are one group which tend to come under initial threat from non-state actors and then in certain more rare exceptions under threat from the authorities, notably in Uganda where LGBTI activists have in the last two years been subjected to arbitrary arrests, detention and prolonged trials.

### **Other defenders**

More visible human rights actors include journalists, lawyers, and opposition party members, members of the national human rights commissions and occasionally members of the authorities. Nevertheless in the countries in which the research was carried out it was relatively rare for these professions as a whole to be considered as true HRDs as it was generally only individuals within the professions which were carrying out human rights work on their own accord rather than the professional groups as a whole working in a way which helped to promote and protect human rights.

### **Country specificities of the movement**

The nature of human rights organisations and human rights movements in the region is obviously heterogeneous. For example, in Rwanda, human rights organisations are amongst the least developed in the countries visited, due to the fact that the nascent human rights movement was more or less decimated by the genocide, and that the movement has had to start more or less from scratch in the mid 1990s. Organisations in Burundi are generally very outspoken and professional, collaborate very well with key stakeholders and until very recently had developed a relatively productive relationship with the Executive. The Kenyan human rights movement is one of the most established in the region and the quality of work of leading human rights organisations is extremely high. Collaboration between the Kenyan human rights movement and state authorities had increased following the 2002 elections but has since deteriorated. Ethiopia has a few well respected organisations, some of whom have established a presence in different parts of the country. Nevertheless the range of activities carried out by these organisations is still limited - human rights advocacy is rare and professionalism is at times not as high as could be hoped. The human rights movement in Uganda continues to be affected

by the country's past, despite attempts by certain groups to renew their efforts to work more firmly with the grassroots. Also in Uganda, organisations still tend to focus their work on the situation in the north of the country; a region affected by decades of civil war; this continued focus on the conflict and transitional justice is clearly linked to donor priorities and funding.

Speaking about a 'human rights movement' in the

region is therefore not possible. However as the research will show, in spite of these differences many of the challenges which HRDs face in promoting their rights are similar and it is therefore worth ensuring that experience and good practice on advocacy strategies aimed at overcoming these challenges and promoting defenders' rights are shared amongst HRDs in the region.

## IV] Challenges facing advocacy of Human Rights Defenders' rights

This research identified many challenges that are currently either thwarting advocacy efforts on the rights of defenders or largely undermining efforts of human rights organisations. Some of these challenges can be overcome either by defenders themselves or with the support of key stakeholders. Nevertheless, certain challenges, such as the lack of an independent judiciary and a non-mobilised even antagonistic public, will take a much larger transformation of the political, social, economic and legal context in which defenders are working in order to create an enabling environment for defenders.

Evidently the challenges identified are closely interlinked and interrelated, for example the political context affects and largely determines the collaboration amongst NGOs and legal restrictions affect the capacity of NGOs, but for reasons of clarity the challenges have been presented separately and in a thematic manner.

### Political Context

The political context in which HRDs are working in the region greatly undermines the space available to them and their ability to advocate for their own rights.

Human rights organisations tend to be perceived as political opponents. This perception stems from a variety of reasons: the monitoring and watchdog role played by NGOs during elections; the threat which NGOs are seen as posing to the status quo given the outspokenness of many defenders on issues which governments would like to hide; and the lack or weakness of any form of 'political' opposition. In Ethiopia, for example, ever since the run-up to the 2005 elections, many

NGOs and individual defenders have come to be perceived as supporters/members of the opposition. This is linked to the fact that in most of the regions where national NGOs conducted election monitoring the ruling party lost, and many of the issues which human rights organisations raised were similar to those raised by the opposition. As a result, measures comparable to those being placed on opposition party members have been and continue to be imposed on human rights organisations and other defenders, notably those working within the private media. In Kenya, since the signing of the agreement establishing the Grand Coalition Government, which brought the opposition into government with the ruling party, measures are being cemented to silence or undermine the rights of those that are likely to highlight the wrongdoings of either party. When the political opposition disappears or is non-existent defenders are seen as the only voice of opposition. The fact that in several countries in the region former defenders have either formed or joined political parties has tended to play into such misconceptions and heightens state antagonism of activists, as was seen by the recent arrest and detention of Mr Alexis Sinduhije, a former Burundian journalist arrested whilst seeking to set-up a political party.<sup>16</sup>

HRDs, whether those working in organisations or in the media, are often seen as a threat to the ruling status quo in large part as a result of their efforts to speak out about violations carried out at the hands of the state. Given that several of the countries visited will be holding elections in the coming year or two and that in several cases the incumbent government is feeling politically threatened (either by outside groups or groups

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<sup>16</sup> Mr. Sinduhije was finally released on the 12th March 2009.



within their own ranks), those in power are particularly sensitive to any form of criticism or potential oversight. HRDs are among the first to be targeted in response to this fear; such a reaction, rather than offering defenders the space in which to advocate for their rights, tends to curtail advocacy of all sorts.

Given that the majority of the funding of human rights organisations comes from abroad, governments also tend to perceive these national organisations as entities representing and promoting a foreign agenda, and are thereby seen as a threat to the country's sovereignty. The current NGO bills and laws being drafted and implemented in the region highlight very clearly such misconceptions. State authorities also erroneously expect NGOs to be accountable to governments and consider them unable to self-regulate. Such perceptions by the state greatly undermines attempts by defenders to put forward a case supporting the promotion, protection and implementation of their own rights and often discourages defenders from approaching the authorities on such matters.

The lack of response of the state to HRDs also undermines attempts by defenders to mobilise to protect and promote their own rights. The notion of allowing participation of civil society in key decision making proceedings has become a popular concept amongst the donor community and has been readily taken up by the authorities in the countries visited. Although the authorities might invite NGOs, hold national consultations, encourage NGOs to offer their recommendations and feedback on draft bills for example, real concrete and actual participation is non-existent. Time and again the opinions and suggestions of NGOs and other HRDs are largely ignored. In the course of the recent discussions relating to the NGO bill in Ethiopia, not only were defenders given very limited time to analyse the bill prior to the 'national consultation' called for by the Minister of Justice and then Prime Minister (PM) but they were then in fact warned by the PM that the most contro-

versial provision, notably that relating to NGO funding, was an ideological issue and therefore non-negotiable. By claiming to include them in key deliberations around issues affecting their rights as defenders, state authorities undermine claims by NGOs that their voices are largely ignored and their right to participate in government affairs violated - this can weaken their cause both in the eyes of the donor community, the general public and other potential stakeholders.

The political context in the region therefore narrows available advocacy channels and partners, but also delegitimizes the very claims and messages which defenders seek to communicate.

## **Social Context**

The social context in which defenders are working in also undermines their ability to promote their own rights and gain legitimacy. First of all, defenders in the region are largely faced with a non-mobilised general public. Basic human rights notions largely escape the majority of the population which hampers defenders' abilities to promote human rights in general, and their own rights in particular. In fact, HRDs in several countries, notably in Ethiopia and Rwanda, not only face a non-mobilised community but in fact an antagonistic one. In Ethiopia, the regime, notably through the media, has largely succeeded in promoting the idea that human rights organisations are purely money-making enterprises and that defenders are largely involved in it for their own personal benefit. This notion is widely held - not only by the general public but also by supposedly more aware and educated members of society. As a result of these misconceptions, the public is therefore largely in favour of attempts to impose strict regulations on human rights organisations and defenders. An exception here is Burundi and Kenya where the urban public is often more active and aware.

Another social factor which undermines the work

and advocacy around the rights of HRDs is that in many countries in the region, for cultural, economic and historic reasons (notably the impact of past very repressive regimes), there is no real culture of speaking out and even the culture of civil society mobilisation is limited. This influences both the human rights organisations in the region themselves which are often not as outspoken as would be necessary, notably in Ethiopia, Rwanda and to a lesser extent Uganda, but evidently also has an impact on defenders' capacity to mobilise and find a ready and willing support base amongst the general public. This is further accentuated by the lack of a strong, highly educated middle class in most of the countries of the region willing to serve as a watchdog. Furthermore, given the increasingly restrictive political contexts in all the countries visited people are even more reluctant to speak out.

## Legal Context

All of the countries visited have constitutions or other legal documents which protect the key rights of defenders; however, in practice, these are rarely implemented. In fact, the rights of HRDs, most notably freedom of assembly, association and expression, are regularly and systematically violated both as a result of abuse at the hands of the security forces and due to the legal context and framework.

Of particular concern is the current legislative affront to the rights of defenders, as one country after another in the region has passed or is in the process of passing both NGO legislation and Media Registration statutes which severely restrict and pave the way for a violation of defenders' rights. This undermines HRDs' ability to work and their capacity to advocate for their own rights by increasing their vulnerability and weakening their messages.

NGO legislation, which sets up registration and accountability requirements of NGOs, has been

introduced in Uganda, Rwanda, Kenya, and most recently in Ethiopia. They vary in their contents and in the level of control they seek to impose on organisations yet they all describe NGOs in a rather limited and negative manner, stressing the need to regulate and control them. The legislation tends to be vague and thereby allows the over-seeing body or individuals (more often than not under nominal governmental control) to interpret the laws and provisions as they see fit. This creates uncertainty for many human rights organisations as to what is permissible action and what is not.

The draft *NGO Registration (Amendment) Act* 2006 and more specifically the *NGO Regulations* currently being considered by the Ugandan Ministry of Internal Affairs, although not as draconian as its Ethiopian equivalent, clearly does not create an enabling environment for NGOs to function and carry out their legitimate work. 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 to the detriment of critical NGOs, also raising the potential for Governmental Non-Governmental Organisations (GONGOs) to crowd out legitimate HRDs. The amendments add to the already significant administrative burden already imposed upon HRD organisations and are likely to destroy smaller NGOs simply through over-regulation without the having to take any action which could be formally contested.

The *Charities and Societies Proclamation* in Ethiopia is the most restrictive legislation currently in place in the region and determines the very type of activities in which organisations can be involved in; organisations deemed to be foreign, i.e. receiving more than 10% of their funding from abroad,<sup>17</sup> are not allowed to take part in hu-

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<sup>17</sup> Proclamation to Provide for the Registration and Regulation of Charities and Societies Proclamation No.621 / 2009, Article 2(3), Federal Negarit Gazeta, N.25, 13 February 2009,

man rights activities amongst others.<sup>18</sup> This poses a significant risk given that the majority of NGOs in Ethiopia do receive some form of foreign funding. The legislation clearly brings to an end any attempts or plans by defenders to advocate in a more proactive manner for their own rights. The consequences of this Proclamation are already being witnessed with organisations which in the past might have been willing to speak out or pursue more public lobbying activities, deciding to take a much less public and potentially ‘confrontational’ approach especially at an international level.

In most of the countries visited, the NGO legislation allows for the suspension of an organisation with only limited possibility of review; in Uganda the *NGO Registration (Amendment) Act 2006* provides for an appeal against the decision of the Board to refuse or revoke a certificate of registration to the Minister for Interior Affairs, but does not allow an independent appeal process in the court of law.<sup>19</sup> The recent *Charities and Societies Proclamation* in Ethiopia allows for only very limited form of review.<sup>20</sup>

The registration requirements themselves are often time-consuming and burdensome, making it almost impossible for defenders to meet the necessary requirements. In Rwanda, it is necessary to ask the permission of the local authorities of every district in which an organisation plans to work before licenses are granted. Organisations

therefore often fail to meet the criteria or time requirements; this is a very easy and ‘legal’ way of restricting the work of organisations seen as too critical.

