

**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; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE:  
AL UGA 2/2018

19 July 2018

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; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 34/18, 32/32, 34/5 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government, information we have received concerning allegations of threats, intimidation, judicial harassment, and use of force against and ill-treatment of Ms. Betty Nambooze, Member of Parliament (MP), for the peaceful exercise of her right to freedom of expression.

Ms. Betty Nambooze is a Democratic Party MP for the Mukono Municipality. In 2017, Ms. Nambooze was one of a number of opposition MPs who supported the "Togikwatako – 'Don't Touch it!'" campaign to oppose the proposed Age Limit Amendment Bill, which would amend the Ugandan constitution by removing the age limit of 75 for presidential candidates. The passing of the Bill would potentially allow for President Museveni, who has been in power since 1986, to contest the next presidential election scheduled for 2021.

In September 2017, a ruling party MP introduced the Age Limit Amendment Bill for debate in Parliament.

According to the information received:

On 25 September 2017, a ruling party MP allegedly visited Ms. Nambooze at her office, warning her to avoid attending Parliament that week, stating "they are going to break your back."

On 26 September 2017, Ms. Nambooze and other opposition MPs attempted to filibuster the Age Limit Amendment Bill by repeatedly singing the national anthem in Parliament throughout attempts to introduce the bill.

On 27 September 2017, the Speaker opened Parliament and ordered the suspension of 25 opposition MPs, including Ms. Nambooze, citing their "unruly

behaviour” of the previous day in their attempts to filibuster the Age Limit Amendment Bill. After ordering the suspension, the Speaker left Parliament and approximately 100 men and women, later identified as officers of the President’s Special Forces Command, entered via President Museveni’s private entrance. The Special Forces proceeded to violently arrest the MPs who had been suspended by the Speaker.

Ms. Nambooze was surrounded by approximately six members of the Special Forces, some of whom took hold of her from behind, forcing her shoulders, arms and hands behind her back, while another applied pressure to her back, causing serious injury to her spinal cord.

Ms. Nambooze was then dragged to a waiting police van and brought to the headquarters of the Special Investigations Unit of the Uganda Police Force in Kireka, where her request to see a doctor was repeatedly refused. Ms. Nambooze was granted access to one of her lawyers and detained until 11pm, before being taken to Bugolobi Medical Centre where doctors determined that several of her vertebrae had been damaged and that she was suffering from severe spinal compression. She remained bedridden for almost six weeks before travelling to India in early November 2017 in order to undergo a six hour operation where metal struts were inserted in her back to enable her to walk again. Ms. Nambooze returned to Uganda in late November 2017 and was present for the vote on the Age Limit Amendment Bill, which passed in December 2017.

On the 17 April 2018, during a Constitutional Court hearing in Mbale Town, the Chief of Defence Forces, General David Muhoozi, admitted to ordering the Special Forces Command into Parliament on 27 September 2017 in response to a call from police chief, Kale Kayihuru, requesting support to restore order in Parliament. When questioned about the use of violence against MPs, he allegedly claimed to be unaware of any violence committed against a legislator.

On 8 June 2018, ruling party MP, Ibrahim Abiriga, was assassinated by unknown assailants. Several days later, Ms. Nambooze posted on Facebook, expressing her condolences to Mr. Abiriga’s family, while also acknowledging their deep political differences. She reportedly criticised the assassinated MP, stating that “he was a loud speaker for the people who have chosen to love power more than the future of our Uganda” while also condemning his assassination; “we need our colleagues like Abiriga to stay around to realise the mess we have sunk our country in and maybe join forces to dig it out of the pit. We need to reject any politics that targets people because of their political beliefs (...) every life must be respected and every murder must be condemned.”

On 13 June 2018, Ms. Nambooze was arrested on charges of “offensive communication” under Section 20 of the Computer Misuse Act for the aforementioned Facebook post and “incitement to commit an offence” under

Section 21 of the Penal Code Act 1950. Later in the day, Ms. Nambooze was released on police bond.

On 14 June 2018, Ms. Nambooze was rearrested and detained at Naggalama Police Station before the expiry of her police bond on 19 June 2018. Her re-arrest occurred after President Museveni allegedly gave a speech earlier in the day stating that police bond should not be given to suspects accused of serious crimes such as murder. Ms. Nambooze was reportedly granted access to her lawyers.

On 16 June 2018, Ms. Nambooze was transferred to Kiruddu Hospital. On the way to the hospital, a police van rammed into the ambulance, causing further damage to Ms. Nambooze's spine, with doctors confirming that the incident had caused one of the metal screws implanted in her back to become dislodged, protrude and press on a major nerve.

On 22 June 2018, the Directorate of Public Prosecutions upheld the charge of "offensive communication" against Ms. Nambooze and a court order was issued against her at the hospital by detectives from the Homicide Department, demanding that she surrender her computers, mobile phones and tablets. Ms. Nambooze's lawyer contested the court order, stating that she was bedridden and therefore unable to comply with the order.

