



Draft NGO law in Ethiopia: a threat to civil society action

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Presentation by Mr Hassan Shire Sheikh

Chairperson of the East and Horn of Africa Human Rights Defenders Network (EHAHRD-Net)

Overview of the some of the current challenges facing human rights defenders in Ethiopia

In order to give an idea of the context into which the Proclamation on Charities and Societies is being introduced

Background

- The Ethiopian People's Revolutionary Democratic Front (EPRDF) came to power in 1991 following the overthrow of the Derg military regime.
- In the years leading up to the 2005 general elections- the country had experienced a significant opening of the civil and political space.
- Prior to the 2005 elections the population as whole and the ruling ERPDP party itself had largely expected that it would remain in power.
- HR organizations were significantly involved in voter education and election monitoring leading up to the elections. The political situation in the country and the space accorded to civil society has however significantly deteriorated since the disputed 2005 general elections.
- The elections were followed by widespread protests throughout the country which the government responded to by carrying out a widespread

violent crackdown on the political opposition and on civil society as a whole

- Mass arrests took place
- These were followed by a series of trials involving opposition leaders and members, including human rights defenders, journalists, publishers and ordinary citizens.
- They were accused, without reliable evidence, of offences of treason and attempts to overthrow the constitutional order.
- The proceedings that followed did not meet international standards of free and fair trials.

Recent Developments (general)

- More recently the April 2008 local and by-elections, revealed that political freedom continues to be hampered.
- In the months leading up to these elections a significant number of violations took place notably :
 - an increase in the number of cases of arbitrary arrests;
 - leaders or members of opposition parties, notably of the Oromo Federalist Democratic Movement (OFDM), were subjected to interrogations and threats by the police as well as by local administrators;
 - prolonged illegal detentions ;
 - several alleged ‘sympathisers’ of the Oromo Liberation Front (OLF), which is an insurgent group, arrested prior to these elections were brought to Addis Ababa and were still being illegally detained at the time of our mission to Ethiopia in August 2008.
- Political freedoms and notably freedom of opinion are largely restricted.
- In fact since 2005 the government has in practice largely denied all existence of a middle ground in politics and perceives and portrays actors

whether within the political opposition or outspoken members of civil society as the enemy of the State.

Nevertheless, in spite of the clear persistent and large-scale violation of civil and political rights the government continues to receive support by foreign governments.

In the immediate aftermath of the elections- many members of the EU cut direct aid to Ethiopia in protest.

But this was only temporary and many are now channelling more in than ever before.

In fact there is also a reluctance amongst many other key actors notably the inter-governmental bodies and entities based in Addis Ababa to speak out on these persistent violations.

Recent developments that limit the scope of the work of civil society in general and human rights defenders in particular

Restrictive legal context

Ethiopia has a very progressive Constitution and yet is not put into practice - in fact most of the more recent legislative developments in the country are at odds with the constitution.

Some examples of these trends are:

- A new penal code – passed prior to the 2005 elections without any real consultation with key stakeholders and actors (notably members of civil society organizations/ journalists/ lawyers):
 - was in fact used against civil society in the immediate aftermath of the elections

- several of the provisions notably relating to freedom of expression and of information are at odds with the constitution – notably by including criminal charges against the media The new Media and Freedom of Information Law- represents another significant threat to freedom of expression and freedom of media by
 - introducing significant and severe criminal charges against journalists and the media – notably for ‘defamation’
 - by enhancing the authorities’ control over licensing
 - by restricting access to information,
 - This was also passed more or less rather speedily without taking into account amendments called for by media professionals and lawyers
- Along the same lines is the Draft Proclamation on Charities and Societies – which our colleague Mr Mulugeta will be discussing

These new legislative developments clearly represent a significant affront to civil society and more particularly to human rights defenders.

The authorities appear determined to further increase their oversight and control over the legitimate work of human rights defenders, notably through these more subtle ‘legal’ constraints.

What were previously more restrictions carried out on a case by case basis has become a much more systematic violations of rights of defenders.

Other limits on the scope of their work

Threats to the personal security of defenders

- The Incarceration of activists occurred most notably in the aftermath of the elections
- Several members and investigators of the Ethiopian Human Rights Council were arrested for example whilst investigating violations during that period
- Human Rights defenders whom we meet with during our mission to Ethiopia all claimed that they are constantly being watched and often trailed
- Activists outside of Addis are generally at greater risk- given the lack of attention and exposure they receive
- Harassment and intimidation of defenders by all level of authorities occur:
 - Several activists and organisations have been personally summoned and cautioned by the authorities, including the Minister of Justice, as a result of their work
 - Human rights organisations have had their bank accounts frozen / their licenses denied
 - Prosecution of defenders:
 - Over the course of the last month alone - two independent journalists have been arrested and temporarily incarcerated
 - One on contempt charges after he interviewed the lawyer of a famous pop star currently on trial and the other on defamation charges for covering a labour dispute between employees and a brewery owned by the ruling party.

