

# Uganda Human Rights Commission



## Statement on recent Human Rights concerns in the country

Friday 5<sup>th</sup> May 2017

## **1.1 Reports of increased killings in the country**

The Uganda Human Rights Commission is deeply concerned about the general escalation of killings in the country which have been prevalent in the last three months. The Commission condemns them in the strongest terms possible. The Commission has noted the reports about the gruesome killings occurring in Greater Masaka area, especially in Lwengo, Bukomansimbi, Kalungu and Masaka Districts and spreading to some parts of Kampala and Kayunga District. Our attention was also drawn to the Monitor Newspaper reports in March this year about the alleged killings in Teso sub region.

Not only have the attackers caused loss of lives, they have left many victims with injuries and allegedly raped others. A case in point is in Masaka, where in the most recent attacks at Kyabakuza, a suburb of Masaka Municipality, the thugs struck three families causing death and injuries as well as raping some women.

Out of concern, the Commission held meetings with the District Internal Security Officer, the officer in charge of Greater Masaka Regional Criminal Investigations Department and the office of the Director of Public Prosecutions in Masaka, in which assurance was given that the situation was under control. The Commission was assured that the District Security Committee had increased night patrols, intensified intelligence gathering and had by 6<sup>th</sup> April 2017 apprehended 21 suspects. The State Attorney sanctioned two files and a combined number of 18 suspects appeared in court and were remanded to prison, while one file from Lwengo was still under review.

It is disheartening to note that the killings by unknown assailants have this year intensified and taken on a more dangerous and bold form in parts of the country. Consequently, they have caused a lot of anxiety among the citizens who are increasingly feeling insecure. The way the assailants operate, using intimidation tactics of dropping anonymous letters and seeming to know their victims, has caused a lot of fear and anxiety among the communities in the affected districts, the neighbouring areas and the country at large.

On the other hand, whereas these cases are currently being handled by police and other stakeholders within the criminal justice system, the Commission would like to caution on respect of the rights of suspects. The Commission's Regional Office in Soroti, for instance, has already received complaints regarding violations of the right to life; torture and detention of suspects beyond the constitutional 48 hours by the police.

The Commission whose mandate is to protect and promote human rights in Uganda, is concerned about the reported killings because they infringe on a number of fundamental human rights provided for in the Constitution of Uganda, the regional and international human rights instruments to which Uganda is party. Article 22 (1) of the Constitution of Uganda prohibits the deprivation of the right to life except in execution of a sentence after a fair trial. Nonetheless, we acknowledge that they could be outright crimes and matters of security which squarely fall within the jurisdiction of law enforcement agencies and the judiciary.

Apart from the obvious violation of the right to life, these killings also disrupt the lives of the victims' dependents who may consequently suffer economic hardships that affect a whole range of rights including the rights of children and other dependants.

The Commission has previously condemned such wanton killings and made recommendations on how to address the situation. Our findings on the possible causes of these killings ranged from misuse of fire arms especially by security guards; guns being in the wrong hands after forcefully grabbing them from security personnel; to the high prevalence of poverty and hard economic conditions compounded by increasing unemployment levels that make the victims vulnerable and desperate for survival.

Factors that fanned the situation included the low policing capacity evident in the lack of modern investigation equipment; declining community vigilance including lack of LC structures; inadequate funding to the Uganda Police Force; increased cases of human sacrifice and domestic violence. Land disputes; porous borders and laxity in security and immigration procedures at borders and increased

incidence of mob action were also reported to have contributed to the high incidence of killings in Uganda over the past years. The Commission published these concerns in its 2013 Annual Report.

