



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

The current situation of Human Rights Defenders in Ethiopia, Kenya, Somalia and Sudan

Report the US State Department, Congress and
other key stakeholders

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Regional Coordination Office

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Introduction

EHAHRD-Net welcomes the opportunity offered by its advocacy mission to Washington to highlight the situation facing human rights defenders (HRDs) in four countries of particular concern: Somalia, Ethiopia, Kenya and Sudan.

The human rights situation in Somalia continues to deteriorate as a result of ongoing warfare between the Transitional Federal Government (TFG) forces, their Ethiopian counterparts and the insurgency, notably Al-Shabab, despite the recent agreement between the TFG and the Alliance for the Re-Liberation of Somalia (ARS) in Djibouti. Attacks on human rights defenders, and particularly on journalists, have skyrocketed over the last year. Independent media outlets have been repeatedly attacked and closed notably by the TFG forces; journalists have been subjected to arbitrary arrests, have received death threats and have also been victim of targeted killings. Only recently, on the 7th June 2008 Nasteah Dahir Farah, Vice President of the National Union of Somali Journalists (NUSOJ) and correspondent for BBC, was shot dead by gunmen believed to have links with Islamic insurgents. Many journalists have as a result been forced to seek exile in neighbouring countries.

Another country in which the human rights situation and the situation facing HRDs is of particular concern, but remains neglected by the international community, is Ethiopia. The recent April 2008 legislative elections revealed to what extent space for civil society activism in Ethiopia has been and continues to be eroded ever since the contested May 2005 general elections. The NGO bill currently being debated in the Council of Ministers further highlights the increasingly negative and restrictive attitude taken by the authorities towards human rights organisations.

The violence and human rights violations committed against human rights defenders, both during the post-election violence in Kenya and more recently in Western Kenya, have revealed how easily a situation of apparent stability in the sub-region can be transformed. Many prominent HRDs in Kenya were threatened and in some cases attacked as a result of their efforts to continue their legitimate work, notably by speaking out about the electoral irregularities and the human rights violations being committed against civilians.

Finally, ever since February 2008 and more recently since the May 10th attacks by the rebel Justice and Equality Movement (JEM) on Omdurman, part of greater Khartoum, the Sudanese authorities and security services have restricted the freedom of expression and media in the country by harassing, censoring and intimidating journalists and other human rights defenders particularly in Khartoum. As a result self-censorship is rife- a reality of particular concern given the planned 2009 elections in the country.

One of the issues that affects the human rights situation in all of the countries under review in this report is impunity. Bringing an end to the prevalence of impunity and establishing independent and impartial accountability mechanisms will help to ensure the protection of HRDs and the further promotion of human rights and lasting peace in the region. Ending impunity must be at the heart of all agendas dealing with this sub-region.

Ethiopia

The human rights record of the Ethiopian People's Revolutionary Democratic Front (EPRDF) and security forces remain poor, not only in the Ogaden and Oromia regions of Ethiopia, but also in Somalia; yet the international community continues to largely turn a blind eye to the record of this regime with whom many have diplomatic, economic and military ties and who is seen by certain States as a key ally in the war against terror. Comments and concerns of the human rights situation by key donors tend to be voiced in private. Furthermore, the Ethiopian government has tended to respond in a negative manner to criticisms of its human rights record- closing the door to independent reporting and investigations rather than seeking to address the allegations.

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

In the aftermath of the November 2005 demonstrations, 38 members of the main opposition party, the Coalition of Unity and Democracy (CUD) including several human rights defenders, in particular journalists were detained. In July 2007 they were sentenced, after a lengthy trial, by the Ethiopian Federal Court ranging from one year to life imprisonment.¹ Professor Mesfin Woldemariam, founder and former Chair of the Ethiopian Human Rights Council (EHRCO), EHAHRDP-Net Focal Point Organisation, 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, two human rights activists, Daniel Bakele and Netsanet Demissie, refused to sign this acknowledgement and decided to defend themselves in a trial. In December 2007 they were sentenced to 30 months imprisonment having been accused of inciting violence and provoking 'outrages against the constitution', a decision which was based on weak and implausible evidence. They were held until the end of March 2008 when they finally agreed to sign the acknowledgement and received a presidential pardon.²

The 2005 clampdown and subsequent trials have had a very negative impact on human rights activists who have had to exercise much more caution in their legitimate work and at times result to self-censure. According EHRCO government censorship of reports, press releases and statements by human rights organisations has increased and the Ministry of Justice has on several occasions called on organisations to refrain from making certain statements deemed 'undesirable' and not valid for public consumption.

In response to this restrictive atmosphere several HRDs, notably members of EHRCO, which is the only nationwide human rights organisation, have been forced into exile. Harassment of those remaining in the country persists: in August 2007, three EHRCO members were arrested, without an arrest warrant, along with other activists in the Oromia region and accused of inciting violence.³ One

¹ See EHAHRD-Net Index: ETHIO 017/003/2007, *EHAHRD-Net condemns sentencing of Ethiopian journalists*, at <http://www.africafiles.org/article.asp?ID=15563>

² Amnesty International, *Activists released from prison in Ethiopia*, 31st March 2008, at <http://www.amnesty.org/en/news-and-updates/good-news/activists-released-prison-ethiopia-20080331>

³ See EHAHRD-Net Index : ETHIO 024/003/2007, *EHAHRD-Net calls for urgent release of EHRCO members*,

of the EHRCO members, Abdi Abate was transferred to Maikelawi where he continued to be held in defiance of a court order.

Others, that have chosen to remain within the country, have recently sought to establish networks of HRDs in the hope of trying to overcome some of these constraints and create a stronger common front. Nevertheless, the authorities appear determined to further increase their oversight and control over the legitimate work of human rights defenders, notably through more subtle ‘legal’ constraints. The draft Charities and Societies Draft Proclamation currently under review by the Ethiopian Council of Ministers is of particular concern. According to EHRCO’s, the draft NGO bill, which seeks to set-up a supervisory board which will be appointed by the Minister of Justice, further extends government control over NGO registration notably by granting it the power to deny registration and cancel licences for reasons which are largely unclear and haphazard.⁴ The draft proclamation provides that charities and societies established by Ethiopians under Ethiopian law are deemed to be foreign institutions solely for receiving more than 10% of their income from external sources. This clearly poses a significant risk given that the majority of NGOs in Ethiopia do receive some form of foreign funding and once considered to be ‘foreign’ may not engage in issues relating to human rights, governance, democratization and conflict resolution. This bill, which has been put forward with only a limited and inadequate level of involvement of civil society organizations, undermines the very existence of human rights activism in Ethiopia.

Although the Constitution and law provide for freedom of expression the government has greatly restricted these rights. The government continues to harass, intimidate and prosecute journalists, publishers and editors thus forcing many journalists to exert self-censure. The authorities use criminal law, and notably defamation charges, as a means of stifling critical journalism.⁵ Independent media outlets remain sparse. Several of the independent media outlets shut during the post elections clampdown remain closed, notably Asqual, Netsanet and Menilik.

Although the authorities, upon the release of the journalists following the ‘treason trial’, had agreed to allow the released journalists to resume their work, the government has been using bureaucratic tactics as a means of preventing them from doing so, notably by withholding press licences. Although two journalists formerly released have now been allowed to launch their own papers- three of their colleagues, notably Eskinder Nega and Serkalem Fasil, continue to be denied licenses without any explanation.⁶ Mr Nega and Mrs Fasil recently tried to publish a book relating to their ordeal whilst in prison, but security agents intervened and blocked its publication.⁷

Media coverage by certain international media institutions, notably Deutsche Welle (DW) Amharic language broadcasts and the Voice of America’s Amharic and Oromifa language broadcast, has on occasion been jammed.⁸ Articles critical of the government which have been written by foreign journalists have been censored. Websites and blogs run by the Ethiopian diaspora are still blocked by the government.

⁴ EHRCO, Unpublished Country Report presented at EHAHRD-Net Strategic Planning Meeting on 28th April 2008 in Entebbe

⁵ CPJ, *Ethiopia: Two newspaper editors, publisher arrested for Libel*, March 6th 2008, <http://www.cpj.org/news/2008/africa/ethiopia06mar08na.html>

⁶ CPJ, *Ethiopia lifts restraints on licenses to 2 freed journalists*, 6 February 2007

⁷ <http://www.ehrco.org/reports/reg29eng.pdf>

⁸ See EHAHRD-Net Index : ETHIO 003/003/2008, *EHAHRD-Net concerned about jamming of media broadcast in Ethiopia*, at http://www.protectionline.org/Jamming-of-media-broadcast,5908.html?pmv_nid=13

As of yet no independent and impartial accountability mechanism have been established to look into the human rights violations which took place in the aftermath of the elections; the results of the first ‘Commission of Inquiry’ that looked into the elections were more or less rejected by the Ethiopian authorities who came up with their own version of the report.

