

# THE WATCH

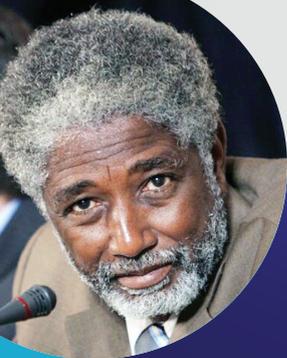
A review of conditions for civil society  
in the Horn of Africa

Issue 1 June 2017



Horn of Africa Civil Society Forum

منبر منظمات المجتمع المدني في القرن الأفريقي





# About the Watch

The Watch is a publication of the Horn of Africa Civil Society Forum (HOACS Forum), intended to provide updates on the situation of civil society in the Horn of Africa. It focuses on recent developments and practical conditions for civil society organizations (CSOs).

The HOACS Forum is a regional network of CSOs working together to monitor and expand civic space in Djibouti, Eritrea, Ethiopia, Kenya, Rwanda, Somalia, Somaliland, South Sudan, Sudan and Uganda. It was founded in March 2016 in response to the diminishing civic society space in the region, and the difficult legal and practical environment for CSOs in these countries.

## **The objectives of the forum are to:**

- Raise awareness about the difficulties for CSOs in the region.
- Undertake advocacy at the national, regional and international levels;
- Engage in solidarity campaigns with civil society in the region;

The secretariat is currently hosted by Al-Khatim Adlan Centre for Enlightenment and Human Development (KACE) which is based in Kampala, Uganda.



# In this issue

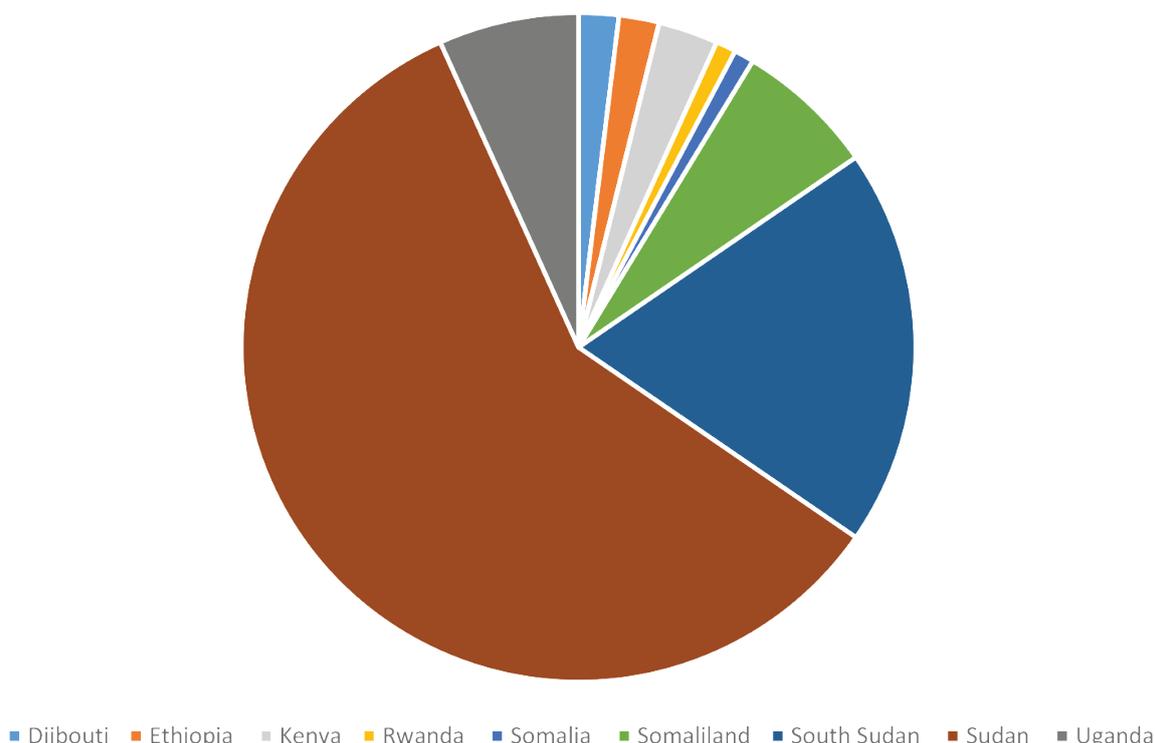
<b>Registration Process Issues</b>	4
<b>Monitoring Data</b>	4
<b>DJIBOUTI</b>	11
Civil Society in Djibouti	11
Interview with Abdi Osman Nour	11
<b>ERITREA</b>	15
Interview with Asia Abdel-Kadir	15
<b>ETHIOPIA</b>	21
Countering the Closure of Civil Society Space in Ethiopia	21
<b>KENYA</b>	25
<b>RWANDA</b>	27
<b>SOMALIA</b>	29
Between two fires: the space for CSOs in Somalia	29
Statement on humanitarian aid workers kidnapped in Somalia	30
<b>SOMALILAND</b>	33
<b>SOUTH SUDAN</b>	35
Saving Lives Costs Lives	35
In focus: the case of Dong Samuel	36
<b>SUDAN</b>	41
Dr. Mudawi Adam Behind Bars	41
TRACKs and the Battle Against #SudanCivilSociety	42
Proposed Legal Reform in Sudan Risks Further Shrinking Space for Civil Society	44
<b>UGANDA</b>	51
Civil Society Office Break-ins in Uganda: The Unanswered Questions	51



# MONITORING DATA

In the first six months of 2017, the HOACS Forum monitored 104 incidents in which civil society was targeted in the Horn of Africa. This section presents an overview of the major trend, but each incident is described in more detail in the country sections below.

Incidents by country

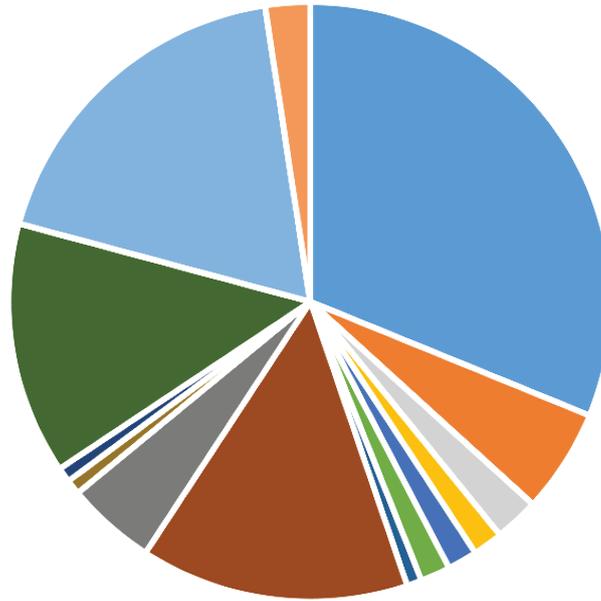


More than half of the monitored incidents, 61, occurred in Sudan, which is evidence of the well-developed monitoring mechanisms in place in Sudan. The second largest number of violations were monitored in South Sudan, 20, which is evidence of the dire situation for civil society, and human rights more generally, there. The next largest numbers of cases were in Somaliland and Uganda, 7 each.

The fewest incidents were reported in Rwanda, Eritrea, and Somalia although it is worth bearing in mind that this is likely due to the decreased reporting in those countries, rather than indicating a more positive situation.

In terms of the types of incident, by far the most common type of attack on civil society was arrest, 39 of the 104 monitored incidents involved arbitrary arrests. The next most common type of incident was summoning and interrogation, which occurred in 23 of the monitored incidents. Worryingly, some of the most serious types of incidents were the next most common. There were 18 killings and 17 incidents of spurious prosecutions. Less commonly monitored types of violations were bans of travel, disappearances, administrative measures and break ins.

## Incident by type



- Arbitrary arrests and detentions
- Assault
- Bans on travel
- Breakins
- Disappearance
- Forced office closures
- Increase cost of work permit
- Killing
- Limitation on cancellation of gatherings
- Registration and renewal
- Search and seizure of property
- Spurious prosecution
- Summoning and interrogation
- Threatening



# Registration Process Issues

Country		Procedure
DJIBOUTI	Ministry of Interior	<p>There is no clear NGO law in Djibouti.</p> <p>There are three civil society organizations in Djibouti, one is government-sponsored, another one has not been able to receive its registration certificate and the third one has a registration certificate but it is at risk of being revoked.</p>
ERITREA	Ministry of Labour and Human Welfare	<p>Registration is mandatory</p> <p>Registration requires:</p> <ol style="list-style-type: none"> <li>legal documents</li> <li>financial documents and lists of assets</li> <li>establishing that they have one million dollars at their disposal (for local NGOs, two million for international)</li> </ol> <p>Maintaining registration requires</p> <ol style="list-style-type: none"> <li>Quarterly and annual progress reports</li> <li>Annual audited reports</li> <li>Spending less than 10% on overheads</li> </ol>
ETHIOPIA	Ethiopian Charities and Societies Agency	<p>Registration is mandatory</p> <p>The ECSA retains authority to reject applications if the entity is “likely to be used for unlawful purposes” or the proposed name is “considered to be contrary to the public morality or illegal.”</p> <p>To be considered a domestic charity or society, you must receive no more than 10% of funding from foreign sources</p>

KENYA	NGO Coordination Board	<p>The registration process requires a generally reasonable level of documentation.</p> <p>The NGO Coordination Board has wide discretion to refuse registration if the applicant falsified information, activities are not considered to be in the national interest or “is satisfied... that the applicant should not be registered.”</p> <p>Registration can be revoked if an organization is acting contrary to its constitution.</p> <p>There is no time limit for review of applications.</p>
RWANDA	Rwanda Governance Board	<ol style="list-style-type: none"> <li>1. Applications are required at three levels, the local council, the district and the Rwanda Governance Board (RGB) which is under the Ministry of Local Government (MINALOC).</li> <li>2. It takes 90 days to register and six months to get a certificate of compliance and renewal of certificate is every year. However, you might not receive your registration in 90 days, you can have communications for up to three years where they can request new documents or other permits. During this time, you can operate with the registration from the district as you await your full registration from the Rwanda Governance Board which is also renewed annually.</li> <li>3. No appeal is provided for in case of RGB rejection.</li> <li>4. Registration can be refused in case they may “jeopardize security, public order, health, morals and human rights.”</li> </ol>
SOMALIA	Ministry of Interior and Federal Affairs	<p>Registration requires submission of the profile of the organization, CVs of staff members, a work plan and a list of donors to the ministry.</p> <p>CSO must pay \$500 as a registration fee.</p> <p>This process must be repeated annually</p>
SOMALILAND	Ministry of National Planning and Development	<ol style="list-style-type: none"> <li>1. Application and documentation must be submitted for registration.</li> <li>2. CSO staff must demonstrate experience and knowledge in the sector.</li> <li>3. The decision of the minister is guided by law, but not reviewable in the courts.</li> </ol>

SOUTH SUDAN	<p>Ministry of Justice, Relief and Rehabilitation Commission</p> <p>National and State-level Relief &amp; Rehabilitation Center</p> <p>Ministry of Social Welfare</p>	<ol style="list-style-type: none"> <li>1. Registration is mandatory.</li> <li>2. Failure to register is criminalized and punishable by a fine of 50,000 Sudanese Pounds or three years in prison.</li> <li>3. Registration with multiple authorities is required, increasing fees and processing time.</li> <li>4. Registration with the registrar of Societies at the Secretariat for Legal Affairs and Constitutional Development gives an operational license. Registration of the Ministry of Justice and the Relief &amp; Rehabilitation Center (RRC) gives legal personality.</li> <li>5. Re-registration is required annually.</li> </ol>
SUDAN	Humanitarian Aid Commission (known as HAC)	<ol style="list-style-type: none"> <li>1. Registration is mandatory</li> <li>2. A minimum of 30 members are needed for registration.</li> <li>3. Registration must be repeated annually.</li> <li>4. Re-registration requires the organization to call a general assembly meeting and formally invite HAC to attend</li> <li>5. There is no time limit on decision making, so HAC can hold on to files indefinitely without issuing a decision.</li> </ol>

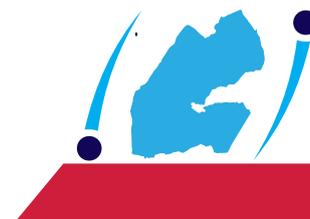
<p>UGANDA</p>	<p>National Bureau of Non-Governmental Organizations</p>	<p>Any person or group of persons incorporated as an organization under the Companies Act or Trustees Incorporation Act and those that fall under the definition of an “organization” under the Act, have to register with the Bureau.</p> <p>Requirements for registration</p> <ol style="list-style-type: none"> <li>1. A certified copy of certificate of incorporation</li> <li>2. A copy of the organization’s constitution or governing documents</li> <li>3. A chart of the organization’s governance structure</li> <li>4. Proof of payment of the prescribed fee</li> <li>5. Source of funding of the activities of the organization</li> <li>6. Copies of valid ID for at least two founder members</li> <li>7. Minutes and resolutions of the members authorizing the organization to register</li> <li>8. A statement complying with section 45 of the 2016 NGO Act</li> <li>9. A recommendation from: District NGO Monitoring Committee where the headquarters are located; the responsible Ministry or ministries or a government department or agency.</li> <li>10. Application signed by two founder members.</li> </ol> <p>Upon registration, an organization has to apply to the Bureau for a permit. The application must indicate:</p> <ol style="list-style-type: none"> <li>a. The operations or objectives of the organization</li> <li>b. staffing of the organization</li> <li>c. geographical area of coverage of the organization</li> <li>d. Evidence of payment of prescribed fees, and</li> <li>e. Intended period of operation not exceeding five years.</li> </ol> <p>An organization has to apply to the Bureau for renewal of a permit at least six months before expiry of its permit by filling in a renewal form accompanied by:</p> <ol style="list-style-type: none"> <li>a. Copy of audited accounts</li> <li>b. Copy of the annual report</li> <li>c. Minutes of the meeting of the Annual General Assembly or the governing body</li> <li>d. A work plan and budget or strategic plan</li> <li>e. Evidence of payment of prescribed fees</li> </ol>
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# DJIBOUTI

## Civil Society in Djibouti

By Omar Ali Ewado



### Legal Framework

Theoretically the Constitution of Djibouti allows for the free creation of organizations, but the profiles of those responsible for the organization are taken into account in issuing the *récépissé*, or certificate, an indispensable document for the existence of an organization.

The authorities can block the creation of an NGO or dissolve it if it is not subservient to the political system in place in the country. For example, the organizations AL BIRR, AXE and others have had their *récépissé* refused or revoked.

In practice, the authorities issue *récépissé* sparingly.

The laws regulating NGOs are inherited from the colonial period and the Djiboutian government has not updated and adapted the laws to the new realities in the country. It is the Interior Ministry that oversees NGOs.

### Realities

Like everywhere else in Africa, civil society in Djibouti takes up little of the space that is reserved for it under the constitution.

Quantitatively, it appears solid. There are some 6,000 organizations in the country. However, on the level of quality we find that civil society is not very visible on the national stage. Many of the 6,000 organization have only an ephemeral existence. The current regime in Djibouti uses and abuses civil society during elections.

