

**Mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on minority issues; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.**

REFERENCE:  
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Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on minority issues; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; pursuant to Human Rights Council resolutions 33/30, 27/1, 35/15, 34/18, 25/5, 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged extra-judicial killings, excessive use of force, arbitrary detentions and enforced disappearances of ethnic Bakonzo people of the Rwenzururu Cultural Institution including children, by the Ugandan military and police officers during joint operations in Kasese, western Uganda, on 26 and 27 November 2016, as well as obstacles in the investigation of the events.

There have been long-standing tensions, unresolved grievances and episodic violence between the government of Uganda and the ethnic Bakonzo people of the Rwenzururu Cultural Institution, headquartered in Kasese district. In October 2009, President Yoweri Museveni formally recognized the Kingdom of Rwenzururu, known locally as the Obusinga Bwa Rwenzuruuru, and Charles Wesley Mumbere became the Omusinga, or king. Before the November 2016 events, the government of Uganda was reportedly trying to break up an alleged armed movement in the region, known as Kirumiramutima (the Strong-Hearted). It has been alleged that some royal guards in the service of the Omusinga might belong to that movement. Royal guards themselves are not an armed force. In late November 2016, President Museveni issued a directive for royal guards to surrender and be disbanded.

According to the information received:

On 25 November 2016, the Ugandan army, driving armed personnel vehicles and supported by police, began patrolling Kasese. On the morning of 26 November 2016, soldiers circled the area of the Rwenzururu Cultural Institution's administration offices on Alexander Street, going around the block several times. In mid-morning, soldiers ordered shopkeepers to close their businesses and demanded access to the Rwenzururu Cultural Institution's offices. Royal guards closed the doors and refused them entry. The royal

guards, who routinely guard that office and the Rwenzururu Cultural Institution's flag, carry machetes. No official representative of the Rwenzururu Cultural Institution was present.

Gunfire began shortly thereafter, and the military shot live ammunition inside and outside the office. Reportedly, people heard soldiers yelling "Come out!" in Kiswahili. The soldiers eventually used ladders to scale the walls, pierced the roof and fatally shot those inside. Eight royal guards, two of them women, were killed, and soldiers removed computers and documents. Reportedly, the bodies had bullet wounds to the head and back, and one soldier had a machete wound on his arm.

Subsequently, army officers went to neighbouring shops, ordering shopkeepers to open their doors to see whether any royal guards were hiding inside, and stealing money and sodas. Later, the bodies of the royal guards were carried out of the Rwenzururu Cultural Institution's offices and police constables washed the blood out into the street.

It is alleged that, in the afternoon of 26 November 2016, at least 14 police officers, one crime preventer, and 32 civilians died in clashes around six small police posts, all several kilometres from Kasese town. In Bwisumbu, approximately 35 kilometres north of Kasese, civilians carrying machetes allegedly attacked the police post, killing three police officers and one crime preventer. Police officers, armed with guns, killed 30 people, including some who were not involved in the attacks. In Kisinga town council, approximately 35 kilometres southwest of Kasese, a small group of civilians, including royal guards, allegedly attacked the police post near Kagando hospital carrying machetes, killing at least five policemen and burning a police vehicle. Soldiers came to reinforce the post, and later allegedly killed at least two persons, including one who had been previously wounded and was attempting to receive medical treatment.

It is further alleged that the military escalated its presence around the palace compound in Kasese town on the evening of 26 November 2016. Over the same period, some relatives of the royal guards received phone calls from alleged officials of the Rwenzururu Cultural Institution asking them to come to the compound to receive packages in return for the "disbanding of the guards". Reportedly, in the morning of 27 November 2016, the then-██████████, currently a Major General of the Ugandan army, gave the Omusinga an ultimatum to disband his guards and remain with only nine. Negotiations continued between officials of the Rwenzururu Cultural Institution and security officials over the disbandment of the royal guards. Some royal guards were awaiting packages in return for disbanding and transportation to leave the compound, while others were confused about why they were being asked to surrender.



