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HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders.

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolution 16/4, 15/21, and 16/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **a bill that may unduly limit the right of freedom of assembly as well as increasingly restrict the work of political pressure and civil society groups.**

The restrictions faced by civil society activists was the subject of a previous communication sent to your Excellency's Government on 31 May 2011 by the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on violence against women, its causes and consequences.

According to the information received:

A Public Order Management Bill was endorsed by the Uganda's ruling party during the first week of May 2012. It is reported that many provisions contained in the Bill would unduly limit the rights to freedom of expression and of peaceful assembly.

It is reported that the definition of a public meeting contained in the Bill excludes meetings for a social, religious, cultural, charitable, educational, commercial or industrial purpose as well as meetings of a political party or organization "to discuss the affairs of the party or organization". It is alleged that such definition

inadequately protect individuals exercising their right of freedom of assembly, which includes inter alia demonstrations, gatherings, rallies, strikes or even sit-in protests organized by any individual without any discrimination.

The Bill reportedly provides that a prior authorization is required to hold an assembly. It is reported that the application can be rejected on unclear ground such as in case “the venue is considered unsuitable for the purposes of crowd and traffic control or will interfere with other lawful business [or] for any other reasons”, which may lead to arbitrary rejections. It is further reported that Clause 7 of the Bill, which imposes on the organizers the obligation to give notice in writing of the intention to hold a public meeting at least seven days in advance, would prevent participants from exercising their right to hold spontaneous assemblies.

Should the organizers fail to obtain prior approval from the authorities, it is reported that they will be considered as having committed the offence of disobedience of statutory duty under section 116 of the Penal Code Act. The penalties would be disproportionate for the nature of the offence and would have a deterrent effect on those willing to exercise their legitimate right to freedom of peaceful assembly.

The Bill further holds the organizers of rallies responsible for ensuring that inter alia “all participants are unarmed and peaceful [and that] statements made ... do not conflict with any laws”. It is alleged that this provision (Clause 12 of the Bill) would transfer the duties of the police to ordinary citizen and would discourage individuals from engaging in peaceful assembly. It is reported that this provision also contradicts international standards related to freedom of expression and peaceful assembly as it may allow for the criminalization of organizers and participants whose intentions and behaviour were peaceful.

Clause 11 of the Bill provides for the use of firearms by police officers during public events. The Bill would violate international human rights law as it would fail to narrowly frame the use of firearms during public event. It is reported that the right to life and the right to be free from torture, which are non-derogable rights in international human rights law, would be inadequately protected by the Bill. In this regard, the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Official, which provides that “whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall minimize damage and injury, and respect and preserve human life”, would also be inadequately reflected.

It is reported that Clause 16 of the Bill, which restricts areas where peaceful assemblies may take place, would unduly limit the right of peaceful assembly as it may prevent individuals from delivering their message to the target audience.

In addition, it is alleged that the work of political pressure groups has been subjected to increasing restrictions over the past month. On 4 April 2012, ‘Activists for Change’ (A4C) was reportedly declared an unlawful organization by the authorities. A few days later, the group ‘For God and My Country’ (4GC) was also declared unlawful.

The information received further indicates that the latest legislative developments form part of an increasingly hostile environment towards civil society in Uganda.

On 26 April 2012, after launching the national campaign against land grabbing, members of the Uganda Land Alliance (ULA) reportedly met with the Minister for Internal Affairs. It is alleged that a report on the work of ULA was issued by the Ministry of Internal Affairs after the meeting was held. The report claimed that ULA’s investigations on land grabbing brought the President’s name into disrepute; it reportedly gave ULA two weeks to meet certain conditions or else face having its permit revoked. These conditions reportedly included issuing an apology to the President and Government ministries and to provide evidence of land grabbing. Allegedly, the report recommended that the National NGO Board of the Ministry of Internal Affairs, which is notably in charge of considering applications for registration or renewal of NGO permits and monitoring compliance by all registered NGOs with the terms and conditions of their certificate of registration and the Constitution, issue a warning to ULA that its permit would be revoked if it failed to meet the conditions mentioned, and that ULA should withdraw its report on land grabbing in Uganda.

Serious concern is expressed that several provisions of the Public Order Management Bill would severely restrict the right to freedom of peaceful assembly as enshrined in international human rights law. Concern is also expressed that the latest developments may be part of a general trend to restrict the activities of political pressure groups and civil society organisations.

While we do not wish to prejudge the accuracy of these allegations, we wish to appeal to your Excellency’s Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the International Covenant on Civil and Political Rights (ICCPR), which provides that “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.” In this connection, we wish also to reiterate the principle enunciated in Human Rights Council Resolution 12/16, which calls on States, while noting that the exercise of the right to freedom of opinion and expression carries with it special duties and responsibilities, to refrain from imposing restrictions which are not consistent with article 19, paragraph 3 of the ICCPR, including on (i) discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; engaging in election campaigns, peaceful demonstrations or political

activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

We would like to appeal to your Excellency's Government to take all necessary steps to ensure the right of peaceful assembly as recognized in article 21 of the ICCPR, which provides that “The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interest of national security of public safety, public order (ordre public), the protection of public health or morals of the protection of the rights and freedoms of others.”

In this connection, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that “everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels” and that “each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 5 point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully;

- article 5 points b) and c) which provide that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right to form, join and participate in non-governmental organizations, associations or groups, and to communicate with non-governmental or intergovernmental organizations;

- article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters; and

- article 12 paragraphs 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

Moreover, as it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your cooperation and your observations on the following matters:

1. To what extent are the facts related to the alleged restrictions imposed on A4C, 4GC and ULA accurate?
2. Please provide the full details of the aforementioned Bill and explain how its provisions are in accordance with Uganda's obligations under international human rights law and standards, particularly with regard to the rights to freedom of peaceful assembly and to freedom of opinion and expression
3. Please indicate what measures have been taken to ensure that the legitimate right to defend human rights peacefully is respected and protected that the physical and psychological integrity of those exercising this right is guaranteed.
4. Please indicate any consultation undertaken, including with civil society in drafting this Bill.
5. Please indicate what measures your Government intends to take, in the lead up to its adoption, so that the final Bill is compliant with relevant international human rights standards.

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the civil society organisations are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the

alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

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freedom of opinion and expression

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