Nonetheless, one finds NGOs that are trying to make themselves visible and who take concrete action to help vulnerable people. These include EVA, WADBA, KARERA, ADIM, ASDN, and ADRAH. These are the organizations that have escaped state control.

The state brakes on the free association constitute a handicap for Djiboutian civil society. The authorities don't permit civil society to deploy on the territory because they fear the awakening of

civil society and organize themselves to erect administrative barriers to limit the activities of civil society in time and space.

In addition, civil society lacks a real coordination and its scattered nature is not to its advantage.

### Conclusion

Djiboutian civil society needs to come out on the national stage. In order for this to happen, it needs to come together and establish alliances with regional organizations in order to be taken into account by the authorities. There is space to carry out a strong advocacy campaign to update and adapt the laws that have been in place for more than a century. LDDH will in the near future draft a detailed description of the state of civil society in the country.

### Interview with Abdi Osman Nour, Djiboutian Human Rights Defender



Abdi Osman Nour

Abdi Osman Nour is a prominent civil society leader from Djibouti and one of the leaders and founders of the *Ligue Djiboutienne des Droits Humains* (LDDH - the Djiboutian League for Human Rights). The LDDH is the country's the oldest and only independent civil society organization. The organization has faced harassment and raids by the authorities and its staff members and affiliates have faced arbitrary detention and torture. Earlier this year, its president, Omer Ewado Ali, was arrested from his home. He was

released eight days later after international and national outcry. As one of the pillars of LDDH, Nour has been detained many times for his activities since 1982. In fact, he spent a total of more than 16 years in detention between 1982 and 2013, following 11 separate arrests. This interview gives his perspectives on his experiences.

**Q: Where are you based right now?**A: I sought political asylum in Belgium in mid-2013. My application is still pending although I presently live in Brussels. I continue to carry out my human rights work and I represent LDDH in Brussels and in Europe at large. I believe that I will continue to defend human rights until my last breath, until my native country respects its citizens and their freedom. Only the almighty God will extinguish my voice.

**Q: What is your current situation in Belgium?**

A: I applied for asylum on October 25, 2013 in Belgium at the refugee and stateless police station. I was summoned for four different interviews starting from October 25, 2013, December 20, 2013, January 9, 2014 and the last one was on January 14, 2014. I presented justification documents backing my application, with consistency and chronology in my story and my personal experience as a human rights defender in Djibouti every single time. So far, my application status is still pending and the only legal document I have received from the authorities is a letter confirming that they received my file. It has been almost four years since I sought asylum in Belgium, but I have neither receive a positive nor a negative answer from the authorities. I am left in limbo.

**Q: Are you with your family?**

A: No, my family stayed in Djibouti, where they are constantly harassed, intimidated and constrained by the regime due to my human rights activities. And I am unable to apply for a family reunion in Belgium because I have no legal status in the country. These events have cause grave detriment and prejudice to certain members of my family, specifically my children, who are now adults and eligible for official documents in Djibouti. But their applications to obtain their ID cards were cancelled on the grounds that they needed to provide a valid copy of their father's national ID card, but mine was cancelled by the authorities. In addition, two of my children were kicked out of the national education system as a result of my work.

**Q: Tell us about the events that led to your citizenship being revoked?**

A: Following my imprisonment in 1982 and 1987, an arrest warrant was issued against me. And on December 31, 1990, the first step taken by the government was to confiscate my passport. This was implemented by the national justice unit through the state prosecutor Mr. Saad Ahmed Cheik who handed me a written document acknowledging the legal confiscation of my passport. However, on June 12, 1992, the national security raided my house and during the search, they illegally confiscated all my documents including the document written by the state prosecutor acknowledging confiscation of my passport. My national ID card was also illegally confiscated. Thereafter, they refused to return my documents and I was verbally told that my national ID-card was officially cancelled with no chance of renewal.

Despite my desperate attempts to renew my national ID card and to reinstate myself as a documented citizen of Djibouti, these efforts were in vain. Today the government of Djibouti illegally retains my identification papers. In my home country, I was treated worse than refugee. I became an undocumented person, frustrated and angry, but I later understood that the regime had no intention of restoring my status as a Djiboutian. This all happened on the grounds that I am a humanitarian activist, a human rights defender and a member of LDDH. This has meant that my family has faced injustice, particularly my children who have been denied their national ID cards, despite the fact that I was acquitted and the charges against me were dismissed.

**Q: How did you manage to leave the country?**

A: I fled Djibouti in mid-2013 thanks to the support of people I cannot mention. I was able to leave my country illegally using a passport of another country and to enter Europe with those documents.

**Q: What are your struggles in Belgium?**

A: My life in Belgium is a daily struggle and full of challenges. I was transferred to a social residence center for refugees located in Flaman-de and I cannot leave Belgium because of my pending asylum status. In addition to the con-

## Updates

stant deterioration of my situation, I am prohibited from working in the country. I have to support my entire family back in Djibouti on a meager weekly allowance of 60 Euros a week. I transfer 140 euros of the 240 I receive each month back to Djibouti to support my family.

As though life has not thrown enough stones at me, my health condition is rapidly deteriorating as well. A couple of months ago, I went through an operation. One of the doctors noticed the aftermath of the torture on my body. Thanks to the report of this doctor, to whom I explained my lifetime of activism and torture in the hands of the Djibouti regime and security, I was granted a pro bono lawyer to assist me in my asylum procedures. But the nightmare continues. My present situation is making me depressed. I am a human rights defender enclosed in a camp and away from every precious thing in my life: my country, my family and my children. This is exile was imposed on me by the current regime and I am powerless in the face of this great injustice. All my hopes with the Belgian authorities. I hope for justice, it is the only thing that keeps my spirit up.

### **Q: Are you still a part of civil society in Djibouti?**

A: I was part of civil society in my country since before 1982 when I joined the LDDH and I continue to be a member. I am currently the vice-president of the organization. I continue to support the organization from here, although I do not receive a remuneration for this position.

### **Q: Can you return to Djibouti?**

A: No, I am unable to return to Djibouti under the present regime because my life would be at risk, and I would be arrested and tortured once again. I am currently persona non-grata in Djibouti. I have been a victim of judicial harassment and false accusations. Sadly, the government of Djibouti uses these techniques to silence members of LDDH and the civil society movement at large, who continue to practice peaceful resistance and call for justice and freedom in Djibouti.

Famous caricaturist Idriss Hassan Mohamed was arrested in early March 2017 and detained for five days in an undisclosed location. The *Ligue Djiboutienne de Droits Humains* (LDDH) claims that he was detained in retaliation for an article that he published criticizing the regime.<sup>1</sup>

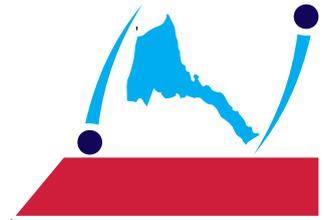
On March 19, 2017, Omar Ewado, Executive Director of LDDH, the focal-point for the Horn of Africa Civil Society Forum (HoACSFForum) in Djibouti was arrested from his home in the evening by plain-clothed officers from the intelligence services. During this ordeal, his children were threatened by the armed officers. He was released eight days later after going on hunger strike. The reason for his detention remains unclear.<sup>2</sup>

<sup>1</sup> DefendDefenders, Overview of the Human Rights Situation in the East and Horn of Africa, November 2016 –April 2017,” May 2017, available at <https://www.defenddefenders.org/wp-content/uploads/2017/05/EH-Overview-ACHPR60.pdf>.

<sup>2</sup> DefendDefenders, Overview of the Human Rights Situation in the East and Horn of Africa, November 2016 –April 2017,” May 2017, available at <https://www.defenddefenders.org/wp-content/uploads/2017/05/EH-Overview-ACHPR60.pdf>.



# ERITREA



## Interview with Asia Abdel-Kadir

*Q and A with Asia Abdel-Kadir from the Eritrean Diaspora in East Africa (EDEA), a non-political civil society organization registered in Kenya and working with Eritrean refugees there and in the larger East Africa region. EDEA works on a voluntary basis and is part of the Eritrean Movement for Democracy and Human Rights, a civic movement that encompasses dozens of Eritrean organizations based in the diaspora.*

**Q: Why is there no civil society inside Eritrea? Why did you have to start operating from outside?**

A: The reason why there is no Eritrean civil society inside the country is, I would say, that it is impossible to operate in Eritrea if you don't adhere to the rules of the country, to the government. There is no independent civil society in Eritrea right now. You have the big two or three women's organizations and networks and youth organizations, but they are part of the government apparatus. In the 90s, there were a few civil society groups that were established but then they had to close because it was impossible to exist because the topics that you can work on are dictated by the government, which means you cannot work on human rights issues. Anyways if it is a women's organization then the National Union of Eritrean Women normally hijacks all topics that concern women, so you cannot do anything without collaborating with them or getting their consent. So, it is impossible to exist as an independent civil society organization. For us, we didn't move from Eritrea, we were established in Kenya, we are a purely diaspora CSO dealing with the situation of Eritrean refugees and migrants in Kenya. They face challenges with the Eritrean government, the embassy here, and also with the Kenyan police and authorities. We decided to have something that represents us and gives us a voice and where we can address human rights and advocacy issues in Eritrea. That's why we established EDEA a few years ago.

**Q: So what is EDEA working on?**

A: We try to network with many different Eritrean organizations globally on all types of human rights abuses taking place in Eritrea. We do a lot of advocacy work for refugees and migrants in Kenya. Last year, we had a lot of Eritrean migrants arrested by the Kenyan police and the embassy here agreed with the police to deport them, so we did a lot of lobbying and support for them and managed to get them out of prison and ensure that they were safe. We are linked with different organizations to do a lot of advocacy on human rights issues in Eritrea.

**Q: Is there a disconnect between the Eritrean diaspora CS abroad and people inside the country? Can you easily communicate with people inside the country and have access to information on what's happening inside?**

A: I cannot do that directly, but there are a number of groups. For example, there is a group called the Freedom Friday Movement that operates inside Eritrea. They sometimes send video clips of torture from inside the prisons. Two years ago, there were some young people who were taken in a big truck to a military site. They had a stopover in Asmara and tried to escape and there was a lot of shooting and a number of people were killed. Somebody from the Freedom Friday Movement did a video, because the government denied it completely but many people were killed so many were mourning. The movement sent a video about the incident to the diaspora, activists and opposition movement. So, these kinds of things are happening, certainly. Because it is so dangerous in Eritrea and it is very difficult to have access, but you know I may have an uncle, and he may be willing to give me information because he trusts me, so I would personally have access. However, apart from the Freedom Friday Movement, it is very disorganized to get information. Few people have access to information, but we try. For now, the Eritrean government is denying that there is

a drought in Eritrea but activists from the Freedom Friday Movement sometimes go to hospital and send photos of malnourished children. So, this kind of activity is happening now, but it is too dangerous and risky so it is not very easy to do something on a large scale.

**Q: Are you viewed by the government as civil society or opposition?**

A: I will tell you about an incident that just happened in Kenya. There was an exhibition in Nairobi that just finished on Sunday with an appeal to put Asmara on the list of UNESCO world heritage sites. For some reason, one of the exhibition organizers is from Germany and I grew up in Germany so I know these people. They were planning to come to Kenya and contacted me so that I could help them to set it up because from Germany, they could not organize it. I tried and succeeded to find them a space, and the exhibition was taking place within the UN compound for three days and three days in an ambassador's house in Nairobi. I was organizing it and it went very well, but because it was a UNESCO appeal, the Eritrean ambassador had to be invited. He was suspicious about what was going on behind the scenes and he asked one of the ambassadors to show him the list of the people organizing and when he saw my name and other people's he made list of names of 13 people mainly from EDEA, myself and other people. He put them on the list and sent this list to a number of authorities, like the Kenyan Ministry of Foreign Affairs and UN and some other organizations. The government changes tactics often, they don't recognize us as civil society but we are registered in Kenya under the companies act. We are a legally registered entity, but the ambassador here put us on a list as a subversive group. He thinks that is what we are called. There is a lot of harassment that our members have to go through, but for me it's easier because of the German passport. I'm well connected and living here as an expat but a number of my colleagues have Eritrean passports which at times is taken away from them and they are harassed. This is what we experience here.

**Q: Do you think it's easy or difficult when you are applying for funding when you are**

**an Eritrean CSO applying for funding in Kenya?**

A: Absolutely, it is difficult, especially in Kenya there is no context here. If we were working on Somalia, it would be easier because there are all these regional offices and donors for Somalia based out of Kenya. But for us, there is no context here because there are not many regional donors here. Until now we are self-financing with membership fees and some Eritreans who have businesses and give us money here and there to pay for office rent. So far, we have not been able to find funds for EDEA to survive. Because I work in this area I could easily identify organizations for Somalia, but for us it is very difficult.

**Q: You talk about harassment, does you this harassment by the Eritrean government only target CSOs based in the Horn of Africa or does it also occur in Europe and North America?**

A: It's different of course. They try. When I was in Germany I was also active and you would be harassed by government supporters. For example, when I was a student, they would put something in my mailbox or on my windscreen, they would have threatening letters and such. But they also have to be very careful of what they do in Germany, because they know how these democratic systems work. But as an organization and an entity, you don't have to worry about this because CSOs are allowed to exist there and no one can shut it down unless you have an issue yourself. But in Kenya we have to be very careful so it is a very different case, you can't compare it at all.

**Q: What kind of threatening messages did you get in Germany?**

A: They would say they were watching me and "we know that you are foreign funded," because I got a scholarship from the Heinrich Boll Foundation to do my PhD. They would say, "we know you are getting funded to ruin the country and go against the county. But you are misled and we are watching you." When you are a young student, getting these letters you start to wonder what kind of harm they can do to you.

**Q: Does this hostility towards CSO impact the way the public feels about civil society? Do you find that local or diaspora Eritreans are suspicious of you?**

A: A lot actually, especially in Kenya we feel people treat us as if we are people with a disease. A lot of people don't want to be seen with us or get associated with us and this is the problem a lot of us face here. Some of them think we are doing this for our own self-interest. They play the game, for example, they put our names at the Kenya investigation department as jihadists, even though only three of us in the organization are Muslims and the rest are Christians but we are always played against our Islam. A lot of Eritrean people don't come to us because they are scared we want to harm the government because we are Muslim and this is one way to keep people away from us by being very suspecting.

## **Addressing the situation of Eritrean Civil Society at the UN Human Rights Council**

The human right situation in Eritrea featured on the agenda of the 35<sup>th</sup> session of the UN Human Rights Council in Geneva in June 2017. The council session featured an interactive dialogue with the UN Special Rapporteur on Eritrea, Sheila B. Keetharuth, as well as side sessions on the human rights situation in Eritrea. One of the side sessions was organized by the government of Sudan to discuss the preparations for its next universal periodic review (which is now in the national consultations phase – the formal review will take place in January 2019). The other was organized by civil society exploring options for accountability for human rights violations committed in Eritrea. Two members of the Horn of Africa Civil Society Forum participated in the session, attending all the above-mentioned meetings and engaging in private meetings as well, seeking to raise the issues of treatment of human rights defenders and space for civil society in this context.

