

International Federation for Human Rights (FIDH)

HUMAN RIGHTS SITUATION IN THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA

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D) HUMAN RIGHTS VIOLATIONS IN THE RUN-UP TO ELECTIONS

The Ethiopian 2005 federal and regional elections have led to the contested victory of Meles Zenawi's Ethiopian People's Revolutionary Democratic Front (EPRDF)¹. The polls have been followed by a violent crackdown on opposition members, human rights defenders and journalists. Killings, arbitrary and incommunicado detentions, beatings, torture, harassment and disappearances have been perpetrated by security forces in Addis Ababa as well as in other towns. Overall, at least 187 demonstrators were killed and more than 10,000 people were detained by security forces². In December 2005, the Ethiopian Government established an independent commission of inquiry to shed light on the killings that followed the elections. In its 2006 report, the Commission found that the force used by security forces was proportionate.

Before the April 2008 local elections, frequent human rights violations in the country were also reported, notably arrests and detentions without charge or trial of critics of the Government by the Ethiopian police, as well as the extrajudicial killing of a political activist. In April 2008, the EPRDF won a landslide victory in the local elections, amid cases of violence and intimidation reported by opposition parties and NGOs. As a consequence, two parties, the United Ethiopian Democratic Forces (UEDF) and the Oromo Federalist Democratic Movement (OFDM), decided to pull out of the electoral process a few days before the poll. Local authorities are said to have prevented the registration of opposition candidates in many constituencies where the opposition had achieved good results in 2005. This opposition withdrawal led to the overwhelming victory of the ruling EPRDF (559 seats out of the 623 districts in the country and all but one of the 39 Parliament seats)³.

This domination of the EPRDF throughout the country, reinforced by the recurring divisions among opposition, has conducted the latter to seek a common front before the 2010 federal and regional elections. However, once again, in the perspective of these coming elections, the Ethiopian Government is seeking to muzzle all forms of opposition, especially from political parties and civil society organisations. In July 2009, the Ethiopian parliament adopted a drastic anti-terrorism bill with a broad definition of the terrorist act. The bill, which gives broad discretionary powers to security forces, is seen by opposition members and human rights organisations as a mean to harass and intimidate all dissent voices, including journalists, in the run-up to the next elections. The electoral law amended in 2007 restricts the activities of human rights organisations in the electoral process field. Those willing to undertake elections monitoring or voter education should now obtain a specific license from the Ethiopian National Board. In November 2009, opposition parties alleged that nearly 450 of their members have been jailed to stop them running as candidates.

The human rights violations perpetrated in Ethiopia in the run-up to elections are contrary to the provisions of the African Charter on Human and Peoples' Rights. In particular, they contravene Articles 4, 6, 7 and 9 of the Charter which provide respectively for respect for life and integrity, right to liberty and security, right to justice, right to receive information, to express and disseminate opinions. These violations also contradict the provisions of the African Union Charter on Democracy, Elections and Governance which provides for

¹ See "Human rights situation continues to deteriorate and repression persists against supporters of opposition groups, journalists and human rights defenders », International Federation for Human Rights (FIDH), Press release, 15 December 2005, http://www.fidh.org/article.php3?id_article=2921 and Ethiopian Human Rights Council (EHRCO) reports, <http://www.ehrco.org/reports.htm>

² See *Ethiopia, Freedom of expression in Jeopardy*, (Observatory for the Protection of Human Rights Defenders), <http://www.fidh.org/Ethiopia-Freedom-of-association-in>

³ See 2009 Annual report of the Observatory for the Protection of Human Rights Defenders, a joint programme of the FIDH and the World Organisation Against Torture (OMCT) <http://www.fidh.org/Steadfast-in-protest-human-rights-defenders-annual-report-2009>

the holding of free and fair elections. They are contrary to the ACHPR 2008 resolution on elections in Africa calling notably for the right to a multiparty democracy.

II) THE SITUATION OF HUMAN RIGHTS DEFENDERS

A / The Law on Charities and Societies: A Mean to Undermine Human Rights Defenders' Activities⁴

On January 6, 2009, the Ethiopian Parliament adopted the Law on Charities and Societies although it had been condemned by international observers. Even though the civil society was consulted in the elaboration of the text, the overwhelming majority of the elements submitted by NGOs throughout the consultations were ignored by the authorities. This new law, which is seen as a way for the Ethiopian government to prevent public protest ahead of the coming 2010 general elections, creates a very restrictive environment for human rights defenders and seriously impairs the independence of civil society. The text extends the definition of a "foreign NGO" to all NGOs in Ethiopia receiving more than 10% of foreign funding, and bans such NGOs from carrying out a high number of human rights related activities. In a country where 95% of Ethiopian NGOs currently receive more than 10% of foreign funding, this new legislation could deeply undermine the civil society's capacities of action⁵.

