



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

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

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Regional Coordination Office

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Introduction

EHAHRD-Net welcomes the opportunity offered by this NGO Forum preceding the 47th African Commission on Human and People's Rights (ACHPR) to once again highlight some of the current human rights issues in the East and Horn of Africa region. The approach of elections in most of the countries of the region either in 2010 or 2011 is having a negative impact on the human rights situation on the ground. Restrictions on civil and political rights have either increased or remained the same in almost every country covered. No significant improvements have been identified. The restrictions on civil and political rights witnessed range from legislative developments aimed at thwarting the rights of civil society, the media and the political opposition, through methods of intimidation such as threats, increased surveillance and censorship of key actors, to more traditional and violent means of restrictions.

Since the last Commission session the **Ethiopian** authorities have made use an array of new restrictive legislation to directly and indirectly further curtail key rights of association and expression in the country as next week's crucial elections approach. The Charities and Societies Proclamation for example is already having a significant impact on the ground and is being implemented in a haphazard and subjective manner. As a result independent human rights activities on the ground are more or less frozen. The independent media has also come under further attack. The Addis Neger, one of the last remaining independent papers in the country, was subjected in to a campaign of intimidation in the pro-governmental media in late 2009, in which it was accused of supporting terrorist groups. As a result of this intimidation, and information that the paper and its staff would be charged under the controversial Anti-Terrorism Proclamation, the newspaper shut and the majority of its staff since fled the country. Given this reality next week's elections will be neither free nor fair and yet the international community and members of the African Union fail to give this situation the attention it urgently requires.

The human rights situation in **Somalia** has shown no improvements, since last reporting. Civilians bear the brunt of ongoing fighting between the Transitional Federal Government (TFG) of Somalia forces and insurgent groups in Mogadishu. Attacks, arbitrary arrests, and killings of human rights defenders, particularly journalists, continue to occur, most notably at the hands of al-Shabaab. The current battle between the TFG forces and insurgent groups within Mogadishu over control of the capital's radio stations has further restricted journalists' freedom of expression. The perpetrators of these violations, whether governmental or members of insurgency groups, clan militias or warlords, continue to be accorded impunity.

In **Kenya**, the recent decision by the International Criminal Court (ICC) to initiate investigations into the 2008 post-election violence is a positive step towards accountability; yet given that the investigations will only look at those deemed to be the most responsible for the violence and given that the Kenyan parliament has so far failed to establish a special tribunal at the national level, widespread accountability is still yet to be guaranteed. The situation of witnesses likely to be involved in the investigations and HRDs working and supporting the ICC investigations is concerning given the continued weaknesses of the Witness Protection (Amendment) Act and the failure by the authorities to sufficiently investigate attacks against HRDs.

Ongoing attacks on the private media as well as on human rights organisations in **Rwanda** as well as the intimidation of opposition party members is concerning as the August 2010 presidential elections draw nearer. Two newspapers in particular, Umuseso and Umuvugizi, have faced a myriad of attacks of late, the most recent being their suspension by the media regulating body- the High Media Council(HMC)- for six months. The legal groundings of the suspension are questionable. The regional media has not been spared in these attacks and President Kagame himself has questioned the editorial decisions of the key regional East

African paper and the choice of journalists it uses. The denial of a work permit to Human Rights Watch's senior researcher on Rwanda in April 2010 on the pretext that there were inconsistencies in her visa application is alarming in a country where independent human rights voices are scarce. These developments go hand in hand with a series of actions aimed at undermining the space and campaign on opposition party members. In spite of the evident violations of key civil and political rights, the country continues to receive significant support and praise from regional and international actors.

Finally, certain developments in **Uganda** are also concerning. To point out are; an increase in cases of excessive use of lethal force by the police and military police without significant independent investigations and an increase in restrictions on freedom of the media and association, notably with the drafting of a new media bill that would create new crimes with which to prosecute heads of media houses and would allow the Media Council to revoke licenses under any circumstances. Also alarming is the draft Anti-Homosexuality Bill which seeks to give legal grounds to ongoing attacks on Uganda's lesbian, gay, bisexual, transgender and intersex (LGBTI) community, punishes homosexuality with up to life imprisonment and instances of "serial" homosexuality with the death penalty and criminalizes any form of activism around the rights of LGBTI persons.

Country Overviews

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

Burundi

General elections are to take place in Burundi at the local and national level in May and June 2010. However, the pre-election period that officially started in July 2009 has been marred by restrictions on civil and political rights as well as targeted violence against political opponents and HRDs. Although an electoral framework endorsed by the majority of the political class is in place, opposition parties still face challenges that undermine their ability to operate freely. Many parts of the country's local administrations are controlled by the ruling party- National Council for the Defense of Democracy – Forces for the Defense of Democracy (CNDD-FDD).¹ These local administrations make use of the police forces to disrupt opposition party gatherings and undermine their efforts to open local party offices. In fact, opposition party members face harassment, intimidation and constraints on their work, and repeatedly see their right to freedom of assembly violated notably by provincial and communal authorities.

The Burundian authorities have so far failed to put in place key institutional mechanisms for the protection of human rights, notably a national human rights commission, key to reinforcing a culture of human rights and ending the deeply entrenched culture of impunity.² A draft bill was presented at the last parliamentary session but was one of the last items on the agenda and was therefore not discussed before the end of the session.

Mob justice attacks on suspected criminals are on the rise in Burundi and have led to a number of deaths. Unfortunately, reports indicate that authorities have at times either been directly involved in public killings and beatings of suspected criminals or stood by without acting. Besides, such killings rarely result in official investigations, let alone prosecutions.³

Restrictions on political freedoms are widespread and continue to prevail as the country draws to the general elections. Opposition party members face harassment, intimidation and constraints on their work. They repeatedly see their right of freedom of assembly violated notably by provincial and communal authorities. The rise of youth militia groups affiliated with the main political parties is particularly concerning given the upcoming elections. Gertrude Kazoviyo, deputy president of the Observatory of Government Action (OAG) describes party youth wings as 'major destabilizing factor' in Burundi.⁴ The youth groups are often armed and have regularly clashed with other partisan youth groups and attacked members of the opposition parties and journalists.⁵ The police have been accused of failing to properly investigate and tackle the incidents of violence involving these groups.⁶

¹ International Crisis Group report; ensuring credible elections. <http://www.crisisgroup.org/home/index>. Last visited 24th March 2010

² International Crisis Group report; ensuring credible elections. <http://www.crisisgroup.org/home/index>. Last visited 24th March 2010

³ HRW and APRODH, Mob Justice in Burundi; Official Complicity and Impunity, March 2010

⁴ Tensions High in run up to Burundi elections; <http://www.irinnews.org/Report.aspx?ReportId=88313> last visited 13th April 2010

⁵ Upcoming Polls to test Burundi's Fragile peace; <http://www.irinnews.org/Report.aspx?ReportId=87117> last visited 13th April 2010

⁶ HRW, Burundi: Stop Pre-Election Violence, Hold Perpetrators Accountable, <http://www.hrw.org/en/news/2010/04/14/burundi-stop-pre-election-violence-hold-perpetrators-accountable>, April 14th 2010, last visited on 7th May 2010

The LGBTI community in Burundi suffered significant discrimination in the past primarily at the hands of non-state actors. This discrimination has been further aggravated of late by a state endorsed discrimination against homosexuals witnessed by the passing of the new penal code in April 2009 that criminalises same sex relationships. The contested article 567 clearly violates Burundian's national, regional and international standards notably regarding the right to privacy and freedom from non discrimination. The provision also states that those found guilty risk imprisonment for up to two years. The provisions have not as yet been implemented, and high level members of the authorities have repeatedly claimed that it will not be. Nevertheless in light of the forthcoming elections, the impact it has already had on the LGBTI activist community and the potential political use of this provision it remains of utmost concern.