The case of LDGL in Rwanda is a good example of this. LDGL, which is a regional organisation, has still not had its license for 2008 renewed by the Immigration Ministry. Initially LDGL was told that it had failed to produce the necessary paperwork on time and the delay is due to the fact that the board had not yet pronounced itself. However, the real reason is likely to be that the organisation monitored the September 2008 elections outside of the umbrella NGO platform and produced a report which many state authorities were unhappy with. Such delay tactics can be used in the future as a means of discrediting the organisation if need be. These provisions not only violate defenders’ rights to associate and mobilise but also once again risks undermining human rights organisations’ efforts and willingness to speak out about violations affecting their rights.

The right to freedom of expression for journalists in particular is under threat, notably as a result of a series of media and communications bills currently being drafted or amended in Ethiopia, Rwanda and Kenya in particular.<sup>21</sup> Such legislation not only violates the rights of defenders but also creates a context which is unfavourable to HRDs’ efforts to advocate for their own rights. Of particular concern is the requirement for indi-

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available at <http://www.crdaethiopia.org/Documents/>, accessed on 11 March 2009.

18 Proclamation to Provide for the Registration and Regulation of Charities and Societies Proclamation No.621/ 2009, Article 14(5), Federal Negarit Gazeta, N.25, 13 February 2009, available at <http://www.crdaethiopia.org/Documents/>, accessed on 11 March 2009.

19 NGO Registration Act, 1989 , (Chap 113), Section 9, Laws of Uganda at [http://www.saflii.org/ug/legis/consol\\_act/nora1989113495/](http://www.saflii.org/ug/legis/consol_act/nora1989113495/), accessed on 11 March 2009.

20 Proclamation to Provide for the Registration and Regulation of Charities and Societies Proclamation No.621/ 2009, 104 (3), Federal Negarit Gazeta, N.25, 13 February 2009, available at <http://www.crdaethiopia.org/Documents/>

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21 See : The Kenya Communications (Amendment) Bill 2008 available at [www.kenyalaw.org/Downloads/Bills/2008/ THE\\_KENYA\\_COMMUNICATIONS\\_AMENDMENT\\_%20BILL%202008\\_2.pdf](http://www.kenyalaw.org/Downloads/Bills/2008/THE_KENYA_COMMUNICATIONS_AMENDMENT_%20BILL%202008_2.pdf) (last accessed 11 March 2009). The Bill was initially passed by parliament but President Kibaki has since sent it back to parliament for review as a result of the significant contestation the Act generated. Proclamation to Provide for freedom of the mass media and access to information, N. 590/2008, Federal Negarit Gazeta, 1 December 2008, available at [www.ethiopianreporter.com](http://www.ethiopianreporter.com), accessed 11 March 2009. On 23 February 2009, the Lower Chamber of the Rwandan Parliament approved a new media law which amongst other provisions (according to one of the final drafts) compels sources to reveal information and makes specific academic requirements a precondition of the granting of a licence to journalists.

vidual journalists to register; the pressure this exerts on journalists is considerable given that once again the final decision about whom to give these licences tends to lie with governmental or semi governmental bodies.<sup>22</sup>

In Rwanda for example, all journalists are required to be registered and receive a card from the Media High Council, a state regulatory body. Given that this body has more often than not served to restrict the rights of journalists and has in fact at times played a significant role in trying to stymie critical reporting, many journalists are reluctant to approach it. In May 2008, the Rwandan Minister of Information, Louise Mushikiwabo, expelled three journalists from Rwanda's private Kinyarwanda-speaking newspaper: Jean Grober Burasa of *Rushyashya*, Jean Bosco Gasasira of *Umuwugizi*, and Kabonero of *Umuseso* during the World Press Freedom Day celebrations, without any explanation. The subsequent claim by the Media Council that the expulsion was because the journalists had no press cards highlights how legislation and regulation are used as a means to justify and enforce restrictions on critical voices. These journalists have not been allowed to attend any public gathering since. Such accreditation requirements not only places journalists and their rights largely at the whim of the authorities but are continually manipulated in order to make it increasingly hard for defenders to work in a legal manner. The press legislation which is currently awaiting signature by President Kagame and to be published in the legal gazette will require journalists to have specific academic qualifications in order to be able to receive accreditation.

In Kenya, the *Communications (Amendment) Act* 2008 was recently passed by parliament but has since been sent back for revision by President Kibaki. The Act had created significant public

outcry, both at a national and international level, as a result of a series of contentious provisions that it contains. One of the more restrictive provisions grants the Internal Security Minister the power to raid media houses and confiscate equipment on grounds of state security. Another provision states that the Information and Communications Minister can single-handedly appoint the Communication Commission, established under this law and charged with licensing and controlling broadcasting content. In light of the ban which was placed on the media in the aftermath of the contested 2007 elections this amendment does appear to reveal a worrying trend of using legal or pseudo legal measures to restrict freedom of expression by increasing governmental control over the private media.

The criminalisation of human rights advocacy through a range of laws on sedition and defamation is common practice in this region and continues to be used as a means of silencing HRDs deemed too outspoken. Such laws render it particularly difficult for defenders to advocate for their rights, both on a legal and a practical level. On a legal level, these laws restrict the very means by which HRDs can advocate for their rights without fear of reprisal. Perhaps of greater concern is that, on a practical level, efforts by defenders to advocate for their own rights in the face of such legislation can be dismissed by governments and their supporters as being merely self-serving. Furthermore, more often than not, the very individuals and sectors protected by such laws are those most likely to be the very ones violating the rights of defenders.

In Rwanda legislation on genocide and genocide ideology has been used, or in fact misused, frequently in order to silence those questioning the policies of the ruling Rwandan Patriotic Front (RPF), thereby violating the rights of freedom of expression of defenders. In the case of Rwanda, the law is very vague and leaves HRDs at risk of being charged merely for speaking out about

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22 In Rwanda for example journalists must apply to the High Media Council to register; this is a semi-autonomous body which has so far more often than not sought to restrict independent journalism than protect the rights of defenders.



government policies or practices. The case of LIPRPDHOR and the impact it had on human rights organisations reveals very clearly how legislation undermines advocacy on HRD rights (see case study below).

Stringent terrorism laws, which have been implemented notably in Kenya, Uganda and are currently in the drafting process in Ethiopia, containing very large definitions of ‘terrorism’ and provisions criminalising the publication of information which encourage terrorism, for example, run the risk of severely constraining key rights of defenders, notably freedom of expression.<sup>23</sup> In light of the ongoing “international war against terror”, and the significant violations of key human rights by many western governments, governments in the region are able to implement restrictive terror laws, further undermining the work of HRDs, without any significant contestation on behalf of the international community.

Such laws are also giving a legal justification to more traditional forms of restrictions and violations against HRDs. As a result of this amalgam of laws, defenders are regularly being arbitrarily arrested, unlawfully detained, subjected to lengthy trials which largely violate their rights to a fair and free trial and in some instances also subjected to torture or other cruel, inhuman or degrading treatment. Nevertheless, given that despite the ‘procedural’ irregularities, the authorities currently have the legislation to give their restrictions and attacks on HRDs a legal basis and justification, it is harder for defenders to make their voices heard and to generate the sufficient support necessary to promote their rights as many key stakeholders are often more reluctant to take up a case or an issue which has a front of legality.

The resulting increasing number of legal actions against defenders in this region is also a very ef-

fective means of indirectly forcing individual activists out of the movement and undermining the work of organisations. For organisations with very scarce human and financial resources, judicial action can have severe repercussions both for the individual defenders and the organisation itself. This legal context therefore tends to create an environment of self-censorship amongst defenders rather than one in which they feel that they can speak out about violations committed against their colleagues or themselves.

In most of the countries visited, the lack of an independent judiciary and the significant control exerted by the executive over the judiciary is a considerable obstacle to defenders seeking to challenge this legislative affront. In Ethiopia it appears to be more or less impossible to challenge the constitutionality of government acts as the Constitutional Inquiry Commission is under the control of the House of Federation, the upper house of the Ethiopian People’s Revolutionary Democratic Front (EPRDF) dominated parliament. Furthermore, the judiciary in the region is generally not well versed in international law and is therefore more prone and likely to make decisions which violate international laws and obligations that their countries are signatory to.

Finally, other mandated mechanisms, notably national human rights commissions which have been established by statute in all the countries visited with the exception of Burundi, often fail to offer defenders concrete and viable channels for protecting their rights notably given that none of the mandates include HRD protection per se and that the commissioners tend to follow a limited interpretation of their mandate.

This legal framework undermines the ability of defenders to advocate for their own rights.

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<sup>23</sup> See for example: *Uganda Suppression of Terrorism Bill* (2002), N. 14/2002, 7 June 2002, Section 7, Laws of Uganda.

## Limitations of NGOs

### *Capacity*

There are many factors internal to human rights organisations which have a detrimental impact on the promotion of the rights of HRDs. These are evidently largely linked to or the result of the context in which they work. Capacity, as was briefly mentioned in the overview section of the report, is a significant problem and many organisations, faced with high staff turnover and limited human resources, do not have the means to concentrate on activities relating to their own rights. Defenders working for understaffed organisations are rarely able to dedicate time to issues that do not fit more clearly into their portfolio. It was noted in both Rwanda and Burundi, although to a lesser extent, for example, that the level of interaction and outreach from national NGOs towards international human rights organisations and information sharing has been decreasing in recent months given the increasing financial and capacity challenges facing the national human rights organisations in the country.

Another issue which greatly undermines the capacity of defenders to carry out effective and sustainable advocacy efforts has been the loss of many key leaders of the movement. In Ethiopia many HRDs were forced into exile following the 2005 post-election crackdown. In Kenya, notably since the first Kibaki government and more recently following the formation of the Grand Coalition Government, many key figures of the movement have entered into government. These developments have weakened the movements and the individual organisations in these countries and have lessened their ability to carry out advocacy for their own rights in an effective manner.

In several of the countries visited, defenders had a very clear concept of the role and work of HRDs and a good understanding of what the rights of defenders are; nevertheless in other instances this

was not so well understood, engrained or was seen as something rather irrelevant to their daily activities. In Kenya, although defenders working for the Nairobi-based human rights organisations are clearly conscious of their rights, there appears to be a reluctance amongst them to acknowledge the fact that they do face specific threats different to their constituents as a result of their work and a disinclination to seek special protection and advocate more openly, out of a fear that this would further entrench the notion that they are the elitist, and thereby de-legitimise them in the eyes of their constituency. Such dilemmas undermine the development of a more systematic and developed effort by defenders to advocate for their rights which would be necessary given that the state with all its machinery is often the main perpetrator of violations against them.

Human rights organisations also often appeared to lack the know-how in matter of protection. Most of the organisations interviewed had never heard of the EU guidelines on the protection of Human Rights Defenders and the different channels for advocacy that they prescribe; only one or two of the defenders had actually used or made reference to the guidelines. With the exception of the organisations in Burundi, most of the defenders interviewed did not know of the Special Rapporteurs on Human Rights Defenders at the UN or the ACHPR levels. Such information gaps clearly frustrate the process of embedding a concept of defenders' rights in the minds and work of defenders.

