

HUMAN RIGHTS WATCH

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November 16, 2015

His Holiness

The Pope

The Apostolic Palace

Rome

Re: Upcoming Visit to Africa

Your Holiness,

I am writing on behalf of Human Rights Watch ahead of your visit to Africa to encourage you to raise a number of human rights issues that we believe are of mutual concern. While the Catholic Church and Human Rights Watch approach respect for human rights from different perspectives, we believe there is much common ground and that we share many values.

Human Rights Watch is dedicated to protecting the human rights of people around the world. We stand with victims and activists to create a world in which people live free of violence, discrimination, and oppression. We investigate and expose human rights violations and seek to hold abusers accountable. We challenge governments and those who hold power to end abusive practices and respect human rights for all.

Your Holiness' visit to Kenya, Uganda and the Central African Republic (CAR) has the possibility to provide hope to many across Africa, to both Catholics and non-Catholics. The Church's voice, and in particular your messages on justice, tolerance and support for the rights of the marginalized, the poor and the oppressed can help address some of the critical human rights challenges many people in Africa face today. These include climate change, which presents crucial challenges to governments to address the ability of millions of people to sustain their livelihoods and access basic services.

Justice

In all three countries that Your Holiness plans to visit, there have been serious human rights violations committed over many years. The International Criminal Court (ICC) has opened investigations in all three countries because the national justice systems have been



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unable or unwilling to fairly and impartially investigate alleged grave international crimes. Yet, further progress is urgently needed.

As the Holy See has stated, not only is justice a basic human right for victims of serious abuses, it is also a critical foundation for peace.¹ Peace and justice are not in contradiction with one another; rather, justice is a crucial component of lasting peace, especially in countries where impunity for serious crimes has led to repeated cycles of violence.

Few countries exemplify this more than the Central African Republic. Repeated atrocities committed over the past decades have been marked by complete impunity. The national justice system does not have the capacity to hold accountable those responsible for either past or recent crimes, leaving those responsible confident they will never face prosecution for future abuses as well as earlier ones.

During a national reconciliation forum held in Bangui in May 2015, hundreds of participants called for justice as the best way to ensure a durable peace. The interim government referred the situation to the ICC and took action to establish a Special Criminal Court, an institution that will be placed within the country's national justice system and where national and international judges and prosecutors will work together to bring justice for crimes committed since 2003. This innovative mechanism has brought some hope that justice might come, but practical measures, such as funding and technical support, are needed to establish the court.

Kenya has also seen repeated episodes of violence, political manipulation of ethnicity, and serious crimes by the security forces, many of which have never been addressed. These factors fueled the 2007-2008 electoral crisis and left at least 1,100 dead and 650,000 people displaced.

Although Kenya's crisis was exacerbated by longstanding impunity, its leadership has failed to confront the challenge and continues to undermine efforts, including at the ICC, to provide justice for the victims. Many of the core recommendations made by Kenya's own commission of inquiry into the violence, including the urgent need to end pervasive impunity, implement security sector reforms, and address grand corruption and land grievances, remain unaddressed more than seven years later.

In Uganda, justice for serious crimes remains elusive leaving victims without redress, both in the long war between the rebel Lord's Resistance Army (LRA) and the Ugandan army, and during more recent political protests.

¹ Archbishop Alain Lebeaupin, Apostolic Nuncio, Permanent Observer Of The Holy See, Statement to Review Conference of The Rome Statute of the International Criminal Court, Kampala, June 1, 2010, <http://www.holyseemission.org/contents/statements/statements-55e34d338ee867.77933418.php> (accessed November 13, 2015).

Over two decades the LRA, led by Joseph Kony, has killed, maimed, and abducted thousands of civilians, many of them children, in remote regions of northern Uganda, northeastern Democratic Republic of Congo, South Sudan, and the Central African Republic.² One LRA leader, Dominic Ongwen, is currently in custody at the ICC where he faces charges for war crimes and crimes against humanity. But Kony, who is also sought by the ICC, remains at large. Trials for grave crimes before domestic courts have not moved forward and no senior Ugandan military personnel implicated in serious abuses, including in the fight against the LRA, have been held to account.