In the meeting with the Eritrean government representative it was noted that the government of Eritrea will soon be convening a congress to mo-

bilize citizens into associations. Given the history of Eritrea, it is of concern that such a congress might result in government dominated associations, rather than truly independent ones. This prompted the delegation to focus on the definition of civil society as “space outside the state, outside the family and the market.”

### *Side Session on the UPR*

The delegation also attended the side event on Eritrea's UPR. The Eritrean representative, Ambassador Gerhartu, spoke about the government's efforts to organize civil society organizations such as professional organizations as well as trade unions and village committees. UNDP discussed a workshop on civil society which they organized in December 2016, as well as plans to organize capacity building of judges, police, corrective services on such issues as human rights.

During the UPR side event the Eritrean delegation was asked about the level of civil society participation in the UPR processes. Ambassador Gerhartu explained that the government had organized civil society participation by calling a meeting to explain the process. Although he did not actually name the organizations convened, it was clear that reference was being made to the National Union of Eritrean Women, National Confederation of Eritrean Workers, and National Union of Eritrean Youth and Students. While this engagement is positive, it is important to note that these groups are really not independent and therefore this consultation cannot be considered as true engagement with civil society.

There was also discussion of ongoing dialogue between the Eritrean government and the UN HRC on Eritrea's implementation of the recommendations of its previous UPR. Civil society activists, however, remain concerned about the lack of implementation of these recommendations in practice. Human Rights Concern Eritrea, in an open letter on the event, stated, “we respectfully point out that not one of the 92 recommendations accepted by the Government of Eritrea from the 2014 UPR has been implemented.”<sup>3</sup>

Civil society at the session raised questions about the UNDP backed training programs noting that capacity building has been ongo-

ing for 20 years and asking what the impact has been. Human Rights Concern also raised questions about the appropriateness of UNDP as the institution engaging on these issues, given their lack of expertise and mandate on human rights. In their words, “UNDP officials have no expertise or authority to speak on the subject of human rights, not on progress towards meeting targets and recommendations from the UPR processes of the UN HRC.”<sup>4</sup>

During the session, the government also stated that it intends to address some of the issues raised by the UPR recommendations in relation its villagization policy. This policy is a major issue of concern for civil society.

An Eritrean activist asked the delegation about some indications of human rights violations in the country, including what is driving thousands of youth to leave the country every month and why the right to worship is curtailed and church leader Abuna Antonious is under house arrest. The question angered the Eritrean ambassador who accused the questioner of being Ethiopian.

#### *Interactive Session with Ms. Sheila B. Keetharuth*

The interactive session provided an opportunity for Special Rapporteur Sheila B. Keetharuth to speak about the situation in Eritrea. She noted her most recent report that “The Special Rapporteur notes that the Government of Eritrea has not made any effort to address the human rights concerns highlighted by the Commission of Inquiry and that it has shown no willingness to tackle impunity with regard to perpetrators of past and ongoing violations.”<sup>5</sup> In particular, the special rapporteur noted with concern that the national service requirements, which amount to forced labor in some cases, disappearances and punishment of family members. The report also noted that the special rapporteur remains unable to access Eritrea, with her requests denied for the last five years.

The Eritrean government maintains that the country specific mandate is political and is es-



*Eritrea Side Event -Universal Jurisdiction*



*Eritrea Side Event- Universal Jurisdiction*

<sup>3</sup> Human Rights Concern Eritrea, “Open Letter: Eritrea – Side-Event on Progress in the Implementing the Recommendations from the UPR of 2014,” June 13, 2017, available at <http://hrc-eritrea.org/open-letter-eritrea-side-event-on-progress-in-the-implementing-the-recommendations-from-the-upr-of-2014/>

<sup>4</sup> Ibid

<sup>5</sup> Report of the Special Rapporteur on the situation of human rights in Eritrea, Sheila B. Keetharuth, 35th Session of the Human Rights Council, 6-23 June 2017, available at: <http://www.ohchr.org/EN/Countries/AfricaRegion/Pages/ERIndex.aspx>

essentially the result of the global bias in favor of Ethiopia.<sup>6</sup>

### *Side Event – Exploring the Contours of Universal Jurisdiction to Pursue Accountability for Crimes against Humanity in Eritrea*

The HOACS Forum Secretary took part of in a panel exploring the possibility to pursue accountability for human rights violations and crimes against humanity in Eritrea. The South African Litigation Centre and a family member of a victim also participated. The moderator was Mr. Daniel Mekonnen of the Eritrean Law Society.

The key discussion focus of this event was on the possibility of pursuing those accountable for human rights violations in foreign jurisdictions. In this regard, it was noted that civil society will play a critical role in documenting violations and preserving evidence.

The HOACS Forum Secretary also presented a summary of the forum's research on the state of civil society in the Horn of Africa, placing the challenges faced by Eritrean civil society in regional context.

### *Meeting with the Special Rapporteur*

On 15 June 2017, Ms. Sheila B. Keetharuth met with a number of civil society organizations, including diaspora Eritrean organizations, the East and Horn of Africa Defend Defenders and the HOACS Forum to discuss how to maintain the momentum of the UN Human Right Council and the role that can be played by the Special Rapporteur.

The delegation raised concerns about some ac-

tions recently taken by Eritrean embassies in the Horn of Africa, especially in Kenya, to harass members of the Eritrean diaspora who are trying to organize independently.

The rapporteur urged Eritrean civil society organizations to work together to make their voices heard in the upcoming UPR process. The HRC accepts formal submissions from civil society as part of this process and to engage in similar advocacy at the level of the African Commission on Human and Peoples' Rights. She also called on organizations to resist efforts by the government of Eritrea to squeeze civil society out of the space to which they are entitled.

### *Conclusion*

The session ended with the adoption by the Human Rights Council of a strong resolution condemning the human rights situation in Eritrea and extending the mandate of the special rapporteur for another year. Civil society organizations must consider how they can engage with the mechanism to re-open civil society space in Eritrea.

## Updates

In April 2017, Reporters without Borders released their 2017 World Press Freedom Index which positioned Eritrea 179<sup>th</sup> out of 180 countries ranked.<sup>7</sup> Only North Korea ranked worse.

On June 14, 2017, Human Right Watch called on the Human Right Council to renew the mandate of its Special Rapporteur on Eritrea, citing the previous year's condemnation of the country and lack of improvement in the human rights situation.<sup>8</sup>

<sup>6</sup> Verbal communication of the Eritrean delegation, see <http://webtv.un.org/live-now/watch/35th-session-of-human-rights-council/4473498400001>

<sup>7</sup> Reporters without Borders, "World Press Freedom Index," April 2017, available at <https://rsf.org/en/ranking>.

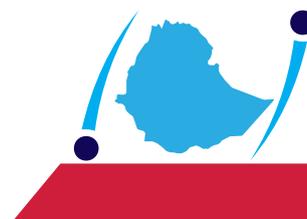
<sup>8</sup> Human Rights Watch, "UN Rights Body Should Renew mandate on Eritrea," June 14, 2017.



# ETHIOPIA

## Countering the Closure of Civil Society Space in Ethiopia: The Challenges of the (Ethiopian) Human Rights Council (HRCO)

By Betsate Terefe, Executive Director, HRCO



The Human Rights Council (HRCO), formerly known as the Ethiopian Human Rights Council, was established on October 9, 1991. We are the first independent, membership-based, non-political, not-for-profit human rights group in Ethiopia. We stand for democracy, the rule of law and respect for human rights in Ethiopia. HRCO strives to improve the human rights situation in Ethiopia by providing human rights education and training for the Ethiopian public (claim holders) and members of the government at different levels (duty bearers). We also monitor, investigate and report on human rights violations in Ethiopia. A large majority of human rights violations in Ethiopia are committed by government officials, law enforcement officers and security personnel, mostly at the local level. Over the past two decades, HRCO has issued 139 special reports, 36 regular reports and a large number of press releases. HRCO presents its reports first and foremost to the Ethiopian government and to the Ethiopian public and urges all concerned parties to put pressure on the Ethiopian government to take remedial measures. From the start, however we have undertaken this work in a difficult legal and political environment.

### Human rights violations in Ethiopia

The human rights situation in Ethiopia shows no signs of improvement. The evidence gathered by our investigations shows that there are still many extra judicial killings. Illegal arrests and detentions are common, and increasing. We have tens of thousands of citizens whose cases are related to politics in one way or another in prison. Many prisoners have not had the chance to appear in court. Prison conditions are bad with many restrictions imposed on inmate access to medical treatment, as well as visits by fam-

ily members and counsel. Equally challenging is that there are an unknown number of illegal and secret detention centers in Ethiopia. Torture and inhuman treatment is so common that many prisoners appeal to the courts. Forced displacement of farmers and lower class townspeople is also a major problem. Most of the displacements are carried out without prior consultation with, or compensation to, the victims. The low regard given to the rights and wellbeing of local people in the operation of foreign and some national investment projects is causing crisis in many parts of Ethiopia. Human rights violations committed in the context of ethnic conflicts also pose a serious challenge.

### Closing Civic Space in Ethiopia

By nature of investigating, and reporting on, human rights violations, our work involves finding and exposing faults, mistakes and wrongdoing by both state and non-state actors. The sole intention of this work is to cry for redress, rectification and remedy. But it takes political good will and commitment on the part of the government to welcome such reports and take appropriate action. For the last 24 years, we have been sending our reports to the offices of the president, the prime minister, and relevant ministries. From the time of its inception to date, EHRCO has wanted to work in partnership with the government and relevant offices in the fight against all kinds of human rights violations, but the responses from the government side have not been encouraging.

Instead of giving us due recognition, support and protection, the Ethiopian government has made things difficult for us, preventing us from playing a positive role in improving the human

rights situation in Ethiopia. Some examples are:

- **Registration:** EHRCO was established in 1991, but it took EHRCO eight solid years to be registered and receive its license as a human rights organization.
- **Destructive propaganda:** From the time of its inception up until the proclamation of the CSO law in 2009, EHRCO has been victim of destructive government propaganda. This act of misrepresentation misled government officials at local levels and diminished EHRCO's membership & support base in all respects.
- **The CSO law:** The 2009 CSO law made it illegal for local groups working on human rights to receive more than 10% of their budget from foreign sources. For various reasons, many CSOs including EHRCO, could not raise 90% of their budget from domestic sources. As a result, a large majority of local CSOs got out of human rights work and shifted to other development-related community service activities. The field of human rights in Ethiopia was largely abandoned. EHRCO chose to remain focused on human rights, but was forced to close down 10 of its 13 branch offices outside Addis Ababa and lay off 50 of its previous 62 staff.

Also, as an immediate condition for re-registration after the law, EHRCO was forced to stop election-related activities. We proudly remember that EHRCO played an historic role in the 2005 Ethiopian national and regional elections, which we believe was one of the reasons the government issued the repressive CSO law in 2009. It was passed to put us out of business. As a result, HRCO did not have any role in the 2010 and 2015 national and regional elections.

EHRCO's human rights monitoring and reporting, education and research works and legal aid services were all weakened. The saddest thing for us in the past few years is that we were denied the right, opportunity and responsibility to be voice for millions of voiceless Ethiopians and particularly victims of human rights violations.

- **Freezing EHRCO's bank account:** After the

law came into effect, the Ethiopian government, took away, under a court order, EHRCO's bank account with more than 8 million Ethiopian Birr (approximately US\$348,000) in it. The government did so alleging that the money had been acquired in violation of the new law, but EHRCO had acquired this funding well before the law was enacted.

- **Change of name:** The CSO law stipulates that in order for an organization to take the name "Ethiopian", it must maintain at least five branch offices in five administrative regions. As stated earlier, due to the financial shortage caused by the CSO law, the Ethiopian Human Rights Council (EHRCO) was forced to reduce the number of its branches from 13 to only 3. So, we were forced to remove the label "Ethiopian" from our name calling ourselves simply the Human Rights Council.

- **Rejection of Reports:** We are disappointed that the Ethiopian government as a whole has never given due recognition to our reports and nor supported our cries for rectification and redress for human rights violations in Ethiopia. For example, in 2008, the office of the Ethiopian president officially refused to receive any of our reports in an official letter telling us not to send these any longer. Claiming that there is no significant human rights problem in Ethiopia, the government asserted that the reports were irrelevant and unnecessary. They also said in the event that they do need information, they can ask the government-sponsored Ethiopian Human Rights Commission. Despite the letter, the HRCO board decided to keep sending reports. In the following months, many reports were returned to us unopened. Nonetheless, we continue to send them.

- **Harassment and mistreatment:** HRCO's human rights investigators feel unsafe when they travel to areas where human rights violations have reportedly been committed. Threats, harassment and mistreatment from local government officials are very common. Just recently, two of our human rights investigators miraculously escaped from an attempt to illegally arrest

them on fabricated charges of smuggling rifles and distributing illegal leaflets. Very recently, three other human rights defenders (one from Diredawa and two from Jima HRCO offices) were held in police custody for a night. We want the government to respect our right to defend human rights and give protection to our members and staff when they do their jobs.

Today the government of Ethiopia is not taking us seriously and has weakened our capacity by means of the law and other measures. This is all against resolution no. 53/144 of the UN General Assembly, passed in December 1998, calling on member states to support and protect human rights defenders in their respective countries. We are resolute in our conviction that we need to continue working on human rights. But we want the government of Ethiopia to stop treating us as enemies. We want to work in partnership with the government, the government-supported Ethiopian Human Rights Commission and other relevant institutions. We call on friends from near and far to support us in our endeavor to improve the human rights situation in our country.

## Updates

In October 2016, the government of Ethiopia imposed a state of emergency in response to national protests. This state of emergency was renewed in March 2017 for an additional four months. And, although some of the restrictions have now been eased, the state of emergency continues to restrict rights. These restrictions include access to social and traditional media.

In April 2017, Reporters without Borders released their 2017 World Press Freedom Index which positioned Ethiopia 150th out of 180 countries ranked.

On April 6, 2017 two bloggers for Ethiopia's Zone 9 were to be charged for inciting violence. If convicted they could face as much as ten years in prison.

On May 24, 2017, the Committee to Protect Journalists reported that the Ethiopian Federal High Court convicted Getachew Shiferaw, editor of *Negere Ethiopia* for allegedly suggesting that a colleague protest a government official in a private Facebook message exchange.

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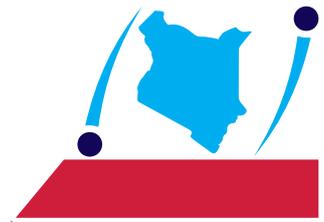
<sup>9</sup> DefendDefenders, Overview of the Human Rights Situation in the East and Horn of Africa, November 2016 –April 2017,” May 2017, available at <https://www.defenddefenders.org/wp-content/uploads/2017/05/EH-Overview-ACHPR60.pdf>.

<sup>10</sup> Reporters without Borders, “World Press Freedom Index,” April 2017, available at <https://rsf.org/en/ranking>.

<sup>11</sup> DefendDefenders, Overview of the Human Rights Situation in the East and Horn of Africa, November 2016 –April 2017,” May 2017, available at <https://www.defenddefenders.org/wp-content/uploads/2017/05/EH-Overview-ACHPR60.pdf>.