On 27 November 2016, at about 1p.m., the military allegedly stormed the compound, shooting inside with bullets and rocket propelled grenades. It is not clear how many royal guards were inside the palace compound, given that guards work on a voluntary basis when they are available. Some people raised their hands to surrender, and security forces tied their hands behind their backs at the elbow, later shooting several individuals. Some relatives of the king's employees lived just next to or inside the compound in thatch-roof houses. Many of them were shot and killed, or burned as roofing went up in flames, in part because the military appears to have prevented them from leaving the compound the night before. The thatch-roof huts in the compound, where children often gathered, also caught fire and evidence reportedly showed several large fires raging in the compound. While no children's bodies were brought to the Kasese mortuary, some of the adult bodies there had significant burns. Days after the attack, children's items, including small toys, were found among the debris inside the palace.

After a sustained period of shooting, the military and police – drawn largely from the Field Force Unit – arrested some people. Others had managed to flee out the back of the compound and up into the hills. Reportedly, outside the palace compound, soldiers seriously beat persons who had their arms tied behind their backs and were lying on the ground.

*Victims of the Palace attack and the search for bodies and disappeared persons*

The Police reported that the death toll over the two days was 103; including 16 police officers who were all killed on 26 November 2016. However, the source reported that the total number of persons killed amounts, at least, to 156.

While all the police officers killed were identified and their bodies returned to their families, many of the bodies of the civilians killed in the subcounties of Kasese were allegedly not brought to any morgue or mortuary, but rather buried locally by their families. The mortuary in Kasese at one point had 96 bodies awaiting identification the week after the incidents, including at least 40 bodies that had been initially brought to Fort Portal regional referral hospital. Reportedly, one man who was found alive in the piles of rotting corpses in the mortuary was shot dead by police upon his discovery.

The source reported that 44 bodies in Kasese were claimed by families, but allegedly 52 unclaimed bodies were buried in individual graves on land near the military barracks, presided over by religious leaders. Reportedly, the police had taken DNA samples from those 44 bodies but families have no information about how to access that information to potentially identify their disappeared relatives.

Other bodies were taken to Mubende in the east, while there are allegations that some bodies, particularly those of children, were dumped in an area where bush fires have flared.

It was further reported that some individuals remain disappeared after the 26-27 November attack in Kasese, however is not possible to know the exact number because there is no clear indication of how many individuals were in the palace compound during those two days. Some relatives made inquiries in the mortuaries and checked the court case records, but could not find information about their disappeared loved ones. They have also requested information about their fates and whereabouts to the police, but to no avail. Families are afraid to take any other steps due to fear of reprisals. The source also expressed concerns over 15 children from 14 families who were last seen in the palace compound and their fates and whereabouts remain unknown.

#### *Detentions and Criminal Proceedings*

Most of the persons who survived are detained, including the Omusinga. While no military or police have been formally interrogated or charged with crimes, 169 persons, including six juveniles aged between 15 and 17, are facing charges of murder, treason, terrorism, aggravated robbery, attempted murder, and malicious damage to property. At their first hearing on 12 December 2016, several of the defendants could be seen with significant untreated wounds; some bore festering wounds on their limbs, which attracted flies. Reportedly, the magistrate ordered an investigation into the treatment of the defendants, which remains pending. At least one royal guard died in Bombo military hospital, near Kampala, allegedly because of insufficiently rapid treatment of his injuries sustained during the palace attack.

The defendants were at one point detained in Nalufenya police post in Jinja, eastern Uganda, over 400 kilometres from Kasese, most often used to detain terrorism suspects and also known for the serious mistreatment and torture inflicted to detainees.

On 14 December 2016, in the bail application the Omusinga submitted, he wrote, "...my Kingdom's regalia, the parliament, traditional huts, coronation house and priceless cultural items at my palace including records were destroyed, burnt and or looted during the invasion during which several of my subjects were blatantly, ruthlessly and callously massacred after stripping them, tying their hands behind their backs and executed including women, children, royal palace domestic workers by a combined force of the UPDF [Uganda people's Defence Force] and police." The Omusinga was given bail in February 2017.



