

**Submission to 56<sup>th</sup> session of the African Commission on Human and Peoples' Rights on the situation of human rights defenders**

# ETHIOPIA

April 2015

In its 46<sup>th</sup> ordinary session, the African Commission on Human and Peoples' Rights (ACHPR) recommended that the Government of the Federal Democratic Republic of Ethiopia review the Charities and Societies Proclamation and create an enabling environment for journalists. In its 51<sup>st</sup> ordinary Session, the ACHPR adopted Resolution 218 on the Human Rights Situation in Ethiopia. Resolution 218 condemned the arrest and prosecution of journalists and political opposition members for exercising their legitimate rights of freedom of expression and association, as well as the excessive restrictions placed on the work of human rights defenders (HRDs). The Commission called on the Ethiopian Government to amend the Charities and Civil Societies Proclamation Law, the 2008 Access to Information Proclamation and the 2009 Anti-Terrorism Proclamation to ensure they are compliant with the United Nations Declaration on Human Rights Defenders and other international human rights instruments.

The purpose of this paper is to highlight the situation for HRDs in Ethiopia since its last review by the ACHPR; the steps taken by Ethiopia to implement the ACHPR's past recommendations; and key recommendations for the ACHPR to consider making to Ethiopia during its current review.

## 1. Risks facing human rights defenders

- Ethiopia is characterised by the use of state legislation and policies to severely restrict freedom of expression and assembly, as well as independent human rights monitoring and promotion.<sup>1</sup>
- HRDs documented that Ethiopia's repressive laws provoke fear and self-censorship among HRDs and that HRDs frequently face threats, acts of intimidation, judicial harassment and arbitrary arrest.<sup>2</sup> Examples include excessive use of force by security forces and military Special Forces against peaceful protestors, including live ammunition and hand grenades which have resulted in the death of peaceful protestors; mass arrests and arbitrary detentions of peaceful protestors and bystanders; and cases of torture in detention.<sup>3</sup>
- The Observatory for the Protection of Human Rights Defenders documented surveillance and official restrictions on the movement of HRDs and, in October 2011, reported that 'while several human rights defenders had no other options than to restrict their activities or to flee the country in 2009 and early 2010, the few who stayed continued to face constant threats'.<sup>4</sup>

## 2. Official restrictions on the space for human rights defenders

- Two repressive laws were adopted in 2009; namely, the Charities and Societies Proclamation (CSP Law) and the Anti-Terrorism Proclamation (Anti-Terror Law). Both of these laws severely undermine civil society and independent media.
- The CSP Law prohibits organisations that receive more than 10% of their funding from foreign sources from carrying out activities relating to human rights, the promotion of equality, conflict resolution and justice reform. Tight Government monitoring and modification of charity activities is used to restrict the reach of organisations. Further they may only spend 30% of their budget on 'administrative costs', broadly defined by the Government to encompass core activities. The ACHPR has called explicitly upon Ethiopia to review this law.<sup>5</sup>
- According to the East and Horn of Africa Human Rights Defenders Project, since the adoption of the CSP Law three years ago, independent human rights activity has almost completely ceased in Ethiopia.<sup>6</sup>
- The International Centre for Not-for-Profit Law has documented cases of the State Charities and Societies Agency (Charities Agency) creating obstacles for NGOs, denying some registration, and reforming the mandates of others.<sup>7</sup> In October 2012 the Supreme Court upheld a decision of the

Charities Agency to freeze US\$1 million in assets of two respected human rights NGOs, the Human Rights Council and the Ethiopian Women Lawyers Association. In August 2012, the Charities Agency used the CSP Law to prohibit fundraising activities by the Human Rights Council, Ethiopia's oldest human rights organisation. Further, in February 2013, it arbitrarily banned three other NGOs.<sup>8</sup>

- Amnesty International reported that, in 2012, the Charities Agency began enforcing a requirement in the CSP Law that NGO activities are overseen by a relevant government body. This has severely compromised NGO independence.<sup>9</sup>
- In February 2012, five United Nations Special Rapporteurs issued a joint communication expressing their concern about the persistent abuse of [the Anti-Terror Law](#) to curb freedom of expression in Ethiopia.<sup>10</sup> The United Nations Special Rapporteur on the situation of HRDs has since confirmed this position in subsequent communications and expressed concern for the 'overbroad definition of terrorism' used.<sup>11</sup> The law criminalises any reporting deemed to 'encourage' or 'provide moral support' to causes labelled by the government as 'terrorist' causes.<sup>12</sup> Human Rights Watch highlighted the fact that few, if any, independent organisations are able to investigate sensitive human rights violations or speak critically on Ethiopia's human rights record from within the country. HRW further documented that 'thirty-four people, including 11 journalists and at least 4 opposition supporters, are known to have been sentenced under the [anti-terrorism] law since late 2011 in what appear to be politically motivated trials'.<sup>13</sup>

### **3. Human rights defenders facing particular risks**

- Defenders of lesbian, gay, bisexual, transgender and intersex (LGBTI) rights in Ethiopia operate in a particularly hostile environment, with organised anti-homosexuality organisations calling upon the government to close spaces for the LGBTI rights movement and tighten 'anti-gay' legislation, punishing 'homosexual acts' with the death penalty.<sup>14</sup> LGBTI organisations have been consistently accused of being Western proxies seeking to subvert Ethiopian cultural values. Many clerical leaders have made statements against sexual diversity in a country where 'homosexual acts' are punishable with one to fifteen years imprisonment pursuant to Articles 629 and 630 of Ethiopia's Criminal Code.<sup>15</sup>
- Muslim activists are particularly vulnerable to harassment, assault and abuse of anti-terrorism legislation.<sup>16</sup>