In view of the foregoing, the Commission recommends that:

1. Government through the police should fulfill its duty to protect the citizens and their property by adequately equipping the police to identify criminal elements in the communities and apprehend them
2. The police should expedite investigations into these murders, conclude them and bring the culprits to justice as well as manage the fear and anxiety among communities and the country at large;
3. Government should urgently conduct Local Council elections in order to have legally elected leaders at the grassroots who will be charged with ensuring security in their jurisdictions;
4. Government through police and other security agencies should strengthen their intelligence gathering function in order to stem crime;
5. Police should strengthen its community policing and neighbourhood watch programmes across the country in order to weed criminals from the communities;
6. Citizens should report to police any suspicious elements in their communities;
7. Government should urgently address the problem of the increasing number of unemployed youth in the country who have become desperate for survival;
8. Government should urgently address the issue of guns in illegal hands by streamlining the issuance of guns to private individuals;
9. Government should put in place alternative livelihood programmes for veterans;
10. Members of the public should respect each other's rights including the right to life and respect the rule of law by desisting from criminal activities.

## **1.2 Concerns over the activities of Crime Preventers**

The Commission has of recent received concerns of alleged human rights violations by crime preventers and the lack of clarity on their structure within the security network, particularly the Uganda Police Force. These complaints were raised during the Commission's routine inspections of places of detention and from public meeting of human rights education in the regions. However, the Commission had also previously raised concerns about the operations of crime preventers and the legality of its activities.

Since August last year, the Commission has received reports and recorded complaints at its regional offices in Mbarara, Gulu and Hoima of alleged human rights violations by crime preventers ranging from torture; destruction of property; intimidation; grabbing of property and money, to loss of life. So far the Commission has 7 such complaints in Mbarara; 2 in Gulu and 3 in Hoima. One such case was successfully mediated at the Gulu Regional Office in December 2016 and the accused agreed to pay compensation to the complainants.

However, the Commission has also learnt that some of the crime preventers operate with impunity as members of the communities perceive them to be untouchable even within the police. Besides, the Commission is also concerned about the lack of cooperation from some crime preventers that are respondents in the various cases it is investigating who have ignored our correspondences.

The Commission therefore recommends the following:

1. A specific legal framework and guidelines for operations of crime preventers should be put in place in order to clearly define the nature of their cooperation with the Uganda Police detailing their scope of powers.
2. Crime Preventers who are involved in violation of human rights especially torture should be held individually accountable and errant perpetrators should face disciplinary action including removal from office.
3. The Uganda Police Force and crime preventers who are alleged perpetrators should respond to the Commission's correspondences and

cooperate so that they get heard in matters of human rights violations especially at the Tribunal since they could proceed without them.

4. The Uganda Police Force should strongly caution crime preventers against interfering with the work of the regular Police such as investigations and to desist from intimidating the public.
5. The Uganda Police Force should review the method of appointment, training and operations of the crime preventers and review the whole concept of community policing to protect the credibility and professionalism of the Police.

### **1.3 Prolonged dry spells and threats of hunger in some parts of the country**

The Commission noted with concern the effects of the prolonged dry spell in the country which has led to threats of famine in over 20 districts in Uganda. In a recent press statement issued by the Minister of State for Agriculture Hon Christopher Kibanzanga, an estimated 1.3 million Ugandans were starving and recent reports by the Minister of State for Disaster Preparedness Hon Musa Echweru, the number of people experiencing food shortages and increased to 7million due to the prolonged drought which had adversely affected food harvests country wide.

In addition to the prolonged dry spell, UHRC notes other underlying causes of food insecurity such as the poor agricultural practices; unregulated sale of food by households; the increasing population growth rate; lack of guidance to the population on diversification of farming practices; unpredictable weather due climate change and pests and disease outbreaks and lack of a disaster preparedness strategy among others.

The problem has been compounded by inadequate access to water following the prolonged dry spell, adversely affecting the cattle corridors stretching from the Karamoja region in North-Eastern Uganda through the central region to South-Western Uganda. The situation has further been exacerbated by the army worm caterpillars that have spread to over 20 districts attacking crops such as maize,

wheat, millet, rice, sugar, soya beans, potatoes and recently bananas and water melon. Other worrying reports of poisonous flowers like the ones reported in the Busoga sub region have also worsened the food insecurity in those areas.

