

UGANDA:

A NINE POINT HUMAN
RIGHTS AGENDA

AMNESTY
INTERNATIONAL



INTRODUCTION

As President Yoweri Museveni begins a new term in office and forms his new government following February 2011's general elections, Amnesty International is calling on the President and his new government to place human rights at the top of their political agenda.

Although there has been some progress in the protection and promotion of human rights since the last elections in 2006, there remains a number of human rights issues which require concerted government attention and action. The inauguration of the new government provides a good opportunity to show that Uganda is fully committed to the protection and promotion of human rights.

Amnesty International urges the new government to commit itself to implement a clear agenda for human rights which includes the following nine points. It should:

1. Uphold the right to freedom of expression and freedom of peaceful assembly.
2. Ensure respect for human rights in counterterrorism measures.
3. Ensure that action is taken to stop violence against women and girls.
4. Ensure accountability for human rights violations by security and law-enforcement officials.
5. Take action to eliminate discrimination on the basis of sexual orientation or gender identity.
6. Ensure the protection of the rights of refugees and asylum seekers.
7. Ensure accountability and the right to reparations for victims and survivors of the northern Uganda conflict.
8. Commit to abolish the death penalty.
9. Ensure full compliance with Uganda's international and regional human rights obligations and commitments, as explicitly set out in the treaties it has ratified.

1. RESTRICTIONS TO THE RIGHT TO FREEDOM OF EXPRESSION AND FREEDOM OF PEACEFUL ASSEMBLY

Journalists and political activists face increasing difficulties in carrying out their work. A number have been arbitrarily arrested, harassed and intimidated by the police, other law enforcement and government officials. Dozens of journalists and political activists face various criminal charges related to their media and political work, and in particular where they have published material critical of government policy and practice.

In recent years the police and other law enforcement officials have unjustifiably disrupted and banned public rallies held or planned by opposition politicians and activists. Since the conclusion of the February 2011 general elections, the Ugandan police have maintained a blanket ban against all forms of public assemblies and demonstrations, on grounds of ensuring public security. This blanket ban violates freedoms of expression and peaceful assembly. In April 2011 a number of opposition politicians, activists and their supporters were arrested during demonstrations calling for people to walk to work in protest at rising fuel prices and costs of living. Most of the politicians were later released on bail but still face criminal charges. The police and military personnel used excessive force, including firing live ammunition and teargas into crowds of protesters, killing at least ten people and injuring dozens others.

Amnesty International is concerned that legislation has been passed and a bill is pending, which further restricts the rights to freedom of expression, peaceful assembly and privacy. The Regulation of Interception of Communications (RIC) Act, in force since 3 September 2010, lacks adequate safeguards to ensure the respect and protection of human rights and in particular threatens freedom of expression and the right to privacy.¹ The proposed Press and Journalists (Amendment) Bill would, if enacted, significantly restrict freedom of expression by allowing the authorities to refuse to grant licences to print media outlets on broad and loosely defined grounds such as "national security". The Bill has so far not been submitted to Parliament.

Amnesty International calls on the government to:

- Ensure respect for the right to freedom of expression and of opinion including press freedom.
- Lift the general ban on public rallies and assembly and comply with its obligations in relation to the right to freedom of expression and freedom of peaceful assembly.
- Urgently ensure the amendment of the RIC Act in order to incorporate effective safeguards against abuse. Provisions should be incorporated which precisely define the grounds for, and the purposes of interception of communication and surveillance, in full compliance with Uganda's international human rights obligations, the Constitution and other relevant domestic law.
- Withdraw the proposed Press and Journalists (Amendment) Bill and ensure that existing legislation on the regulation of the media complies with applicable human rights standards in relation to the right to freedom of expression.

2. RESPECT FOR HUMAN RIGHTS IN COUNTERTERRORISM MEASURES

On 11 July 2010, over 76 people were killed and hundreds injured as a result of bombings by unknown people at two different public venues in Uganda's capital, Kampala. Following criminal investigations, dozens of people of different nationalities were arrested for suspected involvement in the bombings. There are currently 17 people in detention, charged with a number of offences related to the bombings, including terrorism, murder and attempted murder. The trial process is ongoing.