<sup>12</sup> Committee to Protect Journalists, “Ethiopian High court convicts editor of inciting subversion,” May 24, 2017.





## Updates

In January 2017, the OMCT reported that the Kenyan NGO Coordination Board threatened to commence proceedings against the Kenyan Human Rights Commission (KHRC) for a number of acts of alleged mismanagement. These allegations were apparently contained in a November 2016 internal memo by the Coordination Board. The memo reportedly asked the Central Bank to freeze KHRC's reports and the Directorate of Criminal Investigations to begin investigations.<sup>13</sup>

This was not the first time that the board had attempted to discredit KHRC and the previous actions were halted only by a court case.

In January 2017, the Ministry of the Interior issued a directive ordering all county commissioners to investigate civil society organizations in their areas, leaving the CSOs vulnerable to harassment.<sup>14</sup>

In February 2017, the Kenyan High Court ruled that criminal defamation infringes constitutional protections of the right to freedom of expression. The ruling was made in a case in which Jaqueline Okuta and Jackson Njeru had been charged with defamation for posting on about a prominent lawyer on a Facebook page called "Buyer Beware."<sup>15</sup>

In March 2017, a journalist and a human rights defender, Isaiah Gwengi and Rodgers Ochieng, were arrested by the Quick Response Team of the police and held for five hours. In custody, the two were assault-

ed by officers who stripped their clothes, grabbed their genitals and hit them. The two have been at the forefront of reporting on police violations and this appears to be the impetus for their arrest.<sup>16</sup>

In April 2017, Reporters without Borders released their 2017 World Press Freedom Index which positioned Kenya 95<sup>th</sup> out of 180 countries ranked.<sup>17</sup>

On May 3, 2017, the Observatory for the Protection of Human Rights Defenders of the *Organisation Mondiale Contre la Torture* (OMCT) issued a report entitled "[Broken Promises put human rights defenders at risk](#)" which argued that Kenya has been gripped by "a pattern of violent and harassment aimed at silencing dissenting voices."<sup>18</sup>

The report particularly highlighted attacks on human rights defenders seeking accountability for human rights violation. The report notes that defenders are often detained and tried on trumped up charges aimed at silencing them.

On May 13, 2017, the Nairobi High Court ordered the Interior Cabinet Secretary to officially declare the start date of the Public Benefit Organization Act of 2013 within 30 days. The judgement was the latest in a string attempting to force the government to implement the law. The judge indicated that this would be the last warning before legal measures were taken. The decision was welcomed by civil society activists who have been waiting for the implementation of the new law for the last four years.<sup>19</sup>

<sup>13</sup> OMCT, January 13, 2017.

<sup>14</sup> DefendDefenders, Overview of the Human Rights Situation in the East and Horn of Africa, November 2016 –April 2017," May 2017, available at <https://www.defenddefenders.org/wp-content/uploads/2017/05/EH-Overview-ACHPR60.pdf>.

<sup>15</sup> Ibid.

<sup>16</sup> DefendDefenders, Overview of the Human Rights Situation in the East and Horn of Africa, November 2016 –April 2017," May 2017, available at <https://www.defenddefenders.org/wp-content/uploads/2017/05/EH-Overview-ACHPR60.pdf>.

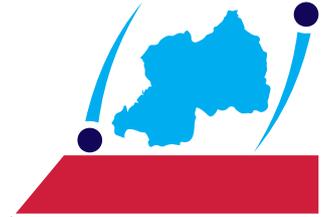
<sup>17</sup> Reporters without Borders, "World Press Freedom Index," April 2017, available at <https://rsf.org/en/ranking>.

<sup>18</sup> OMCT, "Kenya: 2017 elections: Broken promises put human rights defenders at risk - Publication of an international fact-finding report," May 3, 2017.

<sup>19</sup> OMCT, "Kenya: Last Warning from the court to implement the PBO Act 2013 within 30 days," May 18, 2017.



# RWANDA



## Updates

According to the regional NGO Defend Defenders, the civil society in Rwanda have been subject to interference from the Rwanda Governance Board with regard to appointment of their members. These actions have weakened the independence and credibility of these NGOs.

In one symbolic case, the registration of the *Ligue des droits de la personne dans la region des grands lacs* (LGDL), after nearly two years of delays. However, former staff allege that the government has now appointed members of the organization, as well as its executive secretary, gutting its independence.<sup>20</sup>

<sup>20</sup> DefendDefenders, Overview of the Human Rights Situation in the East and Horn of Africa, November 2016 –April 2017,” May 2017, available at <https://www.defenddefenders.org/wp-content/uploads/2017/05/EH-Overview-ACHPR60.pdf>.



# SOMALIA

## Between Two Fires: the space for CSOs in Somalia

*By Abdifatah Hassan Ali, Activist & Blogger, Co-founder  
& Advocacy Officer of Witness Somalia*



Civil society organizations (CSOs) in Somalia have been playing crucial role in the country since the fall of the former central government in 1991. From peace building and reconciliation programs to life-saving assistance in emergency situations, their presence has been seen as helpful, and even instrumental. They have been assisting millions of Somalis particularly internally displaced persons (IDPs) through their various interventions in the country. Without their support the humanitarian situation would have been even worse.

Today, civil society continues to play the same role, even as the new federal government begins to function, however weakly and dependent on the support of international community. Civil society is supporting state institutions by building their capacities and implementing both development and emergency programs at the grassroots level. They are the ones who are fully aware of the dire situations of the most vulnerable groups in the community. They work in hostile and difficult to access areas.

### **A challenging environment**

With that said, civil society, human rights activists and journalists in Somalia face brutal attacks and repressive actions from both the state and the terrorist group Al-Shabaab. According to Al Shabaab's twisted version of Islam, civil society is seen as non-Muslim since these organizations generally work closely with donors and foreign agencies. They have sentenced all journalists to death as one militant who was captured by the government admitted during an interview in custody aired on state TV. Journalists and activists have been subjected to kidnaping, forced disappearance and killings in a number of incidents in recent years in Somalia mostly claimed by Al-Shabaab. As Abdullahi (full name withheld for security reasons), a journalist working with local radio says:

We are working in a very challenging context, you can't convince any of the conflicting parties of your profession, on the definition of journalism. You can't even tell security forces that they are violating our own constitution by arresting you simply because they either don't want to hear that or they don't understand it at all

On the other hand, the state accuses civil society organizations (CSOs) of misusing of funds and operating outside of the law, as well as implementing projects without of their knowledge. Typically, however, no proof of these allegations is offered. The government has recently passed a controversial and oppressive media law which has been criticized for imposing expensive registration requirements, requiring that journalists possess colleague degrees (which are hard to come by in a country wracked by war for more than two decades) and requiring that journalist expose sources on request by the government. In addition, the security forces arrest journalists and CSO staff in the name of protecting the national security. In 2016, three journalists were arbitrarily arrested by the government while doing their work (they were released after three days). They also arrested three youth activists who were working with local NGOs due to a campaign they launched on social media demanding more youth political participation and job creation. They were released a day after their arrest but this move was widely condemned seen as a message of silencing others who dare speaking out. On the same year three journalists were killed by Al Shabaab.

### **The new NGO Act**

The Somali government is currently developing a new law which will provide a regulatory framework for civil society organizations operating in the country. The bill is currently in its second consultation discussions at the ministerial level, where line ministries at both the state and federal level are discussing its development. It is not yet clear whether the new bill is as repressive as the media law which would result shirking the space of the CSOs operation in Somalia. There will be a third nationwide consultation meeting with participation of CSOs representatives.

One of the main challenges faced by the Somali CSOs is lack of collaboration and the absence of networking culture among them. It is very crucial at this moment that the CSOs come together, join their forces and unite their voices so that they can have strong amplified voices on any issues that matter to them and the communities they represent.

## Statement by Witness Somalia on humanitarian aid workers kidnapped in Somalia

(19 July 2017) On Saturday morning 15th July, seven humanitarian aid staff who were working with a local NGO called GREDO were kidnapped by Al Shabaab in the Bay region of Somalia after their convoy came under attack. The team (all of them Somali nationals) including four women and a driver were on their way to the field to deliver nutrition assistance to famine affected people in the area. They are currently held captive at small district called Dalandole as stated by their co-workers in the office.

Local traditional elders and the regional administration are now intervening in the case in an attempt to secure the release the staff. However, according to the reports, the kidnappers demanded \$200,000 ransom to free the staff.

Last April, Al Shabaab kidnapped four local aid workers in Gedo region, and released them after ransom. The group banned International and local aid agencies from operating in areas under its control.

Somali civil society organizations have been playing essential lifeline role in delivering humanitarian assistance through the years of which the country

lacked well-functioning government. As a result, the staff of the organizations were subjected to various human rights violations such as forced disappearance, killings and kidnapping.

We, WITNESS SOMALIA demand the unconditional and immediate release of the staff who were carrying out nothing else but humanitarian assistance to their fellow communities. We are also calling for the international communities to bring their attention into the worsening and shrinking space of Somali civil societies who are operating in the frontline zones. We, as a civil society, can no longer remain silent while our colleagues are murdered, taken hostage, and attacked with impunity in our own country.

### Updates

In April 2017, Reporters without Borders released their 2017 World Press Freedom Index which positioned Somalia 167<sup>th</sup> out of 180 countries ranked.<sup>21</sup>

On April 1, 2017, the editor of Goobjoog radio, Hanad Ali Guled, was abducted and tortured by unknown armed men for two days. He eventually managed to escape. He had been receiving deaths threats in the run up to the incident for his engagement with the banned campaign Media for Aid.<sup>22</sup>

<sup>21</sup> Reporters without Borders, "World Press Freedom Index," April 2017, available at <https://rsf.org/en/ranking>.

<sup>22</sup> DefendDefenders, Overview of the Human Rights Situation in the East and Horn of Africa, November 2016 –April 2017," May 2017, available at <https://www.defenddefenders.org/wp-content/uploads/2017/05/EH-Overview-ACHPR60.pdf>.



# SOMALILAND



## Updates

On January 23, 2017, Abdirashid Nur Ways and Said Khadar Abdilahi, chairperson and editor-in-chief of the *Hubsad* newspaper, were charged with operating an unlicensed newspaper. The charges appear to be connected to an article discussing irregularities in land sales.<sup>23</sup>

On February 4, 2017, Somaliland authorities interrogated Guleid Ahmed Jama, a prominent human rights defender and chairperson of the Human Right Center about a petition calling for police reforms. Guleid had earlier spoke to the *Sahan* newspaper about the petition, and the newspaper's editor was also called in for questioning. Both were released later that day. After the center issued a statement on the incident, its spokesman, Ahmed Hussein Abdi, was also arrested. As of February 7, he was still in custody, but had not been charged. Guleid has since been charged with publication of false news and defamation.<sup>24</sup>

An independent journalist and blogger, Abdimalik Muse Oldon, was arrested on February 15, 2017. He was since charged with and found guilty of spreading anti-nationalist activities and endangering peace

and security in apparent connection with having met with the president of Somalia. He has been sentenced to two years in prison.<sup>25</sup>

After criticizing the government of Somaliland for allowing the establishment of a United Arab Emirates base in Berbera, the director of Star TV, Baashe Hassan, was arrested on February 20, 2017 and held for five days.<sup>26</sup>

On April 20, 2017, the Committee to Protect Journalists called for the release of Ibrahim Osman Ahmed, editor of *Hangool News* who had been detained without charge for five days after handing himself over to secure the release of a colleague. CPJ reported that the detention appeared to be linked to the outlet's critical coverage of the Somaliland police commissioner and conditions in Hargeisa prison.<sup>27</sup>

On June 1, 2017, the Committee to Protect Journalists called for the release of Mohammed Adnan Drir, the editor of *Horseed Media*. Mr. Drir was detained for a month after he asked a question at a May 24 press conference which allegedly criticized the minister and implied that he might be under the influence of alcohol, which is illegal in Somaliland.<sup>28</sup>

<sup>23</sup> DefendDefenders, Overview of the Human Rights Situation in the East and Horn of Africa, November 2016 –April 2017," May 2017, available at <https://www.defenddefenders.org/wp-content/uploads/2017/05/EH-Overview-ACHPR60.pdf>.

<sup>24</sup> Defend Defenders, "Somaliland: Two prominent HRDs detained and questioned," February 7, 2017.

<sup>25</sup> DefendDefenders, Overview of the Human Rights Situation in the East and Horn of Africa, November 2016 –April 2017," May 2017, available at <https://www.defenddefenders.org/wp-content/uploads/2017/05/EH-Overview-ACHPR60.pdf>.

<sup>26</sup> DefendDefenders, Overview of the Human Rights Situation in the East and Horn of Africa, November 2016 –April 2017," May 2017, available at <https://www.defenddefenders.org/wp-content/uploads/2017/05/EH-Overview-ACHPR60.pdf>.

<sup>27</sup> Committee to Protect Journalists, "Somaliland editor detained after trading himself for colleague's freedom," April 20, 2017.

<sup>28</sup> Committee to Protect Journalists, "Somaliland journalist held without charge for asking question at press conference," June 1, 2017.



# SOUTH SUDAN

## Saving Lives Costs Lives: A Case of NGOs Operating in Conflict Affected zones in South Sudan

By Victor Bol Dungu, Research Director, South Sudan Law Society



The conflict in South Sudan has entered its fourth year with no tangible solutions in sight. Civilians continue to be displaced and face human rights abuses including rape, torture, arbitrary arrest and detention. Looming hunger puts scores at risk of starving to death. Meanwhile efforts for humanitarian organizations to alleviate the peoples suffering have also been restricted. It's a difficult situation for non-governmental organizations operating in South Sudan as domestic law and challenges caused by the ongoing conflict continue to press NGOs against the wall.

The conflict in South Sudan has affected organizations in different ways. Only organizations working on health, emergency relief and evacuation, humanitarian aid and peace building seem to have funding opportunities. This is also reflected in the nature and the spirit of the NGO Act 2016, which only recognizes humanitarian, as opposed to advocacy, research or governance focused NGOs. NGOs working on governance, rule of law, access to justice and development are far too dormant. Could this be a desired situation? For the majority of the population, of course not, but for others, indeed it is.

The effects of conflict on non-governmental organizations are vivid and range from lack of funding, to difficult humanitarian access, to risk of arrest and detention, to losing lives in the course of struggle to save lives. Indeed, in South Sudan, "you lose lives to save lives." Many aid workers have perished while either in action to save lives or on the way risking their lives to save others. A UN report puts death toll for aid workers in South Sudan at 82 since the civil war between the government and opposition groups started in late 2013.<sup>29</sup>

The shrinking space for civil society to actively engage on the governance affairs of their own country is yet an additional burden if not an access block. The shrinking space is further aggravated by continuing crackdown on activists, which has forced many activists to flee to neighboring countries for their safety. Though these activists continue to voice their concerns from

afar, the impact is less than when such concerns were voiced from within. The conflict has disenfranchised civil society organizations across the country without hope for quick revamp. Indeed, it may be misleading to talk about shrinking civil society space at this time in South Sudan, civil society space is completely closed. It is immaterial to think of shrinking space since space for civil society no longer exists in practice.

