

# AMNESTY INTERNATIONAL

## PUBLIC STATEMENT

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### **Uganda: Proposed law on the regulation of public meetings by the police threatens human rights**

Amnesty International is deeply concerned that legislation proposed by the Ugandan government for the 'regulation of public meetings' provides for restrictions which will violate the rights to freedoms of peaceful assembly and expression. The draft Public Order Management Bill, 2009, a copy of which has been obtained by Amnesty International, is reportedly set to be discussed by cabinet and, if adopted by the cabinet, will subsequently be tabled in Parliament to be enacted into law.

According to the Preamble to the draft Bill, it is ostensibly aimed at "safeguarding public order and other related matters", the meaning and context of which is not defined. While the protection of public order is one of the purposes which international human rights law recognizes as a permissible reason for placing certain restrictions on the exercise of the rights to freedoms of peaceful assembly and expression, no such restrictions may be imposed for this purpose unless such restrictions are demonstrably necessary and proportionate. In this context, the proposed broad powers for limitation of the rights to freedoms of assembly and expression cannot be justified. The Bill would expand police powers to refuse or permit public meetings, and regulate aspects of their conduct on the basis of broadly worded and undefined criteria. Such broad powers carry a very high risk for violations of the rights to freedoms of assembly and expression.

The draft Bill provides that any proposed public meeting must be notified to the police at least seven days in advance, giving wide discretionary powers to the Inspector General of the Police to require proposed meetings to be rescheduled or relocated. The definition of meetings which are subject to such regulation (Article 6 of the Bill) focuses solely on political meetings: "any gathering of three or more persons in a road or other public outdoor place... for the purpose of discussing, demonstrating about or protesting about policies or actions of government or governmental institutions". The Bill proposes restricting the permissible hours for such meetings to after 6am and before 6pm and that a public address or amplification system can only be used with police permission. It gives a government Minister power to declare certain locations prohibited for public meetings of more than 25 persons without a permit on the basis of the Minister's opinion that such a prohibition "is desirable in the interests of public tranquillity". The Bill also proposes to give the police wide powers to regulate the conduct of public meetings, including to ensure (Article 9) that statements made at them to the media and public "do not conflict with the laws of Uganda", and (Article 10) to disperse meetings if they have "reasonable grounds to believe that a breach of the peace is likely to occur".

The scope and nature of the restrictions proposed in the Bill go well beyond the restrictions permitted under international human rights law.

Uganda has an obligation under international human rights law, and specifically as a state party to the UN International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights (ACHPR) to respect the rights to freedom of peaceful assembly and freedom of expression. No restrictions may be placed on these rights except those which are demonstrably necessary and proportionate for certain legitimate purposes – the protection of national security, public safety, public order, public health or morals, or the rights and freedoms of others. In other words, the exercise

of the right must be the norm, and any restrictions must be exceptional. Moreover, the principles of necessity and proportionality mean that any restrictions must be the minimum level of interference which will achieve the stated legitimate purpose.

While a requirement for simple advance notification of a planned public meeting does not in itself amount to an infringement of these rights, it may do so if it amounts to requiring official authorisation, which appears to be what is proposed in the Bill, where the police can require relocation or rescheduling of a planned public meeting “for any reasonable cause”. Under international human rights law, any restrictions on the timing or location of a planned meeting may be imposed only for one of the specific purposes recognised under international law as legitimate, and only where no less restrictive measure will achieve that purpose. Moreover, in view of the nature of the right to freedom of expression, which includes political protest, any requirement for advance notification should contain some provision to allow spontaneous assemblies. The Bill proposes that anyone who holds a public meeting without complying with the notification requirements will commit a criminal offence punishable by a fine and/or prison term.

The proposed law comes against the backdrop of a 2008 Constitutional Court ruling. In the case of *Muwanga Kivumbi v. The Attorney General of Uganda* (Constitutional Petition No. 9/05); the Court ruled that section 32 of the Police Act amounts to an unjustified limitation on the rights to freedoms of assembly and association in the Ugandan Constitution. The section gave unilateral powers to the Inspector General of Police to prohibit any assembly or procession where he has reasonable grounds for believing that it was likely to cause a breach of the peace. In the court’s judgement these powers were “prohibitive” rather than “regulatory”.

The proposed Bill, in its current form, would amount to a re-introduction of this law, already declared unconstitutional by the court.

The Bill would affect not just the exercise of the rights to freedoms of peaceful assembly and expression by political parties and activists but other sections of the society, including the media, human rights defenders and organisations. In addition, because of the lack of adequate safeguards in the exercise of the proposed powers of the police, the Bill would potentially lead to other human rights violations, including police misuse of lethal force, and excessive use of force while handling assemblies.

Amnesty International calls on the Ugandan government to withdraw this proposed law and amend existing legislation to bring it in line with its obligations regarding the rights to freedoms of peaceful assembly and expression under international law and the Ugandan Constitution.

## **Background**

Articles 21 and 22 of the UN International Covenant on Civil and Political Rights (ICCPR) guarantee the rights to freedoms of peaceful assembly and association. Article 19 of the ICCPR provides for the right to freedom of expression, which includes freedom to “seek, receive and impart information and ideas of all kinds”. Articles 19, 21 and 22 all provide that “no restrictions may be placed on the exercise of [the rights] other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others”.

Accordingly, any interference with these rights, if it is to be permissible under international law, must meet a three-part test: it must be (a) provided by law, and (b) only for certain specified permissible purposes and (c) must be justified as being necessary in the circumstances for one of those specified purposes. The Human Rights Committee, the body of independent experts responsible for monitoring states’ implementation of the

ICCPR, has underlined that the requirement of necessity means also that the specific measure must be proportionate to the intended purpose. It has also stressed, in its General Comment on Article 19 that, "...when a State party imposes certain restrictions on the exercise of freedom of expression, these may not put in jeopardy the right itself".

The rights to freedoms of expression, association and assembly are guaranteed under Articles 9, 10 and 11 of the African Charter on Human and Peoples' Rights (ACHPR). Uganda is party to the ICCPR and the ACHPR.

Article 29 of the 1995 Constitution also makes provision for these rights. Under this article, every person shall have "freedom to assemble and to demonstrate together with others peacefully and unarmed...and the freedom of association..." It also provides for every person's right to "freedom of speech and expression which shall include freedom of the press and other media".

Article 43 of the Constitution of Uganda provides that "in the enjoyment of rights prescribed [under the Constitution], no person shall prejudice the fundamental or other human rights and freedoms of others or the public interest". Under Article 43(2) (c) the Constitution however also provides that "public interest...shall not permit any limitation of the enjoyment of rights and freedoms beyond what is acceptable and demonstrably justifiable in a free and democratic society, or what is provided in this Constitution".