Amnesty International is concerned that the government has not adhered to established human rights principles in the criminal investigation and trial processes. Amnesty International documented the unlawful transfer of suspects from Kenya to Uganda, incommunicado detention and allegations of ill-treatment of a number of the suspects during their pre-trial detention. In addition the organisation expressed concern that the intense publicity around alleged confessions by some of the suspects at the earlier stages of the criminal investigation process would negatively impact the fairness of the trials.

In September 2010, Al-Amin Kimathi, a Kenyan human rights defender who had lawfully travelled from Kenya to Uganda to offer legal support to some of the suspects, was arrested and arbitrarily held in incommunicado detention for six days before being charged with crimes related to the bombings. Al-Amin Kimathi was added to the same court charge sheet as the suspects whose case he had sought to observe. In September 2010, Amnesty International said that in the absence of any other reasonable detailed explanation from Ugandan authorities, the circumstances of Mr. Kimathi's arrest, detention and charge suggested that his treatment was because he sought to exercise his work as a human rights defender. More than seven months later, the prosecution has provided some particulars of the allegations against Mr Kimathi, but still has not disclosed to him or his lawyers, any actual evidence against him. Mr. Kimathi, through the Muslim Human Rights Forum – a Kenyan non-governmental organization for which he works, has since 2006 documented cases of human rights violations, including the unlawful transfer of persons between countries, committed in the context of governments' counterterrorism measures.

Amnesty International reiterates concerns about undue restrictions by Ugandan authorities in human rights monitoring work related to Al-Amin Kimathi's continued detention and pending trial, and alleged human rights violations of suspects charged with crimes in this case. On April 13 four Kenyan human rights defenders were excluded from Uganda upon arrival from Kenya in order to attend a pre-arranged meeting with Ugandan authorities over Al-Amin Kimathi's case. This deportation followed previous similar actions by the Ugandan authorities, including the arrest and detention of Mr. Kimathi and Kenyan lawyer Mbugua Mureithi in September 2010. In December 2010, Clara Gutteridge, a lawyer working with a human rights organization, was detained and deported upon arrival in Entebbe to observe Mr. Kimathi's bail hearing. Lawyers for some of the accused persons have expressed concerns in court and to Amnesty International about inadequate access to health services and religious material, and restrictions to the suspects' movement within the prison including limiting the number of hours they are allowed outside their holding cells. Prison authorities have consistently refused to grant access, as part of human rights monitoring work, to local and international human rights non-governmental organisations seeking to see Al-Amin Kimathi or

any of the other persons accused of involvement in the bombings. Amnesty International has been denied such access on three separate occasions in the last six months. No reasons have been provided for this denial of access.

Amnesty International calls on the Uganda government, in meeting its obligations to investigate, prosecute and bring to justice those responsible for the July 2010 Kampala bombings, to ensure that all proceedings against anyone accused of involvement fully comply with international human rights law and standards as well as the Ugandan constitution. The organization's research in various contexts around the world has shown time and again that failure to ensure full respect for human rights can actually impede the state's ability ultimately to bring those responsible for such attacks to justice in trials which comply with fair trial standards under international law.

Amnesty International calls on the government to:

- Ensure that any measures taken to investigate, prosecute and bring to justice alleged perpetrators of the July 2010 bombings fully comply with international human rights law and standards and the Ugandan Constitution.
- Publicly affirm its commitment to, and respect in practice, the rights of human rights defenders to carry out human rights work as provided for in the UN Declaration on Human Rights Defenders.
- Establish an independent and impartial inquiry into human rights violations associated with the arrest and transfer outside of established legal procedures of suspects from Kenya to Uganda.
- Immediately disclose to Al-Amin Kimathi and his lawyers all materials that the Prosecution plans to offer in court against Al-Amin Kimathi or that are exculpatory, and respect his right to trial without undue delay. If the Prosecution does not possess materials reasonably capable of supporting the charges against Al-Amin Kimathi then the government must halt proceedings against him and ensure his immediate release.

