



EAST AND HORN OF AFRICA HUMAN RIGHTS DEFENDERS NETWORK

Oral Statement

14th May 2009

On the Occasion of the 45TH Ordinary Session of the African Commission on Human and People's Rights, 13th-27th May 2009, Banjul, The Gambia

Item 7: Promotion Activities (Public Session) Special Rapporteur on Human Rights Defenders

Presented by:

Hassan Shire Sheikh
Chairperson
The East and Horn of Africa Human Rights Defenders Network

Madam Commissioner,

The East and Horn of Africa Human Rights Defenders Network (EHAHRD-Net) would like to start off by thanking Mme Commissioner Alapini-Gansou for her latest report and her continual support for human rights defenders throughout the continent witnessed most recently by her extensive participation in the Johannesburg +10 All African Human Rights Defenders Conference in Kampala in April.

The Mandate of the Special Rapporteur on Human Rights Defenders of the African Commission on Human and Peoples' Rights has a vital role to play given the ever increasing restrictions, primarily legislative in nature although evidently not exclusively, on human rights defenders (HRDs). We hope that all member states of the African Union will continue to offer the Special Rapporteur the support necessary for her to accomplish her vital mandate and task.

As a network of human rights defenders working throughout the East and Horn of Africa, EHAHRD-Net would like to focus its intervention on the situation facing human rights defenders in Ethiopia and Kenya; countries that are currently of particular concern but are also symbolic of the general trends facing HRDs in the region.

The situation facing human rights defenders in **Ethiopia** continues to deteriorate as the Ethiopian People's Revolutionary and Democracy Front (EPRDF) turns to more 'legal' constraints to clampdown on all forms of independent civil society. The new Charities and Societies Proclamation is a perfect example of the new measures being used. It threatens the very future of legitimate human rights work in the country and is by far the most restrictive of such laws in the region.

The Proclamation was passed by the EPRDF-dominated parliament in January 2009 despite significant efforts by the national, regional, international organisations as well as, although to a lesser extent, the diplomatic community, to bring about significant amendments to the bill. The law contains a series of provisions aimed at thwarting and criminalising human rights work. It determines the very type of activities in which organisations can be involved in; in fact organisations deemed to be foreign, i.e. receiving more than 10% of their funding from abroad¹, are not allowed to take part in human rights activities such as documentation, reporting and advocacy amongst others.² Given that even the largest human rights organisations in Ethiopia generate only very limited funds from internal sources, such provisions are directly aimed at thwarting human rights work, stifling one of the few avenues available for expressing critical opinions and creating service provision oriented organisations.

The Ethiopian authorities are putting in place other legislative measures to justify their clampdown on civil and political rights in the country, notably a Draft Anti-Terrorism Proclamation. These measures are of particular concern in light of the continued political repressions carried out at the hands of the ruling party and the forthcoming 2010 general elections.

Violations against HRDs in **Kenya** persist, notably against defenders involved in investigations into widespread cases of extrajudicial killings and enforced disappearances.

These violations have taken a range of forms; from harassment, intimidation, through limitations on the HRDs access to key information and witnesses to violations on defenders right to life.

Mr. Oscar Kamau King'ara and Mr. John Paul Oulu, two prominent activists of the Oscar Foundation Free Legal Clinic, were murdered in public on the 5th March 2009, by unknown gunmen although sources on the ground identified members of the police amongst the group.

Mr. King'ara's Oscar Foundation Free Legal Clinic had recently been one of the main organisations documenting cases of extra-judicial killings and working closely with witnesses and survivors of these violations. The Foundation had presented their most up-to-date report on extra-judicial killings to the UN Special Rapporteur on Extra-Judicial Executions, Professor Philip Alston, upon his visit to Kenya in February 2009. These findings had also been presented to the Kenyan Parliament on 19th February. Only hours before the killings, a government spokesman, Dr. Alfred Mutua, accused the Oscar Foundation of supporting the Mungiki sect.

This was the most recent example of the extent to which the police in Kenya are willing to go to silence critics of their rampant human rights violations and of the impunity granted to them. They also highlight very clearly the authorities' complete disregard for their responsibilities to ensure the protection of human rights defenders.

This deeply entrenched culture of impunity in Kenya and the lack of will of the authorities to ensure the establishment of impartial and independent accountability mechanisms undermine both the actual work and efforts of HRDs but also significantly threaten their security.

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

¹ Proclamation to Provide for the Registration and Regulation of Charities and Societies Proclamation No.621/ 2009, Article 2(3), Federal Negarit Gazeta, N.25, 13th February 2009, available at <http://www.crdaethiopia.org/Documents/>, retrieved on the 11th March 2008

² Proclamation to Provide for the Registration and Regulation of Charities and Societies Proclamation No.621/ 2009, Article 14(5), Federal Negarit Gazeta, N.25, 13th February 2009, available at <http://www.crdaethiopia.org/Documents/>, retrieved on the 11th March 2008

- 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 Kenya, Ethiopia as well as in Somalia and Sudan;
- Continue monitoring the situation facing HRDs in the above mentioned countries, notably by re-enforcing the capacity of the Special Rapporteur(SR) on Human Rights Defenders to pay specific attention to the situation of human rights in the region;
- Call on all African Union Member States to offer an open invitation to the SR on HRDs of the Commission;
- Ensure that Member States provide the SR with the necessary assistance in the course of country visits whilst ensuring the protection of all witnesses and those meeting with the SR in the course of formal and informal visits;
- Ensure strict compliance with the regional and international mechanisms put in place for the protection of the media; notably the African Charter on Human and Peoples' Rights, which guarantees the fundamental rights of HRDs;
- Call on relevant stakeholders, notably the Ethiopian, Kenyan, Sudanese and Somali authorities, as well as non-state actors in these countries, to bring an immediate end to arbitrary arrests, harassments and targeted killings of all human rights defenders;
- Call for an end to all practices, notably legal restrictions, which threaten the fundamental rights and legitimate work of HRDs;
- Call on the Ethiopian authorities to reconsider several of the restrictive provisions of the Charities and Societies Draft Proclamation;
- Call on the Kenyan government to establish an independent and impartial inquiry into the killings of Mr. Oscar Kamau King'ara and Mr. John Paul Oulu.

EHAHRDP-Net therefore calls on the Special Rapporteur on Human Rights Defenders to:

- Pay specific attention to the situation of HRDs in Ethiopia, Kenya as well as in Sudan and Somalia;
- Focus on the legislative restrictions being put in place throughout the continent to hamper the legitimate work of HRDs;
- Request an invitation to the Ethiopian and Kenyan governments in order to carry out a country visit before the November 2009 session of the Commission;
- Support initiatives by HRDs in the countries concerned to strengthen their position, notably by attending events organised by HRDs.

Thank you Mme Commissioner once again for your time and support.

Hassan Shire Sheikh



Chairperson, EHAHRDP/Net

The Gambia, May 2009