### Obstacles in the investigation

It has been further reported that the government has made concerted efforts to prevent independent investigations, often threatening persons who want to investigate, as well as witnesses and relatives of the victims.

On the day of the palace attack, police arrested five journalists. On 28 November 2016 they were charged with “abetting terrorism” and were later released. Police alleged that they did not have permission to photograph some events and confiscated photographs, video, and equipment. The charges remain pending. Reportedly, the government version of the events has heavily dominated the media since November.

It is alleged that the Police blocked an inter-religious prayer for the victims that was scheduled for 5 December 2016 in Kampala, contending that under Uganda’s Public Order Management Act, the police leadership needed to give permission for the event.

It was further alleged that, on 1 December 2016, the speaker of parliament agreed to add the investigation of the 26-27 November violent events in Kasese to the mandate of a committee that had been established months earlier in the wake of post-electoral violence in the Rwenzori subregion. The committee, drawn largely from the parliamentary committee on defense and internal affairs, began its work on 7 December 2016. However, it was later decided not to prepare a parliamentary report about the events in Kasese, because the cases were pending in court.

On 2 December 2016, the Uganda Human Rights Commission issued a statement urging all sides to adhere to Uganda’s laws, but made no specific call to the military and police to investigate their forces’ conduct. The Commission has said it is carrying out investigations and will eventually issue a report.

Grave concern is expressed about the alleged extra-judicial killings, excessive use of force, and enforced disappearance of ethnic Bakonzo people of the Rwenzururu Cultural Institution, including children, by the Ugandan military and police officers in Kasese, on 26 and 27 November 2016. Equal concern is raised at the arrest and detention of individuals, allegedly following procedures falling short of international standards of due process. We also express concern at the allegations of interference with the independence of the media to provide information about the events, including the charges brought against journalists covering the events, depriving the public from their right to information. Serious concern is raised about the obstacles in the investigation of the events.

While we do not wish to prejudge the accuracy of these allegations, they indicate a prima facie violation of the right of every individual to life, liberty and security of the person and not to be arbitrarily deprived of his or her life or personal liberty, as set forth

in the articles 6 (1) and 9 (1) of the International Covenant on Civil and Political Rights (ICCPR), ratified by your Government on 21 June 1995.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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 therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide statistical information on the number of cases of alleged extra judicial killings officially recorded, on the number of investigations initiated on potential extra judicial killings and on the number of perpetrators involved in these cases which were identified and tried over.
3. Please provide the details, and where available the results, of any investigation and judicial or other inquiries carried out concerning the above-mentioned allegations. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Has any military or police officer been dismissed or prosecuted due to commission of human rights violations?
5. What are the measures taken by your Government to determine the fate and whereabouts of disappeared persons?
6. What are the measures being undertaken by the Government to identify the more than 50 bodies buried outside the military barracks in Kasese? Please also provide information regarding the bodies taken to Mubende, and potentially other locations.
7. Please also indicate whether all the bodies of victims have been identified and their families duly informed. What are the procedures and standards applied for DNA testing? Is there a genetic database with samples from relatives of the victims and those of the 44 from which DNA was allegedly taken?
8. Please provide information about the number of individuals detained, the charges presented against them and the stage of the trial. As well as information on whether they had access to a lawyer, to all the information and means to prepare the defense, as well as the opportunity to challenge,



before an independent and impartial judicial body, the legality of the detention.