Human rights defenders (HRDs) in Burundi are given a certain amount of space to exercise their rights notably an important level of freedom of expression. Nevertheless, a series of recent events suggest that the space accorded to HRDs is reducing as the general elections approach. HRDs are subjected to threats and intimidation due to their reporting and work. Forum for the Strengthening of Civil Society (FORSC), an umbrella organization representing 146 Burundian civil society associations, was banned in November 2009 citing an alleged technical error in the group's registration application.⁷ FORSC's registration was revoked by the Minister of Interior, marking the first time that the government of Burundi has outlawed a civil society organization. The revocation has since been overturned but FORSC is still in discussions with the authorities over the legal status of the Forum.

The one year anniversary of the assassination of Ernest Manirumva, Vice President of Observatory for the Struggle against Economic Corruption and Embezzlement (OLUCOME), has passed and yet investigations into his murder have not yet been concluded. A joint statement released by East and Horn of Africa Human Rights Defenders Project (EHAHRDP), Amnesty International (AI) and Human Rights Watch (HRW) on the anniversary of the killing called on the president of Burundi to act to ensure justice in the killing of the anti-corruption activist and to ensure that independent witness protection mechanisms are put in place to create a more enabling environment for the investigations.⁸

Human rights activists continue to face threats and intimidation. FORSC's Delegate General, Pacifique Nininahazwe, and Pierre Claver Mbonimpa, President of the Association for the Protection of Human Rights and Detained Persons (APRODH), were placed under surveillance by the National Intelligence Service and received a series of death threats- all in connection to their work during the same period.⁹ Gabriel Rufyiri, President of OLUCOME, has also recently received a series of threats and intimidation, notably as a result of a report in which OLUCOME denounced a draft law granting significant benefits to the country's Generals.¹⁰ In fact in early April 2010 he received information that a complaint addressed to the Attorney General from the Minister of Public Security had been filed calling for his release. The arrest warrant has not been produced to date. More recently, on Monday 3rd May 2010, Pierre Claver Mbonimpa was interrogated by the Prosecutor of Bujumbura about his involvements in the Manirumva investigations and according to sources on the ground was informed that a special file had been opened to investigate those involved in efforts to ensure accountability in this case.¹¹

⁷ HRW, EHAHRDP, AI, Burundi; Reverse Ban on Civil Society Group, <http://www.hrw.org/en/news/2009/11/25/burundi-reverse-ban-civil-society-group>, 25th November 2009, last visited on 7th May 2010

⁸ A Year After Stabbing Death of Ernest Manirumva, Anti-Corruption Advocate, Truth Elusive April 2010 Human Rights Watch

⁹ HRW, EHAHRDP, AI, Reverse Ban on Civil Society Group <http://www.hrw.org/en/news/2009/11/25/burundi-reverse-ban-civil-society-group>

¹⁰ Meetings carried out by EHAHRDP in Bujumbura, April 2010.

¹¹ Informal communications, 3rd May 2010.

Djibouti

The human rights situation in Djibouti has not experienced significant changes since the last report to the ACHPR.

Recently, Djibouti's parliament approved a constitutional amendment removing term limits allowing the current president Ismail Omar Guelleh to run for the third term, a move made clearly in preparation for the forthcoming elections in May 2011.¹² In 1999, President Guelleh succeeded his uncle, who was the country's first president, and he was re-elected in 2005 in what was seen as a one-man Presidential elections since he was the sole candidate of the Union for a Presidential Majority (UPM). The opposition parties claimed that they were prevented from campaigning as a result of government control over the media and repression of the opposition's activities and therefore boycotted the elections which they saw as neither free nor fair.

The constitution and the law provide for freedom of speech and the press however, this is almost inexistent in Djibouti and this greatly hampers the work of human rights defenders (HRDs). There are very few media outlets to speak of with the government owning the main newspaper, La Nation, as well as the only national radio and television broadcasting agency. There are no private broadcasters in Djibouti. Le Renouveau, the sole independent newspaper, was closed in May 2007 and since then no new independent newspaper has been established. According to the law legislating on freedom of the press, media entities can only be owned or funded by Djiboutians.

Political freedoms are also limited. Opposition parties are in theory allowed to organise but in reality are faced with many restrictions. They are subjected to harassment, police repression as well as to more subtle legal and logistical constraints. Government continuously monitors their activities and most times permits are also required from them in order to hold assemblies. Several leaders of the opposition have as a result been forced into exile or resorted to self censorship.

The judicial system in Djibouti is weak with State actors in particular are accorded more or less impunity and yet in most cases they are the perpetrators of most human rights violations.

Women's rights are not respected in Djibouti and very little effort has been made by the government to improve the situation. Female Genital Mutilation (FGM) still remains rampant and the criminal legislation dealing with FGM is not enforced. There have in fact so far been no legal proceedings deposited against individuals carrying out FGM.¹³

Human rights groups in Djibouti do not operate freely and most of the civil society organisations in the country have links with the government. As a result there are currently only a few human rights organisation in operation. The main independent human rights organisation the Djibouti League for Human Rights (Ligue Djiboutienne des Droits Humains - LDDH), EHAHRD-Net Focal Point, operates with limited freedom. In fact, the President of LDDH, Mr. Jean-Paul Noel Abdi, has been awaiting his appeals process since April 2007.¹⁴ Despite regular interventions by the International Federation for Human Rights (FIDH) and by the Special Rapporteur of the UN on HRDs the trial is continually delayed.

¹² MPs in Djibouti scrap term limits. BBC news last visited 19th April 20 <http://news.bbc.co.uk/2/hi/africa/8630616.stm>

¹³ 2009 Annual report of the situation of human rights. US department report

¹⁴ Informal report sent by Djibouti focal point to EHAHRDP prior to EHAHRDP Focal Point Meeting, May 2010.

Eritrea

Eritrea is now one of the most repressive States in the world. Freedoms of movement, religion, expression, and assembly are severely restricted contrary to the country's domestic and international legal responsibilities. Tens of thousands of political prisoners are detained, many incommunicado, without charge or trial. There is no independent civil society to speak of and all independent and private media outlets have remained shut since a crackdown in 2001; largely obscuring the extent of the situation to the outside world .

The international community's sole focus on the issue of security has undermined the sorry state of the human rights situation in the country. Efforts to pressurize the government of Eritrea to implement its constitution and abide by the international and regional human rights standards which she has ratified have also not yielded much.

Arbitrary arrest and detention without trial are an everyday practise in Eritrea. People are regularly arrested without warrants, in particular during clampdowns on draft evaders, members of non-registered churches or on critics or alleged critics of the government or the military.

Political freedom is inexistent as the country is a one-party state under the control of the ruling People's Front for Democracy and Justice (PFDJ). The presidential elections which were planned for 1997 have never taken place. On the 18th September 2001, a more reformist group of the ruling party, which included several generals and former ministers, known as the Group of 15 (G15) were arbitrarily arrested after they called for the implementation of democratic reforms, including the implementation of the Constitution. This group continues to be held incommunicado and none of them have yet been charged or brought to court. It is believed that several have since died as a result of the harsh prison conditions and the torture and cruel, inhumane and degrading treatment or punishment to which they have been subjected to. Other supposed opponents of the regime have also been detained by a regime increasingly paranoid. As a result opposition parties are forced to operate in exile.

Prison conditions in the country remain poor as prisoners are tortured and ill treated leaving in inhuman conditions. According to a Human Rights Report released by Human Rights Watch, detention includes several beatings which often lead to permanent physical damage.¹⁵

Freedom of religion is restricted in Eritrea since 2002. Only the official four religions are allowed to practice that is Islam, Catholics, orthodox and the Lutheran while Persecution of members of minority Christian churches, notably Pentecostals and Jehovah Witnesses is rampant.

Eritrea has had no independent civil society or media to speak of since the September 2001 crackdown by the authorities leading to the arrest and detention of journalists, the forced exile of others and the closure of the few independent media houses in operation. Eritrea is the only country in Sub-Saharan Africa which does not have a single operating independent or private news outlet as private ownership of media and international influence or ownership of media are banned. As a result, there is absence of critical reporting on the human rights situation, resulting from the ongoing clampdowns which largely block off the country to the outside world especially on the extent of the human rights violations occurring in the country. This situation has also forced population and particularly HRDs to leave their country crossing dangerous borders to the neighbouring countries.