EHAHRDP-Net calls on relevant entities and stakeholders within the US government:

- To ensure that all forthcoming assistance to the Ethiopian government should demand human rights accountability;
- To condemn continued human rights violations taking place in Ogaden and in Somalia at the hands of the Ethiopian armed forces ;
- To call for prompt, impartial, effective and independent investigations into all cases of human rights violations, both past and present, particularly those affecting human rights defenders and most notably the human rights abuses which took place in the aftermath of the general elections 2005;
- To call on the Ethiopian authorities to allow for independent and unimpeded access by national and international human rights groups and the media to regions of particular concern;
- To continue to monitor the human rights situation in Ethiopia;
- To call the Ethiopian authorities to end all practices which threaten freedom of expression and prevent human rights defenders and particularly journalists from pursuing their legitimate work ;
- To call on the Ethiopian authorities to reconsider several of the restrictive provisions of the Charities and Societies Draft Proclamation ensuring an enabling environment for NGOs and that the policy formulation process should be one that allows the active participation of the civil society community and other stakeholders;
- To support initiatives by HRDs in Ethiopia aimed at strengthening their position, notably through joint initiatives and networks.

Kenya

Kenya was for a long time seen as one of the more stable and peaceful countries in the sub-region. Nevertheless the events that unfolded following the contested December 2007 elections, notably widespread ethnic and political violence and serious attacks on freedom of expression and HRDs, revealed how fragile and somewhat superficial this stability actually was. The recent establishment of the Grand Coalition government in order to bring the post-election violence to an end can be seen as a threat to civil society and human rights activism given that the opposition has now joined the government both parties may be reluctant to accord activists the space which they need to serve as effective watchdogs.

The establishment of the National Commission on Human Rights by the previous government had according to EHAHRDP-Net Focal Point in Kenya, the Independent Medico-Unit (IMLU), helped to

raise the profile of human rights. Yet, human Rights Defenders continued to face more conventional forms of harassment but the events of recent months have led to a very significant shift in the sort of threats and violations facing HRDs in Kenya. Furthermore, a shift in donor support away from civil society organisations following the election of Kibaki in 2003, which was seen at the time as the advent of a more reformist regime, has clearly placed human rights organisations in a much weaker position. Furthermore the Truth, Justice and Reconciliation Commission, which many hoped might bring an end to impunity, may in fact fail to do so and to ensure that those responsible for the violence against HRDs during the violence are held accountable.

In the weeks following the 27th December general elections many prominent HRDs, particularly those that sought to speak out against the electoral irregularities, hate speech, incitement to violence and other violations being committed against the civilian population, were threatened and harassed as they came to be seen by both the authorities and armed gangs as carrying out political propaganda in favour of the opposition.

According to IMLU between December 2007 and February 2008, two significant attacks on HRDs in Nairobi were reported, one against James Maina, member of the People's Parliament (Bunge La Mwananchi) and one against Clifford Derrick, a journalist. Over twenty prominent human rights defenders received death threats in Eldoret, Narok, Mombassa, Kisumu and Nairobi.⁹ James Maina continued to receive death threats notably from the Mungiki even after he temporarily flee abroad. Maina Kiai, Chairman of Kenya National Commission on Human Rights and Haroun Ndubi, a human rights lawyer both received phone calls from anonymous people who told them that they would cut off their heads if they went on criticising the outcome of the elections. Several other defenders received threats- as did the Nobel Peace Prize environmental activist, Wangari Muta Maathai.¹⁰

The deployment of Kenyan military to the Mount Elgon region of western Kenya, in order to put down an insurgency by the Sabaot Land Defence Force (SLDF) in March 2008, has resulted in significant and large-scale violations at the hands of the Kenyan troops. This deployment has also constituted a significant threat to HRDs who are speaking out against the violations currently taking place. Several activists are reported to have been intimidated and interrogated. Job Bwonya and Wilberforce Lumbuku of Western Kenya Human Rights Watch and Taiga Wanyanja (Mwatikho) have been arrested in relation to their work while Mr. Wanyoike Bonface of the Catholic Justice and Peace Commission Kitale has been threatened and asked to record a statement with the police on his allegations of torture. Several defenders were in fact forced into temporary exile.¹¹

