

April 21, 2015

The African Commission on Human and Peoples' Rights  
Banjul, The Gambia

**Re: Submission for the 56<sup>th</sup> Ordinary Session of the African Commission on Human and Peoples' Rights**

The general human rights situation in much of Africa remains extremely worrying, but for the purposes of this submission, Human Rights Watch wishes to focus on pressing human rights concerns in Nigeria and Uganda as both of these countries are subjects of the commission's consideration at its 56<sup>th</sup> Ordinary session and on South Sudan as the overall human rights situation remains extremely worrying – and we believe the Commission needs to be seized of the matter.

**Uganda**

We remain concerned about ongoing obstructions to the rights of expression, assembly and association in Uganda. Several vague laws, implemented inconsistently and in a seemingly sporadic manner, have raised serious questions about Uganda's commitment to ensure basic rights are respected. The media and civil society face threats and arrest when their work confronts government failures on key issues. Investigations into human rights abuses and corruption scandals that have directly impacted human rights protections have either been weak and ad-hoc or subject to prolonged delay.

***“Legalized” obstruction and discrimination***

The Public Order Management Law, passed in August 2013, grants police wide discretionary powers to permit or disallow public meetings. It has generally been implemented to undermine or obstruct Ugandans' assembly rights when protesting against government action or inaction and has hampered the opposition's ability to hold meetings with citizenry. The Anti-Pornography Law, passed in February 2014, is vaguely worded and as such overreaches and is open to abuse as well as discriminating against women. Government rhetoric stirred up around the law's passage prompted members of the public to publicly strip some women because their clothing was deemed “indecent”. Some sex educators face criminal charges under the Anti-Pornography Law at the time of writing. The HIV Protection and Control Act, passed in July 2014 requires mandatory HIV testing for pregnant women and their partners, and allows medical providers to disclose a patient's HIV status to others. This violates fundamental human rights and fails to comply with international best practices. The law also criminalizes HIV transmission, attempted transmission, and behavior that might result in transmission by those who know their HIV status. The law has been criticized as a set-back to the fight against HIV by Ugandan and international civil society groups.

**Threats to the Media and Civil Society**

The closure of four radio stations in 2009, the closure of two newspapers and a radio station in 2013, and new ad-hoc policies introduced by the minister of information have negatively impacted media's operating environment in recent years. Two journalists and eight civil society

members protesting the 2013 closures were arrested, beaten, and detained by police. They were charged with inciting violence before being released. The newspapers and radio stations opened 10 days later when the minister of internal affairs ordered the police to vacate the premises.

Radio station managers and journalists report fear of reprisals if programs are highly critical of the government. In June 2014, the government regulatory body, the Uganda Communications Commission, informed all radio stations that they are required to reserve one hour of primetime air to promote government programs. Some opposition candidates face difficulty accessing media talk shows as station Managers fear hosting those thought to undermine government programs.

The government has deployed hostile rhetoric and an array of tactics to intimidate and obstruct the work of nongovernmental organization on sensitive issues such as governance, human rights, land, oil, and the rights of LGBT people. Tactics include closing meetings, forcing NGO representatives to issue apologies, occasional physical violence, threats, harassment, and heavy-handed bureaucratic interference in NGO registration and operations. NGOs are required to register to work in Uganda, but due to government hostility, organizations working on the rights of LGBT people cannot register to operate legally as is required under law. Senior government officials and police have unlawfully tried to stifle discussion of LGBT rights such as in February 2012 when the minister of ethics and integrity closed down a meeting organized by Sexual Minorities Uganda and in June the same year when police broke up a meeting organized by the East and Horn of Africa Human Rights Defenders. In 2014, the government temporarily suspended the activities of the Refugee Law Project out of concern for their work on the rights of LGBT people.

### **Corruption**

Corruption in Uganda remains pervasive at both low and high levels of public administration. Bribery, nepotism, and misuse of official positions and resources are widespread in spite of continuous assurances from the president that corruption will be eradicated. Major corruption scandals have surfaced repeatedly in the last few years, though no high-ranking officials or cabinet level-ministers have served prison sentences for corruption-related offences. Civil society activists working to raise awareness of corruption to push for accountability, however, have faced criminal charges. In the first 10 months of 2013, police arrested and charged at least 28 individuals handing out anti-corruption materials. Nineteen were charged with inciting violence; five with possession of prohibited publications; and three with spreading harmful propaganda.

### **Impunity**

In 2009 and 2011, police and military police killed at least 49 people during protests, but police have not conducted serious or meaningful investigations into these killings. Relatives continue to search for justice through civil cases against the government. In December 2011, police disbanded its Rapid Response Unit but there have been no investigations into the killings or torture by officers in the unit. Similarly, no inquiries have been made by the Ugandan army into cases of people who were tortured or died in the custody of the Joint Anti-Terrorism Task Force (JATT).