¹⁵ World report 2010 Human rights Watch

The fate of 10 journalists who disappeared into secret prisons following the September government crackdown has to date not officially been known however recent developments revealed the supposed deaths of five journalists in government custody and the whereabouts, health, and detention conditions of the others.¹⁶ This was revealed by Eyob Bahta Habtemariam a former supervisory guard at two prisons northeast of the country's capital at a broadcast by Radio Wegahata

With the inexistent independent media or civil society, there isn't any freedom of association or expression to talk about. The government of Eritrea does not allow the formation of private associations and this includes labour unions and self help organisations.¹⁷

Ethiopia

Since the last reporting at the 46th session, severe restrictions on civil and political rights in Ethiopia have persisted. Given the current situation, it is doubtful whether the upcoming elections on 23rd May 2010 will be free and fair.

Political freedom is severely restricted by the ruling Ethiopian People's Revolutionary Democratic Front (EPRDF); the political opposition has continued to be subjected to harassment, intimidation as well as to more traditional forms of repression over the course of the last six months. Several key opposition leaders continue to be arbitrarily detained, notably Birtukan Mideksa, the head of the Unity for Democracy and Justice(UDJ)Party who was initially amongst the group of opposition party members arrested in November 2005 after her party disputed the results of the local and parliamentary elections. She was later released in June 2008 only to be re-arrested after she refused to retract a statement in which she rejected having accepted to sign a governmental pardon in order to be released. Two recent killings of opposition party members have also raised concerns and questions about the political motivations of these killings. One such example is the murder of Aregawi Gebreyohannes an opposition candidate for the Arena-Tigray opposition party. He was stabbed to death by five men at his home in Shire, in Ethiopia's northern Tigray region, on the evening of March 1st in unclear circumstances; the assassination has not been sufficiently investigated.¹⁸

Discrimination against women in Ethiopia is still widespread especially in rural areas, despite adoption of the National Policy on Women (1993) and the National Action Plan on Gender Equality (2006-2010). Harmful traditional practices like FGM, domestic violence, rape, early marriage, and abduction of girls for marriage are perpetrated in a large scale. Due to the huge gap between the legal framework and the reality on the ground, in most cases, discrimination against women is not adequately addressed by national authorities and the offenders face no prosecution or conviction for their acts, preventing women from legal redress.¹⁹

The judiciary in Ethiopia is not independent and courts are more often than not used as a political tool by the Executive. This waters down the work of independent voices, individuals and organizations as they are not fairly tried by these very courts.

¹⁶ Truth about jailed journalists is locked away in Eritrea; last visited 16th April 2010 <http://cpj.org/africa/eritrea/>

¹⁷ Events of 2009; <http://www.hrw.org/en/node/87602> last visited 3rd May 2010

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¹⁸ Open Impartial Inquiry into candidate's killing. March 5, 2010 Human Rights Watch

¹⁹ 2009 Human Rights Report-Ethiopia; U.S. Department of State last visited 28th April 2010 <http://www.state.gov/g/drl/rls/hrrpt/2009/af/135953.htm>

The situation facing HRDs in Ethiopia continues to deteriorate. The passing of the Proclamation on Charities and Societies (CS) and Anti-Terrorism Proclamation, the most restrictive of such laws in the region, are having a negative impact both on the work of defenders, notably its scope and nature, and on individual defenders themselves; recent research carried out by EHAHRDP reveals that at present independent human rights work in Ethiopia is more or less at a standstill.²⁰ the CS law prevents organizations receiving more than 10% of their funds from abroad from working on human rights amongst other issues. In a country as poor as Ethiopia this provision is a death sentence on those NGOs who has been active in promoting and defending human rights. On the other hand, the government is trying to substitute the place of HR advocacy with its own affiliated parastatals. The law has so far been implemented in a very haphazard and subjective manner by the Charities and Societies Agency) established by the law. Registration requirements for the most prominent organizations have been increased, even for those deciding to stop human rights work and register as Resident organizations, calling on certain organizations to change the name of their organisation and others to remove certain key activities, notably voter education and election monitoring from their mandate. In addition to being forced to drop the 'Ethiopian' from its name, Ethiopian Human Rights Council(EHRCO) was also forced to remove the "*monitoring elections or providing voter education*" from the list of organizational objectives stated in its statutes as a condition before it could finally be registered. Two of the most prominent rights organizations, EHRCO and the Ethiopian Women Lawyers' Association(EWLA), both of which have decided to register as Ethiopian charities in order to be able to carry on their human rights work, have had their bank accounts blocked. Such powers are not granted to the Agency. Given that the Charities and Societies Board (Board) which amongst other functions is to receive appeals by organizations against decisions by the Agency's General Director has at the time of writing this report still not been established, organizations have no legal channels of recourse or review.

Press freedom in Ethiopia has remained severely restricted since 2005. Since 2009 the government has further entrenched a legal framework aimed at limiting independent reporting notably by passing the Mass Media and Freedom of Information Proclamation that stiffens penalties for libel and the Anti-Terrorism Proclamation that requires journalists to disclose sources and contains a very large definition of support to terrorists- which includes writing on groups deemed terrorist. The Ethiopian government has a long history of silencing the media. In March, the National Electoral Board of Ethiopia (NEBE) issued a code of conduct for the media restricting the activities of journalists covering the polls.²¹ The code of conduct bans press interviews with all candidates and election observers or voters. It also limits coverage from inside polling stations and disallows predictions before the official results are announced.

In addition, as a means to silence legitimate criticism and scrutiny, the Ethiopian government has in the recent past jammed the Amharic-language broadcasts of the U.S. government-funded Voice of America (VOA). Prime Minister Meles accused the station of engaging in destabilizing propaganda, and compared it to Radio Télévision Libre des Mille Collines, the Rwandan station whose broadcasts helped stoke the 1994 genocide.²² The same station was jammed in 2005 and 2008 and in both cases, elections were at hand. The jamming of the station also contradicts the country's commitment to free press.

Public intimidation campaigns against independent journalists and activists are frequent. After facing constant monitoring by security personnel and an intimidating campaign in a series of articles in government papers, the Addis Neger, a leading independent newspaper finally shut down in December last year and its editors fled the country after learning that the

²⁰ EHAHRDP mission to Addis Ababa, 6th-10th April 2010.

²¹ Prime minister says Ethiopia plans to jam VOA broadcasts. CPJ Last visited March <http://www.cpj.org/2010/03/meles-says-ethiopia-plans-to-jam-voa-broa.php>

²² *ibid*

government was preparing criminal charges against them based on the new anti-terrorism law.²³

Furthermore, on 8th March 2010, the Ethiopian Supreme Court reinstated fines against four newspaper publishing companies over their coverage of the disputed 2005 national election. In doing so the ruling overturned a February 2009 High Court decision that had struck down the fines. Earlier on, a July 2007 presidential pardon had been granted to numerous journalists and political dissidents who were facing anti-state charges related to the elections. This also applied to the four publishing houses. The government later blocked two of the publishers, award-winning journalist Serkalem Fasil and editor Sisay Agena, from launching new publications.²⁴

Kenya

Ensuring accountability for the violations that occurred during the post election violence is widely viewed as a crucial first step to preventing such violence from occurring again either during the forthcoming referendum on the new constitution or in the general elections of 2012. The Kenyan authorities have so far failed to establish a special tribunal. On a more positive note, on March 31st 2010, the pre-trial chamber of the International Criminal Court (ICC) approved the Prosecutor General's request to investigate into the post-election violence.²⁵ It is hoped that the positive step taken by the ICC will bring an end to impunity, and the perpetrators will be held to account. Nevertheless concerns remains both to the scope of accountability that will be achieved but also the level of security which will be accorded to those involved in the ICC investigations. The lack of an ineffective and viable witness protection mechanism has been of great concern in the country. However, on 7th April the parliament of Kenya passed the Witness Amendment Protection Bill 2010. The bill establishes a Witness Protection Agency mandated to institute and maintain a Witness Protection Program to protect crucial witnesses who require protection from a threat or risks that exist on account of their testimonies²⁶ Previously, of particular concern was the fact that the Act stipulated that the Attorney General and the police are those given the responsibility to accord protection to witnesses. The amended bill stipulates that the agency will be headed by a director with a statutory security of tenure yet concerns remain about the independence and the credibility of the mechanism's admissions policy.²⁷

A culture of impunity, notably for security and law enforcement agencies reigns, in part as a result of failings within the judicial system - a system that continues to lack transparency, efficiency and largely failing to offer redress for key human rights violations.²⁸ Independent and impartial investigations or legal sanctions against those responsible for clear human rights violations during the 2008 post election period are almost non-existent. Significant reform of the judiciary is one of the key areas of the reform agenda as stipulated in the peace accords of 2008.