### *Lack of collaboration*

Another challenge identified which will need to be overcome for HRDs to carry out effective and sustainable efforts to enhance and secure their rights is the issue of collaboration, or lack of collaboration. In many countries, notably in Ethiopia and Rwanda, it was mentioned time and again that human rights organisations lacked a culture of collaboration. This appears to stem from a range

of social, political and financial factors. First of all, in Ethiopia for example, defenders explained that they did not have any good examples of collaboration within the human rights movement which could serve as a role model to encourage further co-operation and which could highlight the benefits of collaboration and networking. On the contrary, in many countries the political and social context had created a sense of mistrust amongst organisations. The authorities play an important part in creating and heightening this mistrust. The practice of setting up Governmental NGOs (GONGOs) or ‘encouraging’ organisations into umbrella organisations as is currently frequent in Rwanda, and the infiltration of coalition groups or individual organisations, creates an atmosphere of mistrust and discourages organisations from forming larger and more long-term coalitions. The example of the taskforce in Ethiopia which worked together on the *Charities and Societies Proclamation* is relevant. It included a very broad range of organisations to discuss some of the more restrictive provisions of the bill; nevertheless

in the course of the meetings some of the more outspoken NGOs who wanted to present a draft legislation and hold a workshop, were told by their supposed colleagues that they were stepping out of line. Similarly during discussions on recommendations on NGO regulations in Uganda, certain actors within the NGO discussion groups would often seek to tone down, or undermine recommendations. The infiltration, or setting up of surrogate professional organisations, is also a common practice and thereby discourages collaborative efforts. Such realities clearly discourage broader coalitions from forming and as a result most of the organisations interviewed said that they tended to work with only a very limited ‘trusted’ group of organisations.

Witnessing attacks on other national human rights organisations can at times, rather than generating solidarity, create fear and reluctance on behalf of NGOs to speak out on behalf of their colleagues. The case of the Rwandan League for the Promotion and the Defence of Human Rights (LIPRODHOR in French ) is a very telling example.

### **Crackdown on human rights organisations: LIPRODHOR**

In 2004 LIPRODHOR was the leading and most outspoken human rights organisation in Rwanda; it was the only organisation with a presence throughout the country. In June of that year it was accused by a Parliamentary Commission in charge of investigating the possible propagation of genocidal ideology in the country, which is forbidden by the Rwandan law, of divisionism and of carrying out ‘genocidal’ activities. The Commission called for the dissolution of LIPRODHOR and several other civil society organisations named in the report.

Once blacklisted as ‘divisionist’ an organisation finds it increasingly difficult to hire or retain staff and to raise funds; the authorities are thereby able to more or less destroy an organisation without having to go through legal proceedings or take more blatant repressive measures.

The assets of the organisation were frozen and several of its leaders were forced into exile after publication of the commission reports. The remaining LIPRODHOR staff was forced into carrying out an internal inquiry which was greatly criticised by those in exile. Donors withdrew their funding from the organisation and further increased their funding through direct budget support to the national government.

This incident created a very bad precedent and has left its mark on the human rights movement in the last few years, influencing both the relationship between human rights organisations, the space and openness of the movement as well as donors’ support for the organisations, which in turn clearly affects both the capacity, the finances and all aspects of the work of organisations. The failure of other NGOs or individual defenders to speak out on behalf of LIPRODHOR reveals the extent of the intimidation felt by human rights organisations. It was remarked time and again how the incident had left the human rights community very quiet.

More recently LIPRODHOR once again came under attack when it refused to join the civil society platform’s election monitoring activities as it had the means and the capacity to carry out its own monitoring. Although one or two of its closest partners rang LIPRODHOR up on this occasion to find out exactly what the situation was, no organisation spoke out in public on behalf of LIPRODHOR. Evidently this silence is linked to many issues, notably internal conflicts within the organisation itself and the reluctance of its members to call on partners in other organisations to seek support, but it is also clearly related to an on-going fear of speaking out or criticising government actions vis à vis organisations given the drastic impact this could have.

The trial of individual defenders who are seen as too critical or outspoken or are perceived as engaging in activities which the authorities see as

a threat, can also serve as a deterrent to further action. The case of Netsanet Demissie and Daniel Bekele in Ethiopia is well known but also very revealing.

### **The impact of prosecutions against individual defenders: the trial of Daniel Bekele and Netsanet Demissie**

Following the contested 2005 elections in Ethiopia, tens of thousands of members of the opposition party, the Coalition for Unity and Democracy (CUD) were arbitrarily arrested and detained during massive protests which spread throughout the country. Subsequently 131 members of the CUD, journalists and human rights activists were put on trial, including Mr. Daniel Bekele and Netsanet Demissie, two well respected human rights activists.

Some of those on trial were subsequently released; those remaining were given sentences in July 2007 after a lengthy trial by the Ethiopian Federal Court ranging from one year to life imprisonment. Professor Mesfin Woldemariam, founder and former Chair of the Ethiopian Human Rights Council (EHRCO) and a member of the main opposition party, was amongst this group. 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, Daniel Bekele 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 an acknowledgement, the content of which they have been told must remain undisclosed.

The 2005 elections, subsequent clampdown and trials have had a very negative impact on civil society in Ethiopia. The fear generated continues to influence human rights organisations and individual Defenders to this day. In fact, despite the fact that the trial of Bekele and Netsanet was widely publicised, received significant attention from key international human rights actors and lead to significant mobilisation at all levels of the international community, very few Ethiopian HRDs, individuals or organisations, actually mobilised or actively spoke out in favour of their colleagues. Some colleagues accepted to testify in the court and a few vigils were held whilst they were in prison, but these tended to be organised by their friends or family.

The lack of a culture of collaboration and the tendency for organisations to be focused on specific rights or to take varying approaches, notably towards the authorities, also weakens the development of a common vision amongst organisations - a vision that could steer their advocacy efforts and define clear aims. As a result of this mistrust engendered in large part by the authorities, many organisations and individual defenders, when they come under threat, specifically when defenders are individually targeted, tend to seek support from international NGOs based either in their country or abroad rather than turning to their national counterparts. This can also be for strategic reasons, as it is often believed that international NGOs may have greater influence and bring about a more rapid change, but time and again

the interviews revealed a very clear reluctance to turn to national colleagues. This tendency to turn automatically to international organisations does risk undermining national NGOs in the eyes of key stakeholders, notably the donor community, who as a result are often given more information via international organisations than through the local ones and come to see the international organisations as the main point of reference.

### **Financial**

In a region where financial instability is an everyday reality for many human rights organisations and where their future is very much dependent on donors, the financial constraints facing human rights organisations undermines efforts or plans to carry out more systematic mobilisation around the rights of defenders. The funding system it-



self further discourages collaboration between defenders and also undermines more systematic mobilisation. Human rights organisations generally do not have the funding to carry out specific campaigns and activities linked to the rights of defenders, specifically in countries such as Rwanda where they are increasingly struggling to have their basic programs funded. Furthermore, certain donors, through their funding requirements, undermine the formation of more sustained efforts of collaboration amongst NGOs and other defenders. Time and again during the interviews it was pointed out that competition for funds greatly undermined collaboration amongst organisations as rather than encouraging defenders to see themselves as working for similar causes and facing similar threats and challenges, donors tend to encourage human rights organisations to define themselves as specialised entities focusing on specific rights, issues and areas. As a result, collaboration between women's organisations or land rights organisations, for example, may be established but this rarely goes beyond this limited sector. Donors may therefore in fact discourage defenders from taking a broader perspective on their work and their rights. Certain donors are aware of this and seek to promote greater collaboration but in many cases the traditional framework and discourse has been maintained.

Working for a human rights organisation is also a way of making a living for many people involved in this sector. In countries with high rates of unemployment, finances clearly affect people's willingness or also their lack of willingness to speak out or not on behalf of their colleagues or for the wider issue of promoting the rights of defenders if such activities can place their livelihoods at risk.

### **Limitations of available advocacy channels**

There are, at least in theory, many channels which HRDs could be using both at the national, regional and international level to advocate for

their rights. Prior to the research a list of these was drawn-up and included: the media, the judiciary, government authorities, opposition party members, the private sector, the general public, international human rights organisations, international and regional human rights mechanisms and the international community, most particularly the western diplomatic community. In the course of the research however it became very evident that these channels are limited by political, economic, legal and social factors. As a result of these limitations as well as the issues discussed above, defenders have had a tendency, both justified but also at other times not so, to largely overlook certain channels which could help to promote and serve their cause.

Journalists are generally, at a conceptual level at least, perceived as HRDs. The media in such instances could therefore serve as a potentially very powerful advocate for the rights of defenders, especially the radio given its ability to reach out to a much larger public than that generally targeted by human rights organisations. In most of the countries visited the media was perceived with very mixed feelings, and in some instances, notably in Rwanda and Ethiopia, it was on the contrary seen as being antagonistic to human rights organisations and to rights of defenders. In Ethiopia, where most private media houses were closed down following the 2005 elections, the media has played an important part in disseminating the idea that human rights activists are only in the 'business' for their own profit. Furthermore, the media is often perceived by human rights activists as lacking professionalism and as having a tendency to deal with human rights issues in a sensationalist manner. Investigative journalism does in fact remain a very small sector in this region. Few journalists have been trained in such methods and therefore it is rare for significant and well-documented human rights issues in general, or issues relating to the rights of HRDs more specifically, to be published. The outreach of the print media in much of this region is limited; the radio is by far the

most accessible and widely used source of media information in this region and is therefore perceived by an increasing number of authorities as a threat. In recent times, the editorial boards of independent and private newspapers, and more particularly of radio stations, have therefore increasingly been placed under pressure, notably by their managers often more interested in ensuring that profits are maintained. This has in turn lead to increased censorship amongst journalists and has discouraged some of the more committed or outspoken journalists to pursue the career. These factors greatly undermine the role which the media can or could play in advocating for the rights of defenders.

The lack of an independent judiciary, as discussed above, in most of the countries visited is a significant challenge to defenders seeking to uphold their rights. In fact, the judiciary actually plays a role in undermining the work and rights of defenders rather than serving as an upholder and promoter of their rights by subjecting defenders to lengthy trials and denying them bail. In Kenya, for example, judges have on occasion gone out of their way to prevent defenders from carrying out their work by making cases of defenders last for a very long time without decision, holding them in detention or regularly calling them back to court thereby making it very difficult for them to pursue their daily activities. As a result, defenders appear very reluctant to use these channels.

As mentioned above, the state, in theory responsible for the promotion and protection of rights of defenders and for creating an enabling environment for defenders to work in, is in fact the actor that poses the biggest threat to defenders in this region. The perception of defenders as political opponents and as individuals only in the human rights world for their own ends has generated an environment in which the authorities make no significant effort or attempt to work with human rights NGOs, rendering it very hard for defenders to approach the different layers of government.

Furthermore, even individual MPs that might be more open to defenders generally end up towing the party line in many of these countries.

