

Kampala: Call for UN Fact Finding Mission to Kenya to investigate the rights violations committed against Human Rights Defenders (HRDs) in the post-elections violence.

cc: UN Human Rights Council Members, UN Special Advisor on the Prevention of Genocide, Special Rapporteur of the African Commission on Human and Peoples' Rights (ACHPR) on Human Rights Defenders in Africa and Special Representative of the Secretary-General on Human Rights Defenders..

15th February 2008

Public Statement

To Members of the UN Fact Finding Mission to Kenya,

The East and Horn of Africa Human Rights Defenders Network (EHAHRD-Net) is deeply concerned by reports made by Network sources which reveal that several prominent Kenyan human rights defenders and journalists, in particular of Kikuyu origin but also defenders from Eldoret and members of a Muslim human rights organisation, have been intimidated, publicly harassed and subjected to a series of threats during the post-election violence that has spread in the country since December 2007.

The intimidation and threats are believed to have been carried out in large part by members of the activists' predominantly Kikuyu communities, Kibaki supporters, armed militia groups, notably the Mungiki militia which has sided with PNU in the post election violence, and less overtly by the Kenyan authorities and police themselves. The activists have been threatened following their public criticism of the allegedly fraudulent elections and their condemnation of the violence suffered by civilians at the hands of the armed forces and organized militias. Some have been depicted as traitors.

According to our sources the following prominent activists have been intimidated and threatened: Maina Kiai (m) – Chairman of Kenya National Commission on Human Rights, Muthoni Wanyeki (f) - Executive Director of Kenya Human Rights Commission, Haroun Ndubi(m)- a human rights lawyer, David Ndii(m) - the author of a report on electoral irregularities, Gladwell Otieno(f)- Director of the Centre for Open Government, Ndung'u Wainaina(m)- member of the National Convention Executive Council and James Maina(m)- member of the People's Parliament (Bunge La Mwananchi).

The following renowned journalists have also been threatened: Linus Kaikai (m), managing editor of TV station KTN, Kipkoech Tanui (m), managing editor of The Standard newspaper, Joseph Odindo (m), managing editor of the Nation Media Group, Robert Nagila (m), a journalist with NTV and Paul Ilado (m), a journalist with radio station Kiss FM and political news editor of the Nairobi Star newspaper.

The situation facing human rights defenders in Kenya is one of utmost concern but has of yet barely received attention from the international community and has attracted only token attention

from the Kenyan authorities, both of whom have a responsibility to ensure that HRDs are protected.

As a result the activists have been forced to ensure their own protection notably through self-censorship or by retreating from the public scene. One journalist temporarily left the country after he was threatened.

Some efforts have been made by the Kenya Human Rights Commission to offer protection to the activists notably helping James Maina to seek refuge abroad. Nevertheless, such efforts offer only short term solutions and do not guarantee security to the HRDs. In fact, according to our sources, James Maina has since received threats saying that his whereabouts are known and that the head of his mother would be sent to him there; the message also asked why he had spoken out about a meeting that had taken place between an important government official and members of an organization that is believed to be the Mungiki militia organisation.

All the measures taken to seek to ensure the protection of the activists, i.e. both self-protection measures and those offered by human rights bodies, prevent, in one way or another, these important actors from pursuing their legitimate human rights work. The enforced silencing of such prominent members of the human rights community and vital members of Kenyan society, either by self-censure or by exile, may have a very negative impact on the future of the country.

“HRDs are the most equipped members of a society to speak out against different forms of violations, to promote human rights and to raise awareness amongst the population of their rights and of the responsibilities of the state to protect and ensure these rights” says Hassan Shire Sheikh, Chairperson EHAHRD-Net. He insists “The human rights violations committed against different segments of the Kenyan population in the post-election period clearly reinforces the importance of HRDs; it is therefore vital that the Kenyan authorities ensure that HRDs are accorded the space and the protection they need to ensure that they can pursue their legitimate human rights activities in an impartial, independent and safe manner.”

In the hope that an agreement between Government and the opposition will be reached, it has to be acknowledged that human rights activists can play a vital part in the country’s reconciliation process and in ensuring that violence is not re-ignited.

EHAHRDP calls on the UN Fact Finding Mission:

To consult widely with non-governmental organisations and representatives of civil society, in particular those working in the field of human rights as well as journalists during their mission;

To thoroughly investigate the violations that HRDs and journalists have been subjected to thereby ensuring that issues and key actors are given attention and violations are given the significance that they deserve;

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;

EHAHRDP calls on the UN Human Rights Council Members:

To renew and further strengthen the mandate of the Special Representative on Human Rights Defenders as this current crisis has further highlighted the importance and relevance of their mandate and work;

To encourage the Special Representative on HRDs to carry out a visit to Kenya;

To include specific recommendations relating to HRDs - notably with regards to access to accountability mechanisms and involvement in the truth and reconciliation committee - in any statements and reports relating to the situation in Kenya.

EHAHRDP calls on the Kenyan authorities and the opposition:

To establish accountability mechanisms which are independent, impartial and competent so as to ensure that the voices and complaints of HRDs are heard;

To thoroughly investigate the violations committed during the post-elections period against HRDs;

To observe the provisions of the 1998 UN Declaration on HRDs, 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 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.

To ensure that the truth, justice and reconciliation proceedings, which have been agreed to by both the authorities and opposition, can help to guarantee that all victims of the violence, including prominent human rights activists and members of civil society, are given the support and justice that they deserve and expect;

To facilitate any eventual future visits by the UN Special Representative on Human Rights Defenders or by any other Special Procedures' mandate-holders, notably the Special Rapporteur of the ACHPR on Human Rights Defenders in Africa.

Brief background of EHAHRDN:

The East and Horn of Africa Human Rights Defenders Network (EHAHRDN) brings together over 57 human rights organizations from Djibouti, Eritrea, Ethiopia, Kenya, Somalia and Somaliland, Sudan including Southern Sudan, Tanzania including Zanzibar and Uganda. Rwanda and Burundi are soon to be official members of the Network.

The Network's mission is to maximize the protection of Human Rights Defenders working in the region and to enhance the awareness of human rights work through linkages with national, regional and international like-minded entities. The newly formed Kenya National Coalition of Human Rights Defenders is firmly embedded in the sub-regional Network.

Hassan Shire Sheikh - Chairperson EHAHRD-Net

In consultation with Samwel Mohochi – Executive Director of Independent Medico Legal Unit (IMLU) and Coordinator of the National Coalition of Human Rights Defenders in Kenya

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