9. Please provide information about the measures taken for the protection of witnesses.
10. Please provide information about the evidence used to charge the journalists for terrorist activities, and explain how this is compatible with Uganda's obligations under international human rights law, in particular with article 19 of the ICCPR.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We intend to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

We would like to inform your Excellency's Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such urgent appeals in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

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

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Special Rapporteur on extrajudicial, summary or arbitrary executions

Elina Steinerte  
Vice-Chair of the Working Group on Arbitrary Detention

Houria Es-Slami  
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Nils Melzer  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or  
punishment



**Annex**  
**Reference to international human rights law**

In connection with above alleged facts and concerns, and while we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

We would like to refer to articles 6, 9, 14, 18 and 19 of the International Covenant on Civil and Political Rights (ICCPR), acceded by Uganda on 21 June 1995, which guarantee the right of every individual to life and security and provide that these rights shall be protected by law and that no one shall be arbitrarily deprived of his life; the right not to be arbitrarily deprived of liberty; the right to a fair trial and due process, and the rights to freedom of religion or belief, and freedom of opinion and expression, respectively.

The Human Rights Committee in its General Comment 6, para. 3, has said that it considers article 6 (1) of the ICCPR to include that States parties should take measures to prevent and punish deprivation of life by criminal acts, and to prevent arbitrary killing by their own security forces. In addition, in its General Comment No. 31, the Committee stated that there is a positive obligation on States Parties to ensure the protection of the rights contained in the Covenant against violations by its agents. A failure to investigate and bring perpetrators of such violations to justice could in and of itself give rise to a separate breach of the ICCPR. These obligations arise notably in respect of criminal acts under international law, such as torture and similar cruel, inhuman and degrading treatment, summary and arbitrary killing and enforced disappearance. When committed as part of a widespread or systematic attack on a civilian population, these violations of the Covenant are crimes against humanity (CCPR / C / 21 / Rev.1 / Add.13, paras. 8 and 18).

We also wish to draw your Excellency's Government's attention to relevant international principles and norms governing the use of force by law enforcement authorities. Under international law any loss of life that results from the excessive use of force without strict compliance with the principles of necessity and proportionality is an arbitrary deprivation of life and therefore illegal. The Code of Conduct for Law Enforcement Officials, General Assembly resolution 34/169 of 17 December 1979 and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990), though not binding, provide an authoritative interpretation of the limits on the conduct of law enforcement forces. According to these instruments, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life. Law enforcement officials may only use force when it is strictly necessary and only to the extent required for the performance of their duties. The use of force and firearms must as far as possible be avoided, using non-violent means before resorting to violent means. Force used must be proportionate to the legitimate objective to be achieved. Should lethal force be used,



restraint must be exercised at all times and damage and/or injury mitigated. Medical assistance should be provided as soon as possible when necessary.

There is also a clear obligation on States to investigate, prosecute and punish human rights violations arising from Article 2 (3) (a) of the ICCPR, which provides that "Each State Party to the present Covenant undertakes to ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity." Moreover, principle 9 of the Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, recall the duty to conduct thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions. The Human Rights Committee has observed that failure to investigate and failure to bring to justice perpetrators of such violations could in and of itself give rise to a separate breach of the ICCPR. Such failures lead to impunity which can encourage a repetition of the crimes by others in subsequent incidents (para 15, General Comment No. 31 [80] The Nature of the General Legal Obligation Imposed on States Parties to the Covenant).

We would also like to bring to your Excellency's Government's attention the United Nations Declaration on the Protection of All Persons from Enforced Disappearance which sets out necessary protection by the State, and in particular that no State shall practise, permit or tolerate enforced disappearances (article 2.1), that no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances (article 7). Also, that whenever there are reasonable grounds to believe that an enforced disappearance has been committed, the State shall promptly refer the matter to that authority for such an investigation, even if there has been no formal complaint; no measure shall be taken to curtail or impede the investigation; the findings of such an investigation shall be made available upon request to all persons concerned, unless doing so would jeopardize an ongoing criminal investigation; and an investigation, in accordance with the procedures described above, should be able to be conducted for as long as the fate of the victim of enforced disappearance remains unclarified (article 13.1, 4 and 6). Likewise, acts constituting enforced disappearance shall be considered a continuing offence as long as the perpetrators continue to conceal the fate and the whereabouts of persons who have disappeared and these facts remain unclarified (article 7). In addition, the victims of acts of enforced disappearance and their family shall obtain redress and shall have the right to adequate compensation, including the means for as complete rehabilitation as possible. In the event of the death of the victim as a result of an act of enforced disappearance, their dependants shall also be entitled to compensation (article 19). Moreover, according to the General comment on children and enforced disappearances adopted by the Working Group on Enforced or Involuntary Disappearances in 2012, the enforced disappearance of a child constitutes an exacerbation of the violation of the multiplicity of rights protected by the Declaration on the Protection of All Persons from Enforced Disappearance and an extreme form of violence against children.