²³ Ethiopian newspaper shuts down, editors flee; last visited 9th April 2010 Voice of America

²⁴ CPJ; Ethiopia reinstates hefty fines against publishing houses March 10. <http://www.cpj.org/2010/03/ethiopia-reinstates-hefty-fines-against-publishing.php>

²⁵ HRW; Judges approve Kenyan investigations <http://www.hrw.org/en/news/2010/03/31/icc-judges-approve-kenyan-investigation?tr=y&auid=6156542>

²⁷ The Witness Protection Bill

<http://www.kenyalaw.org/Downloads/Bills/2010/THE%20WITNESS%20PROTECTION%20BILL,%202010.pdf>

²⁸ http://www.imlu.org/index.php?option=com_content&task=view&id=47&Itemid=29; UN Special Rapporteur on extrajudicial killings, UN Special Rapporteur on extrajudicial killings Concludes fact-finding missions to Kenya, 25th February 2009, <http://www.extrajudicialexecutions.org/>, last visited on 7th may 2009;

The rights of women continue to be violated. Cases of sexual violence have been particularly high in situations of conflict notably during the post election violence and the military deployment in the Mount Elgon region. Domestic violence is widespread and yet the government appears to be delaying the enactment of key legislation relating to the protection of women.

At the heart of the current situation in Kenya is the draft constitution. The draft constitution in Kenya forms part of the power sharing agreement that ended the post election violence in 2008 and will be put for a referendum due in July this year.²⁹ Among other things, the draft limits the executive's power, reforms the judiciary, deals with land ownership issues, all issues believed to have been at the heart of the post-election violence. Kenya has ratified both the International Covenant on Economic, Social and Cultural Rights and the African Charter on Human and People's rights. However, in January 2010, the Parliamentary Select Committee (PSC), in charge of revising the draft Constitution, removed the rights to food, housing, water, health, education and social security as enforceable rights from the draft Constitution, and treated such rights only as guiding principles. The PSC also entirely removed the right to sanitation, provisions for equal rights of men and women and the rights of minorities, persons with disabilities, older members of society, youth and children.³⁰ Other clauses in the current draft that have ignited controversy, notably amongst Kenya's religious groups and leaders are: one clause that would allow doctors to perform an abortion if a woman's life is in danger and the proposal to keep the kadhi's courts-which deal with legal matters of Muslims.³¹

Since the contested elections of 2007 human rights defenders have faced a range of challenges and come under significant threat. Defenders involved in activities and investigations into violations that occurred during the post election violence have come under particular threat as have those working on extrajudicial killings are also targeted. These threats have still not been dealt with by the authorities. An example of this has been the failure by the authorities to carry out adequate and independent investigations into the assassinations of Mr. King'ara and Mr. Oulu of the Oscar Foundation Free Legal Clinic, on the 5th March 2009. On the 12th April 2010 Keneth Kirimi a defender working with Release Political Prisoners (RPP) was kidnapped and tortured. His kidnap is reported to be linked to his work on extrajudicial killings and his active membership with the Bunge la Mwananchi, a grassroots movement which aims to fight social injustice and promote accountable leadership at all levels in Kenya.

The LGBTI community in Kenya came under attack at the beginning of the year in Mtwapa, Kilifi district after it was rumored that a gay wedding was going to take place. The mob tried to attack LGBTI activists and people suspected of being homosexual. Among the perpetrators were religious leaders who said that homosexuals should be driven out of Mtwapa while others were saying that rather than taking the homosexuals to police, they should take the law in to their own hands.³² Activists feel that the case has not been sufficiently investigated. Homosexuality is a criminal offence in Kenya.

The media in Kenya has come under significant pressure of late which is clearly affecting their role and impact. There is still no legislation relating to freedom of information despite the fact that Kenya is party to several international and regional treaties guaranteeing freedom of expression and the media and no provisions on access to information have been included in

²⁹ The New York Times; Kenya lawmakers pass draft constitution limiting presidency
<http://www.nytimes.com/2010/04/03/world/africa/03kenya.html>

³⁰ New constitution must ensure rights for all; <http://www.amnesty.org/en/library/asset/AFR32/001/2010/en/06617acd-90e1-42e3-9ab2-b4461fa08ca8/af320012010en.html> last visited 22nd April 2010

³¹ Church leaders' views on 'contentious' issues in draft constitution rhetorical; last visited 3rd May 2010
<http://www.nation.co.ke/oped/Opinion/Church%20leaders%20views%20on%20draft%20constitution%20rhetorical%20/-/440808/909632/-/5upilz/-/index.html>

³² HRW, Halt Anti-gay campaign; last visited 28th April 2010 <http://www.hrw.org/en/news/2010/02/17/kenya-halt-anti-gay-campaign>

the draft constitution. According to Article 19 a draft law on hate speech presented in late 2009 failed to meet international standards.³³

Rwanda

The pre-election period in Rwanda has been marred by actions aimed at restricting civil and political rights in the country. Human rights activists, journalists and members of the political opposition have of late seen their rights and their space for action restricted.

Opposition party members in Rwanda have faced a series of threats and attacks since the last Commission report, which appear to be linked to the coming elections. An example is Victoire Ingabire who returned to the country after 17 years in exile, to lead a campaign for president as the candidate of the opposition party, FDU- Inkingi. Ingabire was among those accused of the recent bomb attacks in Kigali, Rwanda. Most recently, Ingabire was arrested on 21st April 2010 on charges including genocide ideology and collaborating with a terrorist group- the Democratic Forces for the Liberation of Rwanda (FDLR). She has been restricted from travelling outside the capital city, a move that hinders her from campaigning as the August presidential elections draw nearer.³⁴ According to Human Rights Watch, the government has on several occasions used accusations of participation in the genocide as a way of targeting and discrediting its critics.³⁵ Furthermore, two new political parties faced difficulties in obtaining the registration necessary to participate in the presidential elections. Both groups had their meetings interrupted by the police and their party members arrested notably the Party Social Imberakuri.

President Kagame's willingness to review the Genocide ideology after criticism and pressure from human rights organisation, governments and media, is a positive step in the improvement of the situation in Rwanda. The law which was passed in 2007 has been of particular concern given the rather vague list of criteria it sets down as defining genocide ideology and due the fact that it fails to consider the question of intent in the manifestations of behaviour deemed to fit into this definition. It has been used as a means for government to silence its critics.³⁶

The LGBTI community in Rwanda continues to face significant challenges. In December 2009 it appeared that the new penal code, which included a provision criminalising the promotion and sensitization of same sex relations- and some versions of which appeared to include the word 'practice' thereby criminalizing the act, was tabled for parliament. Nevertheless as a result of significant outcry by national human rights and health organizations and international ones, as well as the diplomatic community on the ground, this provision was removed from the draft.

The space accorded to human rights defenders in Rwanda is limited. The genocide and its consequences continue to influence the human rights community and to shape the discourse used by the authorities to restrict and repress critical defenders.

³³ Article 19, Recommends Amendments to Hate Speech Bill, December 2009, <http://www.article19.org/search-results/index.html?freetext=kenya>, last visited on 30th April 2010.

