

ADVANCE QUESTIONS TO UGANDA – Add.2

IRELAND

Torture

Since 2007 the Uganda Human Rights Commission has ranked torture as the leading human rights violation among the cases reported to the Commission. According to the reports of the Uganda Human Rights Commission, torture constituted 29.6%, 31.0% and 28.3% of the complaints received by the Commission in 2008, 2009 and 2010 respectively. These statistics have led to widespread demands in Uganda for the state to domesticate the UN Convention against Torture through the enactment of an Anti Torture Law. Ireland wishes to recommend that the Government of Uganda pass a prevention and prohibition of torture bill.

Sexual Orientation and Gender Identity

Ireland wishes to recommend that the Government of Uganda takes steps to review its laws so as to decriminalise homosexuality and conform with Uganda's international Human Rights obligations. Ireland also recommends that steps are taken to eliminate discrimination against people based on their sexual orientation or gender identity.

Death Penalty

Ireland notes and welcomes the case of the Attorney-General *versus* Susan Kigula and 417 Others, Constitutional Appeal no.3 of 2006, which led to 152 people who had been sentenced to death having their sentences commuted to life imprisonment. Ireland recommends that Uganda take further steps including establishing a moratorium on executions with a view to abolishing the death penalty, and commuting all existing death sentences to terms of imprisonment. Ireland also recommends that Uganda ratify the second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at abolition of the death penalty.

The operating environment for NGOs and Civil Society Organisations

Ireland welcomes the discussions between the Government and stakeholders to review the existing NGO Amendment Act, 2006, in light of the National NGO Policy. Ireland recommends that the Government of Uganda considers how Civil Society Organisations can have adequate representation on the regulatory body established to oversee their work.

Freedom to assemble and to demonstrate together with others peacefully

Ireland notes that the right to freely assemble is guaranteed in Article 21 of the ICCPR and is provided for in Article 29(1) (d) of the 1995 Constitution of Uganda. Ireland recommends that the Government of Uganda ensures that these provisions are adequately respected and enforced. Ireland encourages the Government of Uganda to make progress on a Public Order Management law which respects the right to

assembly and demonstration while safeguarding citizen's rights to protection and safety.

Freedom of expression and speech

Ireland notes the existence of laws in Uganda that can serve the purpose of restricting the freedom of the media. Ireland recommends that these laws be revised and the Government of Uganda take steps to abolish laws criminalising defamation and insult, and to fully comply with legislation that protects the freedom of expression.

NETHERLANDS

Sexual Orientation and Gender Identity

We take note of paragraph 105 of the national report that deals with sexual orientation issues and states that "such practices" ("same sex relations") are a matter of private choice, while elsewhere stating that same sex relations are prohibited in the Penal Code and same sex marriage is prohibited by the Constitution. We commend the Government of Uganda on their approach on the Bahati Bill. At the same time, the UNCT, OHCHR and CEDAW have expressed concerns about discrimination and violence against individuals in Uganda based on their sexual orientation or gender identity (see paragraph 23 of the OHCHR-compilation). OHCHR and CEDAW have called on Uganda to decriminalize homosexual behavior (paragraph 59 of the OHCHR-compilation). Is the Government of Uganda to follow up on this recommendation? What protections are in place for those who are discriminated against or attacked on the grounds of their sexual orientation and gender identity?

Civil and political rights – freedom to assemble

Paragraphs 58 to 63 of the national report discuss the freedom to assemble and to demonstrate together with others peacefully and unarmed and accountability for human rights infringements in this context. While the constitution clearly defines the right to assembly, the Police Act, Statutory Instruments and the Police behaviour and attitude are more restrictive. However, according to a Constitutional Court ruling in 2008, some sections of the Police Act limits the rights of freedoms of assembly unjustifiably by giving the Inspector General of Police unilateral powers to prohibit any assembly or procession, and that these powers were "prohibitive" rather than "regulatory". The Court ruling has never been followed. Any demonstration for which UPF has not granted permission is deemed 'unlawful' by the UPF, though the law requires the organizers of public assemblies and demonstrations to inform the UPF in order to facilitate arrangements for their peaceful conduct, which is different from seeking permission. The Public Order Management Bill, gazetted on April 29, if enacted, will limit the freedoms to assemble significantly. Could the GoU elaborate on the seemingly unwillingness to follow the Constitution and the Constitutional Court Ruling (Petition No9/05) with regard to the freedom of assembly? Is the GoU willing to revise the bill before tabling it in Parliament, as the Bill, in its current form will infringe on freedom of association and assembly in Uganda according to the UHRC (Annual Report 2010), and it will violate Article 92 of the 1995 Constitution of

Uganda which prohibits the enactment of legislation designed to defeat or overturn a judicial ruling?

Civil and political rights – Human rights defenders

We took note that the national report of Uganda does not specifically refer to the work of human rights defenders. Paragraph 29 of the stakeholders' joint submission JS8 does state that 'human rights defenders continued to be targeted for harassment, threats, unjustified criminal charges and violence. For instance, we heard about the riots that took place in September 2009 and the reported excessive use of force by security agencies. Is the GoU to set up impartial, independent, and transparent investigations into human rights abuses committed during the September Riots and the Walk to Work protests and hold those responsible for criminal acts – including the wounding and killing of civilians – to account? Is the GoU also willing to provide information on the role of armed groups such as Kiboko Squad in these manifestations?

Amnesty versus Impunity

In 2000 the GoU enacted the Amnesty Act, which provided a blanket amnesty for those who have been engaged or is engaging in war or armed rebellion against the government. Though it served a purpose at the time, and it helped a to put an end to conflicts in specific parts of the country, it is now - eleven years later - viewed by many as perpetuating impunity, which raises an obstacle to the administration of justice. Is the GoU willing to repeal the Amnesty Act in order to bring it in conformity with international instruments such as the 1949 Geneva Convention and the 1992 Declaration of the General Assembly of the UN, and indeed with the principles set out in the Agreement on Accountability and Reconciliation (AAR)?

SWITZERLAND

- Does the Government of Uganda intend to impose a moratorium on executions with a view to the abolition of the death penalty?
- What concrete actions does the Government of Uganda intend to take to guarantee the fundamental rights of LGBT persons and to promote their acceptance at all levels of society. How does the Government protect individuals from discrimination based on their sexual orientation?
- What measures is the Government of Uganda planning with a view to abolish the use of unauthorized places of detention and to ensure that the conditions of its detention facilities meet international standards. How does the Government of Uganda avoid arbitrary arrests and prolonged periods of pretrial detention?
- What measures is the Government of Uganda planning to implement in order to ensure freedom of expression and association for all its inhabitants, including media representatives and human rights defenders?