



AFRICAN UNION:

**Confront critical governance and
Human Rights matters in the East
African Region**

**An appeal to the 27th African Union Summit (10th - 18th July 2016)
- Kigali, Rwanda**

 **chapter
four**

PROTECTING CIVIL
LIBERTIES & PROMOTING
HUMAN RIGHTS FOR ALL.

About Chapter Four Uganda

Chapter Four Uganda is an incorporated not-for-profit, non-partisan civil rights group committed to the defence of fundamental rights guaranteed in the Bill of Rights of the Constitution of the Republic of Uganda and other international, regional human rights instruments to which Uganda is a signatory.

Our vision is for a society in which civil liberties and human rights are enjoyed without discrimination and those who abuse the rights are brought to account.

Our mission is to use the law to ensure dignity and equality for all by providing strategic and non-discriminatory legal response in the defense of civil liberties.

About this publication

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Chapter Four Uganda
Plot 2 Wampewo Close, Kololo
P.O Box 33159,
Kampala - Uganda
info@chapterfouruganda.com

www.chapterfouruganda.com

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1. INTRODUCTION

This year, the 27th African Union Summit is slated to take place from 10th – 18th July, in Kigali, Rwanda. The summit entitled, “*2016: African Year of Human Rights*”, will have a specific focus on the rights of women.

Ahead of this very crucial summit hosted in East Africa, Chapter Four Uganda hopes that the following critical issues of governance and human rights in the East African region, will be addressed squarely by the leadership of the African Union.



The perpetrators of the killing of Willie Kimani, Josephat Mwenda and Joseph Muiruri should face justice for this horrific crime.

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2. Extra-judicial Killings and Violations of the Right to Life

The excessive and unchecked use of force by law enforcement officers remains a matter of deep concern in the region. In Burundi, political upheaval and widespread killings by the security forces and armed opposition groups continues, unabated. These actions stemmed from demonstrations in April 2015 in response to President Pierre Nkurunziza's decision to seek a third electoral term. We decry the excessive use of force by the police on demonstrators and the crackdown against civil society activists and journalists.

Further, in Kenya there has been a sequence of the use of lethal force by the police during protests, particularly in the Nyaza region. A recent incident of particular concern is the brutal killing of human rights lawyer, Willie Kimani, and his client and driver, after they had been forcefully disappeared, allegedly by police officers. We condemn such blatant violation of the right to life and strongly urge the African Union to take decisive steps in ensuring that there is effective accountability for the perpetrators of such violation.

In Armed Conflict Situations

Chapter Four Uganda notes, with concern, the violation of the rights of vulnerable persons in times of armed conflict. In South Sudan, thousands of civilians have been killed, based on their ethnicity or perceived political alliance. There are authentic reports on the recruitment of children, as well as an increase in sexual and gender-based violence. These violations include instances of conflict-related rape and gang rape, coupled with beating and abductions.

Chapter Four Uganda urges the African Union to push for effective accountability for these violations in South Sudan, and work on equipping the frail legal system in South Sudan. We further strongly suggest that the African Union consider the International Criminal Court (ICC) as an option for effective accountability, if the incapacity and inability in the domestic legal system persists. There needs to be a visible thrust for the elimination of impunity.

3. Children and Women Rights

The state of the vulnerable in the region is intricately linked with the quality of governance within the States. Progressive democratic governance should offer equal opportunities for all, including women, to be fully involved in governance processes. This incorporates equal participation in all the relevant societal spheres: these include; elective processes (as leaders and regular citizens), education, inheritance and property rights, work and employment, as well as accessibility to proper healthcare. It is critical that the African Union emphasize the need for States to develop positive and equitable policies to promote a non-discriminative approach to the governance of society. This is critical for improving the protection and promotion of women's rights in the region.

Inheritance and Property Rights

The grabbing of property from widows and orphans remains a recurring vice in the region. In Tanzania, the existing codified customary law on inheritance rights was deemed by the Committee on the Elimination of Discrimination Against Women to violate women's rights, by denying them equality in respect of inheritance. Tanzania was also considered to have violated their rights of access to justice and to an effective remedy. In Uganda, nearly one (1) out of five (5) victims of property grabbing report that the theft of their property involves a murder attempt on their life, and nearly one (1) out of every three (3) have had threats of violence made against their children by perpetrators.

We hereby strongly recommend that the African Union address this matter, by demanding countries to enact reforms that can effectively protect women and children from human rights and other land rights violations.



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4. Terrorism and Human Rights

Terrorism within the East African Region has prompted governments to employ non human rights compliant mechanisms to resolve the problem. In particular, Kenya's efforts to tackle the challenge posed by Al-Shabab has involved the violation of civil liberties by Kenyan security forces. These violations include extrajudicial killings, arbitrary detentions, and torture. The government has been reluctant to investigate or prosecute security officers for such abuse. Further, there has been the introduction of proposals for security law amendments that expand police stop and search powers. This has included the introduction of new criminal offences with harsh penalties, and the restriction of the freedoms of expression and assembly. After Al-Shabaab's massacre in Garissa in April 2015, reports indicate that the military and police were implicated in kidnapping, killings, and disappearances of terrorism suspects in Garissa, Wajir and Mandera, in northeast Kenya.