More recently, the Ugandan government has failed to investigate the use of lethal force by security forces that left at least 40 people dead in September 2009 or the killing of 9 people, including a 2-year-old child, during protests in April 2011. Despite numerous promises to investigate, no police or military personnel have been held accountable for these killings.

Calls from Your Holiness on the need for all governments to support justice and accountability could be a critical contribution to helping to end impunity in Africa. We hope Your Holiness will:

- Stand with the victims of abuses in the countries you visit and publicly call for justice and accountability for serious international crimes by all those responsible, no matter their ethnicity, religion, political affiliation or position.
- Publicly acknowledge and commend the work of specific individuals who strive to achieve justice and protect human rights.
- Recognize and encourage the work of civil society organizations, including the Church's own peace and justice commissions, which often play a key role in documenting human rights violations and calling for justice and reparations for the victims.

Civil and Political Rights

Your visit comes as both Uganda and the Central African Republic prepare for elections. In both countries there is a real risk of political violence. People will also go to the polls in a number of other African countries in 2016, often viewing such moments with both hope and trepidation. In recent years there has been a broad trend by a number of African governments to use repressive measures to stem free

² Human Rights Watch, The Scars of Death: Children Abducted by the Lord's Resistance Army in Uganda, September 1, 1997, <https://www.hrw.org/report/1997/09/01/scars-death/children-abducted-lords-resistance-army-uganda>; Abducted and Abused: Renewed War in Northern Uganda, July 15, 2003, <https://www.hrw.org/report/2003/07/15/abducted-and-abused/renewed-war-northern-uganda>; The Christmas Massacres: LRA Attacks on Civilians in Northern Congo, February 16, 2009, <https://www.hrw.org/report/2009/02/16/christmas-massacres/lra-attacks-civilians-northern-congo>; The Trail of Death: LRA Atrocities in Northeast Congo; March 28, 2010, <https://www.hrw.org/report/2010/03/28/trail-death/lra-atrocities-northeastern-congo>.

speech, block freedom of peaceful assembly, and obstruct the work of civil society organizations ahead of elections. Those who object can face brutal crackdowns.³

In Burundi, the government has cracked down on protesters, activists, and independent journalists following months of public protests against an attempt by President Pierre Nkurunziza to cling on to power, defying the spirit of the Arusha Peace and Reconciliation Agreement that ended years of civil war in that country. Scores of demonstrators and suspected opponents of the government have been killed and hundreds jailed.⁴ Roughly 200,000 people have fled the country as a result of the unrest.

In Uganda, citizens already face restrictions on free speech and peaceful assembly in the lead-up to the 2016 elections. On September 9 and 10, 2015, police used unnecessary and excessive force in responding to opposition gatherings, firing teargas to disperse people who had gathered to hear an opposition candidate, even though there had been no disorder or violence. In some instances, police fired teargas canisters directly at individuals, turning the canisters into projectiles that caused injury. In one instance, police lobbed teargas canisters onto the grounds of a primary school, harming children.⁵

In many ways, Uganda illustrates a pernicious trend of governments restricting the rights of civil society organizations through legislative and administrative constraints as well as harassment and arbitrary arrest and detention of activists. A large number – perhaps thousands – of nongovernmental organizations operate in Uganda, but groups working on oil transparency, human rights, including the rights of sexual and gender minorities, land, governance, and corruption, have had an increasingly difficult time both carrying out their work and advocating change in public forums.⁶

This year, the Ugandan government proposed a new Non-Governmental Organisations (NGO) bill that would grant the internal affairs minister and the National Board for Non-governmental Organisations broad powers to supervise, approve, inspect, and dissolve all nongovernmental organizations and community-based organizations, and would impose severe criminal penalties for violations. This type of repressive law regulating the nongovernmental sector is increasingly being

³ Anneke Van Woudenberg and Ida Sawyer, Africa's Softer, Gentler Coup D'Etats, *Foreign Policy*, November 3, 2015, <https://www.hrw.org/news/2015/11/03/africas-softer-gentler-coups-detat>.

