

Mandates of the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the situation of human rights defenders and the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity

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(Please use this reference in your reply)

16 January 2025

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on the situation of human rights defenders; and Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, pursuant to Human Rights Council resolutions 53/12, 52/4 and 50/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received regarding the escalation of acts of violence and harassment against lesbian, gay, bisexual, trans and other gender-diverse (LGBT) individuals, their legal representatives and human rights defenders supporting them since the introduction of the Anti-Homosexuality Act (AHA).

Multiple mandate holders have repeatedly expressed serious concerns about escalating risks to the human rights of LGBT persons in Uganda over the past 15 years, including those ushered in by the "anti-homosexuality" law (UGA 1/2014, UGA 6/2012, UGA 2/2012). The law, and its earlier versions, were assessed as potentially leading to immediate violations of a substantial range of human rights, including the rights to life, liberty and security, privacy, equality and non-discrimination, freedoms of association, peaceful assembly, opinion and expression, and the highest attainable standard of physical and mental health, not to be subject to arbitrary arrest or detention, and the absolute prohibition against torture and other cruel, inhuman or degrading treatment or punishment. More recently, UN experts underlined the egregious nature of the bills making homosexuality punishable by death and urged Your Excellency's president not to promulgate laws that take aim at and further criminalize people identifying as LGBT, and those who support and defend their human rights.

According to the information received:

General Context

Uganda's long-standing State-instigated and perpetuated discrimination and violence on the basis of sexual orientation and gender identity have created an environment of pervasive anti-LGBT sentiment, enabling the prosecution of LGBT individuals and emboldening civilians to openly discriminate and even commit acts of violence against them.

In 2023, the introduction of the Anti-Homosexuality Act (AHA), which expanded the scope of criminalization of same-sex sexual conduct between adults, including by punishing "aggravated homosexuality" with the death penalty and life in prison for all same-sex sexual acts. The passage of this law

has reportedly led to an escalation of violence and harassment against LGBT individuals, including police harassment, increased mob violence and instances of “correctional” rapes targeting mainly transgender individuals. Additionally, the penalties under the AHA for landlords renting to LGBT individuals or their supporters would have resulted in a surge of evictions. These evictions often lead to the public exposure of the individuals’ sexual orientation or gender identity, sometimes resulting in violent attacks, social exclusion, or familial rejection.

Systemic harassment and threats of lawyers defending those charged under the AHA

The persecution allegedly extends to lawyers defending those charged under the AHA, who are labeled *lawyer wa basiyazi* (translated as “lawyer of homosexuals”) and perceived as “promoters” of homosexuality. Their work is publicly condemned as immoral, often subjecting them to threats, harassment, and professional barriers. Branded as enemies of the State, these lawyers have been forced to take extreme precautions to avoid harassment or violence, such as concealing their work, relocating meetings, avoiding digital communications, and staying silent about their work in public or writing.

Additionally, the enactment of the AHA has reportedly also exacerbated online hostility toward advocates for LGBT rights. Lawyers and human rights defenders are frequently targeted by anonymous social media accounts, which issue threats and hostile messages, particularly during webinars or within private groups focused on LGBT individuals and their supporters. These messages often disappear after events conclude, or the accounts are rapidly deleted, which leaves limited evidence to report or effectively challenge these digital attacks.

State-Sanctioned Intimidation

Despite the nominal protections offered by Uganda’s Advocates Act, which is designed to shield lawyers from prosecution and harassment in the course of their work, reports indicate these safeguards are limited in practice. They apply primarily to advocacy within the courtroom and fail to extend to lawyers’ activities in public or private spaces. As a result, lawyers and human rights defenders reportedly face substantial obstacles when organizing meetings, workshops, or advocacy events due to fears of police surveillance and arrests under section 11 of the AHA. Reports indicate that law enforcement officers exploit the vague and broad language of this provision, which criminalizes the “promotion” of homosexuality, as a tool to threaten with prosecution lawyers and those engaged with organizations defending LGBT persons’ human rights.