In some instances opposition politicians are willing to speak out on issues on behalf of defenders or to pass on key information to relevant bodies and organisations. Nevertheless in most of the countries visited the opposition is very weak, inexistent or largely underrepresented and therefore their voices are rarely heard or are silenced if they are seen as deviating too much from the official line. Even in Burundi, for example, which does have a few opposition party Ministers, those who could potentially speak out on behalf of HRDs, such as the Human Rights Minister, who is from the opposition Front for Democracy in Burundi (FRODEBU in French) party, are often sidelined. Furthermore, in other instances, as is being witnessed in Kenya, individuals who speak out on human rights issues and the rights of defenders when in opposition, often become silent on such matters as soon as they are in positions of power and in positions where they could exert significant influence. As a result, very few human rights defenders approach or have sustainable relationships with opposition politicians.

The business community in the region is clearly underdeveloped and tends to be either very closely linked to the ruling party, be in foreign hands or have very little interest in politics. Interaction and collaboration with the private sector by HRDs is therefore rarely undertaken and is felt by many to be of little value at present.

Other mandated mechanisms, notably national Human Rights Commissions which have been established by statute in all the countries visited with the exception of Burundi, often fail to offer defenders concrete and viable channels for promoting their rights. In Ethiopia and Rwanda the Commissions are still very weak, ineffective and appear to lack the necessary independence to be viable avenues of support. The mandates of these commissions do not offer concrete protec-

tion or support to HRDs and the Commissioners tend to perceive and implement their mandates in a limited fashion. In Ethiopia, for example, the Commission did not carry out any activities or advocacy relating to the *Charities and Societies Proclamation* despite the direct impact that it would have on independent human rights organisations and indirect impact it would have on the Commission itself. The Kenyan and Ugandan national Human Rights Commissions are seen as credible and reliable partners, nevertheless in both cases this legitimacy and credibility depends largely on the individual leadership of the Commissions rather than the mandate and institutions themselves and therefore given that in both cases the leadership has recently changed there is a very concrete concern that their past work and role will be undermined. Furthermore, the relatively rigorous complaints procedures in place in these organisations make it at times, specifically for defenders working outside capital cities, difficult to access especially in cases of emergencies. Other bodies, such as national Press Councils, are in fact often the first to criticise and attack journalists and other defenders that appear to step out of line or act in an ‘unethical’ manner. The Ombudsman positions which have been established in Rwanda, Ethiopia and Kenya appear to be little more than token positions.

The western diplomatic community is in many ways one of the main channels available to and used by defenders. The political context is the crucial factor determining the level of interaction between defenders and the diplomatic community. There are clear limitations both to the capacity of the donor community to bring about substantial improvements to the rights of HRDs, as was recently seen by the passing of the *Charities and Societies Proclamation* in Ethiopia in spite of significant efforts by the community to call for its amendment, and limits to their political will to do so. The political context both in Rwanda and Ethiopia in particular is clearly not conducive for a vibrant and outspoken donor community given

the growing antagonism of the authorities to ‘external’ interference. Much of the efforts of the diplomatic community take place in an informal manner; ‘quiet diplomacy’ is favoured in these countries. The recent efforts by the diplomatic community in Ethiopia to encourage the Prime Minister from maintaining the most stringent provisions of the *Proclamation* largely took place behind closed doors, with a small group of donors meeting with the Prime Minister in person. Many missions are also more amenable to offering direct budget support or funding umbrella organisations instead of providing direct financial and logistical support to individual independent national NGOs. There is at times a lack of co-ordination amongst missions, notably around the EU Guidelines on the Protection of Human Rights Defenders, largely linked to the different country’s priority areas but also due to a lack of awareness among many missions of the guidelines themselves. In general the level of support and outreach towards defenders tends to depend on the individuals within the missions and the level of promotion of the guidelines themselves depends on the political leadership at the time. Donors are also often concerned about the authenticity of HRDs and are as a result slightly reluctant to react or take on the responsibility of cases of individual defenders at risk. Many of the diplomatic missions tend to trust and rely much more on the international NGOs than the national ones particularly in Rwanda and yet are not always making significant steps to establish more sustainable relations with the national ones. As a result, one of the channels which could serve as one of the main targets of defenders’ advocacy is not always as open as would be necessary for sustainable, timely and effective advocacy.

Regional and international mechanisms and entities are seen as potential targets of advocacy efforts of defenders. Nevertheless, the research revealed that they have little impact in this region. This is to a certain extent linked to a lack of capacity among many human rights organisations

in the region as well as a slight reluctance to use mechanisms which often fail to offer concrete results on the ground or to react in a timely manner. It is also linked to the fact that little effort is made on behalf of these mechanisms and bodies to reach out to the national human rights organisations. The Special Rapporteur Mechanisms of the UN and the ACHPR have until now had very little interaction with this region, either through

communications or through country visits, with the notable exception of the Mandate of the Independent Expert on the Situation of Human Rights in Burundi and the visit of Mme Alapini-Gansou to Burundi in 2007. Similarly the regional UN offices, notably the regional offices of the Office of the High Commission in Addis Ababa, only rarely include national HRDs into its programs given that they prefer to work with and support government bodies.

## V] Advocacy on rights of defenders in the region

Despite the many challenges that HRDs in the countries visited, and the region as a whole, face in their aim to guarantee a space for their work, gain legitimacy and promote their rights, many are actively carrying out activities to promote and protect their rights. A number of such activities, or good practices, were identified during the course of this research that could be replicated in other countries, transformed and adapted to the given context or are already being carried out in several of the countries visited.

Further developing such actions and transforming them into more sustainable strategies will help defenders in this region protect their rights at a time where the very hard work, commitment and energy which has been dedicated to creating a space and legitimacy for themselves is under threat.

### **Mobilising for individual defenders**

In all of the countries visited, HRDs, activists, journalists and in some cases lawyers, mobilise when an individual defender, generally well known or respected, is being harassed, prosecuted or faces threats to their life or freedom. In all countries, defenders that were interviewed reported to having drafted press statements, urgent actions and reports, attended trials or carried out in-person lobbying on behalf of one of their colleagues. Sometimes defenders write about the risks facing their own organisation; for example, when LIPRODHOR was denied a licence to carry out election monitoring in September 2008 they chose to write about the challenges they were facing in their newsletter which they send out to their donors and members. Such actions can help show key actors that the organisation is seeking to raise awareness of the challenges it faces. In some instances defenders have sought to

approach regional or international human rights mechanisms when individual defenders have been under threat; the League for Human Rights in the Great Lakes Region (LDGL) for example sent out a series of communiqué including to the Special Rapporteur on Human Rights Defenders, Mme Alapini-Gansou, in order to call upon key stakeholders to follow up on the case of Francois-Xavier Byuma. By strategically reaching out to as wide a range of actors as possible, the chances of ensuring that the rights issue is raised and the violation brought to an end are higher.<sup>24</sup>

In Kenya, human rights organisations and individual activists provide legal advice and services to defenders that are arrested, notably to members of Bunge la Mwananchi, a community-based civic forum organisation, which is currently facing continual harassment by the Kenyan police given the group's habit of meeting in public places and holding public events. Human rights organisations in Kenya also mobilised when their colleagues in the Mount Elgon region of Western Kenya, in which the army had intervened in a very violent manner to put down a local militia group, were under threat as a result of reporting on the issue. Mobilising on behalf of colleagues working in more distant and remote areas is necessary for raising the visibility of defenders and their rights.

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<sup>24</sup> Mr Byuma was the President of *Turengere Abana*, an NGO working on child rights. Mr Byuma was investigating 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. 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. A revision trial took place on 24 January 2009, was pursued on 7 February; the final verdict released on the 14<sup>th</sup> March 2009 upheld previous decisions and sentenced Mr Byuma to 17 years of imprisonment.



Such actions are not only limited to human rights activists speaking out on behalf of other activists but it also brings about cross-sector mobilisation, although evidently to a lesser extent. In the case of Jean-Claude Kavumbagu, a Burundian journalist who was recently tried after having been accused of defamation in Burundi, activists and journalists turned out in numbers to attend his court hearing in November 2008.<sup>25</sup>

### **Mobilising in response to legislation**

When legislation is put forward which directly or indirectly influences either human rights activists or journalists, mobilising in an organised manner occurs in most of the countries visited, with the possible exception of Rwanda. New legislation which regulates the framework in which defenders are working in is increasingly being introduced throughout the region as has been described above. The contentious *Kenya Communications (Amendment) Bill*, the infamous *Charities and Societies Proclamation* that was passed by Parliament in Ethiopia in January 2009, the *NGO Regulations* in Uganda, have all gener-

ated mobilisation by civil society organisations, in certain instances the media and in the case of Kenya, even the general public. This mobilisation has taken a range of forms from mass protests, to the formation of ad hoc NGO coalitions to discuss and offer recommendations on the most restrictive and contentious provisions of the relevant bills, to informal lobbying of personal contacts. In some rare instances defenders have actually sought to make use of the legal route as a means of challenging legislation or regulations which undermine their rights and their work. In Ethiopia, for example, prior to the elections of 2005, 15 human rights organisations, including Action Professionals Association for the People (APAP), took the National Election Board to the High Court over new directives it had published stating that national organisations **must have registered** as election observer organisations when they were first formed in order to be able to take part in the election monitoring. The High Court ruled in favour of the NGOs stating that that the new directives “contravened the laws on the country”.

### **Taskforce on the *Charities and Societies Proclamation* in Ethiopia**

A taskforce made up 19 Civil Society Organisations (CSOs) was set up in Ethiopia to discuss with the authorities the shape that legislation on CSOs should take and to consider the establishment of a sort of self-regulatory code of conduct for CSOs.

The *Charities and Societies Proclamation* was initially introduced to the NGO community in April/May 2008 – merely one week before NGOs were called to discuss the Bill with the Minister of Justice. Although the NGOs had been given very little time to give feedback on the Bill they managed to draft some recommendations. The content of the Bill came as a shock to the NGO community, in particular, the provisions which deemed that any organisation which received more than 10% of its funding from abroad would be considered to be a foreign NGO and as such could not take part in any human rights, women's rights, governance and peace and reconciliation activities (amongst others).

The taskforce brought together a very wide range of organisations which did bring about certain challenges however they succeeded in submitting four comments on the draft and presented a draft of an alternative law, which was presented to the PM before the Bill was passed in January 2009.

Certain organisations within the taskforce – a group which included human rights organisations more used to and comfortable working together – also organised a workshop to launch a report based on research which they had carried out into the many contributions that CSOs were bringing to Ethiopian society, most notably in the area of good governance. The Ministry of Justice appeared to see this as an affront and made its disapproval evident. Even so, the launch did take place and was attended by some government officials.

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25 Mr. Kavumbagu was finally acquitted, after having been in detention for 6 months, on 19 March 2009.

Despite the efforts of the Taskforce in the above example, even the most organised attempts to challenge legislation tend to end soon after the passing or the rejection of the Bill and generally fail to cement a more sustainable and long term effort on behalf of defenders to work together to ensure the protection and promotion of their rights. In Kenya for example the significant mobilisation which formed in December around the *Communications Bill* soon dissipated even though the President has claimed that some of the more contentious provisions of the Bill might be revisited.

Such mobilisation does however reveal that defenders are clearly aware of their rights, of the space and legislative framework required for them to carry out their legitimate work and they do see advocating for their rights to be important. It also suggests that although these efforts tend to

be on a short-term one-off basis they could potentially be transformed into more sustainable efforts or could be included into more broader and concrete programs aimed at promoting the rights of defenders.