Although Kenya has a relatively diverse and independent media - freedom of expression and press have also come under considerable attack in recent months. The proclamation of a blanket ban on all public rallies and live broadcasts on the 30th December 2007, shortly after President Kibaki was proclaimed winner of the controversial elections, was a very significant step against freedom of the media. The government justified the ban by accusing the media of inciting violence. This clearly further impeded the legitimate work of human rights defenders, particularly journalists, and may in

⁹ IMLU, Unpublished Country Report presented at EHAHRD-Net Strategic Planning Meeting on 28th April 2008 in Entebbe; See EHAHRD-Net Index : KEN 008/004/2008, *Call for an end to impunity on Amnesty International's day of international action in solidarity for Kenya*

¹⁰ Ibid

¹¹ Saturday Nation, *Activists sought by military over torture claims*, 7th April 2008, http://www.nationmedia.com/dailynation/nmgcontententry.asp?category_id=1&newsid=120672

fact have contributed to the spreading of violence as a result of frustration, disinformation and a sudden proliferation of rumours and threats via text messages.¹² The ban was finally lifted on the 4th February 2008. Journalists received personal threats and harassments during the post election violence.¹³

The military has also abused its authority and physically abused journalists trying to report on the military operations in Mount Elgon. In mid-March several reporters, notably Sammy Cheboi of the Nation Media Group (NMG), and NTV cameramen Hillary Obinda and Bakari Juma who were trying to cover troop movements, were arrested, assaulted and had their equipment and materials temporarily confiscated by the Kenyan armed forces at a base in the area. These actions reveal a complete disregard of the army for press freedom and laws protecting journalists.¹⁴

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

EHAHRDP-Net calls on relevant entities and stakeholders within the US government:

- To call on the Kenyan authorities to bring an immediate end to the violations being committed against civilians and HRDs in the Mount Elgon region of Eastern Kenya;
- To call for and support an international criminal investigation into the allegations of human rights violations committed notably against HRDs during the post-election violence and in the course of the military actions in the Mount Elgon region;
- To ensure that those responsible for the violations, particularly members of the Kenyan armed forces, are held accountable;
- To ensure that accountability mechanisms - both the local and national mechanisms that are already in existence and those that may be established in the wake of this crisis such as a Truth, Justice and Reconciliation commission - offer HRDs the means through which to have their complaints heard and reviewed in an impartial, independent and competent manner;
- To call on the new Kenyan coalition government to ensure that the Truth, Justice and Reconciliation Commission will serve as an independent and impartial accountability mechanism which will carry out a thorough investigation into recent human rights violations committed following the December 2007 elections;
- To call on the Kenyan authorities to observe the provisions of the 1998 UN Declaration on human rights defenders, the African Charter on Human and People's Rights and other human rights treaties to which Kenya is signatory - in particular Article 12 (1 and 2) of the UN Declaration of Human Rights Defenders which states that "Everyone has the right, individually and in association with others, to participate in peaceful activities against

¹² Office of the High Commissioner for Human Rights (OHCHR), *Report by the OHCHR fact-finding mission to Kenya*, 6-28 February 2008, <http://www.ohchr.org/Documents/Press/OHCHRKenya-report.pdf>

¹³ For a list of the renowned journalists that were threatened please see EHAHRDP-Net Index : KEN 008/004/2008, *Call for an end to impunity on Amnesty International's day of international action in solidarity for Kenya*

¹⁴RSF, *Journalists mistreated by soldiers operating against militia in Mount Elgon region*, 17th March 2008, http://www.rsf.org/article.php3?id_article=26245

violations of human rights and fundamental freedoms” and calls on the state to take all necessary measures to ensure the protection of these individuals and groups.

Somalia

Indiscriminate and brutal warfare between a range of actors continues to increase in Somalia. The human rights situation in Somalia has significantly deteriorated following the December 2006 invasion of Ethiopian troops in support of the Transitional Federal Government of Somalia (TFG). The humanitarian situation is evidently dismissal and rapidly deteriorating as a result of current life-threatening food and water shortages which have been further aggravated by high inflation and the global crisis in commodity prices.¹⁵ Fighting has continued in civilian areas of Mogadishu whilst also intensifying in towns in South and Central Somalia. This has had devastating impacts on the civilian population.

The current attention accorded to Somalia by the international community is inadequate and generally misdirected. Political issues continue to dominate the discussions and thus, as a result, the human rights situation is neglected and ignored at a terrible cost to civilians and in particular to human rights defenders (HRDs). There is currently no international human rights presence in Somalia.¹⁶

Civilians in general have suffered from massive rights violations but certain groups of the population, notably human rights defenders (HRDs) and in particular journalists, have been subjected to persistent and targeted violations.

Human rights activists have come under considerable attack notably with the apparent closure by the TGF forces of the Elman Human Rights organisation, which was one of the country’s oldest human rights NGO.¹⁷ As a result, a significant number have been forced into exile: the chairperson of Somali Human Rights defenders Network and its legal adviser are currently living in exile in Uganda. Peace activists have also fallen victim of targeted killings. Those still operating on the ground, notably the Peace and Human Rights Network (PHRN) have resigned themselves to using self-censorship in order to protect themselves from TFG and insurgent attacks. In spite of this they continue to be subjected to intimidations and threats. On the 11th June 2008 Somali peace activist, Executive Director of the Women Care Organisation (WOCA) and founding member of the Peace and Human Rights Network (PHRN), Mr Mohammed Abdulle Mahdi “Qeylow”, was killed in Swk Ba’ad in Northern Mogadishu.¹⁸

Somalia is at present the second most deadliest place in the world to be a journalist, after Iraq, and the situation has continued to rapidly deteriorate ever since the Ethiopian invasion.¹⁹ This has created a climate of intimidation and fear which greatly hampers freedom of expression amongst these key proponents of human rights. Journalists and media organisations in all regions have reported harassment, killings, detention without charges and assaults.

¹⁵ ICRC, Somalia: ICRC mounts relief operation for half a million people , 4th June 2008, <http://www.icrc.org/web/eng/siteeng0.nsf/html/somalia-news-040608?opendocument>

¹⁶ Report by the independent expert appointed by the Secretary- General on the situation of human rights in Somalia (A/ HRC/ 5/2) , at <http://daccess-ods.un.org/TMP/904055.6.html>

¹⁷ HRW , Country Report: Somalia, January 2008

¹⁸ See EHAHRD-Net Index Som 022/005/2008: EHAHRDP/Net condemns the death in Somalia today of peace activist Mohammed Abdulle Mahdi

¹⁹ CPJ, *Attacks on the Press in 2007: CPJ annual report*, see www.cpj.org

This crackdown on independent media is largely due to the fact that following the closure of prominent human rights organisations and the flight of key human rights activists, journalists are at present one of the few voices still speaking out against the massive human rights violations being perpetrated against innocent civilians in the country and have thus become prime targets of these attacks.

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

The leading independent radio stations, HornAfrik, Radio Shabelle and Holy Q'uran Radio, have been repeatedly attacked. All of these have been closed at one time or another by the TFG forces. Crucial equipment has been destroyed. On the 2nd March 2008, TGF forces forcefully entered the offices of Simba and Shabelle, destroyed recording equipment and detained the Director of Radio Shabelle.²⁰ On the 17th March 2008 heavily armed police forces entered the privately-owned Radio Voice of Peace and arrested five of the radio's employees; they were later released without any explanation. The journalists believed that their arrests may have been linked to their reporting of a recent attack by insurgents.²¹

Journalists have been subjected to systematic attacks: arbitrarily arrested and detained without charge, threatened with imprisonment or death, followed and harassed in the streets and intimidated at their place of work. Several journalists have had their houses searched, property destroyed, members of their families intimidated, received death threats, and some have seen members of their families kidnapped. One of the journalists currently in exile in Uganda was arrested by Ethiopian troops and taken to Ethiopia where he was held incommunicado and interrogated before finally being released. At least nine journalists have been the victims of targeted killings since 2007. Only recently, on the 7th June 2008, Nasteh Dahir Farah, Vice President of the National Union of Somali Journalists (NUSOJ) and correspondent for BBC and for the Associated Press News Agency, was shot dead on his way home by gunmen who are believed to have links with Islamic insurgents.