⁴ Human Rights Watch, Burundi: President Speech Instills Fear as Killing's Increase, press release, November 10, 2015, <https://www.hrw.org/news/2015/11/10/burundi-presidents-speech-instills-fear-killings-increase>; Burundi: Spate of Arbitrary Arrests, Torture, press release, August 6, 2015, <https://www.hrw.org/news/2015/08/06/burundi-spate-arbitrary-arrests-torture>.

⁵ Human Rights Watch, Uganda: Ensure Free and fair Elections, press release, November 8, 2015, <https://www.hrw.org/news/2015/11/08/uganda-ensure-free-and-fair-elections>

⁶ Human Rights Watch, Uganda: Growing Intimidation, Threats to Civil Society, press release, August 21, 2012, <https://www.hrw.org/news/2012/08/21/uganda-growing-intimidation-threats-civil-society>.

used by governments across the region to stifle civil society and the concerns of ordinary people.

The basic rights of people to express their views, form associations, freely choose their electoral candidates, express their opinions, hold peaceful meetings, and vote without intimidation are critical to credible and peaceful elections. Yet far too often these basic rights have been violated. Calls from Catholic clergy that these rights be respected during elections in Africa and beyond have been welcomed by many and have played an important role in a number of elections. The Church's support for independent and impartial electoral commissions and election observer missions, and the practical support it lends by permitting schools and other church structures to be used as polling stations has also been significant, and allows the Church an important role in urging for respect of political freedoms.

Your visit provides an important opportunity to add your voice on the importance of respect for fundamental civil and political rights, including those related to elections. We hope Your Holiness will:

- Call for the respect of basic rights during elections and an end to violence against citizens exercising their rights.
- Urge that all those responsible for political violence are held to account.

Attacks on Religious and Ethnic Groups

Political leaders and their subordinates often deploy intolerance, discrimination, hatred, and violence against ethnic and religious groups as a way of bolstering public support or securing a position. Such rhetoric is extraordinarily dangerous and despite tragic experiences in Rwanda, Sudan, South Sudan, and other countries, it remains an enduring feature of many contexts in Africa.

In the countries Your Holiness will visit there are ongoing attacks on communities based on their religious or ethnic affiliation. In the Central African Republic, sectarian violence has gripped the country and in many areas Muslims are under siege. An estimated 337,000 Muslims have fled the country while another 33,000 remain in enclaves in western parts of the country, including one in the capital, Bangui. Both Christians and Muslims, as well as others, have been responsible for the widespread violence that has gripped the country. To move forward will require full respect for the rights of all of CAR's citizens, regardless of religion or ethnicity.

Kenya's sizeable ethnic Somali population includes both citizens and hundreds of thousands of refugees from Somalia. Members of both communities have experienced sustained discrimination that has occasionally escalated into serious violence, including beatings, torture, sexual violence and other mistreatment at the hands of Kenyan police and security forces. Hostile rhetoric against Somali refugees

has increased in the wake of Kenya's security crisis, despite the government's failure to produce evidence that refugees are directly linked to the security challenges facing the country. The Kenyan government has also tried to introduce measures to confine refugees and asylum seekers in camps, a policy that violates basic rights to freedom of movement and appears designed to increase the hardships faced by these communities.

We hope Your Holiness will:

- Emphasize the role of political leaders in promoting respect for the rights of all people regardless of religion or ethnicity in all the countries you plan to visit.
- Reach out to Muslims, including Somali refugees in Kenya, including by meeting with them in a visible way.
- Call for an end to discrimination and violence against ethnic and religious minorities.

Attacks on Sexual and Gender minorities

Widespread violence against sexual and gender minorities in many African countries is a critical problem. In Uganda, sexual and gender minorities continue to face arrest, discrimination, eviction from their homes, and violence from government officials and private individuals. This is despite the fact that the Anti-Homosexuality Act, which increased prison sentences for same-sex conduct and criminalized "promotion of homosexuality," was found unconstitutional in August 2014. In the last few months, we have received credible reports of new acts of violence against sexual and gender minorities.

In Kenya, we have also documented violence against sexual and gender minorities, including mob attacks—several of which have been instigated by religious leaders. Two Kenyan men are currently on trial on the basis of a mere suspicion that they are gay. Kenyan rights organizations are reaching out to Catholic, Protestant and Muslim religious leaders to encourage them to help prevent further violent attacks.