### **Establishment of more sustainable protection mechanisms**

In all of the countries visited, with the exception of Uganda, attempts have been made to establish more sustainable protection mechanisms, notably national coalitions of HRDs. Such coalitions are vital to ensuring that more continual attention is paid by HRDs to their own rights and protection. The Kenyan Human Rights Defenders Coalition is a good example of the sort of structure that such a coalition can take (see case study).

#### **Kenyan National Human Rights Defenders Coalition**

The idea of setting-up a coalition stemmed from the realisation that no meaningful long-term mechanism was available to HRDs in Kenya, particularly to defenders working outside Nairobi and on more marginalised rights issues. The Coalition not only aimed to offer protection to defenders but also sought to serve as a key channel through which defenders could exchange information.

From the start those involved were aware of the risks involved in forming a coalition and the tendency for such efforts to go to waste; they therefore sought to establish it in an inclusive and consultative manner. Emphasis was put on representation of HRDs outside Nairobi. Members were organised into 8 groups, i.e. along geographical lines and thematic lines with special interest groups such as LGBTI, women and marginalised communities. Each group elected a focal point (5 women, 3 men) that now makes up the Advisory Council of the Coalition. Each group was to bring to the attention of the Coalition issues of particular concern in their region or their group of interest.

The Coalition then registered under the legal status of a Trust with members of the Advisory Council contributing money to support the registration process. The coalition came up with a plan that earmarked the enhancement of members' capacity and envisaged an increase in membership in each region. A token membership fee was set to encourage commitment.

The Coalition was officially established in November 2007. Its capacity was soon tested during the violence which preceded the contested December 2007 elections. During the violence a number of HRDs came under threat, notably from their ethnic communities. Defenders were receiving daily threats, some were assaulted, many needed to be relocated and several even temporarily evacuated as a result of their work and efforts to speak out about the events. In response, the Coalition developed an emergency project, geared to offering protection to HRDs at risk by offering legal representation to those being prosecuted in courts, offering medical services to those injured, evacuating HRDs at risk and establishing a safe house.

The enormous challenges of such a Coalition, both human and financial, and particularly a Coalition still in its initial phases which had to face such a crisis are evident and have taken their toll. Establishing a permanent secretariat, to focus on the running of the coalition is becoming increasingly evident. Nevertheless the support offered to HRDs during the Coalition revealed the enormous potential of such a structure if given the means to be sustainable.

The initial impetus for such a coalition generally comes from a group of like-minded organisations who have already worked together and have gained trust in each other. A group of at present 6, and possibly a total of 10, Burundian NGOs are currently in the process of setting up such a coalition and have recently submitted that application to the licensing board. In Ethiopia, a very small group of the main human rights NGOs has been discussing the formation of such an entity but was stalled in the process by the sudden release of the draft *Charities and Societies Bill* and have as yet not been able to pursue the idea further.

Professional organisations of journalists and lawyers have at times also proven to be effective voices for the protection of the rights of defenders. In Burundi an organisation of lawyers for human rights was recently formed. The Ethiopian Bar Association is generally seen as a respected, although slightly weak, human rights organisation and has been included in efforts to protect the rights of defenders by calling for the release of HRDs who were put on trial following the 2005 elections and more recently taking part in the CSO taskforce. In certain countries therefore the formation of such associations and organisations have helped to or play a part in promoting the rights of HRDs in general and their own rights, as lawyers and journalists, in particular.

Essential however to ensuring that such mechanisms serve as much more long-term voices for the rights of defenders is to guarantee that these are not solely put in place in times of crisis but have well established programs and mechanisms which can also cope, if need arises, with crisis situations.

### **Activities aimed at reaching out to key stakeholders**

Despite limitations in many of the channels identified as key to advocacy around the rights of HRDs, certain channels and stakeholders can

and do play a part in the promotion of the rights of defenders or at least seek to maintain the current space accorded to defenders. In each country HRDs are finding ways to reach out to these key actors.

One channel identified as having a specific role to play on this issue is the diplomatic community. In Burundi defenders interact on a regular basis with the different EU missions - both the individual missions themselves and the larger diplomatic community, notably through the EU framework. One Ambassador explained that he receives defenders on a weekly and sometimes daily basis. Contacts are sometimes made on an ad hoc basis but more generally defenders who had established personal contacts with the individual missions tend to be the ones approaching the missions on a more regular basis. Engaging with donors in a strategic, sometimes less public, manner is seen as advisable in countries such as Ethiopia where the government is increasingly antagonistic to interference by international actors and most particularly to agendas which they perceive as being imposed by the west.

Journalists clearly are potential HRDs nevertheless in this research they have primarily been considered as potential advocacy targets and spokespersons for the rights of HRDs and organisations. As has been explained above the media context in this region is not always favourable to human rights work and human rights organisations. However, in Burundi the media, particularly private radio stations, is seen as a powerful watchdog which regularly speaks out on behalf both of individual defenders and in promotion of HRDs' rights. In other countries, although the media is not perceived as promoting human rights, individual journalists are perceived as potential defenders. In such circumstances, interaction between defenders and the media can and does take place, both through individual contacts and wider collaboration. Such interaction can prove to be a very powerful tool to discourage the violation of



the rights of defenders; once the media has taken it on, particularly the radios, violating the rights of defenders does become a greater, generally political, risk with more at stake. In most countries NGOs do have some sort of interaction with journalists but Burundi is the country in which this is the most developed. Not only do defenders and the media, most particularly the outspoken private radios, exchange information on a regular

basis on general human rights issues which organisations are working on, or which the medias have been approached about, but human rights organisations are also often called on to take part in the Radios 'synergy' events (see case study below). Activists will be asked to discuss issues which affect individual journalists, for example the recent case of Jean-Claude Kavumbagu.

### **The radios synergies in Burundi**

A number of private radio stations in Burundi have been carrying out this strategy of synergy which consists of broadcasting exactly the same programs at times when issues of grave concern take place and when the radio stations feel that particular attention must be given to a specific issue. The issue taken up is generally discussed for an entire week.

Human rights activists and members of the diplomatic community are invited to speak about the topic. The trials of human rights activists are always discussed, notably the trials of members of Ligue Iteka, one of the leading human rights organisations, in August 2008. Most recently, following the arrest of Mr. Kavumbagu, his case was discussed at length and for weeks prior to his trial a song was played on all these stations in his honour.

As always the actual impact of this strategy is difficult to measure, nevertheless, there are several instances which suggest that they do have an impact: one was the case of the arrest and torture of a former president and vice-president; all the radios spoke out about it and Association for the Promotion of human rights and detainees (APRODH in French), one of the most respected human rights organisations, had speakers placed outside the tribunal to ensure that as many people as possible could follow the trial. They were both eventually released. The recent threats against one journalist, Mr. Jean- Paul Ndayizeye, who was the President of the Independent Association of Burundian journalists and had headed these synergy initiatives, who has as a result since fled the country, would suggest that the authorities perceive this as a potentially powerful and threatening initiative.

Even the very few 'independent' channels and voices which are available within a slightly more restricted media landscape could serve as a powerful means of both helping to protect and to promote the rights of all defenders. In Ethiopia, the media landscape has become very monolithic since the massive crackdown on independent media houses in 2005; still, in recent months the country has seen the establishment of a new media house, *Addis Neger*, which until now has been able to act relatively autonomously and has been publishing the reports of organisations such as EHRCO. Whether or not this paper will be allowed to continue to remain independent is clearly difficult to assess at this point nevertheless this reveals that even in countries in this region with very limited space for interaction with the media it can take place. It appears therefore to be in the interest of human rights organisations in this region to take the time to more thoroughly in-

vestigate the media landscape and establish more contacts with those within the media able and/or willing to speak out on key issues.

In almost all of the countries visited both for obvious political and strategic reasons notably whether or not civil society should be engaging with the state, HRDs are often very reluctant or sceptical about engaging with its organs. Evidently in certain countries, notably in Kenya, Uganda and Burundi, this reluctance is weaker and is often linked to the conjuncture; in Rwanda, interaction or collaboration with the state appears to be a means of survival, and certain organisations feel forced into interacting with the state. In the countries visited defenders do reach out to members of the authorities. In general, such interaction tends to take place through informal communication and through personal contacts, notably as a result of the fact that there is a tendency for previous

human rights activists or individuals to enter into government. Evidently such methods are particularly relevant when the issues being discussed relate to sensitive cases and issues which might not be able to be discussed in a more public manner. Most activists claimed that they would invite officials to their events and press conferences but the lack of receptiveness had discouraged many from pursuing this channel of interaction. Evidently in a number of cases reaching out to the authorities, notably those implicated either directly or indirectly into cases of rights violations, specifically when dealing with the security sector, is clearly not a strategic or even a safe option. The recent killing of a former Kenyan police officer who denounced the extrajudicial killings being committed by the police force against alleged or actual militia group members is a very telling case which appears to justify the reluctance of defenders to approach the authorities. The witness had been told to seek protection from the police, given that under the recent *Kenyan Witness Protection Act*, the Attorney General and the police are responsible for the protection of witnesses. Even so, interacting in a strategic manner and maintaining personal contacts within the authorities can and should form part of a larger effort to

promote the rights of defenders.

It is, on the other hand, rare for HRDs to reach out to the institutions of the state *per se*. Human rights organisations do at times share information with and collaborate with the national human rights commissions; in Kenya, for example, when Maina Kiai was heading the Commission, there was significant interaction between human rights NGOs and the Commission; more recently defenders have continued to refer cases to the Commission but less frequently. In Uganda there has been considerable collaboration between the national human rights organisations and the National Commission. In Burundi, some defenders have also directly approached the Human Rights and Gender Minister, Mme Rose Nduwayo, in one instance calling on her to lobby for an organisation's right to hold a demonstration. In Rwanda and Ethiopia, largely due to the weaknesses of these mechanisms, this is not the case. In Uganda and Kenya, human rights organisations have also made use of the tribunals and court systems in their country to promote the rights of defenders. In Uganda the Constitutional Court has been the favoured channel as it has often ruled in a progressive manner which upholds the rights guaranteed by the constitution.

### Use of litigation to advocate for the rights of defenders

Andrew Mwenda is one of Uganda's leading political journalists and founder and editor of the weekly magazine, *the Independent*. In April 2008, a raid by security agents was carried out on Mwenda's house following his interview of an army deserter who was accusing the army of human rights abuses and as a result of his reporting on the practice of torture in government safe houses. During the raid, the agents confiscated publishing and private materials. He was subsequently charged with 15, the number has since gone up to 21, criminal charges including sedition, criminal libel, insulting the person of the president and promoting sectarianism (a charge which dated back to his reporting of the death of south Sudanese leader John Garang).

Mr. Mwenda decided to contest these charges in the Constitutional Court based on the claims that the provisions under the Penal Code under which he has been charged violate the civil liberties guaranteed in the Constitution. The Court has still not released a verdict.

This is not the first time Mr. Mwenda has sought to uphold freedom of expression in Uganda by making recourse to the courts. In 2004, he had already petitioned the Constitutional Court declaring the offence of publishing false information unconstitutional. The Court had rejected the petition which Mr. Mwenda and Mr. Charles Onyango-Obbo, then managing Editor of *The Monitor*, independent daily newspaper, had filed so the journalists had then appealed the case to the Supreme Court which had declared the provision of the Penal Code unconstitutional.