The Commission is therefore concerned about the impact of the current food insecurity in the country which ranges from malnutrition, increased vulnerability for especially children, women, older persons and people with disabilities to loss of lives in some extreme cases. Notable is the reported case in the Teso sub region of a pregnant mother who died while climbing a mango tree to get mangoes to feed her starving children. The Commission was also concerned about the reported death of 40 people due to hunger in Moroto district alone, in Karamoja sub region.

The current state of affairs are a serious threat to human rights as it deprives some of the citizens of the right to adequate food, and in extreme circumstances threatens their very existence. The right to adequate food is not only provided for under our 1995 Constitution in the National Objective XIV, but it is also underpinned in international standards under General Comment No. 12 of the International Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR).

The interventions by government to mitigate famine through the Office of the Prime Minister under the Disaster Preparedness Ministry and CSOs which have distributed some relief food items to the hardly hit areas are acknowledged. However, the Commission recommends the following urgent interventions:

1. Government through the Office of Prime Minister and the Ministry of Disaster Preparedness should urgently step up efforts to provide food relief to the most affected areas to prevent more people from dying from hunger. Additionally, a clear method of food distribution to those affected should be rolled out and made public to avoid unnecessary suspicion
2. Government through the Ministries of Agriculture, Animal Industries and Fisheries and Water and Environment should urgently put in place a system of food storage including food silos; establish national water reservoirs; apply technologies for harvesting rain water; popularize the use of

irrigation and eco-friendly alternative sources of fuel such as biogas and briquettes instead of firewood and introduce drought-resistant crops among the population.

3. Government through the Ministries of Agriculture, Animal Industries and Fisheries should urgently ensure distribution of the approved pesticides to all the districts affected by the army worm and should have strategies of making them affordable for all the citizens.
4. Government should urgently establish a Disaster Preparedness and Management Commission and provide adequate funding to the Disaster Relief Emergency Fund.

#### **1.4 Human Rights Implications in granting telecommunications companies access to the National Identity Cards Data Base during the Sim Card Verification exercise**

The Commission has been monitoring the current registration for national identity cards and simcard verification exercise. It has noted that whereas it may be for a good cause, there are some human rights concerns that the process has raised.

In its Annual reports of 2015 and 2016 the Commission raised concerns about the SIM card and National registration exercises that started in March 2013. The Commission was mainly concerned about the right to privacy for the registration of national IDs and the discriminatory nature of the process of SIM card registration.

In a government decision on 4<sup>th</sup> April 2017, as announced by the Uganda Communications Commission (UCC) and implemented by the National Identification Authority (NIRA) and other partners, telecommunications companies were granted access to the National ID Data Base for the purpose of verifying /validating subscribers' SIM card registration. The decision that verification can be done only using National Identity Cards for citizens and passports or refugee Identity Cards for foreigners is not only in breach of the various international human rights standards, but also the national law



(Registration of Persons Act 2015). UHRC is concerned that right to privacy and freedom from discrimination could be at stake.

International standards under Article 12 of the Universal Declaration of Human Rights (UDHR) and Article 17 of the International Covenant on Civil and Political Rights (ICCPR) as well as Article 27 of the 1995 Constitution at the national level all prohibit arbitrary interference with the privacy of a person's family, home, correspondence, communication or other property.

The Commission therefore considers the decision of granting telecommunication companies access to the National ID Data Base as being tantamount to interference with one's privacy.

Realising that public authorities or private individuals or bodies may for various reasons collect and maintain data bases of information of their citizens which may be of a personal nature, the international standards under the Human Rights Committee in General Comment 16 required that such actions be regulated by law. States are required to ensure that information concerning a person's private life should not reach the hands of persons who are not authorised by law to receive, process or use it.

Human rights standards further recommend that in order to have the most effective protection of one's private life, every individual should have the right to ascertain in an intelligible form, whether, and if so, what personal data is stored in automatic data files and for what purposes.

The Commission therefore recognises that personal data such as one's full names and other details as contained in the National ID Data Base is categorised as personal data. Government has an obligation to ensure that the international and national provisions which were put in place to protect this personal data from abuse or misuse are respected and upheld at all times.

