



On the occasion of the 45th Ordinary Session of the African Commission on Human and People's Rights, Banjul, The Gambia

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Presented by:

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Mme Chairperson,

EHAHRD-Net welcomes the opportunity offered by the 45th Session of the African Commission on Human and People's Rights (ACHPR) to highlight some of the current human rights situations in the East and Horn of Africa region of utmost concern. To put it bluntly there have been very few significant improvements in the field of human rights in this region over the course of the last six months. The positive steps that have been taken, notably the abolition of the Death Penalty in Burundi, have gone hand in hand with significant steps back on the road to furthering the rights identified in the UDHR. This dire situation clearly goes hand in hand with a deterioration in the situation of Human Rights Defenders (HRDs) since the November 2008 Commission Session. These attacks on HRDs are of particular concern at a time when their work is more vital than ever before.

In spite of the current situation facing human rights defenders, a significant milestone in the protection of defenders in Africa was taken by the recent Johannesburg+ 10 All African Human Rights Defenders Conference in Kampala, organised by EHAHRD- Net under the auspices of Mme Alapini-Gansou, the ACHPR Special Rapporteur on HRDs, and in coordination with the different African HRD regional networks. The Conference brought together over 100 HRDs from throughout Africa and helped to identify shared challenges and common strategies for the promotion of the rights of HRDs. The members of the Steering

Committee of the conference have agreed to work towards the implementation of the main recommendations of the conference and efforts are already underway to put in place a more clear structure to ensure these efforts are sustainable. I would like to thank Mme Alapini-Gansou once again for her support.

I will now offer an overview (thematic and country) of the situation.

The rights of LGBTI persons in the East and Horn of African region continue to be violated on a daily basis. Developments in Uganda and in Burundi are of particular concern. The recent passing of a new penal code by the Burundian President, in spite of significant mobilisation both by national human rights organisations, the media and international actors, which criminalises same sex relationships between consenting adults must be highlighted. This provision is in clear violation of Burundi's national, regional and international standards notably regarding the right to privacy and freedom from non-discrimination. In Uganda the threat stems primarily from the continual harassment, intimidation(notably through arbitrary arrest and lengthy trials), assaults and everyday discrimination against LGBTI persons and most notably against LGBTI activists by both State, notably the police and the Minister of Ethics, as well as non-state actors- notably the media.

The situation in Sudan has significantly deteriorated since the attacks by the rebel Justice and Equality Movement (JEM) on the 10th May 2008 on greater Khartoum, and more recently as a result of the issuance by the International Criminal Court of an arrest warrant for President Omar al-Bashir. Staunch curtailments on freedom of expression and press persist, restrictions which are being formalised notably through a Draft Press Law which is at odds with the Comprehensive Peace Agreement. Behind the widely publicised expulsion of 13 international humanitarian organisations in March 2009 has been a more silent crackdown on national human rights organisations and activists. Several key HR organizations have been shut down, other organisations been made more or less inoperable and activists subjected to continual harassment; three key activists were in fact arrested and two of them tortured last

November during interrogations concerning their alleged involvement with the ICC investigations.

The human rights record of the Ethiopian People's Revolutionary Democratic Front (EPRDF) and security forces remain poor, notably in the Ogaden and Oromia regions of Ethiopia. Of particular concern are the efforts by the EPRDF to clampdown on all forms of democratic space and independent civil society. The Proclamation on Charities and Societies which was passed by the EPRDF-dominated parliament in January 2009 threatens the very future of legitimate human rights work in the country. This is by far the most restrictive of such laws in the region. Under this bill, organisations receiving more than 10% of their funding from abroad will not be allowed to carry out any human rights work. 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. More recently the authorities resorted to more traditional measures- notably carrying out a series of arbitrary arrests of presumed or alleged members of an opposition party and of potential dissenters within the army. Given the current situation, it is doubtful whether the 2010 elections will be free and fair. In spite of the authorities' disregard for their national, regional and international responsibilities, the international community continues to largely turn a blind eye to the record of this regime with whom many have diplomatic, economic and military ties and who is seen by certain States as a key ally in the war against terror.

The well entrenched culture of impunity in Kenya is proving difficult to surmount. The recent report by the Waki Commission of Inquiry does offer significant hope that past violations will be investigated yet until now the Kenyan government has not taken the necessary measures to implement its recommendations; notably by failing to pass a draft legislation which would have brought about the establishment of a constitutionally entrenched national Special Tribunal to hold those responsible for the 2007 election and post-election violence to account. The authorities have also failed to hold the security forces, both the police and the military, to account for mass violations, notably widespread extrajudicial killings. The situation facing HRDs in Kenya, notably their security, is of grave concern witnessed by the recent killings

of two human rights activists involved in investigations into extrajudicial killings by the police.

Since reporting at the November 2008 Forum the human rights situation in Somalia has shown no improvements in spite of the signing of a peace agreement between the TFG and the Alliance for the Re-Liberation of Somalia (ARS) in Djibouti which led to the election of Mr. Sheikh Sharif Sheikh Ahmed, former President of the ARS, as the country's president and the withdrawal of Ethiopian troops in January 2009. Warfare between the Transitional Federal Government (TFG) forces and the insurgency, notably Al-Shabab persists. Fighting has continued in civilian areas of Mogadishu whilst also intensifying in towns in South and Central Somalia. Impunity prevails. Attacks and targeted killings of human rights defenders, particularly journalists, continue to occur, most notably at the hands of Al-Shabab.

Finally the situation in Eritrea has shown no changes whatsoever since the last report: freedom of expression, thought, media, religion and movement are inexistent and all forms of activism has been entirely crushed forcing an ever increasing number of Eritreans from all walks of life to risk their lives and flee abroad. In spite of this, the international community, and most notably the European Union, has so far failed to abide by its own principles, notably the Cotonou Agreements, and ensure that aid to Eritrea is made conditional on the respect of basic human rights.

EHAHRDP-Net therefore 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;
- Provide support - logistical, material and political- to entities and bodies that can help to establish accountability mechanisms and 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 and Kenya;
- 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, Somalia and Sudan;

- Strongly condemn actions by state and non-state actors which thwart and curtail humanitarian assistance, notably in Sudan, Somalia and Ethiopia;
- Ensure that human rights is at the heart of all diplomatic and peace and reconciliation dialogues, notably in Somalia, Kenya and Sudan;
- Encourage African Union member States to offer standing invitations to the ACHPR's special mechanisms 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;
- Publicly condemn the continuing harassment and discrimination of LGBTI persons;
- Continue monitoring the situation facing human rights defenders (HRDs) most particularly in Kenya, Sudan, Somalia, Burundi 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.

Thank you,

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