

Mandates of 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; and the Special Rapporteur on the rights to freedom of peaceful assembly and of association

REFERENCE:
AL UGA 5/2018

19 October 2018

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolutions 35/15, 34/18 and 32/32.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the killings of civilians, excessive use of force against protestors and attacks against journalists and media outlets by military forces in Uganda.

The situation for freedom of expression and freedom of association and peaceful assembly is reported to have deteriorated significantly since the initiation of a strongly contested amendment of the Ugandan constitution to remove the age limit of the President, thereby allowing the sitting President Museveni, who has been in power for 33 years, to rule beyond 75 years of age. Concerns at the arrest and ill-treatment of Members of Parliament opposing the amendment and expressing their dissent to the amendment were raised by Special Procedures in communications sent to your Excellency's Government on 29 July 2018 (ref. UGA 2/2018) and on 29 August 2018 (ref. UGA 4/2018). We thank your Excellency's Government for confirming the receipt of the former communication. We look forward to receiving a substantive reply to the former and to the current communication. We remain seriously concerned in light of the new information received concerning attacks of civilians and attacks against media professionals.

According to the information received:

Extrajudicial killing of civilians and excessive use of force against protestors

Between 23 July and 23 August 2018, several individuals were reportedly shot dead by Uganda Police Forces and the President's elite force, the Special Forces Command. The individuals killed are believed to be supporters of the political opposition. No investigation have been launched into these extrajudicial killings.

In August 2018, political demonstrations took place in several cities in Uganda to protest against the arrest of opposition politicians. The police forces used tear gas and live ammunition to disperse protestors including against protestors in

Kamwokya (Kampala city), on 16 August 2018 and Mityana (central region) on 18 August 2018.

Attacks against journalists

On 13 August 2018, at Pacific Hotel in Arua, Mr. Julius Bakabaage, a cameraman with NBS television was assaulted for filming a live coverage of a scene in which military forces reportedly were indiscriminately shooting and beating civilians. Mr. Bakabaage was beaten with the butt of guns in the head and back by members of the security forces. No investigation by the police or any other government agency has been carried out to date.

On 20 August 2018, Mr. Alfred Ochwo, a photojournalist with The Observer Newspaper was beaten, tortured and injured in the head by military forces. His phone was confiscated, his camera was smashed and he was forced to forfeit his memory card. While beating him, soldiers asked him as to why he was covering the riots. No investigation has been carried out in this case.

Also on 20 August 2018, Mr. Juma Kiirya, journalist with NTV, was targeted and beaten by military forces, who also confiscated his devices and arrested him. Upon arrest, Mr. Kiirya was pushed under the police pick up. He was beaten with sticks despite pleading that he was journalist and having a press jacket on at the time.

On 27 August 2018, Mr. Moses Mulondo, a journalist with New Vision, received threats through a telephone call from someone who identified himself as Peter Ssonko. He did not initially inform Mr. Mulondo about where he was calling from but told him that the purpose of the call was to warn Mr. Mulondo to stop being part of groups that are mobilizing Ugandans into violence to overthrow Government. The caller furthermore told Mr. Mulondo that he knows all details about him, and that he should refrain from making statements that can incite the public. Mr. Mulondo denied all allegations and asked the caller which security agency he is attached to. The caller said he was from the security command center.

On the same day, a list of journalists who allegedly had agreed to work to overthrow Government through riots was circulated on various social media platforms. Mr. Mulondo's name appeared on the list. Mr. Mulondo has filed a case of defamation and reported threats against his life at Jinja Road police station.

We express serious concern at the alleged extrajudicial killing of civilians, in what appears to be a politically motivated crackdown, and call upon the authorities to initiate an immediate, independent and thorough investigation and to bring the perpetrator(s) to justice in accordance with Uganda's obligations under international human rights law. We express further concern at the large number of alleged attacks, threats, including

death threats, and intimidations against journalists by security forces that have taken place in the country on legal basis that is incompatible with international standards on the right to freedom of expression. We express concern that these arrests and convictions in addition to violating the rights of individuals, are damaging to independent reporting and to the public's right to information. We further express concern at the alleged excessive use of force against protestors including the use of live ammunition.