UHRC notes that as a country the risks facing data privacy and protection during this exercise is exacerbated by the current lack of regulatory framework and absence of an operational common set of principles on data privacy, ethics and

protection. There is therefore a potential risk in Uganda of sale or multiple re-sales of personal data which often happens without the individual's free, explicit and informed consent in an unregulated environment.

The Registration of Persons Act, 2015 authorises NIRA to maintain an electronic register of national identification cards. However, the provisions of the Act as well as its pursuant regulations are inadequate in respect to how the collection, processing and storage of information of the electronic register will take place.

Furthermore, UHRC notes that whereas section 65 of the Registration of Persons Act, 2015 permits the use of data in the national ID register for purposes of national security, the validation/verification of SIM card information is not specified in the law and as such amounts to using the national ID register beyond the purpose for which it was created. Therefore the decision to share data in the National ID Data Base with third parties (telecommunication companies) is contrary to the international and national standards on the right to privacy since it is not provided for in the law and exposes the citizens' personal data to risks of misuse and manipulation by third parties.

The Commission also notes that the requirement to use only National IDs for citizens for registration of SIM cards contradicts provisions of the Regulation of Interception of Communications Act, 2011 and the Registration of Persons Act, 2015 which recognize other documents such as passports, work permits, driver's licenses and students' Identity Cards among others as valid documents for registration purposes.

The effect of such a restrictive requirement is that those citizens without national IDs or a foreigner without a passport or refugee without a refugee ID will not have their SIM cards verified and therefore will be denied access to telephone services including mobile banking or mobile money facilities. The Commission notes that such a development would not only be discriminatory but could lead to the violation of economic rights among others of those whose livelihood depends on such businesses.

The Commission therefore notes that whereas the exercise of SIM card verification and validation may be noble, the following recommendations should be considered:

1. The SIM card verification exercise should be done in accordance with the existing laws which allow for other recognised identification documents such as passports, work permits, driver's licences and students' Identity Cards among others as valid documents for the exercise.
2. Sharing of information in the National ID database should be re-considered until the law on data protection and privacy is enacted in order to ensure the protection of the rights of personal data as well as enforcement of the rights of data owners.

### **1.5 Use of un necessary force by the Police against Journalists on Wednesday 3<sup>rd</sup> May 2017**

The Uganda Human Rights Commission and indeed the rest of the world was appalled to see television footages of the scuffle between some sections of the media and the police on Wednesday 3<sup>rd</sup> May 2017, which ironically was World Press Freedom Day. We condemn the excessive use of force by some elements in the police against the journalists which was witnessed that day.

The Commission has repeatedly urged the Police to always be mindful of Article 20 and Article 221, which require that all organs and agencies of Government including security organisations and all persons must observe, uphold and respect human rights and freedoms in the performance of their functions. We also note that the use of un necessary force by the Police violates Article 24 of the Constitution which guarantees the respect of human dignity and protection from cruel, inhuman or degrading treatment, as well as Article 44 of the Constitution which totally prohibits the violation of the right to freedom from torture and ill treatment, which is a non-derogable right. The Commission therefore reiterates its earlier calls to the Uganda Police Force to always exercise restraint and apply only reasonable and necessary force, in the course of carrying out its work. We also demand that the errant officers are punished.

In conclusion therefore, the Commission calls on the public to remain calm and cooperate with the law enforcement agencies in curbing the killings and other crime; and the government particularly the Police to step up efforts to fulfill its obligation to protect the lives and property of all Ugandans. The Commission further calls on government to consider the human rights concerns raised herein with regard to streamlining and regulating the operations of crime preventers as well as the SIM Card verification exercise, in order to forestall human rights violations.

The Commission, on its part will continue to monitor the respect and observance of human rights by all duty bearers and to urge all the citizens to fulfill their duties as provided for in the Constitution.

For God and My Country

A handwritten signature in black ink, appearing to be 'Med S. K Kaggwa', written over a light blue circular stamp.

Med S. K Kaggwa  
**Chairperson**

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