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

One potentially positive development which needs to be highlighted was the appointment as Minister of Information and Deputy Prime Minister of Ahmed Abdisalam Adan, who had co-founded HornAfrik; a new media law has since been approved which contains certain positive elements which promote free expression. Nevertheless there are some concerns within the human rights community that this law may in fact further undermine freedom of expression by establishing a rather restrictive regulatory framework, not only over registration but also media output.²²

²⁰ See EHAHRD-Net Index: SOMA 009/005/2008, *EHAHRD-Net condemns most recent attacks on the media in Somalia*, at <http://www.protectionline.org/Attacks-on-the-independent-media,6413.html>

²¹ RSF, *Five Radio Stations employees arrested then released, Station back on air*, 18th April 2008, http://www.rsf.org/article.php3?id_article=26636

²² Article 19, *Notes on Draft Media Law of Somalia*, May 2007, <http://www.article19.org/pdfs/analysis/somalia-notes-on-draft-media-law.pdf>

These violations continue to occur in a climate of impunity and no efforts have been made by the still very weak and unpopular TGF to end these violations and bring the perpetrators to justice.

EHAHRDP-Net calls on relevant entities and stakeholders within the US government:

- To call on all parties, particularly the TFG, to bring an immediate end to arbitrary arrests, harassments, systematic attacks and targeted killings of all human rights defenders, and more particularly journalists;
- To call on all parties, particularly the TFG, to end all practices which threaten freedom of expression and prevent human rights defenders from pursuing their legitimate work;
- To ensure that all HRDs in particular journalists that have been forced into exile can pursue their vital work by providing them with assistance, protection and training, notably Eritrean HRDs;
- To ensure prompt, impartial, effective and independent investigations into all cases of human rights violations, both past and present, particularly those affecting human rights defenders;
- To support the establishment of accountability mechanisms which conform with international standards of independence and impartiality in order to bring an end to impunity and ensure that all actors responsible for current and past abuses are held accountable for their actions;
- To provide support - logistical, political and financial - to entities and bodies that can continue to monitor and report on the human rights abuses and can help to establish accountability mechanisms, notably to the field offices of the UN Office of the High Commissioner for Human Rights (OHCHR);
- To ensure that a genuine peace and reconciliation process is carried out, a process which includes all the parties in the conflict, as well as members of civil society ;
- To ensure that the respect for human rights and ending impunity is at the heart of all diplomatic and peace and reconciliation dialogues.

Sudan

The situation in Sudan has become much more complex in recent months with a proliferation of rebel factions in Darfur, the refusal of several rebel groups to join in the peace process which was initiated in Libya, and a failure both on the part of the Khartoum government and the Southern Sudanese authorities to implement many of the key arrangements of the Comprehensive Peace Agreement of 2005 notably the Bill of Rights. The National Human Rights Commission has of yet still not been established largely as a result of continued political disagreements between the National Congress Party (NCP) and Sudan People's Liberation Movement (SPLM) – the two main parties on making-up the current Government of National Unity.²³ Rights violations in Darfur, which include unlawful killings, gender-based violence, arbitrary arrests and torture, occur on a massive scale. Insecurity remains high in South Sudan where the disarmament process has still not been fully implemented. At the same time curtailment on freedom of expression and press has increased

²³ The report by the Independent Expert on the Situation of Human Rights in Sudan, <http://daccessdds.un.org/doc/UNDOC/GEN/G08/114/97/PDF/G0811497.pdf?OpenElement>

notably in Khartoum as have attacks on civil society- notably local and community activism. The national census, which is key to the holding of the planned elections in 2009 and marks a crucial step on the road to achieving the aims of the Comprehensive Peace Agreement, begun in April 2008; nevertheless many groups are either opposed to it, notably the rebel groups in Darfur, or weary of it.²⁴

Much of the legislation currently in place still needs to be brought into line with the standards established by the Interim National Constitution and other international agreements to which Sudan is party. Current laws regarding the National Intelligence and Security Services (NISS), for example, give the NISS sweeping powers to arbitrarily arrest and detain people for up to nine months without charge. According to EHAHRD-Net Focal Point in Sudan, the Sudanese Organization against Torture (SOAT), this legislation allows for individuals to be held for six months with no right to challenge their detention. Detainees are in some cases held incommunicado for indeterminate periods of time. Although torture is prohibited under Sudan's Interim National Constitution as well as by several of the international agreements that Sudan is party to, in practice, however, physical abuse in custody is widespread in Sudan and is encouraged by a culture of impunity underpinned by mechanisms including immunity laws, pardons and amnesties for state officials responsible for human rights violations. In fact, current legislation grants many categories of state officials effective immunity from prosecution for human rights violations such as arbitrary detention and abuses in custody.

Arbitrary arrests, against HRDs, peace activists, journalists and individuals believed to be linked to Darfuri rebel groups or to the opposition party, Popular Congress Party, continue to occur in Khartoum notably since the attack by the rebel Justice and Equality Movement (JEM) on Omdurman, part of greater Khartoum on the 10th May 2008 which the Sudanese security forces have responded to through mass arrests, torture and disappearances. According to reports by SOAT, in the days following the JEM attacks on 10 May, hundreds of people were arrested in and around Khartoum and the neighbouring city of Omdurman and were held in unknown locations. A large number of those arbitrarily rounded up and detained are or appear to be of Darfuri origin, mainly of the Zaghawa ethnic group, and a significant number have reported to have been subjected to physical abuse and torture in custody.²⁵ Reports also suggest that several detainees have in fact died as a result of the appalling conditions.²⁶ The authorities refused to inform the relatives of many of those detained of their whereabouts.

Sudan is in certain ways an exception in the region as despite increasing levels of censure and restrictions by the Khartoum regime it continues to have quite a diverse independent media and an often outspoken civil society. Nevertheless, although the interim constitution guarantees freedom of assembly, expression and press, in practice restrictions on human rights defenders, arbitrarily detentions and harassments have increased in Darfur since 2006 and in Khartoum since mid-2007.²⁷

Government control over NGOs has been further entrenched by the introduction of the Organization of Humanitarian and Voluntary Work Act in 2006. This Act grants enormous oversight to a government appointed commissioner- who can periodically review the activities of NGOs and refuse

²⁴ BBC, *Key Sudan census gets underway*, 22 April 2008, <http://news.bbc.co.uk/2/hi/africa/7360066.stm>

²⁵ SOAT, Human Rights Alert 23: Reported transfers of large number of prisoners to East Sudan following Mass arrests in and around Khartoum, 23 May 2008, <http://www.soatsudan.org/Human%20Rights%20Alerts%20and%20Miscellaneous%20Documents%202008/Human%20Rights%20Alert%2023,5,08.pdf>

²⁶ <http://hrw.org/reports/2008/darfur0608/darfur0608web.pdf>

²⁷ Human Rights Watch, *Sudan, Country Summary*, January 2008, <http://hrw.org/wr2k8/pdfs/sudan.pdf>

to re-register them. The act also allows the authorities to review NGOs' documents, dismiss their members and expel foreign workers. Under this act registration requirements are stringent.

HRDs have increasingly faced harassment, intimidations notably by being subjected to lengthy interrogations by the NISS. In November 2007 several human rights defenders, notably members of the Khartoum Centre for Human Rights and Environmental Development (KCHRED), were detained and subjected to protracted interrogations concerning their legitimate work.²⁸ According to SOAT, in the course of the month the NISS summoned, detained and interrogated: KCHRED chairperson Amir Suleiman, two members of the center's freedom of expression programme, Faisal al-Bagir and Lemia el-Jaili Abu Bakr and the financial officer, Mashair Abdullah Omer. In some cases they were summoned repeatedly, threatened, maltreated and ordered to produce documents relating to the organizations' finances.

Local activists notably denouncing the construction of a series of dams in Northern Sudan, in the Kajbar and Merowe Regions, have been subjected to harassment and to arbitrary detentions. Mr. Osman Ibrahim, spokesperson of the committee against the Kajbar Dam, for example, was arrested on 20th July 2007 while at his home in Farraig village, Halfa Municipality (Northern Sudan). No warrant of arrest was issued to him and he was not informed of where the police was taking him.²⁹ This is just one amongst a wave of arrests and arbitrary detentions which have occurred aimed at stifling community activism.

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

Since mid-2007, and in particular since February 2008, attacks on freedom of expression, notably through case-by-case pre-print censorship, public information bans, legislation, intimidation and arrests of journalists, have increased. This recent attack on freedom of expression is the toughest since the signing of the Comprehensive Peace Agreement in 2005 and is in clear contravention of the Interim National Constitution which firmly guarantees freedom of press and media.