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 comment(s) you may have on the above-mentioned allegations.
2. Please provide the details, and where available, the results, of any investigation and judicial or other inquiry undertaken in relation to the above allegations of extrajudicial killings of civilians and attacks against journalists. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please indicate what measures have been taken to ensure that journalists and other media workers are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation, harassment, and prosecution of any sort. Please provide information on the steps taken to investigate these incidents and to provide any necessary protection to the journalists.
4. Please provide information regarding allegations of excessive use of force by members of the police during protests, and its compatibility with international standards. Please provide information on any investigations that have taken place or are planned into these allegations.

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.

We may 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.

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

Agnes Callamard

Special Rapporteur on extrajudicial, summary or arbitrary executions

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

Annex
Reference to international human rights law

Right to Life

In connection with above alleged facts and concerns, we would like to refer to article 6 (1) of the International Covenant on Civil and Political Rights (ICCPR), which Uganda acceded on 21 June 1995, which guarantees the inherent right to life of every individual and provide that this right shall be protected by law and that no one shall be arbitrarily deprived of his life.

In General Comment No. 6, the Human Rights Committee reiterates that the right to life is the supreme right from which no derogation is permitted even in time of public emergency which threatens the life of the nation. Moreover, in General Comment No. 31 the Committee has observed that there is a positive obligation on States Parties to ensure protection of Covenant rights of individuals against violations by its own security forces as well as by private parties or entities. States Parties permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate and bring perpetrators to justice could give rise to a breach of the Covenant (CCPR/C/21/Rev.1/Add.13).

With regards to the reported excessive use of force by security forces, we would like to stress that 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 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials provides that intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life (principle 9). Exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles (principle 8). According to the Basic Principles and the UN Code of Conduct for Law Enforcement Officials, law enforcement officials may only use force when it is strictly necessary and only to the extent required for the performance of their duties. 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. With regards to assemblies, the compilation of practical recommendations for the proper management of assemblies (A/HRC/31/66) recalls that the use of force by law enforcement officials should be exceptional, and assemblies should ordinarily be managed with no resort to force. Firearms should never be used simply to disperse an assembly; indiscriminate firing into a crowd is always unlawful (para 60).

We would further like to remind your Excellency's Government of the duty to investigate, prosecute, and punish all violations of the right to life. The allegations presented appear to be in contravention with the human rights standards related to prevention and investigation of extra-judicial, arbitrary and summary executions (Principles 4, 9 and 18 of the UN Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions).

With regards to the death threats received by the journalists, paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council resolution 1989/65 according to which it is incumbent upon States to provide “effective protection through judicial or other means to individuals and groups who are in danger of extra-legal, arbitrary or summary executions, including those who receive death threats”.

The Human Rights Committee’s General Comment no. 35 states that the right to personal security obliges States to take appropriate measures in response to death threats against persons in the public sphere, and more generally to protect individuals from foreseeable threats to life or bodily integrity proceeding from any governmental or private actors. It further notes that States must take both measures to prevent future injury and retrospective measures, such as enforcement of criminal laws, in response to past injury.

The rights to freedom of opinion and expression, of peaceful assembly and of association

Article 19 of the ICCPR guarantees the right to freedom of expression, which includes “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”.

We would like to remind your Excellency’s Government that any limitation to the right to freedom of expression must meet the criteria established by international human rights standards, such as article 4 and 19 (3). Under these standards, limitations must be determined by law and must conform to the strict test of necessity and proportionality must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated.

We once again wish to reiterate the principle enunciated in Human Rights Council Resolution 12/16, which calls on States to refrain from imposing restrictions which are not consistent with article 19(3), including on discussion of government policies and political debate; reporting on human rights, engaging in 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 also like to refer to the Human Rights Council resolution 33/2 on safety of journalists (A/HRC/RES/33/2) adopted on 6 October 2016, which “recognizes that the work of journalists often puts them at a specific risk of intimidation, harassment and violence, the presence of which often deters journalists from continuing their work or encourages self-censorship, consequently depriving society of important information” and “urges the immediate and unconditional release of journalists and media workers who have been arbitrarily arrested or arbitrarily detained.”

We recall that the ICCPR guarantees the rights to freedom of peaceful assembly and of association in its articles 21 and 22. These rights can be subject to certain restrictions in strict conditions of necessity and proportionality.

In this regard, we would like to refer to Human Rights Council Resolution 24/5 which “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others”.

We would also like to refer to Human Rights Council resolution 21/16, and in particular operative paragraph 1 that “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”