Moreover, the CSO law imposes disproportionate and criminal penalties for minor administrative breaches of the law, stating that executive members of all charities and societies who allocate more than 30% of their budget to administrative expenses shall be subjected to fines or imprisonment⁶.

With the new legislation, registration and dissolution of NGOs become subject to arbitrary decisions by the Charities and Societies Agency. So far registration was granted following the issue of an authorization by the Ministry of Justice. In case of refusal, the applicant organisation had the possibility to appeal this decision before a court. With the new legislation, any application for the registration of a "foreign NGO" shall be submitted to the Charities and Societies Agency, and any refusal of registration will only be appealed before the board of this agency. A second refusal by this body shall be a final decision. The agency will also have exclusive competence with regard to dissolution of so-called "foreign NGOs". The possibilities of appeal will be the same as these applied to registration. Hence, the Law on Charities and Societies allows Ethiopian government to interfere in the management of civil society organizations, which is absolutely contrary to international human rights standards, in particular the United Nations Declaration on Human Rights Defenders.

Since the adoption of this draconian law, several non governmental organisations have been obliged to abandon their human rights activities so as to continue receiving funds. Others have chosen to re-register as "human rights" organisations, running the risk to face dissolution.

B / Obstacles to Human Rights Defenders' access to information in zones of rebellion and arbitrary arrests⁷

In 2008, the Government remained suspicious of anyone who tried to collect information on human rights violations in zones of rebellion, in particular in the Oromia region. On October 30, 2008, Messrs. Obsa Wake, Fekadu Negri and Belay Korme, three members of the Ethiopian Human Rights Council (EHRCO), were arrested in Nektme, before being released on November 2, without charges. They had been arrested on suspicion of having links with the Oromo Liberation Front (OLF) and possession of firearms. Moreover, at the end of 2008, Mr. Abdi Abate, a member of EHRCO who had been arrested in July 2007 in Nektme, remained detained and charged with the crime of supporting the OLF. His court case before the Federal High Court was adjourned until February, 9, 2009.

⁴ See the 2009 Annual Report of the Observatory for the Protection of Human Rights Defenders, <http://www.fidh.org/Steadfast-in-protest-human-rights-defenders-annual-report-2009>

⁵ See *Ethiopia, Freedom of expression in Jeopardy*, (Observatory for the Protection of Human Rights Defenders), <http://www.fidh.org/Ethiopia-Freedom-of-association-in>

⁶ *Ibid.*

⁷ See the 2009 Annual Report of the Observatory for the Protection of Human Rights Defenders, <http://www.fidh.org/Steadfast-in-protest-human-rights-defenders-annual-report-2009>

In May 2009 EHRCO Dessie (Amhara region) branch office investigator was arrested while conducting investigations into alleged human rights violation. He was charged with fabricated criminal charges of theft by an individual who works for the wereda Security office and sentenced to eight months in prison by the wereda court. He remained in jail for a month until the High Court reversed the judgement and ordered his release based on an appeal lodged by EHRCO. Another staff member of EHRCO Arbaminch branch office (South region) was arrested in December 2008 while conducting investigation in Derashe wereda in South Nations, Nationalities and Peoples Region (SNNPR). He was charged by wereda officials of entering the wereda without notifying the authorities in advance. He was released after spending a night in a police station.

C / Obstacles to Human Rights Stakeholders Operating in Conflict Zones⁸

In 2008, the Ethiopian Government continued to put obstacles to humanitarian work in conflict zones. For example, in July, the Swiss branch of Doctors Without Borders (*Médecins sans frontières* – MSF) withdrew from Ethiopia's Somali region (Ogaden), condemning the authorities' attitude towards humanitarian organisations that led to recurrent arrest of MSF Switzerland staff without charge or explanation, and arguing that repeated administrative hurdles and intimidation had prevented the agency from bringing urgently needed medical aid to the population. Both the International Committee of the Red Cross (ICRC) and MSF Belgium had been expelled by the Government in August and September 2007.

The Ethiopian Law on Charities and Societies contravenes the provisions of the African Charter on Human and Peoples' Rights. In particular, it is contrary to Article 10 of the Charter which provides for the right to free association. It is also contrary to the provisions of the ACHPR Resolution on the right to freedom of association adopted in 1992 which calls on national authorities not to enact provisions which would limit freedom of association. Moreover, this law contradicts the 1998 United Nations Declaration on Human Rights Defenders. The law is in particular contrary to Article 1 and 5 of the UN Declaration which provides respectively for the right to promote and to strive for the protection of human rights and to the right to form, join and participate in NGOs, associations or groups.