On 22 June 2018, Uganda's Human Rights Commission urged the police to allow Ms. Nambooze access to urgent medical care in India. In May 2018, Ms. Nambooze obtained a referral from Mulago hospital to seek further medical care in India after she started suffering increasing back and leg pain.

On 27 June 2018, Ms. Nambooze was granted police bond and was released from Kiruddu hospital. The police bond from 27 June states that she is charged with "offensive communication" and "incitement to commit an offence," while requesting that she report to the Commissioner of the Homicide Department on 29 July 2018.

We express grave concern at the use of force by the President's Special Forces Command against Ms. Nambooze and other MPs for their legitimate exercise of freedom of expression in connection with the performance of their duties as Members of Parliament and their position towards the Age Limit Amendment Bill. We underline that debate for or against proposed Bills fall within the realm of the legislature and that the threshold for freedom of expression in this connection is very high. We express additional concern at the physical integrity of Ms. Nambooze and the severe injury allegedly inflicted on her spinal cord as a result of the ill-treatment by members of the Special Forces Command.

We also wish to express concern at the threats that Ms. Nambooze allegedly received by a ruling party MP. This is of grave concern as it suggests that the attack on Ms. Nambooze and the specific manner in which the attack was carried out, was

premeditated and a direct retaliation against her exercising her freedom of opinion and expression, as well as her right to freedom of association, as a Member of Parliament in her opposition to the Age Limit Amendment Bill. Further concern is expressed at the allegations of judicial harassment against Namboozie in relation to her Facebook post in the aftermath of the assassination of Mr. Abiriga.

We are concerned that the subsequent charge of “offensive communication” under Section 20 of the Computer Misuse Act may be unlawful as it apparently fails to meet the permissible conditions for restrictions of the right to freedom of expression under international human rights law. Finally we are seriously concerned at allegations that Ms. Namboozie was rearrested after President Museveni gave a speech where he stated that police bond should not be given to suspects accused of serious crimes such as murder. It is worrying that due to her re-arrest in the aftermath of this speech, Ms. Namboozie appears to be implicated in this statement, despite never having been charged with such a crime. This amplifies our concerns that Ms. Namboozie may be subjected to judicial harassment as a result of her attempts to exercise her freedom of opinion and expression in her opposition to the Age Limit Amendment Bill.

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.

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 observations on the following matters:

1. Please provide any additional information and/or any comment(s) you may have on the above-mentioned allegations.
2. Please provide information on measures taken by your Excellency’s Government to carry out an immediate, impartial, and transparent investigation into the use of force by the Special Forces Command. If no investigations have been undertaken, or if they have been inconclusive, please explain why.
3. Please provide information on the factual and legal basis for the re-arrest and detention of Ms. Namboozie just 24 hours after being released on police bond and how these measures are compatible with Uganda’s obligations under international human rights law.
4. Please provide information about measures taken to repeal the provision on “Offensive communication” under section 20 of the Computer Misuse Act in accordance with Uganda’s obligations under international human rights law.

5. Please provide information on the legal basis for the court order demanding that Ms. Nambooze surrender her computers, mobile phones and tablets.
6. Please provide information on the measures taken to ensure the security and physical integrity of Ms. Nambooze.

We would appreciate receiving a response within 60 days. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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.

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

David Kaye  
Special Rapporteur on the promotion and protection of the right to freedom of opinion  
and expression

Clement Nyaletsossi Voule  
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Michel Forst  
Special Rapporteur on the situation of human rights defenders

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, we wish to draw the attention of your Excellency's Government to the applicable international human rights law and standards:

Articles 7, 9 and 10 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by Uganda on 21 June 1995 guarantee that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment, as well as the rights to security of person and to be treated with humanity and with respect for the inherent dignity of the human person.

Moreover, we would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Uganda acceded to on 3 November 1986.

We would like 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 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 either orally, in writing or in print, in the form of art, or through any other media of his choice. In this regard, we would like to refer to the Human Rights Committee's General Comment 34 which states that political discourse is part of the right to freedom of expression and that free communication on political issues, whether by individuals or elected representatives, is essential and guaranteed under Article 19. The Human Rights Committee has furthermore noted that restrictions on freedom of expression must not impede political debate, and that the value placed by the ICCPR upon uninhibited expression is particularly high in the circumstances of public debate in a democratic society concerning figures in the public and political domain. Moreover, those exercising the highest political functions are subject to legitimate criticism (CCPR/C/GC/34).

We would further 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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to article 2 of the Declaration on the prime responsibility and duty of the State to protect, promote and implement all human rights and fundamental freedoms and to paragraph 2 of article 18 on the role and responsibility of individuals and groups in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes.