

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; 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

REFERENCE:
AL UGA 3/2019

31 May 2019

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; 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 resolutions 35/15, 34/18, 32/32 and 34/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of an attack against human rights defender Ms. **Nana Annet Namata** by police officers, resulting in her hospitalisation, as well as the recent arrest and ongoing trial of human rights defender Ms. **Stella Nyanzi** on charges of cyber harassment and offensive communication against the President Yoweri Museveni's mother.

Ms. Nana Annet Namata is a defender of civil and political rights active in Uganda. Ms. Nyanzi was the subject of a letter sent by Special Rapporteurs on 22 December 2017 to the Government of Uganda, following her arrest in April 2017 in connection to statements she made on social media (AL UGA 3/2017). We regret that no response has been received from your Excellency's government.

According to the information received:

Ms. Nana Annet Namata

Ms. Nana Annet Namata publicly denounced the police repression of a peaceful student protest held on 28 March 2019 at Kyambogo University against the university's tuition payment deadline tuition fees policy in 28 March 2019. A student at Kyambogo University had been hit by a tear gas canister and lost his hand as a result. On 6 April 2019, Ms. Nana Annet Namata posted a new petition against "police brutality" on social media.

On the morning of 24 April 2019, Ms. Nana Annet Namata went to the Uganda Police Force Headquarters in Naguru to raise concerns about recent human rights violations committed by security forces. The evening before, she had requested a meeting with the Inspector General of the Ugandan police about the permission and was told to come back the next day. When she arrived in her car at the gate of

the Headquarters in the morning, she was first told to wait for clearance to enter. The seven month pregnant woman was then attacked by several police officers. They used tear gas against her, forcibly removed her from her vehicle, stood and sat on her and dragged her along the ground until she lost consciousness.

Ms. Nana Annet Namata regained consciousness in the Iran-Uganda Hospital, near the Police Headquarters. Police officers were present in the emergency room, where the doctors treated her and took a drug test against her will, even though she repeatedly requested to be transferred to another hospital she trusted. She was eventually transferred to another hospital, where she was diagnosed with internal bleedings, a blunt abdominal trauma, soft tissue injuries, and a burn in the neck area. The injuries sustained during the attack also put her unborn child at risk; due to lessened foetal activity, the baby will have to be removed by C-section earlier than the due date and grow in an incubator. Ms. Nana Annet Namata continues to be hospitalised.

Her lawyers filed a complaint on her behalf on 30 April 2019 at the office of the Inspector General of the police and two additional ones on 8 May 2019 with the Police Standards Unit and again the General Inspector's office.

Ms. Stella Nyanzi

As detailed in communication AL UGA 3/2017, in April 2017, Ms. Stella Nyanzi was arrested and charged with insulting the president and violating his rights to privacy with her Facebook posts.

On 2 November 2018, Ms. Stella Nyanzi was arrested at Makerere University and driven to the Special Investigations Division headquarters at Kireka. She was later transferred to Kira Division Police headquarters and detained. She is being held in Luzira women's prison since.

Ms. Stella Nyanzi was not informed of the charges against her until she appeared in court. The most recent hearing was held on 9 May 2019 at Buganda Road Court. She is being charged with "cyber harassment" and "offensive communication" under section 24 and 25 of the Computer Misuse Act, 2011, following messages she allegedly posted on Facebook about President Yoweri Museveni's mother. If convicted, she could face up to one year in prison.

We wish to express our deepest concern about the violent attack against Ms. Nana Annet Namata, endangering the life of her and her unborn child. Our concerns are heightened by the fact that the attack may have been executed by police officials and with the intention of preventing her from exercising her rights to freedom of expression and peaceful assembly. We further wish to express concern about the ongoing detention and criminal proceedings against Ms. Stella Nyanzi, which appear to be directly related to her criticism of the government on social media. We would like to underline that the criminal charges against her are overbroad and therefore incompatible with permissible

restrictions to the right to freedom of expression as guaranteed under international human rights law.

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 against student protesters by the police. If no investigations have been undertaken, or if they have been inconclusive, please explain why.
3. Please provide information on the measures taken to ensure the security and physical integrity of Ms. Namata.
4. Please provide any information the investigation into the assault of Ms. Namata by police officers. If no investigations have been undertaken, or if they have been inconclusive, please explain why.
5. Please provide information on the factual and legal basis for the arrest and detention of Ms. Nyanzi and how these measures are compatible with Uganda's obligations under international human rights law.
6. Please provide information concerning the legal grounds for the arrest, detention and prosecution of Ms. Nyanzi under the Computer Misuse Act of 2011, and explain how these legal grounds are compatible with international human rights law.
7. Please indicate what measures have been taken to ensure that human rights defenders in Uganda are able to carry out their work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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.

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

Michel Forst

Special Rapporteur on the situation of human rights defenders

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 6, 19, 20, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by Uganda on 21 June 1995, guarantee the right to life and physical integrity, freedom of opinion and expression and the right to freedom of peaceful assembly and of association

We underline that States obligation on States Parties to ensure the protection of the rights contained in the Covenant against violations by its agents and to take all necessary measures intended to prevent arbitrary deprivations of life by their law enforcement officials. We note that the duty to investigate arises in circumstances in which a serious risk of deprivation of life was caused by the use of potentially lethal force, even if the risk did not materialize and that 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 (CCPR/C/21/Rev.1/Add.13 and CCPR/C/GC/36).

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 like to also recall that the ICCPR provides in its Article 20(2) that States must prohibit by law and to ensure full enforcement of the law against every incident of advocacy of hatred that constitutes incitement to discrimination, hostility or violence in accordance with article 20(2), which is further provided for by the Human Rights Committee in paragraph 8 of its General Comment No. 34

We would also like to refer to 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 (A/RES/53/144, adopted on 9 December 1998), also known as the UN Declaration on Human Rights Defenders. In

particular, we would like to draw your attention to article 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels. Articles 5 and 6 guarantee the right to meet or assemble peacefully; as well as right to freely publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms, while each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

We would also like to recall the report of the former Special Representative of the Secretary-General on the situation of human rights defenders to the General Assembly in 2006 (A/61/312), where the Special Representative urges States to ensure that law enforcement officials are trained in and aware of international human rights standards and international standards for the policing of peaceful assemblies and to investigate allegations of indiscriminate and/or excessive use of force by law enforcement officials.

Finally, we would like to refer to the report of the Special Representative of the Secretary-General on the situation on human rights defenders to the General Assembly in 2007 (A/62/225), which recommends States to create a safe and conducive environment for young adults and students to participate in demonstrations. Student protests have a high educational value as they are among the first experiences of public participation and human rights defence of students