Furthermore, the regulatory framework for NGOs operating in South Sudan does not address all issues that NGOs are battling – ranging from access to registration, geographical scope of work and facilities to implement activities. Though the NGO law is clear about registration procedures, the fact that registration is currently centralized limits access to registration for many organizations. The organizations operating in rural parts of the country find it expensive, if not absolutely impossible, to travel to Juba to access or renew registration. However, SSRRC has recently shown a sign of good will and flexibility by saying that organizations which do not have capacity to register due to lack of required fees can turn in a letter of commitment to the office of registrar general and to be allowed to register and pay registration fees later, once they are able. This is a good sign and SSRRC deserves huge applause for taking this step. Moreover, in as much as this may help many organizations access registration, this step still raises a few questions, especially if time lapses without the payment of fees being settled. For example, will such organizations be allowed to renew their certificates or asked to clear before they would be allowed to register or renew certificates? This remains to be seen.

During the early days of registration under the new NGO law, some organizations were delayed in accessing registration but were later allowed to register. The author is not aware of any cases in which NGOs/CSOs had offices or operations closed down under the new law, but a few were fined for late registration. Besides the known crackdown on civil society activists, for example, members of civil

society were reportedly harassed and intimidated in Juba shortly after meeting with the visiting delegation of UN Security Council<sup>30</sup> and there were arrests of members of an organization in Wau with reasons for arrest unclear.<sup>31</sup> However, these staff were later released without being arraigned in court. The close monitoring of CSO activities, coupled with enforced censorship of a few vocal CSO voices have had a huge impact on the whole functioning of these organizations. Some activists have fled the country while those who have remained behind have either adopted a low-profile advocacy or self-censorship.

The work of civil society has become more dangerous. Those voices which are critical of the government are labeled as agents of regime change, members of opposition or rebels. The same applies to opposition groups, those that voice critiques of their activities are considered pro-government and are deemed acceptable military targets. This has increased the level of danger for civil society activists from risky to fatal and this calls for concerted efforts to alleviate the current situation.

In addition, the newly created administrative boundaries have complicated program activities and delivery of services. Organizations are required to follow onerous administrative procedures to enable them successfully access needy populations. The reforms divided up states, so while the base of operations for an organization might remain in same place, they could face a completely new administration. NGOs are also compelled to seek permission to access states outside the states in which they are based. While previously these were large areas of coverage, they are now smaller and so the likelihood of needing to apply for additional permissions is higher. Though SSRRC recently asked NGOs to continue to work based on their territorial scope, more needs to be done to ensure that state authorities understand that organizations require flexibility in order to effectively respond to emergency situations and save lives.

NGOs continue to face multiple barriers when implementing activities. Currently, the standing order from national security services (NSS) is that any NGO which seeks to implement activities in Juba must obtain prior approval or clearance. Any organization that proceeds to implement activities without prior approval faces discontinuation of such activities, a series of in-

terrogations or being banned from carrying out further activities. This has affected activity implementation schedules causing delay or complete disruption of programs.

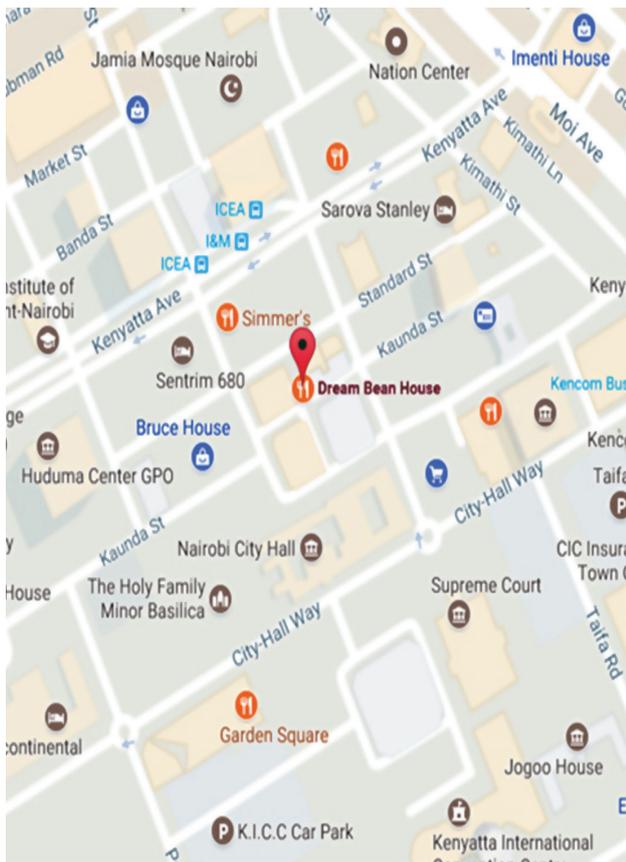
The order to seek prior approval before implementing covers all hotels and other public premises in Juba. However, meetings, dialogues, launch, workshops and trainings that are carried out within the NGO premises are exempted from the order. The challenge is that not many organizations have such facilities to host such events, and when they do, such facilities will not be big enough to host large events or adequate to serve other organizations which don't have these facilities.

Finally, many humanitarian organizations continue to face road blocks or denial of access to areas with critical humanitarian needs. At times, it's cumbersome to provide aid or carry out activities based on the challenges highlighted above. In spite of huge displacement of civilians across the country and the dire humanitarian situation of these IDPs, little has been done to improve access to these at-risk populations in South Sudan.

Re-establishing civil society that was allowed to wither may require more work than establishing it in the first place. This will affect delivery of programs and activities. In order for many CSOs, CBOs, NGOs to access registration, there's a need to decentralize registration so that such organizations can access it within their localities while the government can manage the NGO registration database at the central unit at the national secretariat. This would be more effective. If flexibility is maintained and if the civil society space is helped to re-expand, this will serve as critical step to confidence building in South Sudan.

### **In focus: the case of Dong Samuel**

On the morning of the January 23, Dong Samuel left his family to attend classes at Mount Kenya University where he was studying for a master's degree in Criminal Law. His classes were in the evening, but that day, he left at 11 p.m. and by 2 p.m., he met friends in a coffee shop called Savannah on Loita street. Two hours and a half later, he told his friends that he was going to class, but he called them at 6 p.m. to tell them that his class was canceled and asked if they were still together. He joined them at Dream Bean House



Google map of Dream Bean House

on Kaunda street and stayed with them until 9 p.m.

Samuel's family in Nairobi consisted of his wife who was sick at that time and his five girls, the youngest is 4 years old and the eldest is 16 years old. They were concerned when he was late coming home, because he was usually home in time to put his daughters to bed at night and up early to make them breakfast. Concerned, his family called his friends who were surprised to hear that he had not arrived. According to the security camera and a friend's testimony, one of Samuel's friends escorted him downstairs from the cafe and stood there until Dong crossed the street to take the public transport. In the months leading up to his disappearance, Samuel had not felt safe in Kenya and for that reason, would take public transport rather than taxis. He told a friend that a taxi driver could easily be bought by the security services, but if something happened on public transport, people would at least see it. He felt safer on public transport, but that day, he never made it home. By the morning, when he had still not made it home, people began calling each other and his family filed a missing person's report.

Dong Samuel was born in Akobo in what was formerly known as Jonglei State on January 30, 1970. For part of his life, he lived in Khartoum where he completed secondary school and studied law at Nileen University. He also had a short stint working at the Sudanese Ministry of Interior Affairs. He moved to South Sudan before the Comprehensive Peace Agreement was signed in 2005 where he became the secretary-general of the South Sudan Law Society from 2002-2013. He was a practicing lawyer passionate about human rights and a partner at Dong and Kuor Law Office. 2013 was a huge turn for his career as he was part of the team representing Pagan Amun, the then Secretary-General of the SPLM, the ruling party in South Sudan, who was accused of attempting a coup d'état against the president and removed from his position in the party and subjected to criminal charges.

Dong challenged his dismissal by the president and was one of the pillars of his defense team. It soon became tense and he felt that his life was at risk. In August 2013, Samuel left Juba due to the growing security threats, but he continued to receive threatening text messages like "you could be okay, but you don't know about your children" and "we will get you".

In Kenya, Samuel was granted refugee status and began building an ordinary life for his family. In 2016, the conflict worsened in South Sudan when the peace agreement failed. With this escalation, Samuel began activism on social media using his well-established reputation as a lawyer. In his many posts, he highlighted ongoing killings, condemned the conflict, advocated for the peace process and challenged the positions of IGAD countries. Because of this activism, he became a target for the authorities and began receiving threatening messages accusing him of making up his posts. The Facebook threats were serious and before he disappeared, he posted on his timeline that the first vice-president, Taban Deng, had advised him to keep quiet. He reportedly affirmed that he would not keep quiet despite the threats.

He had a feeling that he was being watched after the Kenyan government deported James Gadet, the spokesperson of the SPLM-IO and a registered refugee in Kenya, in November 2016. At that time, South Sudanese activists began leaving Kenya and going to Ethiopia, Tanzania and even Sudan. Kenya and Uganda became perceived as standing against the activities of

perceived dissidents and activists and the case of Gadet was seen as proof of this. Refugee status appeared to offer no protection. Like Gadet, Dong was a registered refugee in Kenya.

A day after Samuel's disappearance, Aggrey Idris, a member of the Sudan People's Liberation Movement-In Opposition (SPLM-IO), went missing. His family and Samuel's began working together to piece the small bits of information received on their case.

"We heard from members of the opposition and a lawyer that Samuel and Idris were under the custody of Kenyan authorities and they were facing deportation, we spoke to UNHCR and they sent lawyers to visit the police stations, they went to several police stations and even to the airport to check, but couldn't find a trace," said Nyaogah Tut, a friend and one of the leaders of the campaign.



Image of Dream Bean House taken by Auritania Meira

In the days after Samuel went missing, his family and friends tried to understand what might have led to his abduction. Tut said that they believe the abduction is connected to a [report](#) released by the Enough Project on land and property held by South Sudanese officials. It was released around the time he disappeared and he was very vocal in speaking out about the issues it raised, so he may have been seen as a source for it.



Dong Samuel

Then the family received information from individuals working inside the security that Samuel and Idris ended up in South Sudan on the night of January 25. They were reportedly kept in detention by the security services for two nights and were moved during the day on the 28th. The sources were unsure whether they were moved to a different part of the building or another location altogether.

On January 27, the family of Samuel went to court and the family applied for an order of habeas corpus after a Kenyan government general communicated with the family asking for money to give information on Dong and saying that he would allow the family to see him.

The order of habeas corpus was granted but the Kenyan authorities denied that they had Dong in custody. The court ordered an investigation but up to today that has not been carried out. The file remains open the police appear not to be committed to finishing the investigation.

"We have submitted an application for judicial review because we believe the first judge didn't adequately interpret habeas corpus and didn't look at all facts we presented, including a recording of the security agent saying that if he was given money he would facilitate Dong's release. He failed to allow lawyers to question the security officer and didn't consider this evidence in court," said Tut.

Now, a new judge is looking specifically at the issue of forced disappearance and whether the right of non-refoulement was violated. Non-refoulement is principle of international law (guaranteed, among other things, by Article 33 of the 1951 Convention) which protects refugees against return to a country where they fear persecution. At present, both governments deny responsibility for Samuel's abduction or knowledge of it. This is taking a toll on the families and the human rights community at large. The case needs to be thoroughly investigated so that responsibility can be assigned and, if indeed an official rendition took place, Kenya can be held accountable.

In the meantime, says Tut, "We are in limbo, we don't know what happened, we need Kenya to tell the families how they disappeared and who took them across the border then we can go to bed knowing where they are."

## Updates

In the first seven months of the year, 15 humanitarians were killed in South Sudan.<sup>32</sup>

In February 2017, the government of South Sudan raised the cost of a work permit for foreign aid workers from \$100 to \$10,000. International aid organizations widely criticized the move,

saying that the amount was "absolutely unheard of globally" and would impede efforts to offer desperately needed humanitarian aid.<sup>33</sup>

In March 2017, there were several attacks on humanitarian NGOs in South Sudan. On March 14, an attack on a humanitarian convoy killed two and left three others injured. On March 27, aid workers with the civil society organization Grassroots Empowerment and Development Organization (GREDO) were attacked leaving four South Sudanese and three Kenyans dead.<sup>34</sup>

In April 2017, Reporters without Borders released their 2017 World Press Freedom Index which positioned South Sudan 145<sup>th</sup> out of 180 countries ranked.<sup>35</sup>

In May 2017, Community Empowerment for Progress Organization (CEPO), a HOACS forum member, reported that two individuals protesting First Vice President Taban Deng's Peace Committee were detained in Bor and held without charge for some time without charge.<sup>36</sup> CEPO also reported that activists who had participated in an anti-government protest in Juba were arrested and detained and in some cases tortured by national security authorities.<sup>37</sup>

In June 2017, assailants broke into 24 compounds run by humanitarian organizations and looted goods.<sup>38</sup>

<sup>29</sup> Reuters, "U.N. says 82 aid workers killed in South Sudan's three year war," April 19, 2017, available at <http://www.reuters.com/article/us-southsudan-unrest-idUSKBN17L2AC>.

<sup>30</sup> Radio Tamazuj, "US Slams South Sudan over activist intimidation," September 12, 2016, available at <https://radiotamazuj.org/en/news/article/us-slams-south-sudan-over-activist-intimidation>.

<sup>31</sup> Radio Tamazuj, "Wau authorities arrest 7 civil society activists who protested abuses by security forces," November 30, 2015, available at <https://radiotamazuj.org/en/news/article/wau-authorities-arrest-7-civil-society-activists-who-protested-abuses-by-security-forces>.

<sup>32</sup> Simon Little, "South Sudan: Time for humanitarians to get tough," IRIN, August 7, 2017, available at [http://www.irinnews.org/opinion/2017/08/07/south-sudan-time-humanitarians-get-tough?utm\\_source=IRIN+-+the+inside+story+on+emergencies&utm\\_campaign=eb2a83871d-RSS\\_EMAIL\\_CAMPAIGN\\_ENGLISH\\_CONFLICT&utm\\_medium=email&utm\\_term=0\\_d842d98289-eb2a83871d-75449257](http://www.irinnews.org/opinion/2017/08/07/south-sudan-time-humanitarians-get-tough?utm_source=IRIN+-+the+inside+story+on+emergencies&utm_campaign=eb2a83871d-RSS_EMAIL_CAMPAIGN_ENGLISH_CONFLICT&utm_medium=email&utm_term=0_d842d98289-eb2a83871d-75449257).

<sup>33</sup> Diane Cole, "South Sudan Will Now Charge \$10,000 for an Aid Worker Permit. Why?" NPR, March 7, 2017.

<sup>34</sup> Karen McVeigh, "Seven dead in worst attack on aid workers since South Sudan war began," The Guardian, 27 March 2017.

<sup>35</sup> Reporters without Borders, "World Press Freedom Index," April 2017, available at <https://rsf.org/en/ranking>.

<sup>36</sup> Community Empowerment for Progress Organization (CEPO), "Two peace protesters detained in Jonglei," May 13, 2017, available <http://cepo-southsudan.org/incident-report/two-peace-protesters-detained-jonglei>.