## Nigeria

Against the odds, Nigeria has succeeded in carrying out a mostly peaceful presidential and gubernatorial election.

This good news should not obliterate the deep problems that bedevil Nigeria, including the Boko Haram insurgency in the northeast that is spilling across Nigeria's borders, communal violence, corruption, and impunity for crimes by Nigerian security forces.

The test for the new administration will be to address these challenges while observing full respect for human rights. The new administration should start by making respect for human rights and humanitarian law a central pillar of military operations against Boko Haram.

According to witness interviews and media monitoring by Human Rights Watch, Boko Haram attacks are believed to have left at least 8,000 civilians dead since 2009 and more than one million people displaced. Reported attacks have increased in the first quarter of 2015 with more than 1,000 civilians killed.

Denouncing Boko Haram's crimes and standing with its victims is a necessary but not a sufficient answer to the crisis. It also requires action to address the persistent lack of accountability for abuses committed by all sides to deter future abuses and work towards justice for every victim. In response to Boko Haram attacks, Nigerian security forces have often used excessive force. Hundreds of men and boys have been rounded up, detained in inhumane conditions, and in some cases physically abused because they were suspected of supporting Boko Haram. Some were extra-judicially executed. Many others have been forcibly disappeared, and security forces have burned down civilian homes. The new administration should immediately stop such abuses by Nigerian security forces, ensure future operations comply with human rights and humanitarian law, order credible investigation of past crimes, and ensure that those responsible, including commanders, are held to account.

In a recent incident in December 2014 documented by Human Rights Watch, Nigerian security forces attacked and burned down the village of Mundu near a Boko Haram base in Bauchi State, leaving 5 civilians dead and 70 families homeless. Witness told Human Rights Watch that Boko Haram was not present in the village when it was attacked. When briefed about the incident by Human Rights Watch, the army said it had ordered military police to investigate the claims, a step that is welcome, if rare.

Nigerian military authorities have charged and tried soldiers for "cowardice," mutiny, and other military offenses, sentencing 70 of them to death, but no military personnel have faced prosecution for human rights abuses against civilians in the northeast. Human Rights Watch opposes the death penalty in all circumstances because of its inherent cruelty.

Without a stronger effort to protect civilians and accountability for abuses, the situation is likely to get worse. Atrocities committed by Boko Haram should be properly investigated and the perpetrators held to account in fair credible trials.

The African Commission should send a clear public message to the MNJTF to observe international human rights and humanitarian law as they conduct military operations against Boko Haram and to uphold prohibitions against torture, enforced disappearance, arbitrary

detention and extra-judicial execution. It is crucial to emphasize to the MNJTF its obligation to ensure respect for human rights and humanitarian law and minimizing harm to civilians and civilian objects during military operations.

### **South Sudan**

Despite numerous peace deals between South Sudan's President and the opposition group led by the former vice president Riek Machar, the brutal armed conflict marked by gruesome massacres, revenge killings often based on ethnicity, and mass destruction and looting of civilian property continues more than a year since the dispute begun in December of last year.

The AU Commission of Inquiry on South Sudan submitted its much anticipated report in January of 2015 at the AU Peace and Security Council meeting in Addis Ababa, but the Council meeting at the Heads of State level decided to defer consideration and publication of the report for an undefined period of time.

The people and partners of South Sudan have long been waiting for the AU report to help bring justice for the grave crimes of the past year and begin the path for reconciliation and peace rebuilding. UN and international diplomats have delayed acting on concrete proposals for justice pending the release of the AU commission's findings and recommendations.

However, the AU decision to indefinitely delay consideration and publication of the report has left both the people of South Sudan and their partners in the lurch. The AU Commission of Inquiry has taken precious time and resources to document the crimes and make recommendations on accountability. But this effort can do little good if it does not see the light of day.

Some of the AU peace mediators appear reluctant to consider the report because they believe it could upset the peace negotiations. However, experience shows that parties to a conflict can pursue efforts to hold human rights abusers accountable and advance peace agreements at the same time. The risks of trading away justice on the other hand are significant, as lack of accountability can embolden people to commit further crimes and undermine respect for the rule of law. Peace agreements and justice are by no means mutually exclusive, and a lack of action on justice fuels further crimes.

We call upon the African Commission on Human and Peoples' Rights to urge the AU to immediately release the report instead of putting justice on the back burner in the hopes of making progress on political deals with the parties to the conflict who have so far demonstrated little political will to commit to the number of peace deals they have signed.

People in South Sudan have suffered brutal crimes this past year and expressed strong support for justice as a way to help end cycles of violence. We trust the Africa Commission will echo the voices of South Sudanese.