### **4. The response of the State regarding the protection of human rights defenders**

- Ethiopia has indicated, in its report currently being considered by the ACHPR, that it does not have any intention to amend or repeal the CSP Law. On the contrary, it considers the law to be in line with its constitutional obligations and with Article 10 of the African Charter of Human and Peoples' Rights.
- During Ethiopia's UPR at the 27th session of the Human Rights Council, Ethiopia declared that it would not amend the CSP Law because it was essential to ensuring accountability of NGOs, nor would it amend the Anti-Terror Law as its only purpose was to put an end to the terrorist threats in the country. Further, in Ethiopia's last Universal Periodic Review (UPR), it did not accept the Netherlands and Canada's recommendation to amend the CSP Law to make it compliant with international human rights standards. Nor did it accept Norway's recommendation to ensure full observance of the Declaration on HRDs, or the Netherlands' recommendation to amend the Anti-Terrorism Proclamation with a view to bringing it into conformity with international human rights standards and narrowing the definition of terrorism.<sup>17</sup>
- There is no evidence that the Government of Ethiopia has taken any further steps to guarantee the freedom and security of HRDs, nor to remove restrictions to freedom of expression. Journalists are continually accused of terrorist activities, prohibiting them from freely carrying out their activities.<sup>18</sup>
- In 2014 the United Nations Special Rapporteur on the situation of HRDs called for the release of all those detained arbitrarily under the pretext of counter-terrorism measures due to their peaceful and legitimate work as human rights defenders, political opponents, journalists and religious leaders. Particular reference was made to Ms. Reeyot Alemu who is detained on charges of "promotion or communication of a terrorist act" due to her work as a journalist.<sup>19</sup>

## 5. Recommendations to the Government of Ethiopia

- Repeal the Charities and Societies Proclamation and the Anti-Terrorism Law and develop legislation which gives full force and effect to the international Declaration on Human Rights Defenders at the national level. This includes guaranteeing freedom of speech and assembly, in accordance with the African Charter articles 9, 10 and 11, and promoting the existence of a vibrant, independent civil society.
- Combat impunity by ensuring the prompt, thorough and impartial investigation of all violations against HRDs, the prosecution of perpetrators, and access to effective remedies for victims.
- Make high-level statements and declarations recognising the importance of an independent civil society in Ethiopia, underlining the importance of the work of HRDs and committing to their protection, whatever their religion, ethnicity, gender or sexual orientation.
- Invite the SR on HRDs from the ACHPR to assess HRD situation in the country.

**Just weeks before the 2015 Ethiopian elections, time is running out for the Government to demonstrate a commitment to human rights and freedom of expression. The CSP Law and Anti-Terrorism Law, together with restrictions upon independent civil society, are incompatible with a democratic future for Ethiopia.**

<sup>1</sup> <http://www.hrw.org/world-report/2014/country-chapters/ethiopia>

<sup>2</sup> <http://www.frontlinedefenders.org/ethiopia>

<sup>3</sup> [http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session28/Documents/A\\_HRC\\_28\\_63\\_Add\\_1\\_en.doc](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session28/Documents/A_HRC_28_63_Add_1_en.doc)

<sup>4</sup> [http://www.omct.org/files/2011/10/21443/obs\\_2011\\_uk\\_afriqsub.pdf](http://www.omct.org/files/2011/10/21443/obs_2011_uk_afriqsub.pdf)

<sup>5</sup> [http://www.achpr.org/files/sessions/47th/conc-obs/1st-to-4th-1998-2007/achpr47\\_conc\\_staterep1234\\_ethiopia\\_2010\\_eng.pdf](http://www.achpr.org/files/sessions/47th/conc-obs/1st-to-4th-1998-2007/achpr47_conc_staterep1234_ethiopia_2010_eng.pdf)

<sup>6</sup> <http://www.defenddefenders.org/2012/09/ethiopia-amend-laws-that-repress-civil-society-and-media/>

<sup>7</sup> <http://www.icnl.org/research/monitor/ethiopia.html>

<sup>8</sup> <http://www.defenddefenders.org/country-profiles/ethiopia/>

<sup>9</sup> Amnesty International Report 2013, <https://www.amnesty.org/en/documents/pol10/001/2013/hu/>

<sup>10</sup> <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11793&LangID=E>

<sup>11</sup> [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-47-Add-4\\_EFS.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-47-Add-4_EFS.pdf);

[http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session28/Documents/A\\_HRC\\_28\\_63\\_Add\\_1\\_en.doc](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session28/Documents/A_HRC_28_63_Add_1_en.doc)

<sup>12</sup> <https://cpj.org/blog/2011/06/in-ethiopia-anti-terrorism-law-chills-reporting-on.php>

<sup>13</sup> <http://www.hrw.org/news/2013/11/14/ethiopia-upr-submission-september-2013>

<sup>14</sup> <http://www.lgbtnet.dk/countries/africa/ethiopia>

<sup>15</sup> <http://ilga.org/ethiopia-invisible-activism-and-optimism-the-story-of-the-ethiopian-lgbt-movement/>

<sup>16</sup> <http://www.defenddefenders.org/country-profiles/ethiopia/>

<sup>17</sup> [http://www.upr-info.org/sites/default/files/document/ethiopia/session\\_6\\_-\\_november\\_2009/recommendationstoethiopia2009.pdf](http://www.upr-info.org/sites/default/files/document/ethiopia/session_6_-_november_2009/recommendationstoethiopia2009.pdf)

<sup>18</sup> <http://www.hrw.org/world-report/2014/country-chapters/ethiopia>

<sup>19</sup> [http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session28/Documents/A\\_HRC\\_28\\_63\\_Add\\_1\\_en.doc](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session28/Documents/A_HRC_28_63_Add_1_en.doc)