As the challenge of terrorism continues to grow and plague the continent at large, it is critical that the African Union provide guidelines on human rights based approaches to fighting terrorism. The African Union should put to task all those countries violating human rights under the guise of fighting terrorism.

5. Governance Concerns

Chapter Four Uganda is deeply concerned about the continual prevalence of poor electoral processes, corruption and poor service delivery in the region. In Uganda, the Supreme Court in a petition challenging the validity of the Presidential electoral result, expressed concern at the recurring pattern of malpractices and irregularities that continue to exist in the electoral system despite repeated calls for reform. Attendant to corrupt electoral systems is corruption as a vice that has compromised the nature of service delivered by some governments in the region.

In Uganda, donor funding worth US\$12.7 million was stolen from the Office of the Prime Minister in late 2012. The money was reserved for rebuilding war-torn northern Uganda, and Karamoja.

It is critical that the African Union comes out strongly against these elements of poor governance in the region and push for structural reforms within the governments. Further, we hope the African Union will drive the agenda for accountability, particularly for systems plagued by extreme graft.

6. The Space for Civic Engagement

Tight restrictions on freedom of expression and assembly remain in place, in the region. In Uganda there has been the arbitrary governmental shutdown of media houses and social media platforms, particularly during the 2016 electoral period. These shutdowns worked in parallel with the unnecessary arrests and brutality meted out on opposition and pro-democracy activists in Uganda, by the police and other security forces. In Rwanda, independent civil society remains very weak.

Pro-government views overshadow domestic media, and the Rwandan government notably suspended the BBC's Kinyarwanda broadcasts inside Rwanda indefinitely. We strongly implore the African Union to caution its member States against muzzling their citizens, by providing space for open discussion and engagement. Further, we appeal to the African Union to address the continual recurrence of police brutality that is used as a means of curtailing the citizens' rights to assemble and demonstrate.

With regard to the freedom of association, there have been rules evolving on the activity of Non Governmental Organisations (NGOs), which seek to control rather than regulate their operations. In Uganda, the new NGO Act provides extensive and unnecessarily bureaucratic processes that can potentially inhibit any effective activity of the NGOs. This law also creates general penal sanction for each obligation, which has a prohibitive effect. There is a presumption of criminality with regard to every obligation in the legislation. This presumption creates a very heavy prohibition on the right to freedom of association, and creates a very constricted environment for the engagement of NGOs.

Chapter Four Uganda urges the African Union to come down strongly on any such violations of the right to associate; and implores the Union to provide guidelines and best practices for member States to follow when seeking to regulate the operation of NGOs and civil society.



Recommendations

Recommendation 1: The African Union should unequivocally condemn the excessive use of force by the police on demonstrators and the crackdown against civil society activists and journalists. It should demand of States, a progressive update on measures being put in place to protect the right to life and liberty of persons, and emphasize accountability particularly for security agents involved in these violations.

Recommendation 2: Further, Chapter Four Uganda implores the African Union to challenge States to develop positive and equitable policies to promote a non-discriminative approach to the governance of their societies. Particularly, we urge the African Union to closely monitor the effective application in African States of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

Recommendation 3: Chapter Four Uganda specifically recommends that the African Union push for effective accountability for sexual and gender-based violence; and for conflict-related rape and gang rape, which is usually coupled with beating and child abductions in war-time situations. This should include providing technical assistance and capacity building for frail judicial systems, unable to superintend upon the effective accountability for suspected human rights violators.

Recommendation 4: Chapter Four Uganda further, strongly recommends that the African Union come down strongly on the use of terrorism as an excuse for the violation of basic fundamental freedoms. The Union should provide guidelines on human rights based approaches to fighting terrorism, and review each of the countries' counter-terrorism policies for effective human rights compliance.

Recommendation 5: Additionally, the African Union should unequivocally condemn the rampant corruption and abuse of office by public officials. Particularly, we implore the African Union to address squarely, the recurring pattern of malpractices and irregularities that continue to exist in electoral systems, in countries in the region, and Africa at large. We recommend that the Union push for and evaluate, structural reforms within the governments, and seek accountability (particularly through criminal prosecution) for excess revenue lost to extreme systemic graft.

Recommendation 6: We strongly implore the African Union to caution its member States against muzzling their citizens, by providing space for open discussion and engagement. Particularly, we urge the Union to admonish States against the arbitrary shutdown of media houses and social media platforms.

Recommendation 7: Further, we appeal to the African Union to address the continual recurrence of police brutality that is used as a means of curtailing the citizens' rights to assemble and demonstrate. Chapter Four Uganda urges the Union to follow up States on the measures they are putting in place to provide for individual liability for errant security agents that are meting out violence to citizens exercising their inherent rights and freedoms.

Recommendation 8: Finally, Chapter Four Uganda specifically urges the African Union to denounce actions by States to curtail the right to associate, which is increasingly being implemented through repressive and regressive legislation. We urge the Union to provide guidelines and best practices for member States to follow when seeking to regulate the operation of NGOs and civil society.