

On the occasion of the 46th 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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Chairperson

The East and Horn of Africa Human Rights Defenders Network
(EHAHRDP/Net)

Hon. Chairperson,

EHAHRD-Net welcomes once again the opportunity offered by the African Commission on Human and People's rights 46th session to highlight some of the current human rights situations in the East and Horn of Africa region of utmost concern. The approach of elections in most of the countries of the region over the course of the next two years is already having a negative impact on the human rights situation on the ground.

Restrictions on civil and political rights, the field that this report focuses on, have increased in almost every country covered. These restrictions have taken a range of forms from an array of 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. As a result the situation facing human rights defenders in the region has in certain instances deteriorated, in others shown no improvements but in no cases witnessed any improvements worth noting. This is of utmost concern at a time when the work of defenders is more vital than ever before given forthcoming elections as well a series of what might prove to be

decisive turning points in several countries in the region. Although this report focuses on the East and Horn of Africa region, many of the issues raised, as recent events in the Gambia unfortunately show, appear to be relevant to other regions in Africa.

Sudan is at a turning point: the elections are currently planned for April 2010, the referendum in South Sudan for 2011 yet several recent developments suggest that the human rights situation in the country is deteriorating. The issuance by the International Criminal Court on the 4th March 2009 of an arrest warrant for President Omar al-Bashir has been used by the authorities to pursue its clampdown on civil society: the three key human rights NGOs shut down in March 2009 are still closed and activists in the country increasingly at risk. Staunch curtailments on freedom of expression and press persist and have been formalised by the passing of the controversial Press Law which is at odds with the Comprehensive Peace Agreement and the Interim Constitution. Some positive legislative measures have been taken, notably the passing of the National Human Rights Commission Act, yet have not had a concrete impact on the human rights situation on the ground. In fact, key provisions of the Comprehensive Peace Agreement (CPA) of 2005 have yet to be implemented. Violations of international humanitarian law and human rights continue to take place in the Darfur region despite claims by a range of actors that the situation is improving. And, insecurity remains high in South Sudan where the disarmament process has still not been fully implemented and recent outbreaks of inter-ethnic violence in the Jonglei state are particularly alarming.

The Ethiopian authorities have over the course of the last year passed several laws aimed at offering a legal grounding to their ongoing attacks on independent civil society and on the political opposition. The Charities and Societies Proclamation, passed in January 2009 by the Ethiopian People's Revolutionary Democratic Front (EPRDF) dominated parliament, 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, organizations receiving more than 10% of their funding from abroad will not be allowed to carry out any human rights work, democracy or conflict resolution activities. The recently passed Anti-Terrorism Proclamation with its broad and vague definition of terrorism and terrorist acts and its lack of judicial oversight is likely to be used as a tool by the Ethiopian authorities to clampdown on peaceful political protest and independent criticism. The authorities also resort to more traditional repressive measures, evidenced most recently by the much publicized arbitrary arrest and imprisonment of

the leader of the opposition Unity for Democracy and Justice (UDJ) party, Birtukan Mideksa, as well as the arrests, and reported ill-treatment, of actual or alleged members of the Ginbot 7 opposition group. Current developments are in clear contravention of the Ethiopian authorities' national, regional and international responsibilities. Yet, the international community fails, or refuses, to give the human rights record of the government sufficient attention.

The human rights situation in Somalia has shown no improvements in spite of the withdrawal of Ethiopian troops in January 2009 and the election of Mr. Sheikh Sharif as the country's president. In fact, a surge in violence since May 2009 has led to a further deterioration in the situation. International humanitarian law and human rights violations are committed by all the parties involved in a conflict that has brought about severe suffering for the civilian population. The perpetrators of these violations, whether governmental or members of insurgency groups, clan militias or warlords, have all been accorded impunity. Attacks and targeted killings of human rights defenders, particularly journalists, continue to occur, most notably at the hands of Al-Shabab, making Somalia the deadliest country in the world for journalists. International attention to the crisis and to the human rights situation has increased yet has so far not converted into concrete developments on the ground.

Although on paper the Kenya authorities appear willing to carry out some of the reforms stipulated in the National Accord, impunity continues to prevail in the aftermath of the post-election violence and the reforms called for in the field of justice and accountability have not been carried out; this can be seen in particular by the authorities' failure to establish a constitutionally entrenched national Special Tribunal. Similarly, although the authorities took a significant step by publicly acknowledging the problem of extrajudicial killings at the UN Human Rights Council in Geneva in June, this has not converted into concrete action aimed at holding the security forces to account for these violations. The situation facing HRDs in Kenya remains concerning witnessed by the recent killings of two human rights activists involved in investigations into extrajudicial killings by the police, killings that have not been sufficiently investigated.

The ongoing attacks on the private media in Rwanda, involving persistent harassment, public intimidation, prosecution and the passing of a new Media law that contains several restrictive provisions clearly aimed at the private media must be noted.

The human rights situation in Eritrea is dire; Eritrea is now one of the most repressive States in the world. The on-going tensions with Ethiopia shape both internal and external policies of the authorities. Freedoms of movement, religion, expression, and assembly are severely restricted in staunch contradiction of the country's domestic and international legal responsibilities. Tens of thousands of political prisoners are detained, many incommunicado, without charge or trial. 'Indefinite' conscription is enforced through brutal methods. 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 Eritrean government has still not implemented the recommendations of the two ACHPR rulings.

Finally, the current legislative affront against sexual minorities in the East and Horn of African region, which added to the everyday harassment, intimidation and discrimination that LGBTI persons face is concerning. Current draft bills in Uganda and in Rwanda which seek to criminalize homosexuality, in the case of the former, or the promotion and sensitization of same sex relations, in the case of the latter, significantly violate these countries' national, regional and international standards notably regarding the right to privacy and freedom from discrimination. This comes after the passing of a new penal code by the Burundian President in April which criminalizes same sex relationships between consenting adults. Thus, what appears to be fast becoming a trend requires the attention of all.

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 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 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;
Publicly condemn the continuing harassment and discrimination of LGBTI persons;

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.

Thank you,

Hassan Shire Sheikh.

Chairperson of the East and Horn of Africa Human Rights Defenders Network.