<sup>37</sup> Community Empowerment for Progress Organization (CEPO), "Activists who organized the anti-government protest in South Sudan's capital, Juba, on Monday," May 13, 2017, available at <http://cepo-southsudan.org/incident-report/activists-who-organized-anti-government-protest-south-sudan-s-capital-juba-monday>.

<sup>38</sup> Simon Little, "South Sudan: Time for humanitarians to get tough," IRIN, August 7, 2017, available at [http://www.irinnews.org/opinion/2017/08/07/south-sudan-time-humanitarians-get-tough?utm\\_source=IRIN+-+the+inside+story+on+emergencies&utm\\_campaign=eb2a83871d-RSS\\_EMAIL\\_CAMPAIGN\\_ENGLISH\\_CONFLICT&utm\\_medium=email&utm\\_term=0\\_d842d98289-eb2a83871d-75449257](http://www.irinnews.org/opinion/2017/08/07/south-sudan-time-humanitarians-get-tough?utm_source=IRIN+-+the+inside+story+on+emergencies&utm_campaign=eb2a83871d-RSS_EMAIL_CAMPAIGN_ENGLISH_CONFLICT&utm_medium=email&utm_term=0_d842d98289-eb2a83871d-75449257).



# SUDAN

## Dr. Mudawi Adam, Sudanese Civil Society Leader Remains Behind Bars

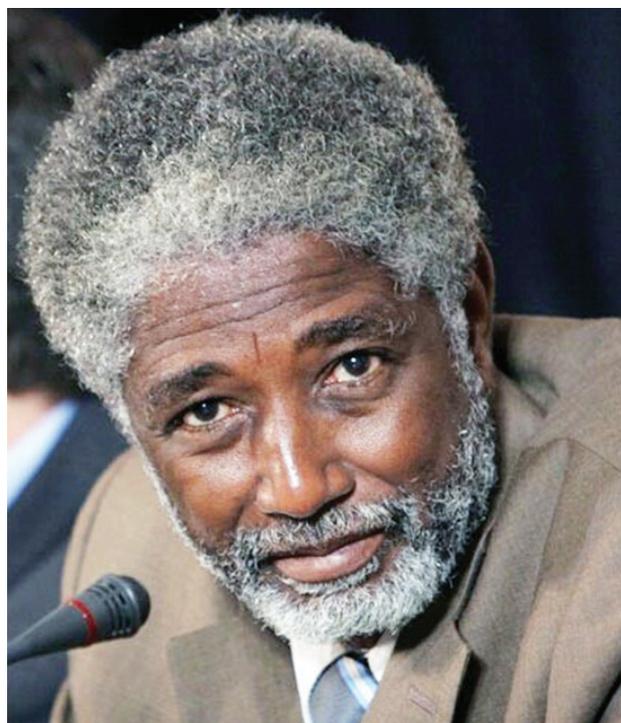


On December 7, 2016, Dr Mudawi Ibrahim Adam and his personal driver were arrested by the security services from the University of Khartoum, where Dr. Adam currently teaches at the Faculty of Engineering. His family had no idea what had happened to him until the next day when their house was raided by officers from the National Intelligence and Security Services (NISS). In the following days, the financial officer of Dr. Adam's personal company, Lambada Engineering Company, as well as one of the lawyers who has previously worked with him were also detained.

Dr. Adam is the winner of the inaugural Frontline Defenders Award for human rights defenders for his work in Sudanese civil society as the founder and former director of the Sudan Social Development Organization (SUDO). SUDO was one of the largest and strongest civil society organizations in Sudan and produced and trained many leading civil society activists until it was shut down by the authorities in 2009, one of the organizations targeted after the issuance of an arrest warrant against the incumbent Sudanese president by the International Criminal Court (ICC). Since then, the organization has continued its work from outside Sudan and to issue frequent reports on the human rights situation.

On the day Dr. Adam was arrested, he visited White Nile State to finalize a project he was supervising. He felt that his arrest was near as his house had been under surveillance and Hafiz Idris, a human rights activist, had been arrested from Dr. Adam's house a few days earlier. Dr. Adam is not new to detentions and intimidation from the authorities, as a key member of the Sudanese civil society, he has spent many months in detention in the last 15 years. In fact, his wife and daughter received the Frontline award on his behalf in 2005 as he was in detention at the time.

A month into his detention, Dr. Adam began a hunger strike. As a result, he was tortured in his cell. His family began a very strong campaign calling the authorities to stop torturing him and release him immediately. Instead the authorities filed a case against him under Article 133 of the Criminal Law for attempting to commit suicide due to his hunger strike.



Dr. Mudawi Ibrahim

Since his detention, the security services have continued to circulate rumors that he would face capital crimes and state-owned newspapers participated in a smear campaign, referring to him as a CIA agent and a spy for foreign embassies. However, there was no confirmation of charges against him even though his case was sent to the State Crimes Prosecution Office in February 2017. By the end of March, the authorities were able to extract, under severe torture, a confession from one of his colleagues, Hafiz Idris, that they had worked on reports against the state namely the Amnesty International report on the use of chemical weapons in Sudan. Finally, on May 11, 2017, the State Crimes Prosecutor charged Dr. and Mr. Idris under the following laws:

- Article 50- undermining the constitutional order
- Article 51- inciting war against the state
- Article 53- espionage
- Article 64- inciting hatred against denominations

- Article 65- establishing/ being members of criminal and terrorist organizations, and
- Article 66- dissemination of false news

On July 7, 2017, the HoACS Forum was one of 26 organizations that signed on to a joint statement criticizing the unjustified detention of Mudawi and his colleague Mr. Idris. The full statement and list of signatories is available at: <http://www.acjps.org/sudan-human-rights-defenders-detained-face-death-penalty/>.

The next hearing will be held on August 16, 2017.

### **Background:**

Dr Mudawi was born in 1958 in Kudwa, a village in Northern Kordofan, very close to Om-Rowaba, one of its largest cities. He attended the University of Khartoum and obtained a degree in mechanical engineering. He graduated in 1978 and continued studying until he earned a PhD from the same university. He lived in many countries including the United States where he worked at NASA before he returned to Sudan to work in the field of engineering through his company and teaching at the University of Khartoum. In 2001, he founded SUDO and became its first director. SUDO was one of very few organizations working on peace and human rights in all parts of Sudan.

## **TRACKs and the Battle Against #SudanCivilSociety**

In January 2013, Sudanese activists and civil society actors began a social media campaign known as #SudanCivilSociety. The campaign was an attempt to fight against, and raise awareness about, the closure of at least five civil society organizations and cultural centers between November 2012 and January 2013. The activists were worried about what this would mean for civil liberties in the country and acknowledged that shrinking civic space is shrinking and this exactly the opposite of what Sudan needs right now. The hashtag spread and the campaign kept going strong until the end of the year. One of the civil society organizations that was included in the campaign was Al-Khatim Adlan Centre for Enlightenment and Human Development (KACE) which was shut down in December 2012.

After its closure, two of its staff members went on to found a civil society training center called the Cen-

tre for Training and Human Development (TRACKs). They invested much of their efforts and even personal resources to establish this center offering trainings in IT, languages and human rights.

On the March 16, 2015, TRACKs center which had just turned two years old, was raided by the National Intelligence and Security Services (NISS). Adil Bakheit, a civil society trainer who was giving a workshop at the time was detained for nearly two months and along with the center's director, Khalfallah Al-Afif, its administrative manager, Arwa Al-Rabie and its accountant, Nudaina Kamal. The State Crimes Prosecution Office filed seven charges against them two of which, waging war against the state (Article 51) and undermining the constitutional system (Article 50), carried the death penalty. Staff members continued to be summoned for interrogation, but court sessions were postponed for months.

In February 2016, the State Crimes Prosecutor found that there was no evidence to pursue the 2015 case against TRACKs, decided to close the file and called the center's director to retrieve their confiscated equipment.

But the national security apparatus had a different opinion.

A few days later, on February 29, 2016, the center was subjected to yet another raid, again without a search warrant or any validation. Its staff, affiliates, volunteers and a visitor to the center were arrested and were called in for interrogations for nearly a month where they were forced to face a wall and were kept for up to 12 hours in detention. By May 2016, their passports were confiscated and their lives came under scrutiny.

On May 22, 2016, the center's director, Khalfallah Al-Afif; Arwa al-Rabie; Imany-Leyla Raye, a Cameroonian student and volunteer; Midhat Afifaldeen Hamdan and Hassan Kheiry, trainers; Al-Shazali Ibrahim Al-Sheikh and Khuzaini El-Hadi, who are affiliated with the center; as well as Mustafa Adam, a civil society activist who was visiting the center at the time of the raid, were summoned for questioning to the State Crimes Prosecution Office. Most were released in the following weeks while Khalfallah Al-Afif, Midhat Hamdan and Mustafa Adam remained in detention in a four by four cell for three months. The cell did

not have proper ventilation causing Al-Afif to faint at one point. They had to purchase food or depend on family and friends to bring it to them. On August 15, 2016, after 86 days in detention, the three defenders were transferred to Al-Huda prison in Omdurman where they were forced to pay to be housed in a cell. On the same day, they were charged with capital crimes along with Arwa Al-Rabie, Imany-Leyla Raye and Hassan Kheiry. The six defendants faced charges under Article 50 (undermining the constitutional system), Article 51 (waging war against the state), Article 53 (espionage), and Article 65 (participation in criminal and terrorist organizations) of the Sudanese Criminal Code. Adam and Hamdan were also faced charges under Article 14 of the information crimes law (possession of immoral material) Moreover, the case that had been dropped in February 2016 by the State Crimes Prosecution Office was re-opened and has yet to be closed.

In March 2017, the three activists were released after being convicted and sentenced to a year in prison and a hefty fine, which they paid. Although the case is over, taking an in-depth look into it will help Sudanese and regional civil society understand the dynamics within which Sudanese civil society operates. The analysis here will proceed along three axes: state corruption, TRACKs as a symbol and the NISS and the judiciary.

### *State Corruption*

Although TRACKs was established in March 2013 and operated for only about three years, it was highly successful and became one of the top training centers in Sudan.

Firstly, the center was successful because its director, Khafallah Al-Afif, is a veteran of the National Council for Training and worked there at a time when the council was an effective part of a strong civil service. The center was well-established and its director used his network to get the center all necessary certificates and permits within a short time.

Secondly, the center had very qualified staff members who were trained in different capacities outside Sudan because they had previously worked in Sudanese civil society. This gave them access to regional and international networks and resources that they used to develop their training materials.

Thirdly, the center was independent, giving it access to a diverse pool of trainers as opposed to centers that are owned by the authorities and limit their dealings to government-affiliated trainers. This was a big advantage.

For these reasons, TRACKs was a success story and the center began not only to generate profits, but also to compete in national-level tenders with well-established government-owned centers. It should be noted that the majority of training centers in Sudan are owned by the government or its affiliates. In fact, two of the largest training centers are owned by security officials. For this reason, the success of TRACKs was not viewed positively and the other centers viewed it as competition. When TRACKs was named runner-up for an award as the top training center, the security services pressured the National Council for Training to withdraw the award. Any profit-making entity that is not owned by the authorities or a member in the ruling party usually comes under attack through heavy taxation and can find its operations very difficult. TRACKs' success was definitely one of the reasons behind the raid and the ensuing legal battle.

### *TRACKs as a symbol*

The hashtag, #SudanCivilSociety, created as part of the campaign, has continued to be used over the years because the crackdown never ceased. In fact, many organizations continue to be closed or face difficulties in renewing their registration. This case is one of many in which civil society activists were subjected to detention and a trial. During 2016, the entire human rights movement in Sudan came under attack and a number of student and youth activists, opposition party members and other civil society activists were arrested. There was the high-profile trial of two pastors, a Czech journalist and Christian leader and another activist (known as the pastor's trial). These individuals were kept in detention for more than a year faced with capital charges. Although the TRACKs and the Pastor's trials have ended, the trial of Asim Omer, a student activist has yet to end. Omer was arrested and accused of killing a police officer during the protests at the University of Khartoum last year. In the general crackdown against civil society in Sudan, the following three cases became symbols:

- TRACKs- crackdown against organizations

- Pastors Case- crackdown against religious minorities
- Asim Omer- crackdown against student and youth activism

Activists view each case as an attempt to scare the broader civil society movement into silence. The TRACKS case was an attempt to prosecute all civil society in Sudan. During the trial, numerous CSOs were brought up and had their staff members and directors featured in videos and documents. Moreover, the prosecutor was keen to establish that TRACKS played a role in representing CSOs that continue to operate outside the law and against the interests of the country. They pointed to US sanctions on the country and the International Criminal Court case against Sudanese officials as evidence of this work, despite the fact that both the sanctions and the ICC case far predate the founding of TRACKS.

#### *The National Intelligence and Security Service (NISS) and the Judiciary*

The NISS continues to showcase its myriad powers. After showcasing its military power and security strength through suppressing a number of protest movements over the years, it has begun a new pattern of legal proceedings against human rights and civil society actors. This is for two main reasons:

First, the NISS wants to re-assert that it controls the judiciary. Although NISS raided TRACKS and continued to summon its staff members, the paper presented in court to justify the raid was issued by the State Crimes Prosecution Office. That office should have sent police officers to conduct the raid and not the NISS. The undue influence of NISS was evident throughout the trial as NISS officers would meet with the prosecution attorney and the judge inside the courthouse before and after the court sessions. It also came to light that the judge was himself is an NISS officer.

Secondly, the NISS has changed its behavior. Its normal course of action is to use the National Security Act of 2010 which is very oppressive and gives the NISS authority to arrest, detain, intimidate and interrogate anyone without pressing charges or even issuing a warrant. Although the 2010 Act gives NISS agents extensive powers against all citizens without judicial oversight, it has come under heavy criticism

both nationally and internationally over the years. This, in turn, has motivated the NISS to develop a new strategy. Instead of arresting citizens, especially human rights defenders for extended periods of time without pressing charges and coming under storm for this behavior, the force decided to begin pressing charges and keeping people in detention for even longer periods of time.

This shift makes it more difficult to campaign for defenders, as while holding individuals without charge or trial is a clear violation of international human rights law, governments have a right to press charges under criminal law. Thus, the government could answer any inquiry by national or international bodies with a simple answer, the individuals are facing charges and a legal process is ongoing. This new pattern is very dangerous. It makes it harder to campaign on behalf of the defenders, as the impropriety is less clear, and external activists may not be certain whether or not the charges have substance. It also means that defenders are now spending more time in detention as the judicial process in Sudan is tedious and slow and can take months as opposed to a defender who does not face charges and is usually released after a few weeks due to heavy pressure and a louder campaign.

A full timeline of the TRACKS case is available online at:

### **Proposed Legal Reform in Sudan Risks Further Shrinking Space for Civil Society**

In 2016, a new draft law regulating civil society in Sudan began to circulate. This law is broadly similar to the Sudanese Voluntary and Humanitarian Work Act of 2006 (VHWA) which currently regulates civil society organizations (CSOs) in Sudan, but tightens the legal framework further and risks shrinking the already extremely limited space for civil society in Sudan.

