

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

REFERENCE:
AL UGA 4/2021

24 September 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 41/12, 43/4 and 43/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **suspension and closure of 54 national civil society organizations, including the African Institute for Energy Governance (AFIEGO), Citizen's Concerns Africa, Centre for Sustainable Innovation and Research, Environmental Governance Institute Uganda (EGI), Youth for Green Communities and Chapter Four Uganda 2016-2020.**

According to the information received:

On 20 August 2021, the National Bureau for Non-Governmental Organisations (NGO Bureau) under the Ministry of Internal Affairs stated that 54 NGOs divided into three NGO groups, were non-compliant with the provisions and requirements of the NGO Act 2016. As a consequence, their operations would be halted with immediate effect.

The NGO Bureau identify in their statement three groups of NGOs who allegedly did not comply with the NGO Act 2016:

1. 23 NGOs did not comply with sections 31(1) and 31(2) due to expired permits;
2. 15 NGOs did not comply with section 39(2) and (3) due to failure to file accounts; and
3. 16 NGOs did not comply with sections 29(1), 31(1) and (2) due to failure to register before the NGO Bureau.

While the operations of NGO in groups 1 and 3 have been closed, those NGOs in group 2 face indefinite suspension. In its press release, the NGO Bureau also called upon stakeholders from national, district and sub-county levels to help enforcing the decision.

In reaction to this press release, some CSOs reported publicly that the suspension was arbitrary as no prior notification nor information had been issued or provided in any other kind of form to the affected groups. According to the NGO Act 2016, Section 33 (2), the NGO Bureau needs to ensure a 30-

days notification period for permit holders.

On 24 August 2021, discussions were reportedly held between the Minister of Internal Affairs and civil society leaders in order to address the above-mentioned suspensions and closures. During the meeting, the minister allegedly committed to redress the anomalies within the context of the suspension of the NGOs and to establish an Adjudication Committee. The Adjudication Committee is an entity provided for in the NGO Act 2016 and its purpose is to handle appeals by persons aggrieved by a decision of the (NGO) Bureau.

On 25 August 2021, a letter was addressed to Resident District Commissioners (RDCs) noting that "... the President has directed all MDAs (ministries, department and agencies) and district authorities to exercise vigilance and get involved in the operations of NGOs operating within their mandates and jurisdictions". The recipients of the letter were asked to take up the matter with urgency.

It is reported that the CSOs affected by the suspension have worked on a range of different human rights issues such as electoral reforms including the enhancement of participation in the electoral process, women's associations, advocating for accountability and transparency in the oil sector, human rights protection support of people living in poverty, and of marginalized and vulnerable groups. Reports have come to our attention that the suspension of Ugandan NGOs follows a long line of reprisals and intimidation towards civil society actors, which took the form of arrests of activists, "freezing" of bank accounts, office raids, suspension of reception of funding and threats of the actual closure.

While we do not wish to prejudge the accuracy and the veracity of the above-mentioned information, we express our concern over the suspension and closure of a large number of civil society organizations which points prima facie to excessive control over the work of CSOs by the Government, further leading to a form of curtailing the enjoyment of the freedom of association. We further express our concerns on the lack of anticipation and notification of the suspension as well as onerous and burdensome registration procedures which do not comply with international human rights standards and do not meet the principle of legal certainty under the rule of law.

Along with the suspension of NGO operations, we are worried that the allegations on other forms of reprisals may discourage human rights defenders from carrying out their activities, and thus, will act as a disincentive to a safe and favorable environment for their legitimate and valuable work.

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 information about the legal basis for the suspension of the civil society organisations mentioned in this letter, and explain how it complies with your obligations under Article 22 of the ICCPR. In particular, detail information on how your Excellency's Government implement expeditious registration procedures as well as avoid the requirement of repetitive registration of NGOs.
3. Please outline the measures your Excellency's Government has taken to ensure the possibility to appeal decisions made by the NGO Bureau, as required under international human rights standards.
4. Please outline the measures your Excellency's Government has taken or plans to take to ensure that all human rights defenders in Uganda are protected and able to work to promote and protect human rights free from reprisals and intimidations, and the threats thereof.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. 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.

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 issues in question.

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

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

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Mary Lawlor
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 would like to refer your Excellency's Government to the International Covenant on Civil and Political Rights (ICCPR), ratified by Uganda in 1995. In particular, we would like to refer to Articles 19, 21 and 22 which protect the rights to freedom of opinion and expression, freedom of peaceful assembly and of association.

We would also like to remind your Excellency's Government that any restrictions to the right to freedom of association must meet the criteria established by international human rights standards, such as Article 22 (2) of the ICCPR. Under these standards, the restrictions must conform the strict tests of legality and necessity. In its report on the rights to freedom of peaceful assembly and of association, the former UN Special Rapporteur adds the criteria of proportionality while restricting the corresponding rights by stating that “[t]he suspension and the involuntarily dissolution of an association are the severest types of restrictions on freedom of association. As a result, it should only be possible when there is a clear and imminent danger resulting in a flagrant violation of national law, in compliance with international human rights law. It should be strictly proportional to the legitimate aim pursued and used only when softer measures would be insufficient” (A/HRC/20/27/para. 75).

We also wish to refer to the Human Rights Council Resolution 22/6, which calls upon States to ensure that “procedures governing the registration of civil society organizations exist, that these are transparent, accessible, non-discriminatory, expeditious and inexpensive, allow for the possibility to appeal and avoid requiring re-registration, in accordance with national legislation, and are in conformity with international human rights law” (A/HRC/RES/22/6, para. 8).

Human Rights Council Resolution 22/6 also calls upon States to ensure “(a) that reporting requirements placed on individuals, groups and organs of society do not inhibit functional autonomy”; and (b) “that they do not discriminatorily impose restrictions on potential sources of funding aimed at supporting the work of human rights defenders in accordance with the Declaration (...), other than those ordinarily laid down for any other activity unrelated to human rights within the country to ensure transparency and accountability, and that no law should criminalize or delegitimize activities in defence of human rights on account of the origin of funding thereto”. (OPs 8 and 9)

We also would like to draw your Excellency's Government attention 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 articles 1 and 2 of the Declaration which state that everyone has the right 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, and:

article 5 (b), which provides for the right to form, join and participate in non-governmental organizations, associations or groups;

article 13, point b) and c), which provides for the right to solicit, receive, and utilize resources for the purpose of peacefully promoting and protecting human rights and fundamental freedom;