The NISS appears determined to control the media and to prevent it from undermining the Khartoum regime.³⁰ It has increasingly been paying visits to the main media houses, checking the content of reports and ordering the withdrawal and replacement of articles deemed unacceptable.³¹ The authorities have also been imposing bans on the reporting of certain issues as a means of stifling criticism. In December 2007 a ban was imposed on all reporting of criminal cases that were under investigation. This censorship appears to have been taken to a new level. SOAT reported that on April 13th 2008 newspaper editors in Khartoum were informed that they would have to submit a copy of every edition which they produced to the NISS prior to publication. Two days later the NISS prevented the publication of three newspapers, Ajras al-Hurriya, al-Ayyam and Rai al-Shaab, which were refusing to comply with these orders.³² Although this new requirement has since been abandoned, several other newspapers have been banned from publishing.

²⁸ See EHAHRD-Net Index: SUD 031/006/2007 (Public), *EHAHRD-Net irked by harassment of HRDs in Sudan*, at http://www.protectionline.org/Mistreatment-of-human-rights.html?pmv_nid=13

²⁹ EHAHRD-Net Index: SUD 020/006/2007, *EHAHRD-Net disturbed by forced disappearance of HRDs in Sudan*

³⁰ Reporters without borders, *Sudan: Annual report 2008*, http://www.rsf.org/article.php3?id_article=25406

³¹ The report by the Independent Expert on the Situation of Human Rights in Sudan

<http://daccessdds.un.org/doc/UNDOC/GEN/G08/114/97/PDF/G0811497.pdf?OpenElement>

³² SOAT, *Human Rights Alert 18th April 2008. Several Newspapers prevented from publishing amid ongoing crackdown on the media*,

Censorship has further intensified since the May 10th attacks particularly regarding the coverage of the recent mass arrests in the capital and neighbouring towns.

The authorities have no qualms about arresting and allegedly torturing journalists who have witnessed abuses, notably those which witnessed and sought to report on the police crackdown on peaceful protestors opposing the construction of a dam in Northern Sudan on the 13th June 2007.³³ Journalists have also received death threats as a result of their public stances on key political issues notably on the question of the deployment of UN peacekeeping troops in Darfur. More recently, following the May 10th attacks, a freelance journalist, Al-Ghali Yahyda Shegifat, who heads the Association of Darfuri journalists, was arrested and held incommunicado.³⁴

As a result journalists are often forced to resort to self-censorship and overlook the taboo issues, notably developments in Darfur and Chad, as well as issues regarding the government's response to the May 10th attacks as they know that the risks involved in taking on such issues are increasingly significant.

These restrictions are of particular concern given that Sudan has recently initiated its national census process which is supposed to pave the way for the elections in 2009, journalists, as all HRDs, will play a crucial part in ensuring that any abuses in this process are brought to public and international attention; such restrictions however are likely to prevent them from playing their role as watchdogs.³⁵

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

EHAHRDP-Net calls on relevant entities and stakeholders within the US government:

- To call on the Sudanese authorities in Khartoum to bring about an immediate end to current mass arrests, detention, torture of civilians particularly of Darfuri origin at the hands of the National Intelligence and Security Services (NISS);
- To call for a full, impartial and independent investigation into the current allegations of human rights violations; if the authorities fail to comply, an international criminal investigations should be called for and supported;
- To call on the Sudanese authorities to bring an end to impunity by ensuring that those found responsible for current violations, particularly NISS officers, police and other state officials, are held accountable; in particular by supporting the establishment of accountability mechanisms which conform with international standards;
- To provide support - logistical, political and financial - to entities and bodies that can monitor and report on human rights abuses and help to establish accountability mechanisms, notably to the field offices of the UN Office of the High Commissioner for Human Rights (OHCHR);

<http://www.soatsudan.org/Human%20Rights%20Alerts%20and%20Miscellaneous%20Documents%202008/Human%20Rights%20Alert,%2018,4,08.pdf>

³³ Human Rights Watch, Sudan. *Country Summary*, January 2008, p. 4, at <http://hrw.org/wr2k8/pdfs/sudan.pdf>

³⁴ RSF, Freelance Reporter Held Incommunicado for Past Week, 21st May 2008, at

http://www.rsf.org/article.php3?id_article=27113

³⁵ SOAT, *Human Rights Alert 18th April 2008*.

- To call on the Sudanese authorities to ensure that freedom of the media and expression is guaranteed by bringing an immediate end to all unlawful censorship and other attacks on the media and journalists;
- To call on the Sudanese authorities to carry out necessary legislative reforms which will ensure that the Sudanese justice system and all legislation are brought into line with the Interim National Constitution and international human rights standards.