The current legal framework is already extremely problematic, as it focuses on humanitarian work and does not explicitly recognize human rights, research and advocacy based groups, unduly restricts the ability of organizations to register, fails to set a clear time line or time limit for consideration of registration requests, requires them to re-register annually, and prohibits access to foreign funding without gov-

ernment permission. In practice, the law has allowed for the de-registration or closing of a number of organizations, including the Al Khatim Adlan Centre for Enlightenment and Human Development (KACE) in a move which was ruled by the African Commission on Human and Peoples' Rights to be a violation of its members' rights to freedom of association. Unfortunately, the targeting of CSOs has not been limited to attacks under this law, and bank accounts have been frozen, premises raided, and members have been arrested and faced politically motivated charges. A fuller discussion of the current situation can be found in KACE and the International Center for Not-for-Profit Law, "[A Study of the Sudanese Voluntary and Humanitarian Work Act 2006](#)," 2015 and KACE, Pax and the Horn of Africa Civil Society Forum, "The Legal Frameworks Governing Non-Governmental Organizations in the Horn of Africa," 2017.

The new law represents an opportunity to improve this dire situation, but unfortunately the draft law as reviewed, fails to do this and instead risks worsening the situation, providing on the contrary for additional restrictions. This move is being made despite the fact that the government convened national dialogue conference, which took place October 9-11, 2016 issued a number of recommendations in favor of expanding civil society space, including calling for "stimulating the role of civil society organizations" and recognizing the right of CSOs to work on human rights issues and to increase community participation.

With regard to access to funding, one of the most crippling aspects of the current law for Sudanese CSOs in practice, the proposed revisions only tighten the noose. First the proposed draft concentrates power in the hands of the commissioner of the Humanitarian Aid Commission (HAC) who is now solely responsible for approving external funding (as opposed to the ministry, in the version of the law currently in force). Second, the new draft adds a provision (Article 34 (2)) which states that organizations also cannot dispose of their assets without the permission of the commissioner. This could deprive organizations of a vital lifeline. In the face of difficult funding situations, the liquidation or rental of assets can provide vital funding to bridge gaps or address needs that are not funded under in grant line items and under the new law, organizations would only be able to do this with permission of the commissioner.

Of course, the full impact of this provision would only be seen in its implementation, but even in the best-case scenario, where requests were generally approved, the potential delays could cause significant damage.

In addition, the proposed new law further tightens already restrictive registration requirements. The current law requires that organizations submit a list of 30 members in order to register. This requirement has already been criticized as unduly limiting the right to freedom of association and hurting fledgling movements and organizations which may find it difficult to mobilize such number before they have properly begun organizing. The new draft law, however, exacerbates these problems by increasing the required number of initial members from 30 to 60.

In addition, the proposed legislation adds an additional requirement that organizations seeking to register must have been registered and working at the state level for at least two years prior to seeking registration at the national level. By making registration at the state level a prerequisite for national registration, the legislation opens the door for a litany of new restrictions that to be imposed at the state level. In addition, it may create particular problems for organizations that are national, regional or international in scope and which may have difficulty in adapting their activities to a particular state context.

Finally, the provisions on registration in the draft law also work to concentrate power in the hands of the commissioner who now has discretion to allow for organizations not meeting all the requirements to be registered, which opens the door wide for favoritism, nepotism, discrimination and abuse of power. In the current law, this power rests with the ministry.

With regard to the cancellation of registration, the new draft law provides for a new ground for cancellation of registration "if the organization contravenes any of its articles of association (or its constitution)". This provision opens the door for the government to accuse CSOs of failing to comply with their own internal regulations and to attempt to impose their own interpretations on those regulations. This requirement could have the perverse effect of weakening internal governance within CSOs, as they may hesitate to include strong governance measures in their internal documents for fear that any breach could open them up to state sanctioned attack. The

requirement also opens the door for organizations to be sabotaged. Any member of the organization that falls out with management or other members can simply write to HAC and claim that the organization has contravened its constitution. This has, indeed, already happened to a number of organizations, such as the Sudan Social Development Organization (SUDO) and the Al Khatim Adlan Centre for Enlightenment and Human Development (KACE).

In addition, the new draft law provides that an organization's registration can be cancelled if it fails to convene a general assembly meeting or file a performance report for two consecutive years. This provision is problematic in a number of ways. One, it does not allow for mechanisms to suspend activities for any reason. Second, it may impose an undue burden on small organizations which may struggle to find the money to convene a general assembly meeting (particularly if they are national or regional in focus and where general assembly members may be required to travel long distances to attend). On a positive note, the provision in the current law contains the same provision but where the organization has stopped activities for a year. The current draft expands this period to two years, effectively allowing for suspensions of activities that are less than two years in duration.

In addition, in the section on sanctions for violations of the law, the draft law adds a potential for the General Registrar of Voluntary Organizations to set up a steering committee to oversee the affairs of the organization in the event of a violation. This would essentially allow the government to replace independent civil society voices with government aligned ones, as well as, potentially, to capture hard won civil society resources and to realign them to government purposes.

Civil society organizations in Sudan and the region must come together to oppose these worrisome provisions and to call for revisions of the law which will rather increase space for civil society. The Confederation of Sudanese Civil Society Organizations is already attempting to organize perspectives and advocacy on this issue, but more is needed.

## Updates

On January 7, 2017, Dr. Nasser Shagg, a member of

the Sudan Central Doctors Committee was detained for several hours in Al Obeid and interrogated about his relations with the committee. He was released after agreeing to return the next day.

On January 7, 2017, a protest by activists and members of the families of Dr. Mudawi Ibrahim and Nora Obaid demanding their release. Up to that point, the family members had not been allowed to visit the detainees.

On January 13, 2017, Dr. Amin Mekki Medani was prevented from travelling to Cairo for medical treatment by NISS. NISS agents confiscated his travel documents and those of this family. He was informed that he was on the no-fly list, although he was not told why.

On January 15, 2017, Mohammed Abdallah Al Douma, of the Darfur Bar Association, was prevented from travelling to Paris to attend a Sudan Call meeting by NISS agents at Khartoum airport.

On January 15, 2017, Osama Hassanein, a journalist with Al-Watan, was sentenced in Atbara criminal court under Article 17 of the Information Law in relation to an article on corruption.

On January 19, 2017, a member of the Al-Gereif east people's sit-in committee, Ez-alarb Abbas El-Amin, was arrested by NISS related to plans to organize a protest on land rights. Other members of the committee had been detained for a month in December 2016.

On January 22, 2017, Abdel Basset Idriss, a journalist with Al-Sudani newspaper was stopped from covering the arrival of Sadiq Almahdi, head of the Umma party, at Khartoum airport.

On January 27, 2017, Ahmed Bilal, Minister of Information threatened sports journalists that they would face the same treatment as political reporters if they violated the guidelines set by the ministry.

On February 2, 2017, Suleiman Nabag, a journalist was arrested in Tandalti in White Nile State after publishing an article on hacking in the state.

On February 3, 2017, lawyers Mohammed Ahmed Abdul Aziz and Abu Bakr Zakaria Mohamed, members of the Sudanese Bar Association were arrested

following a raid of their offices in Kabkabiya in North Darfur. They were interrogated and then released.

On February 5, 2017, police in Khartoum North refused to grant a journalist at Al-Ayam, Omar Alkabai, an exit visa to travel to Jordan for a workshop.

On February 7, 2017, members of Dr. Mudawi's family were prevented from visiting him in detention.

On February 9, 2017, Dr. Mohammed Yasin, chairperson of the Central Committee of Doctors was repeatedly summoned by the NISS in relation to a strike demanding better working conditions for doctors. On April 23, 2017, Dr. Yasin was arrested in connection to a complaint against him for spreading false news, causing a public disturbance, and forgery of documents.

On February 11, 2017, the Literary Works Authorities confiscated a number of books from the Sudanese Writers Union exhibition.

On February 18, 2017, NISS prevented a planned meeting of the Central Committee of Teachers from meeting by surrounding the proposed meeting site, which belongs to the Umma party, and blocking teachers from entering. They justified the action on the basis of security, without any further explanation.

On February 18, 2017 Shamael Alnur was threatened by Algizouli Mohommad Ali that he would be charged with apostasy for publishing an article criticizing the public order courts.

On February 23, 2017, newspapers and websites publish a series of articles accusing Dr. Mudawi of collaborating with foreign entities. This is believed to have been an organized campaign by the government to tarnish his image.

On February 24, 2017, the Aziz gallery in the Coral hotel is destroyed by local authorities without any notice.

On March 1, 2017, journalists were stopped from covering the public auction of the Tajouj Theater in Kassala.

As of March 6, 2017, Mohamed Musa Daoud Saber Abdullah, Shamseldin Mohammed Harin, and Bahr Eldin Adam Altoum, members of the Central Com-

mittee of teachers remained in detention after having been arrested in November 2016. They were transferred from Gereida to Nyala but no charges had yet been filed.

On March 7, 2017, Majoub Mohamed Saleh and Nasr Eldin Altayeb of Al-Ayam newspaper were summoned and interrogated by the press and publications court in connection with an article on the security services which the security services claimed was inaccurate. On April 11, 2017, hearings were held in the case against Mahjoub Mohammed Saleh and Nasr Eldin Altayeb, of *Al-Ayaam*, who were charged by NISS in relation to their reporting on political detainees.

On March 7, 2017, Hodaybi Yasin, a journalist with Siha newspaper was attacked by NISS attempting to cover the arrival of SPLM-N prisoners at Khartoum International Airport. NISS beat, insulted, and threatened Yasin, and confiscated his press card.

On March 8, 2017, journalist Maha al-Talab was interrogated in connection with an article on the US travel ban on Sudanese. She was warned against publishing on US-Sudanese relations.

On March 9, 2017, Raouf Taha, a journalist at Al-Ahram Alyoum, was arrested by the Popular Defense Forces (PDF) after conducting an interview with a former prisoner of the Sudan Peoples' Liberation Movement-North (SPLM-N). The recording was deleted.

On March 10, 2017, Tariq Abdullah, Editor in Chief of Al-Ahram Alyoum was summoned by NISS and ordered not to employ Mujahid Abdullah, a journalist. On March 19, Al-Ahram Alyoum received direct orders from NISS not to employ Abdullah.

On March 12, 2017, Tasneem Ahmed Taha, who was arrested and detained for three months without charge for providing legal aid to students at El Fashir University, is released. On the same day, Nora Obaid, who was arrested with Dr. Mudawi on December 7, 2016, was also released. No charges were filed against Ms. Obaid either.

On March 29, 2017, Ibrahim Elnaemah is summoned to NISS offices in Northern State in connection with a statement that called on gold manufacturers to stop using potentially lethal cyanide. Mr. Elnaemah

claimed to have nothing to do with the statement.

On April 1, 2017, 7 protesters, two of whom were church leaders, were arrested from in front of the Evangelical School in Omdurman and charged in connection with their efforts to protest the authorities attempts to transfer ownership of the building to an investor. Once the charges were filed they were released.

On April 3, 2017, the NISS assaulted protesters demonstrating against the International Company for Mining's use of cyanide.

On April 5, 2017, Osman Mirgani, Editor in Chief of *Al-Tayar* newspaper, and Maha Al Tilib of *Al Saheefa* newspaper were summoned to NISS offices in relation to an article about Islamic State (ISIS) fighters in Libya.

On April 12, 2017, Professor Faisal Shibu, who works to promote the welfare of the people of South Sudan was summoned to the NISS office in Umbadda and questioned for two days about his work.

On April 16, 2017, the "No to Women's Oppression" movement was prevented by the NISS from holding an event at Al-Ahfad University. No reasons were given.

On April 19, 2017, Dr. Hassan Karrar, former head of Sudan's Central Committee of Doctors, was arrested and detained by the State Crimes Prosecution Office for five days accused of undermining the security of the country and forming an illegal organization.

On April 24, 2017, four teachers who had been held in Nyala for six months without being charged or tried were release.

On May 4, 2017, Montasser Al-Nour and Hatem Al Tai, of Sudan 24 TV, were summoned to NISS offices in relation to an interview with the Chair of the Sudanese Football Association.

On May 7, 2017, Madiha Abdalla was convicted and fined 10,000 SDG (about US\$ 526) over a 2014 ar-

ticle on bombings directed against civilians in the Nuba Mountains.

On May 15, 2017, Mohammed Widaa was summoned to NISS offices over an interview published in his newspaper, *Al-Baath al-Sudani*, with Jibril Ibrahim, leader of the rebel Justice and Equality Movement. Mr. Widaa was interrogated and told that publishing information about meetings with rebel leaders was forbidden. Mr. Widaa was released, but summoned again on May 30 and interrogated for an hour about an article about deaths of Sudanese soldiers in Yemen.

On June 7, 2017, Abdel Majeed Abdalla Bakhit, a human rights activist, was arrested at Kassab camp for collecting food and clothing for displaced persons. According to the African Centre for Justice and Peace Studies, he was take to NISS offices, beaten and released several days later.

On June 11, 2017, Nader Atta, of *Al-Tayar* newspaper, was summoned to NISS offices about an article on corruption in the Sudanese Football Association.

On June 13, 2017, protesters complaining against changing transportation system and deteriorating public services were assaulted in Halfa.

On June 14, 2017, *Sharie Al-Hawadith* -Kassala was ordered by the Ministry of Health to hand over their project providing intensive care to a committee formed to manage this project through the Kassala Educational Hospital. No reasons were given. On June 21, all the organization's activities were suspended by HAC. Again, no reasons were given.

On June 14, 2017, journalist Mohammed Al-Amin Aoushik was arrested by police in Swakin after a complaint by the chief executive of the locality that the former had defamed him in articles on deteriorating water and electricity services.



# UGANDA

## Civil Society Office Break-ins in Uganda: The Unanswered Questions

*By Andrew Byaruhanga Bahemuka, Programme Officer,  
Human Rights Network Uganda (HURINET)*



There is a relatively strong civil society structure in Uganda, with inclusive and widespread community-based organizations (CBOs) in rural areas being a particular strength. Ugandan civil society is, however, operating in a rather disabling environment, constrained by socio-economic problems and political restrictions. While civil society organizations are increasingly playing an important watchdog role in Uganda's political system, their influence is attracting a counter offensive response.

Since 2012, there has been a spate of attacks on human rights defenders and office break-ins of civil society organizations in Uganda, the latest being that of MIFUMI and Kadama Widows Association where a private security guard was killed, office property and unspecified amount of money stolen. As of June 2017, the National Coalition of Human Rights Defenders Uganda (NCHRDU) indicates that, over 29 break-ins into premises of CSOs have occurred since 2012. These attacks appear to form part of a longer-term, systemic, and worsening pattern of attacks on Ugandan CSOs and human rights defenders targeting their legitimate and valuable work. As the matrix at the end of this write-up will demonstrate, advocacy and policy-oriented CSOs constitute the majority of victims.

In the course of office break-ins, private security guards have been killed in the course of their work. Documents, electronic data, and other confidential and sensitive information have been stolen in many cases, which appears to have been the primary objective in some cases, especially where expensive technology was left untouched. However, no conclusive evidence has been produced by police as to who is behind these attacks. What is uncontested is that the patterns of attacks indicate that the perpetrators enjoy impunity.