The arbitrary arrests and detentions of human rights defenders contravene the provisions of the African Charter on Human and Peoples' Rights, in particular its Article 6 and 7. The human rights violations perpetrated against defenders are moreover contrary to the ACHPR 2004 Resolution on the protection of human rights defenders in Africa, calling Members States to promote and give full effect to the UN Declaration on Human Rights Defenders and to take all necessary measures to ensure the protection of human rights defenders.

III) THE SITUATION OF WOMEN

In its 2004 Concluding observations, the United Nations CEDAW (Convention Against all Discrimination Against Women) Committee was deeply concerned about the continuing persistence of entrenched traditional discriminatory practices against women in Ethiopia, including Female Genital Mutilation (FGM), inheritance, strong stereotypical attitudes in respect of the roles and responsibilities of women and men in the family and society. The Committee was also concerned about the prevalence of domestic violence and the incidence of rape in the country.

Despite adoption of the National Policy on Women (1993) and the National Action Plan on Gender Equality (2006-2010) and despite some commendable provisions of the national Constitution, the CEDAW Committee conclusions and concerns remain relevant. Discrimination against women in Ethiopia is still widespread, notably in rural areas. Harmful traditional practices, in particular FGM, domestic violence, rape, early marriage, abduction of girls for marriage are perpetrated in a large scale. Gender discrimination is prevalent in all sectors. Due to the huge gap in law and practices, in most cases, discrimination against women is not adequately addressed by national authorities and the offenders face no prosecution or conviction for their acts, preventing women from legal redress.

⁸ See the 2009 Annual Report of the Observatory for the Protection of Human Rights Defenders, <http://www.fidh.org/Steadfast-in-protest-human-rights-defenders-annual-report-2009>

The Ethiopian authorities' lack of commitment to end these violations is proven by the non-ratification of the other major instruments for the protection of women's rights. The Ethiopian authorities have not yet ratified the Protocol to the African Charter on the Rights of Women in Africa nor the Optional Protocol to the CEDAW.

These violations contravene to the provisions of the African Charter on Human and Peoples' Rights, in particular its Article 18 which calls on states to ensure the elimination of every discrimination against women and to ensure the protection of their rights stipulated in international declaration and conventions. Besides, violence and other forms of discrimination perpetrated against women in Ethiopia contradict the provisions of the Protocol to the African Charter on the Rights of Women in Africa.

RECOMMENDATIONS

FIDH calls upon the African Commission on Human and Peoples' Rights, gathered at its 46th Ordinary Session to urge the Ethiopian authorities:

- To put an end to all kind of harassment and intimidation against political opponents and human rights defenders in the run-up to the electoral processes, in particular in the perspective of the 2010 general elections ;
- To conform with the provisions of the African Union Charter on Democracy, Elections and Governance ratified in January 2009, notably those guaranteeing the holding of free and fair elections ;
- To guarantee, in all circumstances, the freedoms of opinion and expression as well as the right to hold peaceful demonstrations, in compliance with the African Charter on Human and Peoples' Rights, the ACHPR Resolution on Freedom of Expression and the International Covenant on Civil and Political Rights, notably in the perspective of the 2010 general elections ;
- To ensure that all unlawfully arrested political activists, human rights defenders or journalists be released immediately ;
- To ensure that those responsible for killings, beatings, torture and other grave human rights violations be brought to justice ;
- To repeal or amend the Law on Charities and Societies so as to guarantee the right to freedom of association, in accordance with Article 10 of the ACHPR, the UN Declaration on Human Rights Defenders, the ACHPR resolution on the Right to Freedom of Association and other relevant regional and international instruments ;
- To put an immediate end to arbitrary arrest and detentions of Human Rights Defenders, to ensure their physical and mental integrity in all circumstances and to put an immediate end to all kinds of hindrances to the fulfilment of their work in favour of human rights ;
- To take all necessary measures, including the adoption and implementation of adequate legislation, to put an end to all kinds of discrimination against women, in accordance with provisions of the UN Convention Against all forms of Discrimination Against Women and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;
- To take all necessary measures to ensure any kind of violence against women be prosecuted and punish adequately and that the victims have immediate means of redress and protection, in accordance with the CEDAW Committee 2004 recommendation. More generally, to ensure that all the CEDAW Committee 2004 recommendations be fully implemented;
- To ratify without further delay the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, as well as the Optional Protocol to the CEDAW ;

- To invite the ACHPR Special Rapporteurs on Human Rights Defenders, on Freedom of Expression, on Women's Rights to undertake a promotion mission in the country ;
- To ratify without further delay the AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa, the Protocol on the Statute of the African Court of Justice and Human Rights, the United Nations International Convention for the Protection of All Persons from Enforced Disappearances, as well as the second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) which provides for the abolition of the death penalty.