Although the decisions of the Constitutional Court are often delayed in Uganda, such actions help to ensure that the harassment, restriction and prosecution of journalists carrying out their legitimate work do not go unnoticed by the judiciary, the media, the general public and the international community.

Similarly in Kenya, the Independent Medico Legal Unit (IMLU) has taken several cases relating to activists from the Bunge La Mwananchi group to court. IMLU generally works through its network of lawyers, some of whom, when funds are not available, have worked on a pro bono basis. The impact of such activities evidently depends on the influence of the governmental institution itself; nevertheless respondents generally acknowledged that it was possible to find individuals in these institutions that are at least willing to listen and at times also willing to take action to ensure that they abide by their mandates and uphold key rights.

Opposition politicians and ministers are rarely seen as potential advocacy targets given the fear of being perceived as being part of the political opposition as well as the weak capacity of the opposition in the region to take decisive action. Nevertheless, such individuals do generally have good contacts with people in positions of power and can at times serve as a significant, even if merely symbolic, voice of dissent. Once again, however homogenous the political landscape, reaching out to actors such as opposition politicians who could have an impact and speak out on behalf of defenders is a tactic that could be increasingly exploited.

The use of international and regional mechanisms, notably the Special Rapporteur on the situation of Human Rights Defenders of the African Commission of Human and People's Rights (ACHPR), Mme Alapini Gansou, and her counterpart at the UN, former Chairperson of the Ugandan Human Rights Commission, Mme Sekaggya, does, although rarely, take place. Defenders in certain countries, notably in Burundi and Kenya, are for example making use of the Human Rights Council in Geneva and the Universal Periodic Review process to raise awareness both on the general human rights situation in the country and the situation of HRDs in particular. When Mme Alapini-Gansou visited Burundi in 2007 she not only met with members of the authorities but also with members of civil society. In Ethiopia, this interaction does also on occasion take

place. During the infamous case of Daniel Bekele, Mr Bekele, decided, with the help of an international NGO, to take his case to the ACHPR after all local remedies failed. The Commission was about to rule on the admissibility of the case when he was released by the Prime Minister on the grounds that pursuing the case was not possible. The visit of Louise Arbour, the former UN High Commissioner of Human Rights to Ethiopia during the trials is also believed to have generated significant pressure and attention.

The well established organisations in the region all have contacts with international human rights organisations either based in the country itself or abroad. Organisations often choose to pass on particularly sensitive information to international organisations when they feel that they cannot take up the issue themselves. This information sharing often takes place through individual meetings with the international organisations which are based on the ground. National organisations are also part of much larger network of HRDs, either regional or international ones such as EHAHRDP, the Central African Human Rights Defenders Network (RED-HAC in French), the International Federation for Human Rights (FIDH in French) and Amnesty International and do seek to pass information onto their partners working at different levels. The case of Netsanet Demissie and Daniel Bekele revealed very clearly the importance of reaching out to international NGOs, notably to help ensure that the issue is placed on top of the government agenda, particularly when the national NGOs feel that they cannot advocate on behalf of their colleagues. Engaging with international human rights NGOs is therefore often a very effective and sustainable method of promoting and protecting the rights of defenders.

The holding of *café de presse* or informal roundtables as is practice in Burundi is an excellent means of bringing together a range of these potential stakeholders when defenders come under threat to discuss different issues involved in the cases. Most recently such an event was organised when mem-

bers of the League Iteka, one of the most respected organisations in the country, and along with a colleague of theirs from the International Crisis Group (ICG) were interrogated and summoned over claims that they had released information to the media that threatened the authorities. Although ensuring the participation of certain actors, notably members of the authorities, for any events organised by human rights organisations is difficult and in some cases the presence of certain actors will thwart any real open discourse, such events can be organised in a strategic manner, according to the country context to seek to raise awareness of the rights of defenders, not only amongst defenders themselves, but also key stakeholders and the wider public, thereby increasing the number of channels available for defenders to reach out notably in periods of particular need.

Increasing the space for such interactions to take place is crucial. Although the context in which defenders are working in this region often undermines such activities, exchanges and contacts, defenders can and should seek to continue to expand the space available to them by using channels which they might not have been doing until now whilst simultaneously monitoring the responses and impact.

### **Advocacy by other stakeholders**

In the course of the missions a range of ‘good practices’ of advocacy efforts by these key stakeholders on behalf of HRDs were identified. This section seeks to offer concrete examples of key stakeholders taking up issues on behalf of defenders, and although clearly closely linked to the section above, will help to offer practical ideas of the sort of activities which should and can be undertaken on behalf of HRDs.

There are a range of activities undertaken by the diplomatic community, both formal and informal which help to promote the rights of defenders. The diplomatic community tends to react to information passed onto them by other embassies or missions,

or through direct contact with human rights activists or the media. The EU missions are implementing the activities described in the EU guidelines in an informal manner, but not a systematic one. Attending the trial of defenders is a practice which takes place in all the countries visited. In Rwanda, the case of Francois- Xavier Byuma generated significant attention and several of the diplomatic missions present in Rwanda sent representatives to attend the recent revision trial. Diplomats have also gone to prisons to secure the release of those defenders arbitrarily arrested. At times the community, generally those working more closely together either within the EU group or amongst Western missions depending on the issue and the country, will release statements on behalf of defenders or carry out *démarches*. In Burundi, for example, the EU embassies released a joint statement condemning the arbitrary detention of Mr Kavumbagu (case referred to above). In most of the countries visited a human rights working group or a similar group was in place and diplomats would seek from time to time to invite human rights organisations to discuss specific issues. Inviting HRDs to attend events at which key stakeholders, notably members of the authorities with whom defenders may not generally interact with, has also been a means through which the missions have sought to enhance the legitimacy of organisations and enhance their collaborative efforts. The diplomatic community by supporting efforts by defenders to promote and protect their own rights and by offering defenders the forums in which to advocate for their rights and approach key stakeholders can play a crucial and positive role. Certain missions however claimed that they would be more likely and willing to take up issues on behalf of HRDs if defenders approached them more often, in order to make them known and to build longer-term collaborative relationships. It was also pointed out, notably in Ethiopia, Rwanda and Uganda, that defenders should be more strategic in their approach and ensure they have sufficient information and evidence when approaching missions in order to enable a more rapid response by



the missions.

International human rights organisations notably those present on the ground play an important role in promoting the rights of defenders. In Burundi and particularly Rwanda, Human Rights Watch is often the first organisation to use a range of both public and more private channels to advocate for the rights of defenders. Given the clearly complex relationship between national human rights organisations and the authorities, international organisations also often have privileged access to key actors. In order to ensure that the rights of defenders working at a national level are protected and promoted international human rights organisations must therefore ensure that they are accessible and that efforts are made to reach out to the defenders and that sustainable relationships are established.

Regional and international bodies based in these countries also, on occasion, help to support the work of defenders. The Office of the High Commissioner for Human Rights, which is part of the United Nations Integrated Office in Burundi (BINUB), has traditionally held a weekly meeting with NGOs and other stakeholders, including members of the diplomatic community and key members of the authorities, including the security forces. All of those interviewed in the course of the research in Burundi described this forum as very lively and productive. Once again there are a variety of ways, some direct others less so, whereby regional and international bodies, primarily those based on the ground, can offer support to defenders and help to promote and protect the rights of defenders without placing their own mandate at risk.

The research revealed that, although rather sporadically, lawyers and opposition politicians do at times carry out actions which help to promote and uphold the rights of defenders. Although there are very few lawyers in this region carrying out pro-bono work there are some who are willing to take on controversial cases in order to defend the rights of defenders. The case of Jean Claude Kavumbagu, the Burundian journalist, is once again a good example. Prior to

his arrest Mr Kavumbagu had contacted a lawyer, one of the five currently defending him, who had promised to take on his case for free. Subsequently once he was arrested and incarcerated four other lawyers offered to defend him on a pro-bono basis. In Uganda LGBTI activists are currently facing significant harassment and intimidation at the hands of the authorities. Several of the leaders of the movement have been put on trial for a range of offences notably following their supposed trespassing at a HIV/AIDS implementers' conference in Kampala. Given the very contentious nature of this issue in Uganda lawyers have been unwilling to take their cases on, however one lawyer, Mr Rwakafuzi, agreed to do so, at a relatively significant risk to his work and reputation in a country still largely antagonistic to the rights of sexual minorities.

Opposition politicians when given the opportunity or when an important issue arises do speak out or at least make their voices heard through their votes, as was recently seen during the Parliamentary examination of the *Charities and Societies Proclamation* in Ethiopia. Members of the opposition strongly expressed their objections to the Bill, with one member of the Oromo Federalist Democratic Movement walking out of the session, even though their votes ultimately had no impact in a Parliament dominated by the Ethiopian People's Revolutionary Democratic Front (EPRDF) ruling party, a parliament which has of yet not rejected a single Bill put forward by the executive, their protest did not go unnoticed by the international community and media and other potentially key actors. In Rwanda, one former opposition politician explained having offered political support and more recently financial support to struggling independent journalists who he felt very strongly are the group of defenders currently under the most pressure and threat in his country. Lawyers in particular but also opposition politicians can use their position and their professional skills as a means of protecting the rights of defenders.

# 10 Steps to improve your advocacy

Based on extensive interviews in five countries in this region, EHAHRDP has come up with 10 key steps which HRDs should seek to follow in order to improve their advocacy aimed at promoting and protecting their rights as defenders.

## **1. Create a forum for regular interaction with other human rights organisations**

Whether through the establishment of an independent NGO forum or a national coalition of HRDs that focuses specifically on issues relating to the rights of defenders. Such a forum will not only help to reinforce cross-sector collaboration but will also help to raise awareness of the issues and shared challenges facing defenders. It will also set the road to develop proactive rather than reactive strategies and establish more sustainable strategies. When establishing such a forum it is advisable to initially work with a group of organisations that you or your counterparts in those organisations trust then enlarge it if necessary. Unlike an umbrella organisation, such a forum will be made up of independent, individual organisations with their own identity. Remain aware of the benefits, and challenges, that drawing in a broad coalition can bring and remember that those in more remote areas will often be marginalised by distance.

## **2. Make use of all advocacy channels**

Don't ignore certain channels however unwelcome they may seem. Use personal contacts within the authorities and/or establish personal contacts with stakeholders you generally ignore – notably within the media. Make use of potential cracks within monolithic governments and regimes. Even if voices of dissent are likely to be marginalised they will not go unheard.

## **3. Share key contacts with partners in other human rights organisations**

Building up a good list of contacts in the different channels can take up a significant amount of time, effort and luck. Obviously not all contact details can be shared; however, when appropriate, take the time to pass on your contact details especially to organisations with which you have the most contact. This helps expand HRDs' advocacy partners and channels.

## **4. Maintain collaboration with international human rights organisations**

Ensure long-term and sustainable relationships with international human rights organisations. Such contacts can advocate for the creation of an enabling environment for defenders. Once established, they are very useful contact points when defenders face particular threats.

## **5. Collaborate with regional networks**

Regional partners and networks can also be used as a channel to share information with other HRDs and organisations in the region, to exchange best practices and to call for support and mobilisation when necessary.