This state of criminality is part of a larger pattern

of break-ins into CSO offices in Uganda where intruders enter offices despite security measures in place, and ransack them while stealing confidential documents or information pertinent to the organizations. These numerous attacks on NGOs in Uganda, and more specifically human rights focused NGOs, appear to be motivated by the nature of their work.

Each office break-in incident discussed here has been reported to the police in a timely fashion, but police efforts to investigate and collect evidence and ensure prosecutors have the best evidence in form of witness statements, DNA, and Closed-Circuit Television (CCTV) footage to bring perpetrators to justice has been limited and lacked follow-up. In some cases, the police did not respond to the complaints or, more commonly, provided no substantive update on the status of investigations. Where the guards are suspected to have been part of the crime, the police have shown little interest in investigating the security companies that had employed them, but have asked the affected CSOs to follow-up directly. Recent comments from official Uganda Police Force (UPF) spokespersons have provided no reassurance that investigations have been robustly carried out or that police are determined to identify and bring to justice perpetrators. Based on discussions with those affected, none of the over two dozen break-ins reported to the UPF since September 2012 has resulted in a successful prosecution. This has left many CSOs and human rights defenders worried whether they will ever learn the motives of these criminals.

Due to the sluggishness of the UPF in investigating the reported office break-ins, Ugandan CSOs continue to demand for accountability and investigation reports. On June 13, 2016, 31 Ugandan and international human rights groups in a letter to the Inspector General of Police

(IGP), demanded the police promptly, thoroughly, and transparently investigate a series of attacks on Ugandan CSOs and human rights defenders and hold suspects accountable. In their petition, they demanded to know the following:

- What steps did police undertake to investigate break-ins of non-governmental organizations since 2014 after the establishment of a committee of eight police officers? What is the status of the committee now?
- Have the investigations resulted in any arrests or prosecutions?
- What steps will police take to ensure that human rights defenders who have been victims of attacks are effectively protected from further acts of violence?

Undoubtedly, the lack of accountability for attacks on CSOs has led to an atmosphere in which attackers feel free to kill, rob and destroy property in order to accomplish their aims. The lack of accountability and persistent impunity for attacks on human rights defenders and their offices sends a message that authorities either tolerate or condone such attacks. The Uganda Police Force has so far failed to make consistent, meaningful efforts to fulfill its legal obligations under the constitution and international law to investigate these incidents robustly and ensure prosecutors have the best evidence possible to bring perpetrators to justice. To improve its image, the Uganda Police Force has to live up to its obligation to actively investigate these cases and bring those responsible to justice.

As a state party to the [African Charter on Human and Peoples' Rights](#) and the [International Covenant on Civil and Political Rights](#), the Ugandan government should ensure the rights to life, liberty and security for all persons, as well as the right to freedom of association, all of which are severely impeded when organizations cannot conduct their work in a safe and secure environment. The [United Nations Declaration on Human Rights Defenders](#), instructs governments to protect human rights defenders “against any

violence, threats, retaliation, de facto or de jure adverse discrimination, pressure, or any other arbitrary action” as a consequence of their work to uphold human rights. According to the UN Special Rapporteur on Human Rights Defenders:

States should prevent violations of the rights of human rights defenders under their jurisdiction by taking legal, judicial, administrative and all other measures to ensure the full enjoyment by defenders of their rights; investigating alleged violations; prosecuting alleged perpetrators; and providing defenders with remedies and reparation (A/65/223, para. 34). Examples of actions or omissions which contravene the State’s duty of due diligence include the failure to provide effective protection to defenders at risk who have documented attacks and threats by non-State actors or who have been granted interim protection measures by regional human rights mechanisms (A/65/223, para. 35)

The impact of office break-ins on affected CSOs has been immense. Some CSOs, especially those in service delivery, have treated these incidents as normal burglary cases. However, for organizations entrenched in governance, anti-corruption and human rights work, the coping mechanism has been to re-locate office premises and/or to change registration. This has drastically reduced organizational output through reduced activism and/or treading cautiously.

Some high-ranking government officials [in Uganda] have likened NGOs to hyenas.<sup>39</sup> Some have been quoted in the media warning civil society against becoming involved in active politics saying this distracts them from their cardinal role of developing communities.

In conclusion, the rise in office break-ins of NGOs is a concern to all in the civil society fraternity. It is therefore imperative that the government of Uganda conduct swift and transparent investigations into the recent wave of office break-ins targeting human rights organizations, which has escalated to killings and loss of property.

## Gains, Lessons and Missed Opportunities under the 2016 NGO ACT

By Patrick Tumwine, Coordinator Human Rights & Rule of Law Program, Human Rights Network Uganda (HURINET-U)

On November 26, 2015, the Non-Government Organizations Bill, 2015 was passed by parliament. And on January 30, 2016 the president assented, passing it into law. This is the second time that an NGO law was passed in less than ten years. The NGO Act 2016 replaces the 2006 NGO Act that had been challenged by NGOs in the Constitutional Court for more than eight years. While the recently passed NGO Act still has a few potentially constraining provisions, overall, it can be said that the new NGO law is progressive. Despite appearing overly constraining in its earlier stages, the new NGO law is a landmark development in the history of NGO operating environment. But it's too early to celebrate as there are some provisions that have the potential of being abused by those in authority.

NGO Act 2016 does not expressly define what an NGO is, but defines an "organisation". Accordingly, an organization is: "a legally constituted non-governmental organisation under this Act, which may be a private voluntary grouping of individuals or associations established to provide voluntary services to the community or any part, but not for profit or commercial purposes."<sup>40</sup> In other words, the current law views NGOs as voluntary groupings that undertake voluntary services to the community. Advocacy NGOs are not explicitly contemplated in the definition.

The law under Section 44 introduces what is called "special obligations". Whereas, the obligations may not necessarily be problematic, the wording of some of these provisions that demands attention as a potential blockade to the free workings of the NGO sector. Of particular concern is Section 44 (d) and (f) which provides that organizations shall:

(d) not engage in any act which is *prejudicial* to the security and laws of Uganda;

(f) not engage in any act, which is *prejudicial* to the interests of Uganda and the dignity of the people of Uganda.<sup>41</sup>

The provision is couched in broad and indeterminate language which can be used any time by anyone with a motive different from the object of the Act to perpetuate infringements on legitimate NGO activity. The "security of Uganda," as referenced in Article 44(d) is not defined anywhere in the law and can be interpreted widely, depending the motive of the interpreter. In the past, the notion of security has been used to clamp down on various freedoms and rights in Uganda. This section is potentially a threat to NGOs operating in Uganda.<sup>42</sup>

The NGO Act 2006 and its subsequent 2011 regulations required all NGOs working on advocacy to get permission before engaging with the rural people "the organisation shall not make any direct contact with the people in any part of the rural area of Uganda unless it has given seven days notice in writing of its intention to do so to the local council and the resident District Commissioners of the area."<sup>43</sup> This provision was contested in the constitutional court, in petition no 05 of 2009 between the Human Rights Network Uganda (HURINET-U) and seven others vs Attorney General. The judgment delivered on February 4, 2016 after seven years, was in favor of government and in the judgment, the judges did not see the questioned provisions as problematic. But even then, the judgment had been overtaken by events as the new law was already in place repealing the 2006 NGO Act. Similar provisions, however, were included in the NGO Act 2016 through Section 44 (a) which provides that organization may "not carry out any activities in any part of the country, unless it has received the approval of the DNMC and Local Government of that area and has signed a memorandum of understanding to that effect."<sup>44</sup>

### Some Gains

Whereas the current law has some provisions that seem problematic, it's far better than the NGO Bill introduced to parliament in 2015. Approximately 60% of the changes suggested by the NGO sector were considered by the par-

liament. In addition, the current law is far better than the NGO Act 2006 in both content and quality in as far as addressing the NGO issues are concerned. This is, however, not to say that all is good or well. There are still problematic provisions that can be abused by the state.

Some of the key changes in the current law are:

Section 5, on the establishment of the bureau, changes the name to the National Bureau for Non-Governmental Organisations makes the bureau autonomous and potentially allows it to operate more independently and effectively service the NGO sector.

Section 6, on the functions of the bureau was significantly amended from being a one stop center as government had initially proposed. The bureau no longer has the power to incorporate organization, as that power is vested in the Uganda Registration Services Bureau. Companies Limited by Guarantee can thus still carry out charitable work without being affected by the constraining provisions intended for NGOs as had been proposed in the bill.

Section 20, on District Non-Governmental Organizations Committees, provides that these will be chaired by the Chief Administrative Officer (CAO) as per the NGO Policy and not the Resident District Commissioner (RDC) as suggested by the initial bill and as was the case in the 2006 Act. This means that the committees will be headed by technocrats that are widely seen to be non-partisan and more professional.

Section 27, on the establishment of an NGO Fund, was deleted from the NGO Bill 2015. This was a gain because many NGOs feared that the government would have encouraged donors to pass money through this fund to allow them a greater degree of control.

However, these gains may be lost if the state chooses to take a controlling approach. After all, the powers and the provisions left in the act, including Section 44, Special Obligations, and Section 7(b)(iv), empower them to do so. Section 44, as mentioned above, restricts access to rural populations. Section 7(b) empowers the bureau to discipline organizations through warn-

ing, suspending the permit of the organization, exposing the organization to the public, black-listing, or revocation of the organization's permit.

In conclusion, although there are some provisions that seem to be progressive and indeed there was a lot of input and changes the parliament accepted from NGOs as the law was being debated, the few potentially negative provisions mentioned above may destroy all the good effort and the spirit of the law. We therefore need continuous engagement with relevant authorities as well as to monitor usage of these provisions. The new regulations related to the 2016 Act which have been drafted in consultation with the NGOs but are yet to be passed by the line ministry, may provide additional interpretive guidance.

## Updates

On February 2, 2017, unknown persons broke into the offices of the Legal Aid Service Providers network and stole computers, other equipment and money.

On April 2, 2017, a similar break in occurred at the offices of the *Observer* newspaper. Computers and sensitive information were taken.<sup>45</sup>

On April 4, 2017, Stella Nyanzi, a feminist and academic, was arrested over a post on her Facebook page criticizing the presidency. She is accused of referring to the president as a pair of buttocks in the context of a campaign to provide school going girls with sanitary towels. In May 2017, Amnesty International reported that Dr. Stella Nyanzi, was released on bail after having been charged with cyber harassment and offensive communications, violating the president's right to privacy<sup>46</sup> and under the 2011 Computer Misuse Act.

On April 4, 2017, Gertrude Uwitware posted a blog in support of Stella Nyanzi as a result of which she received threats on Facebook. On April 8, 2017, unknown persons abducted and assaulted her.<sup>47</sup>

On April 6, 2017, the Ugandan Parliament passed the Uganda communications amendment bill which allows the executive to approve regulations on media and communications with-

out parliamentary approval. There are concerns about the potential implications of this bill for freedom of expression.<sup>48</sup>

In April 2017, Reporters without Borders released their 2017 World Press Freedom Index which positioned Uganda 112<sup>th</sup> out of 180 countries ranked.<sup>49</sup>

On May 3, 2017, members of the Uganda Journalists Association (UJA) were arrested trying to hold an event for World Press Freedom Day. They were released shortly thereafter.<sup>50</sup>

On June 30, 2017, 11 human rights groups called on the Ugandan authorities to immediately conduct a thorough and impartial investigation of the killing of Irumba Erasmus, coordinator of the Twerwaneho Listeners' Club in Rwebiengo District and his friend Vide Kanyoro and bring the perpetrators to justice. The two men were allegedly killed by officers of the Uganda Police Force (UPF) and Uganda People's Defence

Forces (UPDF), who had reportedly summoned them for a meeting on the evening of June 23, 2017. The two men were reportedly injured in an altercation with security officials that evening and then carried in the boot of two private cars to another location where they were shot. Security officials claim that the two were attempting to purchase military ammunition and that they were armed, although the only weapons recovered by the investigation so far belonged to the security forces. Police and army officials claim that charges have been filed against three security officials involved. "While the circumstances leading up to the shooting remain unclear, there can be no doubt that Irumba Erasmus and Vide Kanyoro were victims of an extra-judicial killing," said Ndifuna Mohammed, Chairperson of the National Coalition for Human Rights Defenders – Uganda and Executive Director HURINET-U. There is suspicion that the killing might be linked to investigations that Irumba was conducting about corruption.<sup>51</sup>

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<sup>39</sup> See, <http://eastafricanvanguard.com/4572-2/> (accessed on October 11, 2016).

<sup>40</sup> The Non-Governmental Organisations Act, 2016, Article 1(3), available at [https://www.ulii.org/ug/legislation/act/2016/1/The%20Non%20Governmental%20Organisations%20ACT%202016-1\(1\).pdf](https://www.ulii.org/ug/legislation/act/2016/1/The%20Non%20Governmental%20Organisations%20ACT%202016-1(1).pdf).

<sup>41</sup> The Non-Governmental Organisations Act, 2016, Article 44 (d) and (f), available at [https://www.ulii.org/ug/legislation/act/2016/1/The%20Non%20Governmental%20Organisations%20ACT%202016-1\(1\).pdf](https://www.ulii.org/ug/legislation/act/2016/1/The%20Non%20Governmental%20Organisations%20ACT%202016-1(1).pdf)

<sup>42</sup> *Understanding the NGO Act-2016: A Simple Guide* by HURINET-U

<sup>43</sup> The non-governmental organization regulations 2011.

<sup>44</sup> The Non-Governmental Organisations Act, 2016, Article 44(a) available at [https://www.ulii.org/ug/legislation/act/2016/1/The%20Non%20Governmental%20Organisations%20ACT%202016-1\(1\).pdf](https://www.ulii.org/ug/legislation/act/2016/1/The%20Non%20Governmental%20Organisations%20ACT%202016-1(1).pdf)

<sup>45</sup> DefendDefenders, Overview of the Human Rights Situation in the East and Horn of Africa, November 2016 –April 2017," May 2017, available at <https://www.defenddefenders.org/wp-content/uploads/2017/05/EH-Overview-ACHPR60.pdf>.

<sup>46</sup> Amnesty International, "University Lecturer Freed on Conditional Bail: Dr. Stella Nyanzi," May 22, 2017.

<sup>47</sup> DefendDefenders, Overview of the Human Rights Situation in the East and Horn of Africa, November 2016 –April 2017," May 2017, available at <https://www.defenddefenders.org/wp-content/uploads/2017/05/EH-Overview-ACHPR60.pdf>.

<sup>48</sup> Ibid.

<sup>49</sup> Reporters without Borders, "World Press Freedom Index," April 2017, available at <https://rsf.org/en/ranking>.

<sup>50</sup> Ibid.

<sup>51</sup> Eleven civil society organizations, "Uganda: Police Authorities must conduct impartial and transparent investigations into the extra-judicial killing of HRD," June 30, 2017, available at <https://www.defenddefenders.org/2017/06/uganda-police-authorities-must-conduct-impartial-transparent-investigations-extra-judicial-killing-hrd/>



Horn of Africa Civil Society Forum  
منبر منظمات المجتمع المدني في القرن الأفريقي