³⁴ AI-Rwanda Opposition leader must receive fair trial-Press release 27th April 2010

³⁵ HRW, End Attacks on Opposition Parties, last visited 10/03/2010

³⁶ Rwanda orders review of genocide denial law. Last visited 15th April 2010 <http://fesmedia.org/african-media-news/detail/datum/2010/04/15/rwanda-orders-review-of-genocide-denial-law/>

Human rights activists in working in Rwanda have faced a new assault against their rights of freedom of association. On 23 April 2010, Carina Tertsakian, Human Rights Watch's senior researcher on Rwanda was denied a work visa on the pretext that there was some inconsistencies in her visa application, specifically signatures and dates on the documents she had submitted. The notice was given to her just a day before the 90 days of her legal stay in the country- which raises suspicion.³⁷ Similarly international and regional rights organisations have recently gone through a re-registration process in Rwanda and have been asked to sign a Memorandum of Understanding with the government; a few organisations which have in the past been criticized by the authorities and faced a range of restrictions on their work have faced significant challenges and delays in their registration process.

The Rwanda government has continued to pursue its attacks on private media outlets and its harassment, intimidation and smear campaign against independent and critical journalists through a range of measures. Private media journalists have faced systematic monitoring rendering their investigative work particularly difficult. Ongoing intimidation and monitoring of the former Chief Editor of Umuseso, Charles Kabonero, led to his rapid departure from Rwanda in May 2009 based on fears for his safety. Most recently, Charles Kabonero – while in exile, Acting Editor-in-Chief Didas Gasana, and reporter Richard Kayigamba of the Kinyarwanda-language private weekly *Umuseso* were sentenced to prison over a story reporting on an extramarital affair between the mayor of the capital, Kigali, and a government minister. At the time of writing this report the case was at the stage of a final appeal.

On 19th January 2010, journalists from private media convened in Kigali to elect their representatives to the High Media Council, an agency that monitors and regulates the media and that has acquired significantly more power under the New Media Law of 2009. It had earlier been communicated that each media house would have one representative. However when journalists arrived they found that the pro-governmental New Times and Contact FM had brought with them a disproportionate number of staff members. The eventual candidates Albert Rudatsimburwa of Contact FM and Arthur Asiimwe of the New Times were elected by their own staff members, members of two leading private papers, Umuseso and Umuvugizi, were not invited.³⁸

More recently, two Kinyarwanda newspapers, Umuseso and Umuvugizi, were suspended on 13th April 2010 by the High Media Council, for six months. The legality of the suspension however is questionable. As per the law of August 2009 on the Media, on the procedures of suspension of a press publication, the media houses were not given prior warning. However, the papers were not given any official warning as they learnt of their fate broadcast on governmental media. Legally, the duration of the suspension also raises questions as both papers have never been suspended before and therefore wouldn't be suspended for more than two weeks; the six month suspension is for papers accused of recidivism.³⁹ The six months suspension will also ensure that the papers will be unable to cover the elections. Umuseso is appealing against the decision in court on the 11th May 2010. In the meantime the Umuseso journalists have also been summoned by the Central Investigations Department (CID) and charged of amongst other things insulting the head of state and inciting the armed forces into insubordination and mutiny.

³⁷ Allow Human Rights Watch to work; <http://www.hrw.org/en/news/2010/04/23/rwanda-allow-human-rights-watch-work> last visited 26th April 2010

³⁸ State meddling in Media Council bad for press freedom, http://www.eastafricpress.net/index.php?option=com_content&view=article&id=258:state-meddling-in-media-council-bad-for-press-freedom&catid

³⁹ Brief on the Suspension of Umuseso and Umuvugizi; EHAHRDP

The regional media has not been spared the attacks on independent reporting. During a press conference on 3rd March 2010, president Kagame attacked the East African a regional weekly newspaper for an interview it made with Victoire Ingabire and questioned why only uganda journalist based in Uganda were reporting on Rwanda.⁴⁰

Somalia

The human rights situation in Somalia has shown no improvements since the last reporting. Mass violations of international humanitarian law (IHL) and human rights are committed against civilians during the fighting by all actors involved in the conflict, notably armed opposition forces, government forces and al-Shabaab members. The implementation of extreme interpretations of sharia law in al-Shabaab controlled areas has had a significant impact on the human rights situation of civilians and human rights defenders.

Since May 7 2009, the Somali capital has been affected by incessant fighting between al-Shabaab and other insurgent groups with forces of, or affiliated to, the Transitional Federal Government (TFG) of Somalia. Civilians in general have greatly suffered from massive rights violations and continue to bear the brunt of the deteriorating security and human rights situation in the country. All actors involved in the fighting, from the insurgent groups notably al-Shabaab through the TFG forces and African Union (AMISOM) troops, dispatched on a United Nations mandate to protect the transitional government, have carried out indiscriminate and disproportionate attacks on civilian areas of the capital. The fighting has claimed lives of innocent civilians and left hundreds of thousands displaced from their homes notably along the Afgooye corridor outside of Mogadishu.

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

The country has no formal justice system to speak of and a culture of impunity is deeply entrenched. In fact the country has not seen any form of accountability or redress for the serious abuses that have been committed by any of the warring parties. According to reports, ad hoc tribunals have been set-up in areas controlled by insurgent groups that are unfairly trying civilians and sentencing them punishments that violate the right to life and represent torture, inhumane and degrading punishment, including death by stoning or decapitation, and amputation of limbs and other forms of corporal punishment.⁴¹

The increase in application of extreme version of sharia law in areas dominated by al-Shabaab is leading to a further deterioration in women's basic rights. Sexual and gender-based violence (SGBV) is a significant problem and yet women have little access to health care and no access to justice, a situation which is made worse by attacks on humanitarian and human rights workers.⁴² Many of those living in displacement camps are particularly vulnerable to SGBV. Rape is widespread. All actors involved in the conflict, from the TFG forces, to the Ethiopian troops, to the different militias have and continue to take advantage of the situation to exploit women and girls.

⁴⁰ Kagame hits East African, last visited 15th April 2010

http://www.eastafricapress.net/index.php?option=com_content&view=article&id=279:kagame-hits-east-african

⁴¹ Report by the Special Rapporteur , Technical Assistance and capacity building: Report by the Independent Expert of the situation of human rights in Somalia, A.HRC.12.44(1), 17th September 2009, available at

<http://www2.ohchr.org/english/bodies/hrcouncil/12session/reports.htm>, last visited on 06/11/09

⁴² Ibid

Targeted attacks, kidnappings and killings of humanitarian workers continue to occur. The abduction and attacks carried out on humanitarian personnel has forced many NGOs to pull out. In recent months those still present on the ground have seen their compounds looted and the UN has received significant threats by Al-Shabab.⁴³ Early this year, the World Food Program was forced to pull out from southern Somalia and suspend the delivery of food after the area become increasingly insecure with the program receiving a lot of pressure from the armed groups in the region.⁴⁴ As a result, access to the greatly needed humanitarian assistance by the Somali population is further thwarted.

Press freedom in Somalia is several restricted in part due to the general security situation but also due to targeted attacks on the media. Media houses are banned and attacked. The Islamist militia al-Shabaab's announcement on the ban of local radio stations in the regions it controls from retransmitting the broadcasts of the *BBC* and *Voice of America* on the grounds that they carry Christian propaganda is proof to this.⁴⁵ Another militant group Hizbul-Islam banned radio stations from playing music saying that it is "un Islamic". In a twist of events, following the ban, the government also threatened to shut down all the radio stations that complied with the banning of playing music on their radio stations.⁴⁶ This leaves the stations at crossroads on whose orders to follow and with no choice but to close their stations so as to be at harmony with both parties.

HRDs, in particular journalists, have been subjected to persistent and targeted violations from all parties involved in the conflict, from the TFG, to insurgent groups leaving defenders with no protection to speak of. In 2009 nine journalists were killed, three of whom were victims of targeted killings. In 2010, although the number of attacks and intimidation against defenders from the Transitional Federal Government (TFG) of Somalia forces appear to be decreasing, a number of journalists, notably radio journalists, have been arrested by al-Shabab. On 21 February 2010, Ali Yussuf Adan, a reporter with the Somaliweyn Media Center a private broadcaster in Somalia was abducted by the al-Shabab group. The reporter was picked shortly after reporting al-Shabab's alleged killing of a man accused of being late to a Saturday prayer mandatory under 'their version' of Sharia law. According to Committee to Protect Journalists, Somali is one of the deadliest countries for the press.⁴⁷ Most recently on 4th May, guy men shot to death a radio journalist Sheik Nur Mohamed Abkey working with radio Mogadishu as he was returning from work in the evening. Fellow journalists reported that they suspect he was tortured after finding his body dumped in an alleyway in Wardhigley. It is also reported that al-Shabaab militias later called in at the station to announce that they had killed Abkey⁴⁸ 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.

Human rights activists have also come under attack from al-Shabaab, Most recently, on 16th April 2010, Alin Hilowle a human rights activist of the Isha Human Rights Organisation in Baidoa was arbitrary arrested and detained by al-Shabaab. He was arrested at his home in Baidoa and taken to a local police station by al-Shabaab militia. His laptop and USB key were also seized.⁴⁹ It is believed that the arrest of the defender is in connection to his work since Isha Human Rights organization is one of the remaining few human rights organizations in the country

⁴³ Ibid

⁴⁴ WFP facing growing humanitarian challengee in Somalia; last visited 3rd May 2010 <http://www.wfp.org/stories/wfp-facing-growing-humanitarian-challenge-somalia>

⁴⁵ Al-Shabab uses terror to stop local radio stations from retransmitting BBC and VOA; last visited 9th April 2010

⁴⁶ The New York Times; radio stations with no music may be shut in Somalia last visited 5th May 2010 <http://www.nytimes.com/2010/04/19/world/africa/19somalia.html?ref=africa>

⁴⁷ CPJ Al-Shabab abducts reporter, 22 Feb 2010, <http://cpj.org/2010/02/al-shabaab-abducts-reporter.php#more>

⁴⁸ CPJ; Somali gunmen kill veteran broadcast reporter, last visited 7th May 2010 <http://cpj.org/2010/05/somali-gunmen-kill-veteran-broadcast-reporter.php>

⁴⁹ EHAHRDP Memo; Al-Shabaab should end attacks on Human Rights Defenders 20th April 2010

Somaliland

The repeated postponement of the presidential elections originally scheduled to take place in April 2008 and then again pushed to September 2009 is hampering the human rights situation in the country. The government is using its current legal status as a means to restrict civilian and political rights. The rights of the opposition have been restricted through a variety of means. The government, for example, generally overlooks the House of Representatives, that is under the control of the opposition.⁵⁰

The rights of the opposition have been restricted through a variety of means in Somaliland. They are viewed with hostility and their movements are restricted, any criticism made of the regime by them is countered by hostile propaganda in which they are accused of endangering peace and stability. The government, for example, generally overlooks the House of Representatives, that is under the control of the opposition.⁵¹

According to a US state department report, the judiciary is not independent and the courts lack trained judges and a shortage of legal documentation to build judicial precedence. Untrained police and other unqualified persons reportedly serve as judges⁵²

Freedom of assembly is also restricted. The Somaliland security agencies prevent political parties from holding public rallies and meeting their supporters. Notably on 6th April 2009, police fired in the air and would not allow party leaders to address their supporters as they held a peaceful procession to commemorate Somalia National Movement Day.⁵³

With no laws specifically addressing domestic violence against women, it remains a serious problem in Somaliland. Sexual violence in the home is a serious problem and linked to general gender discrimination. Further, they do not have the same rights as men and are systematically subordinated.

Impunity remains a problem in Somaliland as police and security agencies use excessive force which most times results into death. Abuses committed by the police and other militia groups are never investigated thereby accelerating impunity the more.

Attacks on the freedom of the media are also evident. In July 2009, the Managing Director Mohamed Osman and News Editor Ahmed Dhuhul of the Dutch-based Radio Horyaal were arrested and accused of inciting violence for reporting on a conference between the president and clan elders regarding a land dispute. The two were later released on bail 15 days at Somaliland's Criminal Investigation Department in Hargeisa⁵⁴

Sudan

The human rights situation in Sudan is intricately linked to the civil war between the North and South Sudan, the subsequent Comprehensive Peace Agreement (CPA) ending the civil

⁵⁰ HRW, Somaliland: Hostages to Peace, Threats to Human Rights and Democracy in Somaliland, July 2009, <http://www.hrw.org/en/reports/2009/07/13/hostages-peace>, last visited on 06/11/09

⁵¹ HRW, Somaliland: Hostages to Peace, Threats to Human Rights and Democracy in Somaliland, July 2009, <http://www.hrw.org/en/reports/2009/07/13/hostages-peace>, last visited on 06/11/09

⁵² 2009 US state department report, last visited 19th April 2010

⁵³ *ibid*

⁵⁴ CPJ; Attacks on Press 2009 Somalia

war as well as the ongoing conflict in Darfur. The national government continues to arrest and detain activists and opposition party members, break up public gatherings, prevent public meetings, and control the state-owned media - all indicative obstacles to free, fair, and credible elections.

Political repression and other rights violations were witnessed ahead of the April general elections, one of the key aspects of the CPA, and the first of such elections in the country in 24 years, and threatened prospects for a free, fair, and credible vote. A research mission to Sudan by Human Rights Watch revealed that both the Government of National Unity and the Government of South Sudan were violating rights and restricting freedoms critical to a fair poll, including freedoms of expression and of assembly⁵⁵

The restrictions on opposition parties and the continued insecurity in Darfur had many doubting whether the conditions for credible elections existed in the country. In fact, on 30th March, the South Sudan's ruling Sudan People's Liberation Movement pulled out of the race for the Sudanese presidency. It is reported that this was in respond to allegations of vote rigging on the part of its tenuous peace partners in the north.⁵⁶ This greatly hampered the credibility of the elections. Similarly, prior to the elections, the European Union withdrew its election observers from Darfur citing safety considerations like violence, making it difficult to access certain areas. Earlier, President Omar al-Bashir had threatened to expel international observers who pushed for a delay in the ballot, saying he would cut off their fingers and tongues.⁵⁷

The April elections were marred with rigging which was just a climax of the cumulative irregularities that occurred prior to the elections. The pre-election environment was so restrictive especially to the journalists, opposition party members and election monitors who were intimidated and harassed. The elections which were scheduled for the 11th -13th April were pushed to go two extra days after the first day of voting witnessed a number of irregularities notably; missing names on the register, delay of materials to the polling stations and wrong ballots sent to a polling station-all undermining the credibility of the elections. The ruling National Congress party is accused of having manipulated the census results and voter registration, drafted the election laws in its favour, come up with electoral districts, co-opted traditional leaders and bought tribal loyalties.⁵⁸ Finally, with all these irregularities, the predictable results were announced with President Omar al-Bashir being declared the winner. Unfortunately, the international and regional community especially those who were involved in the monitoring of the elections have turned a blind eye to the human rights violations taking place and have not come out to condemn such irregularities.

Displaced women and girls in towns, camps and villages continue to experience sexual violence at the hands of government forces, militia and rebels especially in the area of Darfur.

Three key human rights, the Khartoum Centre for Human Rights and Environmental Development (KCHRED), the Sudan Social Development Organisation (SUDO) and the AMEL Centre, that had been shut down following the ICC arrest warrant by the Humanitarian Assistance Committee (HAC) are, at the time of writing this report, still closed.

⁵⁵ HRW; Government repression threatens fair Elections

⁵⁶ VOA, South Sudan's ruling party pulls out of presidential race. Last visited 1st April.