3. VIOLENCE AGAINST WOMEN AND GIRLS

Violence against women and girls, including rape, domestic violence and forced and early marriages, remains widespread in many parts of Uganda despite the steps taken by government to address these abuses, including the passage of laws in the past two years, criminalising certain forms of violence against women.

Violence against women in Uganda is compounded by the discrimination they face on the grounds of ethnicity, sexual orientation, social status, class and age. Such multiple forms of discrimination restrict women's social and economic choices, putting them at increased risk of sexual and other forms of gender-based violence, and making it even harder for them to obtain justice. There are no comprehensive statistics on cases of gender-based violence, itself an indication that this type of human rights violation is not taken seriously. Attitudes that accept and justify violence against women are widely held.

The Ugandan authorities' response to gender-based violence falls short of its legal obligation to prevent violence and ensure women have access to justice.² There remain significant obstacles preventing women from accessing justice, including inadequate or dismissive responses by police, medical and judicial personnel.

Amnesty International calls on the new government to, among other measures:

- Take steps to prevent violence against women and girls, including by addressing the root causes of such violence.
- Ensure that female victims and survivors of sexual and other forms of gender-based violence have access to justice mechanisms and that perpetrators of these forms of violence are brought to justice.

4. HUMAN RIGHTS VIOLATIONS BY SECURITY AND LAW-ENFORCEMENT OFFICIALS

Torture and ill-treatment by the police and other law-enforcement officers remain widespread. Amnesty International, the Uganda Human Rights Commission and local and other international non-governmental organizations have in the past, including in 2010, documented cases of torture and other ill-treatment of detainees at the hands of Uganda police officers and other law enforcement personnel.

In 2010 dozens of people in Karamoja region were reportedly killed in unclear circumstances during ongoing security and disarmament operations by the Ugandan army in the region. Government soldiers have also been accused of committing torture and other forms of ill-treatment during these operations. The Uganda Human Rights Commission (UHRC) announced in May 2010 that it was investigating the reports of human rights violations perpetrated by UPDF soldiers. The Commission also added that its "preliminary findings confirm[ed] that a number of people, including children and the elderly, were killed in various (cordon and search) operations carried out by the UPDF in Kotido between January and April, 2010". The Commission called for government investigations and action into these allegations. Subsequent to the UHRC's announcement, the President ordered an inquiry into the alleged human rights violations. Sources told Amnesty International that the inquiry, established to investigate allegations against the UPDF, was exclusively comprised of and headed by members of the UPDF. The progress and results of its investigations are yet to be made public. Amnesty International is concerned that the inquiry was not independent or impartial, and as such would not result in ensuring that those responsible for committing human rights violations are held accountable.

Amnesty International urges the new government to:

- Promptly launch independent and impartial investigations into all reports and cases of unlawful killings, torture or ill-treatment and other human rights violations committed by security and law enforcement officials.

- Take action on the findings of these investigations and hold to account, including by bringing to justice through trials which comply with fair trial standards under international law, any law enforcement officials accused of perpetrating unlawful killings, torture and other human rights violations.

5. DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION OR GENDER IDENTITY

Amnesty International and other human rights organizations have documented instances of discrimination, arbitrary arrests, detention, torture and other ill-treatment of lesbian, gay, bisexual and transgender (LGBT) persons in Uganda. These human rights violations have been committed in the pretext of enforcing existing provisions of the Ugandan penal code. LGBT persons have also been excluded from government HIV/AIDS prevention programmes and from the provision of other health services.

Certain sections of the media in Uganda have fuelled homophobia, and the government has done little to prevent it, resulting in an atmosphere in which a number of persons perceived to be lesbian, gay, bisexual, and transgender (LGBT) have been targeted for violence, intimidation and harassment within their homes and communities.