We would like to draw your Excellency's Government attention to international standards relevant to the protection and promotion of the rights of minorities, in particular to the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. Article 1 of the Declaration refers to the obligation of States to protect the existence and identity of national or ethnic, cultural, religious and linguistic minorities within their territories and to adopt the appropriate measures to achieve this end. Furthermore, States are required to ensure that persons belonging to minorities may exercise their human rights without discrimination and in full equality before the law (article 4.1).

We also would like to draw your Excellency's Government attention to the report by the Special Rapporteur on minority issues on "preventing and addressing violence and atrocities against minorities" (A/69/266) and to the recommendations of the ninth session of the Forum on Minority Issues on the same topic (A/HRC/28/77).

In addition, we would like to draw your attention to articles 9 and 14 of the International Covenant on Civil and Political Rights, both enshrining protections for the right to liberty and security of the person, the right to not be subject to arbitrary detention, as well as the right to a fair and public hearing before an independent and impartial tribunal in the determination of rights and obligations. In this context, the Human Rights Committee has established in its General Comment N° 35, Article 9 (Liberty and security of person), that procedures for carrying out legally authorized deprivation of liberty should be established by law and States should ensure compliance with such legally prescribed procedures.

Furthermore, according to the Committee's General Comment N° 35, article 9 requires compliance with domestic rules that define the procedure for arrest by identifying the grounds, procedures and officials authorized to arrest or specifying when a warrant is required. It also requires compliance with domestic rules that define when authorization to continue detention must be obtained from a judge, where individuals may be detained, when the detained person must be brought to court, as well as the legal limits on the duration of detention. It also requires compliance with domestic rules providing safeguards for detained persons, such as making a record of an arrest and permitting access to counsel. In addition, the Committee further developed and analyzed the rights and guarantees protecting from arbitrary detention, including to be immediately informed about the reasons for the arrest and of any criminal charges, the need for judicial control of detention and the right to take proceedings for release and to challenge unlawful or arbitrary detention.

Finally, we would like to highlight certain key aspects of Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of their Liberty to Bring Proceedings before a Court, (adopted by the Working Group on Arbitrary Detention during its 72nd sessions, held in April 2015). According to such Principles and Guidelines, the right to challenge the lawfulness of detention before a court is a self-standing human right, which is essential to preserve legality in a democratic society. This right, which is in fact a peremptory norm of international law, applies to all forms of deprivation of liberty, including internment in psychiatric

institutions. In this context, principle 1 states that everyone is guaranteed the right to take proceedings before a court, in order that that court may decide on the arbitrariness or lawfulness of the detention, and obtain without delay appropriate and accessible remedies. Principle 4 indicates that this right is not derogable under international law and it must not be suspended, rendered impracticable, restricted, or abolished under any circumstances, even in times of war, armed conflict, or public emergency that threatens the life of the nation and the existence of which is officially proclaimed. In addition, principle 5 states that the right to bring proceedings before a court to challenge the arbitrariness and lawfulness of detention may be exercised by anyone regardless of race, colour, sex, property, birth, age, national, ethnic or social origin, language, religion, economic condition, political or other opinion; sexual orientation or gender identity, asylum-seeking or migration status, disability or any other status. And principle 6 further requires that the court, which is to review the arbitrariness and lawfulness of the deprivation of liberty, shall be established by law and bear the full characteristics of a competent, independent and impartial judicial authority, capable of exercising recognizable judicial powers, including the power to order immediate release if the detention is found to be arbitrary or unlawful.