<http://www1.voanews.com/english/news/africa/east/South-Sudan-Ruling-Party-Pulls-Out-of-Presidential-Race-89673362.html>

⁵⁷ As Bashir threatens to cut observers figures off, UN silent on Venezuela trip; <http://undpwatch.blogspot.com/2010/03/as-bashir-threatens-to-cut-observers.html> last visited 9th April

⁵⁸ Sudan elections; The theatre of the absurd and the tom of democratization: Sudan Democracy First Group Press Release 3

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.

The Press and Printed Press Material Act, was passed by the Sudanese Parliament on the 8th June 2009 despite significant opposition to the draft from national, regional and international media and civil society as well as from within the Parliament itself; in fact, several opposition parliamentarians walked out of Parliament in protest. The Act imposes heavy fines for infractions by the media, establishes a Press Council which lacks independence, with eight of its twenty-one members including the Chairperson being appointed by the Presidency itself, and is granted extensive regulatory powers, notably the power to suspend newspapers without judiciary approval for up to three days. The Press Council is also granted the power to assess the eligibility of journalists to exert their profession. Furthermore, the law allows the State to impose restrictions on the press for national security and public discipline considerations and requires that journalists do not publish material at odds with religious values and traditions.

South Sudan

Insecurity is a major problem in the South especially after the failure of the government of National Unity to implement agreements under the CPA on boarder demarcations and troop deployment. The most affected are the civilians especially in the areas around the North-South boarder. The Ugandan Lord Resistance Army operating in the DRC and inside Southern Sudan has also furthered the situation leading to the displacement of a number of people. The security situation is of particular concern given the approach of the 2011 referendum which will determine whether the South becomes a State of its own,. Furthermore, the fact that President Omar al-Bashir was re-elected, he is politically expected to oversee the referendum in the South of which it is reported that he got a slightly more than 10% in the just concluded elections.⁵⁹ This could have implications on the outcome of the coming referendum

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

The justice system in Southern Sudan is weak notably due to a lack of capacity largely resulting from the legacy of the region's 20 year conflict. Judges are unqualified and absenteeism is high.⁶⁰ Customary justice is presently the main form of justice available in Southern Sudan even though the judges of these courts are rarely aware of key national and international legal standards.⁶¹

Independent human rights activism in more or less inexistent in South Sudan and the establishment of a Southern Sudanese national human rights commission has done little to overcome this.

Prior to the country's elections, the media environment in South Sudan deteriorated. Security forces embarked on a clamp down of the local media for broadcasting or printing anything not approved by the government. Notably, on March 3 2010, armed security officials stormed

⁵⁹ Sudan's rigged elections; the post election implication on Sudan's stability Position paper 5

⁶⁰ Report of the Special Rapporteur on the Situation of Human Rights in Sudan, Sima Simar, A

⁶¹ Ibid

the offices of Bakhita FM, a community-based radio station run by the Catholic Church, and Liberty FM, a private radio station, and arrested the two directors at the stations. The incident occurred after Liberty FM aired an interview with the campaign manager of an independent political candidate in Juba.⁶²

Tanzania

Tanzania is one of the countries in the sub-region with the most positive human rights record. However a sense amongst key actors including many HRDs indicating that the human rights situation in the country is good undermines the prevailing human rights situation and HRDs security consciousness.

Female Genital Mutilation continues to be practiced by certain groups in the population notably by the Maasai. Those carrying out these practices are rarely held accountable. The legislative environment in Tanzania is generally favourable to the rights of women yet contains gaps, notably the existence of a discriminatory Law of Marriage Act, which restricts women's right to own land and property; furthermore the implementation of laws guaranteeing women's rights often poor.⁶³

Violations to the right to life take several forms in Tanzania. The death penalty continues to be retained in the Penal Code and used in Tanzania for treason and murder although no executions have been carried out since 1994.⁶⁴ The Human Rights Committee of the UN recommended in its concluding comments to Tanzania in August to abolish the death penalty and called on it to become party to the Second Optional Protocol to the International Covenant on Civil and Political Rights. A group of Tanzanian human rights organisations had submitted a petition calling for the abolishing of the death penalty to the High Court last year which is expected to be considered shortly.⁶⁵ Mob violence is an issue of concern as well. According to reports, there has been an increase in mob violence which is usually as a result of lack of trust and confidence in the police forces, distance of the police stations lack of knowledge on the legal proceedings on how to handle a criminal and a tendency of the criminals getting away unpunished. The media has on most occasions reported such incidents.⁶⁶ The violations of the right to life of albinos still persists in Tanzania however, according to a report released by Legal and Human Rights Centre (LHRC) the killing of albinos has reduced compared to the previous years from 2007. The killings are believed to be carried out by witchdoctors who believe that organs of albinos have supernatural powers. The media continues to report incidents of albino killings

Formation of trade unions is guaranteed by section 45 and 46 of the Employment and Labour Relations Act 2004 however, the law is restrictive as it requires at least 20 employees before registering a trade union and yet some organizations have less than 20 employees.⁶⁷

The diverse and out spoken media in Tanzania is facing a range of challenges both from the government but also as a result of the increasing usage of the media for political aims of key actors . On 10th January, the Minister of Information, Sports and Culture Captain George Mkuchika announced the de-registration of the Leo Tena newspaper which was accused of

⁶² March 21 2010.

⁶³ South Sudan radio stations say raided ahead of vote, last visited March 6th <http://arabnews.com/middleeast/article>

⁶⁴ Tanzanian NGO Coalition report, T_NGO_COALITION_HRC95_Tanzania(1), available at <http://www2.ohchr.org/english/bodies/hrc/hrca95.htm>

⁶⁵ Legal and Human Rights Centre, Tanzania Human Rights Report 2008, available on the LHRC website under publications.

⁶⁶ LHRC, Newsletter, September 2009, http://alpha.web2-netshine-hosting.co.uk/~lhrc/index.php?option=com_letterman&task=view&Itemid=65&id=21, last visited on 06/11/09

⁶⁷ Legal and Human Rights Centre. Tanzania Human Rights Report 2009 available on LHRC website.

⁶⁸ Employment and Labour Relations Act 2004; <http://www.parliament.go.tz/Polis/PAMS/Docs/6-2004.pdf>

ponographic material and suspension of the publication of the Kulikoni newspaper for 90 days accused of violating national security laws by covering a story on the army.⁶⁸ According to reports, the decision was politicized because of upcoming election nominations especially given that the Kulikoni paper is critical of the government and frequently investigates corruption issues.

Although attacks on human rights activists are rare on the leading human rights organisations, the Legal and Human Rights Centre (LHRC) reports that some of their paralegals and collaborators have been victimized by the Tanzanian authorities for their human rights work. The cases brought against these activists are generally never carried through and are clearly aimed at merely intimidating and harassing the defenders. Furthermore, according to reports from partners on the ground, on the 6th May 2010, a group of 10 HIV/AIDS activists were arrested in Dar es Salaam during protests at the World Economic Forum for Africa; the group had previously seen their permission to carry out a demonstration revoked by the Tanzanian authorities. Subsequently, they were released and deported back to their countries.

Uganda

Like all the other countries in the region preparing for elections, the human rights situation in Uganda has seen significant deteriorations notably with cases of excessive use of lethal force by the police, increasing restrictions on freedom of expression and association, notably as a result of the controversial draft Anti-Homosexuality Bill currently before parliament which seeks to give legal grounds to ongoing attacks on Uganda's lesbian, gay, bisexual, transgender and intersex (LGBTI) community.

The excessive use of lethal force by police has increased recent months. A fire that broke out at the Kasubi tombs- a historical site where the traditional kings of Buganda are buried- created tension between the government and the Buganda kingdom which is the largest ethnic group in Uganda. Additionally, a strike organized by the Makerere university students protesting irregularities in their guild elections led to the killing of two Kenyan students by the police as the police tried to disperse the students who had turned rowdy and were destroying property within the university and neighbouring areas.