In instances of arrest, law enforcement officers have been reported to exploit the situation by soliciting bribes as a condition for release. This practice would disproportionately affect individuals without sufficient financial resources. Officers have been known to also employ informal and unlawful pretexts, such as falsely asserting that the bonds office is “closed”, to justify the detention of individuals overnight without legal grounds.

This harassment and institutionalized discrimination have reportedly instilled deep fear among legal advocates, forcing them into constant vigilance and secrecy to fulfill their professional duties. Despite credible threats to their safety, the State has allegedly failed to provide these professionals with the necessary protection, leaving them exposed to significant risks.

This atmosphere of intimidation has manifested in professional settings too, where incidents such as court clerks refusing to accept documents submitted by a legal team defending LGBT rights were reported. The overwhelming social pressure has led many human rights attorneys to abandon any association with LGBT cases altogether, viewing such work as too dangerous for their personal and professional lives.

Documented Cases of Retaliation Against Legal Advocates

According to the source, lawyers and human rights defenders Patience Muwanguzi, Henry Byansi, and Derrick Tukwasiibwe have been exposed to a range of serious forms of retaliation, including mob violence, arbitrary detention, and other forms of retaliation stemming from their representation of LGBT clients. According to the source, these three cases are emblematic, exemplifying the experience of many more lawyers who represent, counsel, or provide other legal services to the LGBT community.

Henry Byansi

Mr. Henry Byansi has reportedly been facing significant professional and personal repercussions for his work as a lawyer, member of the legal team contesting the AHA. Colleagues are said to avoid being seen with him in court, viewing any association with him as a reputational risk, while family and community members have allegedly pressured him to withdraw from the case due to fears of retaliation. A family member of Mr. Byansi has reportedly also been exposed to harassment, including messages questioning her support for his work.

Since May 2023, Mr. Byansi has been subjected to increasingly hostile confrontations. During routine activities, individuals have reportedly accosted him to question his defense of individuals allegedly “corrupting children”, invoking harmful stereotypes about LGBT individuals. Law enforcement has reportedly also taken part in this social pressure, with officers allegedly aggressively questioning his legal work and suggesting it could result in personal harm. In one instance, police officers would have suggested that his child could also be harmed because of his advocacy.

In June 2023, Mr. Byansi provided legal aid to a soldier accused of homosexuality at a military base. According to the source, this representation led to anonymous threats over the telephone.

In October 2023, while assisting a client detained at the Kabalagala police station for using a dating application, Mr. Byansi faced attempts by police officers to confiscate his phone on suspicion of “promoting homosexuality.” To

protect his privacy, he left his phone outside the station and has since refrained from carrying his phone when visiting police stations for similar cases.

In October 2024, Mr. Byansi was unable to reach clients locked in hotel rooms under the accusation of being same-sex couples because of the imminent risk of mob violence on the premises and threats of violence against any lawyer offering assistance.

Patience Muwanguzi

In May 2024, Ms. Patience Muwanguzi responded to a case involving a transgender man who was allegedly attacked and robbed by a mob in Kajjansi under accusations of “homosexuality”. While seeking refuge in a nearby home, the victim was arrested by responding police officers, who charged him with trespassing and detained him overnight, while the attackers faced no legal repercussions. Although Ms. Muwanguzi secured his release, reports indicate the incident left both her and the alleged victim deeply shaken.

In response to persistent harassment and threats of violence, Mr. Byansi and Ms. Muwanguzi have had to adopt precautionary measures, including avoiding public transportation and certain public areas, threatened with the looming prospect of enduring the same brutal treatment as their clients.

While we do not wish to prejudge the accuracy of these allegations, we express our serious concerns regarding reports of systemic discrimination, violence, and harassment faced by lawyers and human rights defenders working with the LGBT community in Uganda. These reports raise serious questions about compliance with international human rights obligations, including the principles of equality, non-discrimination, and access to justice as protected by articles 2, 14 and 26 of the International Covenant on Civil and Political Rights (ICCPR).