We appreciate that the Holy See has already taken a stance in opposing violence against sexual minorities. In its teachings as well as in several public statements at the United Nations General Assembly, the Church has voiced the need to protect everyone's human dignity. But we are concerned that the Holy See's message is not always consistently conveyed to local religious communities around the world. While some Church leaders have acted in accordance with a message of non-violence and tolerance, many others have failed to do so. In recent years, both religious and lay Catholics, through their words and deeds, have actively promoted policies and practices so dehumanizing that they contribute to a climate in which violence against people in sexual and gender minorities occurs with impunity.

During your visit to Africa, and particularly in Uganda and Kenya, we hope Your Holiness will:

- Publicly condemn violence against people in sexual and gender minorities whether by the state or by individuals and help moderate the public tone of local Church leaders on sexuality.
- Strongly reiterate a public message of tolerance for sexual and gender minorities.
- Publicly meet with members of sexual and gender minorities who have been the victim of violence and discrimination, and organizations that support their rights.
- Publicly emphasize the Holy See's opposition to the criminalization of same-sex conduct and the arbitrary arrests of people based on sexual orientation or gender identity.

Social Justice

Corruption is pervasive in many countries, including countries in Africa, and in some societies it has turned public service functions into a kind of criminal enterprise. Large-scale graft fuels political violence, denies millions access to even the most basic health and education services, and reinforces human rights abuses by the police and other security forces. Corruption is at the heart of many human rights violations across the continent. Corruption has turned what should be some of the continent's greatest assets – its vast mineral and oil wealth – into a curse. Rather than lead to concrete improvements in the lives of ordinary people, revenues from oil and minerals have fueled political violence, fraudulent elections, and human rights violations. While the wealth of the few has increased exponentially, the living standards for millions of Africa's poor have seen little or no improvements.

Your Holiness has repeatedly stood up for the poor and urged for social justice. We hope Your Holiness will:

- Raise the issue of corruption during your visit to Africa and urge for stronger measures to end human rights abuses linked to it and its corrosive effect on society.

Women and Girls' Reproductive Rights

International human rights law recognizes the right of women and girls to reproductive autonomy. The Catholic Church's blanket prohibition on contraception and abortion continues to harm women and girls and undermine their human rights.

The World Health Organisation (WHO) estimates that 47,000 women die needlessly every year as a result of unsafe abortion, and a disproportionate number of them live in Africa. In addition, a 2006 Lancet article estimated that 1.7 million women and girls in Africa are hospitalized every year as a result of complications from unsafe abortions.⁷ Advancing women and girls' access to safe abortion will save their lives and protect their health.

The Church plays a critical role in the provision of HIV treatment, care and support in Africa. Sub-Saharan Africa continues to bear the brunt of the global epidemic, with approximately 25.8 million people living with HIV at the end of 2014. Women and girls are disproportionately vulnerable to HIV infection: in Kenya, 700,000 women above the age of 15 are living with HIV, while in Uganda that figure is 770,000.

Public health experts agree that comprehensive HIV prevention is critical to achieve success in addressing HIV and ending the AIDS epidemic. Condoms are a key part of preventing HIV transmission and are the only available tool for triple protection against HIV, other STIs and unintended pregnancy. Correct and consistent condom use significantly reduces the risk of HIV transmission. In Zimbabwe and South Africa, two high-prevalence countries, increased condom use has been found to contribute to reductions in HIV incidence. A recent study estimated that condoms have averted around 50 million new HIV infections since the onset of the HIV epidemic.⁸ The Church's continued ban on the use of condoms undermines HIV prevention efforts and increases the risk of contracting HIV, including for women and girls.

While we realize that it is unlikely that the Church will change its stance on these issues, we hope that Your Holiness will:

- Reiterate your message of understanding and tolerance for women and girls who have had abortions.
- Meet with women and girls living with HIV to highlight the continued struggle against HIV in Africa.
- Meet with public health practitioners who provide access to reproductive health care to women and girls to learn about the challenges they face.

Climate Change

⁷ David A Grimes, Janie Benson, Susheela Singh, Mariana Romero, Bela Ganatra, Friday E Okonofua, Iqbal H Shah, Unsafe Abortion: The Preventable Pandemic, *The Lancet*, Sexual and Reproductive Health Series, October 2006, [http://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(06\)69481-6/abstract](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(06)69481-6/abstract) (Accessed November 15, 2015).