## **6. Read, disseminate and use the EU guidelines on Protection of Human Rights Defenders**

Make sure you speak about the Guidelines with other defenders, send them a copy, and distribute them at events which you are holding. Begin to test the channels by presenting yourself in person to the diplomatic community. Try to establish contacts with individuals within the missions and then ask them to speak out or take up certain issues which are of concern to you as a defender.



Once a relationship is established, they are much more likely to be willing to take your case on in future.

### **7. Approach key stakeholders with concrete evidence and demands**

Stakeholders, most particularly members of the diplomatic community, are much more willing to take up an issue that is well documented and act upon clear, concrete demands and recommendations, especially issues relating to legislation.

### **8. Perceive the fight for defenders' rights as a long term struggle**

Creating an enabling environment for HRDs goes hand in hand with other struggles and cannot be dealt with only in times of emergencies. Each time you take up an issue, speak out or act on behalf of an HRD, join a campaign or activity to prevent the passing of negative or restrictive legislation. Ensure that the momentum is maintained or at least that the issues continue to be discussed.

### **9. Be strategic in your approach**

Although some advocacy channels are more open to HRDs than others, analyse each issue or case

before deciding who the most relevant actor to approach is and which the best channel to use is. Given the current political context with governments increasingly antagonistic to foreign influence and 'interference', reaching out or working with the traditional actors such as international NGOs may not always be the most effective. If stakeholders have given advice on how best to approach them, follow this advice.

### **10. Think global**

Make use of regional and international mechanisms in place to protect and promote the rights of HRDs as a means of strengthening collaboration among HRDs in the country. Lobby collectively for a visit of the Special Rapporteur of the ACHPR or of the UN; when/if visits take place, work together. If not possible for defenders to meet with the Rapporteur in a public manner, use contacts within other channels, notably the diplomatic community, to see if such meetings can take place under their auspice.

**Recommendations to the diplomatic community and key international actors:**

1. Ensure that financial aid to national governments in the East and Horn of Africa region is made conditional on the basic rights of HRDs being upheld, both in theory and in practice.
2. Take proactive measures to encourage the relevant authorities and actors to immediately end all practices which threaten the human rights of HRDs.
3. Implement and promote the EU guidelines on the protection of HRDs and encourage other donors to put in place similar guidelines committing them to improving their interaction with and support for HRDs.
4. Help implement and support a forum for regular interaction between HRDs and other stakeholders, including the diplomatic community and state authorities;
5. Establish regular meetings between human rights organisations and the diplomatic missions.
6. Appoint a focal point person for HRDs within missions whose contact details are made available to HRDs.
7. Support national human rights organisations to develop organisational priorities;
8. Offer logistical and financial support to forums established by national HRDs to support their rights, for example the Secretariat of a national HRD coalition or an HRD protection programme.

**Recommendations to governments in the region:**

1. Immediately end arbitrary arrests, harassments and killings of all HRDs, and more particularly journalists.
2. Desist introducing new legislation and recall any existing legislation that threatens HRD rights and prevents HRDs and human rights organisations from pursuing their legitimate work.
3. Incorporate the protection of HRDs into the mandates of national human rights entities, including human rights commissions.
4. Support new and existing forums for interaction between government and national NGOs.

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## Brief List of Key Resources

- The UN Declaration on the Right and Responsibilities of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms ( known as UN Declaration on HRDs) available in different languages at <http://www2.ohchr.org/english/issues/defenders/translation.htm>
- Information on the **Mandate** of the UN Special Rapporteur on HRDs available at <http://www2.ohchr.org/english/issues/defenders/mandate.htm>; on submitting
- **Complaints** to the SR on HRDs available at <http://www2.ohchr.org/english/issues/defenders/complaints.htm>. For any other information relating to the Mandate contact [defenders@ohchr.org](mailto:defenders@ohchr.org).
- Information on the **Mandate** of the ACHPR Special Rapporteur on HRDs available at [http://www.achpr.org/english/\\_info/index\\_hrd\\_en.html](http://www.achpr.org/english/_info/index_hrd_en.html); on submitting Complaints to the ACHPR available at [http://www.achpr.org/english/\\_info/communications\\_procedure\\_en.html](http://www.achpr.org/english/_info/communications_procedure_en.html). For any other information on the Mandate contact [chafib@achpr.org](mailto:chafib@achpr.org)
- The EU Guidelines on the Protection of Human Rights Defenders available at: <http://ue.eu.int/uedocs/cmsUpload/GuidelinesDefenders.pdf>
- For a more detailed list of resources for HRDs please visit EHAHRDP website at [www.defenddefenders.org](http://www.defenddefenders.org)

# Annexures

## Annexure I

### Date

### Introduction of the interviewer

The East and Horn of Africa Human Rights Defenders Project is the Secretariat of a Network of human rights defenders organisations that seeks to strengthen the work of human rights defenders throughout the region by reducing their vulnerability to the risk of persecution and by enhancing their capacity to effectively defend human rights.

The Project focuses its work on Somalia (together with Somaliland), Djibouti, Eritrea, Ethiopia, Sudan (together with South Sudan), Kenya, Uganda, and Tanzania. As of 2008 it is also including Rwanda and Burundi into its scope given their recent adhesion to the East African Community.

This project was established following extensive field research in the region, which identified the most pressing and unmet needs of human rights defenders.

The Network was established in 2005 and currently brings together more than 65 non-governmental organisations active in the protection of human rights throughout the region.

Its declared objectives are:

- To protect and defend HRDs in the region
- To build the capacity of HRDs in the region, and
- To advocate and raise public awareness and profiles of HRDs in the region

To reach these objectives, the activities of the Network will focus on a threefold strategy along the following lines:

- Protection
- Capacity building
- Advocacy

Nora Rehmer is the Project Coordinator

Laetitia Bader is the Human Rights Officer in charge of Advocacy and Research

### Purpose of mission

The Secretariat of the East and Horn of Africa Human Rights Defenders Network (EHAHRD-Net) is currently carrying out a series of in-country missions to Rwanda, Sudan, Kenya and Ethiopia.

During these missions we will meet with Network members and other stakeholders.

The research seeks to establish a more detailed and focused perspective on the challenges, both in the field of advocacy, protection and capacity building currently facing human rights defenders (HRDs) with

the intention to enhance the protection and capacity of defenders notably by offering them an insight into new or underused advocacy channels for promoting their rights.

The research will focus on the constraints facing HRDs in their advocacy work.

The underlying rationale of the research is based on the evidence that advocacy is an effective means of improving the protection of HRDs, by advocating for the respect of their rights, such as the right to freedom of expression, media and association, and increasing their capacity to carry out their legitimate work of defending human rights and promoting the rights of HRDs themselves as well as holding institutions accountable to their mandate of HRD protection.

Once the challenges understood we hope to identify effective channels, raise awareness of alternative and under-utilised channels and thereby help to strengthen HRDs capacity and efforts aimed at seeking to achieve the full respect of HRDs' rights.

We also hope that it will serve to increase collaboration and joint action amongst members of EHAHRD-Net and other HRDs.

### **Role expected of interviewee**

We hope that during this interview you will be willing to share your experiences and identify some of the current most pressing challenges you face in your daily activities.

By gaining an insight into your current activities and challenges, we hope to understand what constraints affect and undermine your daily work and your ability to realize your rights.

We would also like to understand what work and efforts you, as an HRD, are carrying out in order to overcome these challenges and to claim your rights for defending and promoting human rights.

All the information which you provide will remain strictly confidential. Furthermore if at any point during the interview you are uncomfortable with a question or with any developments please do not hesitate to withhold your answers. You are free to terminate the interview at any given point.

We appreciate your availability

### **Information on the interviewee**

Organisation \_\_\_\_\_

Name \_\_\_\_\_

Position \_\_\_\_\_

Sex \_\_\_\_\_

Number of years working with this org \_\_\_\_\_

How many years as a defender \_\_\_\_\_

Contact details \_\_\_\_\_

Feedback or not \_\_\_\_\_

Language in which interview carried out \_\_\_\_\_



## **Constraints and/or obstacles confronting human rights defenders**

### ***On the organisation***

1. What are the main areas of activities in which your organisation is involved in?

- ☐ Research
- ☐ Human rights monitoring
- ☐ Advocacy
- ☐ Education/training
- ☐ Litigation
- ☐ Others

2. What issues does your work focus on?

- ☐ Women's rights
- ☐ Minority rights
- ☐ Environmental rights
- ☐ Social and economic rights
- ☐ Civil and political rights
- ☐ Democratic reforms
- ☐ Peace and reconciliation
- ☐ Others

3. What is your main source of funding? Does this funding influence/ shape your activities and position on rights of HRDs?

### **Challenges**

4. What is the nature of the challenges that you are currently facing in your work as a human rights defender?

- ☐ Security (threats and harassment by authorities and other actors)
- ☐ Financial (lack of adequate resources to implement projects)
- ☐ Capacity (Lack of understanding of the workings of the regional and international human rights mechanisms established to promote and protect the rights of HRDs...)
- ☐ Legal (restrictive legislation impeding my work/lack of protection mechanisms)
- ☐ Other

Please elaborate. Does one of these factors affect your everyday work/ activities more than another?

Or/ You stated that the nature of the challenges that you are currently facing in your work as a human rights defender are X, Y, Z could you elaborate? Does one affect you more than another?

5. Which of your rights as an HRD do you see most regularly violated in your everyday activities
  - The right to freedom of assembly
  - The right to freedom of association
  - The right to free speech
  - The right to receive and disseminate information
  - The right to participate in government affairs
  - The right to be protected by law
  - The right to observe trials
  - The right to receive assistance, including funding from abroad
  - The right to security/ safety?
6. Have you witnessed a change in the challenges facing activists in recent years? Please elaborate. Is it a complete change? (Hint- the dual affront on activists in Ethiopia – legislative constraints and physical repression) What do you think these changes are linked to?
7. Please give concrete examples of how you have been working to challenge the mentioned obstacles to your work and rights as defenders to improve your situation?
8. Have you been forced to adapt your activities in order to tackle these challenges/new challenges? Please elaborate on coping mechanisms being developed
9. Who are you targeting in these activities (for example you stated that donors are reluctant to fund new HR projects at the moment)?
10. Has your organisation faced specific/ targeted threats? Could you please explain why you think this is the case? And/ or if not do you know of any organisations/ activists working on specific issues which have faced particular challenges?
11. In your opinion/experience, do activists, working outside the capital face greater/particular restrictions in their work and promotion of their rights as HRDs?
12. In your opinion/ experience do activists working on certain issues face greater restrictions on their work and rights as HRDs than others? Please explain.

**Human Rights Advocacy:** specific activities aimed at working in favour of/ promoting internationally recognized human rights. Includes a range of activities such as lobbying/ media campaigns/ report writing/ mass protests...

13. Is HRD rights advocacy one of the methods you are currently using to overcome these challenges?

If no, why?

Hint -

- ☐ Financial
- ☐ Security implications
- ☐ Current context (opportunities/threats)
- ☐ Donor requirements

- ☐ Capacity (human resources & skills available to carry out the campaign; material resources- notably access to the telephone/ faxes)
- ☐ Strategic
- ☐ Others

If advocacy IS not an area in which they work jump to QUESTION 30

***On advocacy of HRD rights***

**On methods and strategies**

14. What are the main advocacy techniques being used by your organisation to promote the rights of HRDs?

Hint-

- ☐ Lobbying (of decision-makers such as Members of Parliament ...)
- ☐ Media campaigns
- ☐ Litigation
- ☐ Mass mobilization (demonstrations, boycotts, letter writing...)
- ☐ Dissemination of information (notably by writing reports based on research/ drafting of alternative bills...)
- ☐ Hosting of events/conferences
- ☐ Others

Please quantify (Hint- for example how many press statements/ articles and reports have the organisation produced over the last year in relation to rights of HRDs)?