The allegations of threats, harassment, and violence faced by lawyers representing individuals charged under the AHA raise serious concerns regarding Uganda's adherence to international legal standards. These acts of intimidation, reportedly involving law enforcement, could amount to a violation of the right of all persons to a fair trial, without discrimination – irrespective of sexual orientation or gender identity or any other ground – as provided by article 14(1) of the ICCPR. Lawyers are the ones who will challenge the court's independence and impartiality and who will ensure that the defendants' rights are respected throughout the proceedings. For these reasons, the right to be represented by a lawyer constitutes an integral part of the right to a fair trial and is both recognized by article 14 (3) (c) of the ICCPR and article 7 (c) of the African Charter on Human and Peoples' Rights.

We are concerned that Uganda's failure to provide protections to lawyers in the exercise of their professional duties, and worse, the active participation of law enforcement in acts of intimidation and harassment, contravenes the safeguards established under international law, including those outlined in the United Nations Basic Principles on the Role of Lawyers.¹ These principles mandate that lawyers must

¹ Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, on September 7, 1990.

be able to perform their duties without intimidation, harassment, or undue interference and that they must not face prosecution or sanctions for actions taken in accordance with their professional responsibilities.² Furthermore, the Basic Principles add that lawyers must not be identified with their clients or their clients' causes,³ and where their safety is at risk, authorities are obligated to provide adequate protection.⁴

As emphasized by the former Special Rapporteur on the independence of judges and lawyers, States have a duty to guarantee the physical and psychological integrity and safety of lawyers and their families. They must adopt measures to prevent lawyers from being identified with their clients or causes, especially in high-profile or sensitive cases, as attacks on such lawyers undermine their ability to perform their duties effectively.⁵

Aside from threatening the quality of the legal defense, we are concerned that the ongoing harassment of lawyers represents a systemic attack on the legal profession and that its chilling effect could constitute interference with the free exercise of the lawyers who may be deterred from defending people charged under the AHA. We underscore the critical importance of the legal profession: its free exercise is an essential element of the rule of law, the protection of human rights and the functioning of an independent judicial system.

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 detailed information on the legislative and other measures adopted by Uganda to ensure that lawyers representing LGBT persons or those accused of offenses under the AHA are able to perform their professional functions without intimidation, hindrance, harassment or improper interference, and that they will not be charged with "promoting homosexuality" for carrying out their legal profession (principle 16 (a) of the Basic Principles on the Role of Lawyers).
3. Please provide information on the measures taken to ensure the physical and psychological integrity and safety of lawyers representing LGBT persons, human rights defenders supporting LGBT persons, or those accused of offenses under the AHA and their families.

² Principle 16 of the United Nations Basic Principles on the Role of Lawyers.

³ Principle 18 of the United Nations Basic Principles on the Role of Lawyers.

⁴ Principle 17 of the United Nations Basic Principles on the Role of Lawyers.

⁵ A/HRC/50/36, para 115.

4. Please provide information on the measures adopted to prevent lawyers from being identified with their clients or causes, especially in high-profile or sensitive cases, especially those involving the LGBT community or those accused of offenses under the AHA, as attacks on such lawyers undermine their ability to perform their duties effectively.

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 issue/s in question.

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

Margaret Satterthwaite
Special Rapporteur on the independence of judges and lawyers

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Graeme Reid
Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity

Annex

Reference to international human rights law

In connection with above alleged facts and concerns the independence of the judiciary is prescribed, among others, in the International Covenant on Civil and Political Rights (ICCPR), ratified by Uganda on 21 June 1995.

Article 14 of the ICCPR provides that “everyone has the right to a fair and public hearing by an independent and impartial tribunal established by law.” Your country's accession to this treaty means that it must, among other things, adopt all appropriate measures to guarantee the independence of the judiciary and protect judges from any form of political influence in their decision-making. In addition, article 14 (3) of the ICCPR provides a set of contain procedural guarantees that must be made available to persons charged with a criminal offence, including the right of accused persons to have access to, and communicate with, a counsel of their own choosing.