This harassment and intimidation does not only affect activists working on civil and political as is often believed but also on activities around economic and social rights when they are seen as being at odds with the government ideology.

Lack of an independent media

- Prior to the 2005 elections there was a significant independent media scene but following the elections this has been largely restricted- although some improvements had occurred in the last few months:
- Most of the key independent media houses were shut down and remain closed
- Several journalists were amongst those arbitrarily arrested and subjected to unfair trials
- Furthermore, the state owned media tend to depict civil society organisations in a negative light – as partial and corrupt.

Inefficacy of protection mechanisms available to defenders

Lack of protection at a national level

- Although there are clear provisions within the Constitution granting protection to defenders these provisions are not implemented
- The government largely fails to comply with its responsibility to protect HRDs
- The national human rights institution- the Ethiopian Human Rights Commission- fails to offer significant protection as it is:
 - still in its initial phases
 - remains weak
 - appears partial given that commissioners are elected by the EPRDF dominated parliament

- only focuses on certain issues (women's rights/ prison reforms)
- not currently mobilized around the issue of the Drat CSO legislation

- There is also a lack of coordination and collaboration amongst human rights organizations due to
 - A lack of experience in networking
 - But more importantly due to certain mistrust amongst many organizations- as a result of the post 2005 context
 - And the governments practice of putting into place GONGOs
 - As a result broad/ large coordinated advocacy campaigns on human rights defenders issues do not take place

- No independent judiciary allowing for litigation or fair trial for defenders

Lack of protection at a regional & international level

- Lack of interaction with regional/ international mechanisms

- Regional mechanisms, notably the Regional Office of the OHCHR, themselves are failing to reach out to defenders

- Donors have own regional/ geo political agenda
- Lack of coordination amongst EU embassies on the EU Guidelines on HRDs

Poor capacity of defenders

- Lack of a mobilized and aware constituency – there is no real culture of promoting human rights or of speaking out in Ethiopia
- Insufficient and insecure communication mechanisms (currently only one provider – which is state-owned)
- Very high staff turnover within human rights organisations -as a result of the stress, risks, challenges and tensions currently facing defenders

Impact of these limitations on the scope of their work

Self-censorship

Self- censorship is widespread amongst defenders- especially since the case of Daniel Bekele and Netsanet Demissie.

- Defenders often act and speak with great caution – concerned about the future of their organization
- Often reluctant to take up a confrontational stance
- don't know what the reaction of government could be

- As a result they tend to focus on certain less contentious issues: often reluctant to take on Civil and Political rights issues or to push for what could be seen as more political aims
- Certain issues i.e. elections, military activities in the Somali region or Somalia are deemed taboo
- Furthermore defenders are often reluctant to come out openly and concertedly to support other defenders e.g. to promote the rights of defenders not member of their own organizations.
- One example: There was no significant large scale mobilization by defenders at a national level around the Daniel Bekele and Netsanet Demassie cases

They also limit the activities they undertake

- Very few organizations - with the exception of EHRCO – are currently carrying out advocacy on human rights especially civic and political rights.
- Activists are reluctant to use certain channels for their work out of fear of reprisals notably:
 - Litigation at national and regional level, i.e. bringing cases to regional mechanisms or
 - Mass mobilization – not used given that the official ban on public rallies imposed in 2005 has been informally maintained.

Recommendations

This restrictive atmosphere has had and continues to have very negative consequences on the human rights situation in the country and more specifically on the rights and work of defenders- many of whom have been or are being forced into exile.

International action and attention is necessary.

We therefore encourage members of the UN Human Rights Council and the international community:

- To call the Ethiopian authorities to end all practices which threaten freedom of expression and prevent human rights defenders and particularly journalists from pursuing their legitimate work ;
- To support initiatives by HRDs in Ethiopia aimed at strengthening their position, notably through joint initiatives and networks;
- To call on the Ethiopian authorities to reconsider several of the restrictive provisions of the Charities and Societies Draft Proclamation ensuring an enabling environment for NGOs and that the policy formulation process should be one that allows the active participation of the civil society community and other stakeholders.

Thank you,

Hassan Shire Sheikh

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