15. Which of these channels have proven the most efficient in your opinion in the current climate?

16. Are there certain channels which you are not currently using but which you would like to use? Please elaborate- what factors are preventing the use of these channels and/ or what factors have affected your decision not to use them?

Hint -

- ☐ Financial
- ☐ Security implications
- ☐ Current context (opportunities/threats)
- ☐ Donor requirements
- ☐ Capacity (human resources & skills available to carry out the campaign; material resources- notably access to the telephone/ faxes)
- ☐ Strategic
- ☐ Others

17. Who do you generally target during your advocacy efforts to promote the rights of HRDs? Please explain why you have chosen to target these particular audiences and not others (ex- why have they not chosen to target private sector/ regional and international mechanisms?)

Hint -

- ☐ Governmental authorities (Members of Parliament, Local administrators...)
- ☐ Judiciary
- ☐ Media
- ☐ General public
- ☐ Private sector
- ☐ NGOs/ Civil society organisations
- ☐ International organisations (notably UN agencies, Amnesty International etc)
- ☐ International human rights mechanisms (such as the UN Human Rights Council, the UN Special Representative on Human Rights Defenders etc)
- ☐ International community (embassies, international media etc)
- ☐ Regional mechanisms (such as the African Commission on Human and People's Rights, etc.)
- ☐ Others

18. Is your organisation part of any networks/ coalitions or alliances? /Or you stated that you were part of networks of HRDs. Have you taken part in any joint advocacy activities aimed at promoting the rights of human rights defenders? Give some concrete examples of these campaigns?
19. How strong are the coordination and/or unity amongst NGOs concerning the rights of HRDs (allusion to some lack of unity regarding the NGO bill)? What impedes this unity at present?
20. What factors do you take into consideration before deciding whether or not to embark on an advocacy campaign relating to these rights?

Hint

- ☐ Financial
- ☐ Security implications
- ☐ Current context (opportunities/threats)
- ☐ Donor requirements
- ☐ Capacity (human resources & skills available to carry out the campaign- material resources- notably access to the telephone/ faxes)
- ☐ Others

***On supportive factors***

21. What are the supportive factors in your current advocacy efforts on issues affecting your rights as HRDs?
- ☐ Conducive legal environment
  - ☐ Improved social environment (greater openness to human rights amongst public/decision makers...)

- ☐ Improved cultural context (transformation of practices/ perspectives which had thwarted human rights efforts)
- ☐ Attention/ interest (interest in the issues on which you work both at a political and financial level...)
- ☐ Positive developments at a regional/ international level (notably the existence of protection mechanisms such as the ACHPR and the European Union Guidelines on HRDs ...)
- ☐ Other

Or/ You stated that X, Y, Z were supportive factors to your advocacy efforts? Please elaborate?

22. Who are the main actors restricting your current advocacy efforts on issues affecting your rights as HRD?

- ☐ Governmental authorities
- ☐ Armed/security forces
- ☐ Religious leaders and religious communities
- ☐ General public
- ☐ Donors
- ☐ Media
- ☐ Others

Go into greater details about the actors.....

Please explain whether certain groups within these categories have been more open than others (for example opposition party members found within the government...)?

23. What are the principal factors hampering/impeding your advocacy efforts on issues affecting your rights as HRDs?

- ☐ Financial
- ☐ Internal constraints within your organisation (such as lack of manpower able to devote time to the issue of HRD rights, disagreement on commitment to HRD rights...)
- ☐ Restrictive legal context (notably lack of protection mechanisms at a national level- HRDs are not specifically mentioned or recognized by the Constitution or any other law...)
- ☐ Unfavourable social context (disinterest in human rights issues by the general public and key stakeholders / poor media coverage...)
- ☐ Unfavourable cultural context (existence of cultural barriers and practices which undermine/ thwart human rights activism...)
- ☐ Lack of international/regional support
- ☐ Language barriers
- ☐ Other

Please elaborate?

24. Are there certain issues which you have had to self-censure yourselves on in your advocacy work (for

example promoting the rights of HRDs working on particularly sensitive issues)?

25. Please give concrete examples of how it was made evident that advocacy on such issues would not be tolerated

***On impact***

26. What responses have you had to your campaigns? Who do you generally get the best responses from? Which channels have proven most successful- give concrete examples?

27. Do you carry out any monitoring/evaluation of your advocacy efforts?

**If yes what type of developments/ achievements have you identified?**

- ☐ Evidence of policy change
- ☐ Decision-makers more willing to involve human rights voices
- ☐ Legislative change
- ☐ Changes in Officials' knowledge and behaviour
- ☐ Greater public awareness
- ☐ Change in media coverage (amount of reports on HR issues and perspective taken)
- ☐ Others

***On capacity***

28. Have you or someone in your organisation attended any form of advocacy training?

29. How could outside agencies/ other stakeholders assist some or all of the human rights defenders both in the field of advocacy but also in other fields which you feel could benefit the protection and promotion of HRDs' rights?

30. Do you have any comments/suggestions?



## **Annexure II**

### **Date**

### **Introduction of the interviewer**

The East and Horn of Africa Human Rights Defenders Project is the Secretariat of a Network of human rights defenders organisations that seeks to strengthen the work of human rights defenders throughout the region by reducing their vulnerability to the risk of persecution and by enhancing their capacity to effectively defend human rights.

The Project focuses its work on Somalia (together with Somaliland), Djibouti, Eritrea, Ethiopia, Sudan (together with South Sudan), Kenya, Uganda, and Tanzania. As of 2008 it is also including Rwanda and Burundi into its scope given their recent adhesion to the East African Community.

This project was established following extensive field research in the region, which identified the most pressing and unmet, needs of human rights defenders.

The Network was established in 2005 and currently brings together more than 65 non-governmental organisations active in the protection of human rights throughout the region.

### **Its declared objectives are:**

- To protect and defend HRDs in the region
- To build the capacity of HRDs in the region, and
- To advocate and raise public awareness and profiles of HRDs in the region

To reach these objectives, the activities of the Network will focus on a threefold strategy along the following lines:

- Protection
- Capacity building
- Advocacy

Nora Rehmer is the Project Coordinator

Laetitia Bader is the Human Rights Officer in charge of Advocacy and Research

### **Purpose of mission**

The Secretariat of the East and Horn of Africa Human Rights Defenders Network (EHAHRD-Net) is currently carrying a series of in-country missions to Rwanda, Sudan, Kenya and Ethiopia.

During these missions we will meet with Network members and other stakeholders.

The research seeks to establish a more detailed and focused perspective on the work of our members and other NGOs and of the challenges, both in the field of advocacy, protection and capacity building currently facing human rights defenders (HRDs).

The research will focus on the constraints facing HRDs in their advocacy work.

The underlying rationale of the research is based on the evidence that advocacy is an effective means of improving the protection of HRDs, by advocating for the respect of their rights, such as the right to

freedom of expression, media and association, and increasing their capacity to carry out their legitimate work of defending human rights and promoting the rights of HRDs themselves.

Once the challenges understood we hope to identify effective channels, raise awareness of alternative and under-utilised channels and thereby help to strengthen HRDs capacity and efforts aimed at seeking to achieve the full respect of HRDs' rights.

We also hope that it will serve to increase collaboration and joint action amongst members of EHAHRD-Net and other HRDs.

### **Role of interviewee**

During this interview we are hoping to discuss with you your current relationship/ involvement with human rights NGOs in order to understand the current awareness amongst key stakeholders of the work and rights of human rights defenders.

We also hope to identify some of the advocacy channels which in your personal experience and opinion have been and are the most effective for raising awareness and promoting the work and rights of HRDs.

All the information which you provide will remain strictly confidential. Furthermore if at any point during the interview you are uncomfortable with a question or with any developments please do not hesitate to stop us. There are no obligations whatsoever for you to respond.

### **Information about interviewee**

Organisation \_\_\_\_\_

Name \_\_\_\_\_

Position \_\_\_\_\_

Contact details \_\_\_\_\_

Feedback or not \_\_\_\_\_

Sex \_\_\_\_\_

Language in which interview carried out \_\_\_\_\_

### **Awareness about human rights defenders, their rights and protection**

1. How do you keep updated on the human rights situation in your country or in the country in which you work in? (Prompt- newspapers/ HR reports/ attending human rights events....)
2. Which human rights are violated the most frequently in your country?
3. Which rights have seen the greatest improvements?
4. Who is a human rights defender for you?
5. UN Definition of an HRD: a person who individually or in a group acts to promote and protect human rights in a peaceful manner
6. Do you know of any human rights organisations in your country/ the country in which you work in? Please give examples.
7. How did you come across HRDs and their organisations? What relationship do you have with them?

8. Please give us your view on the role of human rights defenders in your society/country?
9. The UN Declaration on HRDs stipulates that HRDs have the following rights (give list from other quest). How are they reflected in the current legal provision of Ethiopia, which mechanisms are available on national level that safeguards these rights for HRDs?
10. Which mechanisms are you aware of on regional and international level? Please elaborate. Have you dealt with these mechanisms?
11. In your opinion, what rights should be accorded to HRDs?
12. What do you believe are the rights of HRDs which are the most violated in Ethiopia?
13. Have you witnessed a change in the challenges facing HRDs in recent years? Please elaborate? What do you think these changes are linked to?
14. Are there certain groups of HRDs which you believe face greater risks, e.g. those working on particular issues or those from a specific region etc.
15. Which actors do you believe are of greatest threat to HRDs?

#### **Impact of advocacy on other stakeholders**

16. Are you aware of any recent campaigns carried out by HRDs in promotion of the rights stated above?
17. Have you been specifically approached/ targeted during HRDs campaigns in your role as ...?
18. In your capacity as ..., which of the following activities have had greatest impact on your perception and response to HRD rights issues?

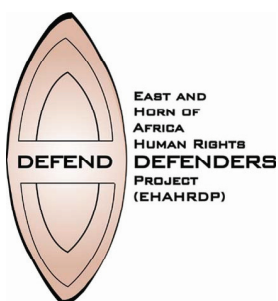
Hint-

- ☐ In-person lobbying
- ☐ Media campaigns
- ☐ Litigation
- ☐ Mass mobilization (demonstrations, boycotts, letter writing...)
- ☐ Dissemination of information (notably by writing reports based on research/ drafting of alternative bills...)
- ☐ Attending events/conferences
- ☐ Others

19. Have you ever personally lobbied on behalf of HRDs/ called for greater respect of their rights? Please elaborate (probe: involved in a campaign etc?)
20. What do you think ought to be done to improve the situation of human rights defenders in Ethiopia for them to play their legitimate role in society?
  - To support individual defenders
  - To improve the environment in which they work in
21. Have you heard about the EU guidelines on the Protection of HRDs?
22. Have you been approached by HRDs through one of the channels made available by the EU guidelines?







Regional Coordination Office

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