The Anti-Homosexuality Bill, 2009 remains pending in Parliament.³ If passed, the bill would institutionalize discrimination against those who are, or who are thought to be gay, lesbian, bisexual or transgender. It would reinforce the existing prohibition against consensual sex between individuals of the same sex—legislation that is itself contrary to international norms. The bill would have lasting deleterious effects on the lives of individual Ugandans who are thought to run afoul of its far-reaching provisions, and it would significantly hamper the work of human rights defenders and public health professionals.

Amnesty International urges the new government to:

- Ensure an end to arbitrary arrests, unlawful detention, torture and other ill-treatment of people by state security officials on the basis of their real or perceived sexual orientation and gender identity.
- Publicly condemn discrimination, threats and violence against LGBT people in Uganda and immediately reassure all Ugandans that it intends to put in place measures to protect people against threats and violence regardless of their real or perceived sexual orientation or gender identity.
- Reject the Anti-Homosexuality Bill in its entirety, review existing laws that criminalize homosexuality and affirm its commitment to upholding the universality of human rights.

6. THE RIGHTS OF REFUGEES AND ASYLUM SEEKERS

Uganda has traditionally been host to thousands of refugees and asylum-seekers from neighbouring countries in the Great Lakes and the East and Horn of Africa regions but in recent years, there have been cases of refoulement and other violations of refugee rights by the authorities. Amnesty International urges the new government to fully comply with its legal responsibilities to refugees and asylum-seekers in its territory.

In July 2010, 1,700 asylum-seekers and refugees from Rwanda were forcibly returned to Rwanda from two refugee settlements in a joint operation between Uganda and Rwanda acting under the terms of an existing Tripartite Agreement signed by the two governments and UNHCR, the UN refugee agency regarding the repatriation of Rwandese refugees. Many of the affected refugees and asylum-seekers complained that they had not been permitted a fair and satisfactory determination of their applications for refugee status. At least one man died when he jumped off a truck en route to Rwanda, and about 20 other people were injured.

In 2010 Amnesty International also documented cases of attempted forceful return of Somali asylum-seekers from Uganda to Somalia. The Somali nationals were in custody pending deportation back to Somalia despite the risk to all Somalis in southern and central Somalia of injury or death. The violence in southern and central Somalia is generalized, with indiscriminate and disproportionate attacks on civilians by all parties to the conflict who have consistently failed to respect international humanitarian law.

A number of refugees and asylum seekers living in camps and urban areas have reported cases of arbitrary arrests, unlawful detention and torture or ill-treatment by government officials and the police and other law enforcement authorities.

Amnesty International calls upon the new government:

- To uphold its obligations under the 1951 Convention relating to the Status of Refugees and the 1969 Organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, and to refrain from any action that would result in the forcible return of refugees or asylum-seekers from its territory to a country where they have a well-founded fear of persecution.

- Not to force, or create conditions that force, refugees to return to their country of origin unless a full and fair individual assessment has been undertaken, and it has been determined that they no longer have a well-founded fear of persecution.

- Not to forcefully return any asylum-seekers and refugees from Uganda to Somalia.

- To ensure that any refugee repatriation programme is part of a comprehensive programme that includes other alternative durable solutions provided for under the UN Refugee Convention.

- To put an end to cases of arbitrary arrests, unlawful detention, torture and ill-treatment and other violations of refugees' human rights by government officials and the police and other

law enforcement officials. The government must ensure that any officials suspected of committing human rights violations are held accountable, including by being brought to justice through a judicial process that complies with fair trial standards under international law.

7. ACCOUNTABILITY AND REPARATIONS FOR VICTIMS OF THE NORTHERN UGANDA CONFLICT

Northern Uganda – a region affected by nearly two decades of armed conflict - has in the last five years seen relative calm since an initial ceasefire between the government and the Lord's Resistance Army (LRA) in 2006 and the conclusion of a number of agreements reached under the auspices of a peace process between the two parties. However, little has been done to ensure truth, justice and reparations for victims and survivors of the conflict.⁴ The existing official Peace Recovery and Development Plan for northern Uganda, while proposing government policy on post-conflict recovery and development, does not establish a programme which addresses the reparation needs of victims and survivors. A comprehensive action plan to deal with post-conflict recovery in northern Uganda should consist of mutually reinforcing principles of truth, justice and reparation, each of which plays a distinct but complementary role. In this sense, reparation programmes should be complementary to truth and justice mechanisms.