In its general comment No. 32 (2007), the Human Rights Committee explained that the right to communicate with counsel enshrined in article 14 (3) (b) requires that the accused is granted prompt access to counsel. Counsel should be able to meet their clients in private and to communicate with the accused in conditions that fully respect the confidentiality of their communications. She should also be able “to advise and to represent persons charged with a criminal offence in accordance with generally recognised professional ethics without restrictions, influence, pressure or undue interference from any quarter” (CCPR/C/GC/32, para. 34).

We would also like to refer your Excellency's Government to the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Havana (Cuba), 27 August-7 September 1990). Its preface states that “adequate protection of the human rights and fundamental freedoms to which all persons are entitled, be they economic, social and cultural, or civil and political, requires that all persons have effective access to legal services provided by an independent legal profession”

The UN Basic Principles include a set of provisions that establish safeguards to ensure that legal professionals can exercise their activities independently. Principle 16 requires Governments to “ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics”. Principle 17 mandates that “Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities” Principle 18 provides that lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.

Additionally, the African Charter on Human and Peoples' Rights (the African Charter), to which Uganda is a State Party since 10 May 1986 provides “the right to defence, including the right to be defended by counsel of his choice” as established by

article 7 (c).

In a report on the Protection of lawyers against undue interference in the free and independent exercise of the legal profession, the former Special Rapporteur on the independence of judges and lawyers, Diego García-Sayán, urged “national authorities to immediately put in place the necessary measures to bring an end to threats against and the harassment and mistreatment of persons practising law in general. In particular, they should ensure that law enforcement officials who may be involved in such abuses are investigated and held accountable.” He also urged “public prosecutors to closely monitor situations and cases in which lawyers might be criminalized for performing their duties. When such circumstances arise, appropriate orders should be issued to prevent public prosecutors from maliciously prosecuting members of the legal profession who criticize State officials and institutions in the exercise of their independence and freedom of expression.” (A/HRC/50/36, para 122 and 123).

We would like to draw the attention of your Excellency’s Government 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, otherwise known as the UN Declaration on Human Rights Defenders, which was adopted by consensus at the UN General Assembly in 1998. In particular, we would like to highlight articles 1 and 2 of the Declaration, which state that everyone, individually and in association with others, has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms and that each State has a prime responsibility and duty to promote, protect and implement all human rights and fundamental freedoms.

Furthermore, we would like to bring to the attention of your Excellency’s Government article 12(2) and (3), which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

Finally, we would like to underline the Human Rights Committee concerns in its concluding observations dating September 2023 (CCPR/C/UGA/CO/2, paras. 12 and 13). The Committee expressed its deep concern “by the enactment of the Anti-Homosexuality Act in May 2023, which criminalizes consenting sexual relations between adults of the same sex and further stigmatizes lesbian, gay, bisexual, transgender and intersex (LGBTI) persons. The Committee also expresses its grave concern at the sentences provided for under the Act, which include the death penalty for “serial offenders” and lengthy prison sentences for a wide range of “offences”, including up to 20 years’ imprisonment for “promoting homosexuality”. The Committee is also concerned about reports of hate speech, outings and violence against LGBTI persons, including in public discourse and against persons in police custody, and about reports of arbitrary arrests of LGBTI persons on the basis of the Penal Code Act and the Anti-Homosexuality Act (arts. 2, 3, 7, 17 and 26).” The Committee further recommended the State party to “take appropriate steps to: (a) As a matter of urgency, repeal the Anti-Homosexuality Act and section 145 of the Penal Code Act, to end the criminalization of consensual sexual relations between adults of the same sex; (b) Amend the Equal Opportunities Commission Act, 2007, to include sexual orientation and gender identity as a prohibited ground for discrimination protected

under the Act, or adopt a comprehensive anti-discrimination law that contains an exhaustive list of prohibited grounds for discrimination, including sexual orientation and gender identity; (c) Address discriminatory attitudes and stigma towards LGBTI persons among government officials and the general public, including through comprehensive awareness-raising and sensitization activities; (d) Ensure access to remedies for LGBTI persons who are subjected to discrimination, hate speech, violence or arbitrary arrest.”