⁸ UNFPA, WHO and UNAIDS, Position statement on condoms and the prevention of HIV, other sexually transmitted infections and unintended pregnancy, July 2015, http://www.unaids.org/en/resources/presscentre/featurestories/2015/july/20150702_condoms_prevention (Accessed November 16, 2015).

We welcome Your Holiness' ongoing concern for the protection of the environment and the impacts of climate change on the most marginalized and poor. As you pointed out in *Laudato Si'* "the deterioration of the environment and of society affects the most vulnerable people on the planet."⁹

Scientists believe Africa is one of the continents most vulnerable to climate change.¹⁰ The continued global emission of greenhouse gases increase the likelihood of severe, pervasive, and irreversible impacts for people and ecosystems in Africa, including but not limited to its effects on water, food, and health. According to the Intergovernmental Panel on Climate Change (IPCC) and other scientific studies, Africa is already experiencing the effects of climate change in many regions.¹¹ African governments and regional institutions have repeatedly highlighted the vulnerability of their states to the effects of climate change.

Climate change, along with industrial development projects in Ethiopia and population growth, is threatening the livelihoods of Kenya's indigenous Turkana people. It also poses an increased burden on the government of Kenya to progressively realize the rights to water, food, health and security in a non-discriminatory manner.

Your visit to Africa coincides with the opening of the climate change negotiations in Paris. These negotiations offer an opportunity to ensure concerns for the most marginalized and vulnerable are central to the future climate change agreement. A robust provision on human rights is currently included in the operative text of the draft core Paris Agreement and we believe strongly it should be retained. The inclusion of this reference to human rights promotes consideration and application of human rights in climate change related decision-making and will help to better protect the most vulnerable.

We hope Your Holiness will:

- Call for the development of climate change adaptation policies that protect the rights of the most marginalized populations.

⁹ Encyclical Letter *Laudato Si'* Of The Holy Father Francis On Care For Our Common Home, https://w2.vatican.va/content/dam/francesco/pdf/encyclicals/documents/papa-francesco_20150524_enciclica-laudato-si_en.pdf (accessed June 6, 2015), p.33.

¹⁰ Already in 2007 the IPCC stated: "Africa is one of the most vulnerable continents to climate change and climate variability, a situation aggravated by the interaction of 'multiple stresses', occurring at various levels, and low adaptive capacity (high confidence)," see IPCC, "Climate Change 2007: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change," 2007, http://www.ipcc.ch/pdf/assessment-report/ar4/wg2/ar4_wg2_full_report.pdf (accessed November 2, 2014), p. 435.

¹¹ IPCC, "Chapter 22: Africa" in IPCC, "Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part B: Regional Aspects. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change," 2014, http://www.ipcc.ch/pdf/assessment-report/ar5/wg2/WGIIAR5-PartB_FINAL.pdf (accessed March 2, 2015), pp. 1199-1265.

- Urge that human rights references will be included in the future climate change agreement.

In our work we have had the privilege to meet and work alongside many extraordinary priests, nuns and other Catholic clergy who work tirelessly across Africa to uphold human rights, sometimes putting their lives on the line to help those in need. Their courageous examples have deeply touched and inspired us. On a number of occasions we have honored them with our highest human rights award – the Alison Des Forges Award for Extraordinary Activism.

Recently, we honored Father Bernard Kinvi, who directs the hospital at the Catholic mission in Bossemptele, Central African Republic. As you may be aware, Father Kinvi saved hundreds of besieged Muslims when brutal sectarian violence erupted in the country in 2013. Also, Abbé Benoît Kinalegu, the head of the Peace and Justice Commission of the Catholic Church in northern Democratic Republic of Congo, who worked tirelessly to expose the abuses committed by the LRA, and works to rehabilitate its victims. They and others like them stand out as beacons of hope in situations that often seem hopeless.

We have confidence that your leadership and voice on these critical human rights issues will also bring hope and contribute to alleviating the suffering of millions of people in Africa.

Yours sincerely,



Daniel Bekele
Africa Director