Amnesty International calls on the new government to:

- Establish an effective reparations programme which is victim focused, comprehensive and established following adequate consultations with victims, their representatives and the civil society. The reparations programme should provide for the five recognized forms of reparations: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.
- Put in place and implement truth and justice mechanisms to deal with crimes and human rights abuses alleged to have been committed during the conflict.
- Ensure the enforcement of the International Criminal Court warrants issued in 2005 and which remain in legal force in relation to the LRA leader and three LRA Commanders.

8. THE DEATH PENALTY

The death penalty remains in force and civilian and military courts continue to hand down the penalty in respect to capital offences. In 2009, the Supreme Court ruled that the mandatory application of the death penalty was unconstitutional but held that it could still be applied at the discretion of trial judges. No executions following conviction by a civilian court have been reported since 1999, however hundreds of people still remain on death row.

The continued use of death sentences stands in clear contrast to world opinion and practice, which is shifting inexorably towards abolition of the death penalty. Worldwide, 139 countries are abolitionist in law or practice.

Amnesty International considers the death penalty to be the ultimate denial of human rights and opposes the death penalty in all cases without exception, regardless of the nature of the crime, the characteristics of the offender, or the method used by the state to kill the person.

Amnesty International urges the new government to:

- Commit to abolishing the death penalty in law.
- Refrain from extending the scope of the death penalty to any further offences, in line with Uganda's international human rights obligations and the international trend towards full abolition.

9. UPHOLDING UGANDA'S INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

Uganda has international human rights obligations to respect, protect and fulfil the human rights of everyone within its jurisdiction, without discrimination on the basis of gender, ethnicity, social origin, political opinion, gender identity, sexual orientation or other prohibited grounds.

Uganda has explicitly accepted obligations in regard to these rights in the international and regional human rights treaties which it has ratified, including the African Charter on Human and Peoples' Rights, the International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR). Many of these rights are also recognised in Uganda's Constitution.

Amnesty International calls on the new government to:

- Ensure that all international human rights obligations are fully implemented in Uganda's national legislation.
- Take the necessary steps to ensure the prompt ratification, without reservations, of the second Optional Protocol to the International Covenant on Civil and Political Rights on the abolition of the death penalty; and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Ensure that Uganda complies with its reporting obligations under international and regional human rights treaties, by presenting all overdue periodic reports to the relevant treaty monitoring bodies.

ENDNOTES

- ¹. See Amnesty International, Uganda: Amnesty International memorandum on the Regulation of Interception of Communications Act, 2010, AI Index: AFR 59/016/2010. <http://www.amnesty.org/en/library/asset/AFR59/016/2010/en/4144d548-bd2a-4fed-b5c6-993138c7e496/afr590162010en.pdf>
- ². See Amnesty International, I can't afford justice – Violence against women in Uganda continues unchecked and unpunished, 2010, AI Index: AFR 59/001/2010. <http://www.amnesty.org/en/library/asset/AFR59/001/2010/en/f3688aa0-b771-464b-aa88-850bcbf5a152/afr590012010en.pdf>
- ³. For an analysis of this Bill see Amnesty International, Uganda: Anti-homosexuality bill is inherently discriminatory and threatens broader human rights, 2010, AI Index: AFR 59/003/2010. <http://www.amnesty.org/en/library/asset/AFR59/003/2010/en/befd26d0-8051-469b-af76-b76858c423ff/afr590032010en.pdf>
- ⁴. See Amnesty International, Uganda: Left to their own devices: The continued suffering of victims of the conflict in northern Uganda and the need for reparations, 2008, AI Index: AFR 59/009/2008. <http://www.amnesty.org/en/library/asset/AFR59/009/2008/en/55689934-af47-11dd-a845-0749a6f015c0/afr590092008en.pdf>