Freedom of assembly and political freedoms are restricted. The police continues to impose bans on holding rallies in certain areas of the capital. While in Pader recently, opposition party President Kizza Besigye of the Forum for Democratic Change (FDC) was scheduled to be hosted on the local radio station, Luo FM radio however at the last minute, he was told the show could not be hosted because of an order from the local representative of President Yoweri Museveni in the district, the Residential District Commissioner. Another opposition politician, Olara Otunnu, who is the Uganda People's Congress presidential flag-bearer, suffered a similar incident while touring western Uganda. The station managers claimed to be acting on "orders from above".⁶⁹ Such incidents deprive the opposition from having an equal ground on which to reach the electorate as they campaign.

⁶⁸ One newspaper closed, another suspended. http://www.ifex.org/tanzania/2010/01/12/newspapers_closed_suspended/ last visited 21st April 2010

⁶⁹ The independent; Besigye Otunu face tough times with out FM radio; 24th February

Violence against women continues to be a significant problem in the whole of Uganda and Sexually Gender Based Violence (SGBV) has been particularly rife in Northern Uganda as a result of the conflict and avenues for redress are still scarce. A report released by Amnesty International indicated that rape is widespread in Uganda, and that women are not protected by the law. The report urged the Ugandan authorities to provide support for women seeking justice for sexual and domestic violence.⁷⁰ However on a positive note, on March 17th, the president assented to the Domestic violence bill act 2010. The bill aims at punishing perpetrators of domestic violence. The act also penalises a partner in a domestic relationship who injures or endangers the health of the other.⁷¹ Similarly on the same day, the president also signed the Prohibition of Female Genital Mutilation bill into law. The 2010 act criminalizes voluntary FGM, criminalizes whoever helps in procuring equipment used in carrying out FGM and it also out laws justification of FGM on the basis of cultural and religious beliefs.⁷² It is hoped that these two laws will counter on the increasing violence going on in the region.

The LGBTI community are severely discriminated against both by state and non-state actors in Uganda: regularly attacked in the press, ostracised by their communities and even their families. Individuals presumed to be LGBTI are harassed, subjected to verbal and legal attacks, including death threats, and ill treatment whilst in detention. The Anti-Homosexuality Bill (2009), which seeks to criminalise homosexuality is still before the parliamentary and legal affairs committee and if passed into law, it could have a serious impact on, the fight against HIV/AIDS and access to health of HIV/AIDS affected LGBTI individuals as well as hamper the work of human rights organisations and activists in Uganda. The Bill allows for the death penalty for consensual homosexual sex, punishes support or promotion of sexual minority rights with prison terms and calls for the nullification of international treaties at odds with the spirit and provisions of the Bill.

The NGO Act of 2006 along with the draft NGO Regulations put forward to parliament as they currently stand severely restrict and hamper the legitimate work of NGO's and HRDs. It's now over a year since the Civil Society Organisations in Uganda Petitioned the constitutional court for interpretation of the NGO registration Act however their efforts are being frustrated as the hearing keeps being postponed having last applied on 15th January 2010. The regulations define NGOs in a very limited manner, primarily as service delivery organizations and reflect a deep distrust towards these organisations. They are the extensive bureaucratic procedures required of NGOs for them to register, notably having to renew licences on a regular basis (after the first year the licence is renewed every three years) and to provide significant details of their activities, excessive requirements for NGOs with limited resources. Under the NGO Regulations the NGO board is granted significant power over NGOs, notably with discretion to deregister, disband NGOs and impose conditions on permits as to areas of operation thereby threatening their autonomy.⁷³ Finally, the provision in the NGO Regulation which stipulates that organizations are prevented from making direct contact with local people in rural areas without giving 7 days notice in writing to the district authorities clearly further undermines their work, particularly activities of human rights monitoring. Besides, the postponement of the hearing is also in violation of Article 126 of the constitution which provides that justice shall not be delayed.

The increasing restrictions on freedom of the media are most visibly seen with the approach of elections. The Press and Journalists Bill 2010, proposed by the Ministry of Information and National Guidance are currently before the cabinet. The bill proposes annual registration and

⁷⁰ Victims of rape and sexual violence denied justice in Uganda; last visited 13th April 2010 <http://www.amnesty.org/en/news-and-updates/report/victims-rape-and-sexual-violence-denied-justice-uganda>

⁷¹ Museveni signs domestic Bill; the new vision Friday, April 9th

⁷² M7 signs anti-FGM Bill 2010 into Law; Red Pepper, Tuesday, April 9th

⁷³ See NGO Petition on the NGO Act 20611(2)

licensing of newspapers by the government -controlled media council, restricts foreign ownership of the press, seeks to influence newspaper content by criminalizing the publication of information that is deemed prejudicial to national security, stability, unity or economic interests.⁷⁴ If passed such a bill will significantly undermine and restrict free and open reporting during the election period.

Attacks on individual journalists with the aim of intimidating them have also been witnessed. In January 2010, Geoffrey Wokulira Ssebaggala, a journalist, received death threats and information about his possible arrest which was believed to be in connection to his work. Mr. Ssebaggala was involved in efforts to monitor the eviction process, and documented alleged abuses committed as over 7,000 occupants from Kitumbi Mubende district were resisting eviction from disputed land.⁷⁵ Similarly, one of the photo journalists Moses Lemisa from Bukkede a local newspaper covering the Kasubi tomb fires was shot at while covering the event and was later admitted in the hospital as a result of assault by Presidential Guard Brigade (PGB). He received intimidating calls from the army asking which hospital he was in, and the where about of the photos he took. Benjamin Ssebaggala, another freelance photojournalist who works with Bukedde, said he was struck by stones as he tried to take photos of the protestors. The journalists are said to be targeted by protesters because of their affiliation with a media outlet perceived as pro-government⁷⁶

Recommendations

EHAHRDP-Net calls on the African Commission on Human and People's Rights to:

- Make the fight against impunity a key focus of the ACHPR and its special mechanisms;
- Enhance monitoring and reporting on countries in a pre-electoral period notably Rwanda, Burundi, Uganda and Ethiopia
- Establish a more permanent international human rights monitoring and reporting on the ground for countries like Somalia and Sudan and also come up with concrete protection mechanisms to be put in place for HRDs working on the ground.
- Promote the establishment of international criminal investigations into the human rights violations being committed in countries where an impartial national investigation is unlikely to take place- notably in Somalia and Sudan;
- Ensure that human rights is at the heart of all diplomatic and peace and reconciliation dialogues, notably in Somalia, Kenya and Sudan;
- Publicly condemn the continuing harassment and discrimination of LGBTI persons;
- Provide support - logistical and political- to entities and bodies that can help to establish accountability mechanisms as well as to international and regional efforts aimed at ensuring that those responsible for grave violations of human rights and humanitarian law are held to account notably in Somalia, Sudan, Ethiopia and Kenya;

⁷⁴ The Press and Journalist Bill (Amendment) 2010 http://www.iccsi.org/pubs/Uganda_Proposed_amendment_to_P&J_Act_-_Jan_29_2010.pdf

⁷⁵ Death threats against, and fear of arrest of human rights defender, Mr. Geoffrey Wokulira Ssebaggala; 26th January 2010, FrontLine

⁷⁶ CPJ; Ugandan photographers take heat after fire at royal tombs, March 18th, <http://cpj.org/blog/2010/03/ugandan-photographers-take-heat-after-fire-at-roya.php>

- Call on African Union member States to offer standing invitations to the ACHPR's special mechanisms, notably the Special Rapporteur on HRDs, and to provide them with necessary assistance in the course of eventual visits whilst ensuring the protection of all witnesses meet by the mandate holders in the course of their missions;
- Continue monitoring the situation facing human rights defenders(HRDs) most particularly in Kenya, Sudan, Somalia, Rwanda and Ethiopia;
- Call for an end to all practices, notably legal restrictions, which threaten the fundamental rights, in particular the freedom of expression, and legitimate work of HRDs;
- Call on member States to ensure the protection of Human Rights Defenders, notably by observing the African Charter on Human and People's Rights and other human rights treaties to which most of these countries are signatory;
- Support initiatives by HRDs to strengthen their position, notably by calling on national NGOs to present their assessment of their country situations prior to and during country missions.