

Kenyan Civil Society Organisations (CSOs) and the Kenya National Commission on Human Rights (KNCHR) Statement on the Charging of Al Amin Kimathi with ‘Terrorism’ in Uganda

Nairobi, September 21, 2010

The Kenyan human rights community has received news of the charging of Al-Amin Kimathi, Executive Director of the Muslim Human Rights Forum (MHRF), with terrorism in Uganda with disbelief and outrage.

Kimathi and the MHRF have condemned acts of terrorism when they occur—the MHRF was one of the first Kenyan human rights organisations to publicly express its sympathies with the victims of the July 11 bombings in Kampala, for example.

Kimathi and the MHRF have become well known for their work trying to ensure that counter-terrorism efforts are conducted within the boundaries of international and regional human rights standards, our Constitution and the law. In this respect, they have raised concern about the profiling of Kenyan Muslims, particularly those of Somali descent. They have challenged the illegal renditions of Kenyans to Cuba, Ethiopia, Somalia—and, more recently, Uganda. And they have monitored the interrogation, detention and trial process of those accused of terrorism-related charges so as to uphold the rights to: a) be assumed innocent until proven guilty in a court of law; b) be free from cruel, unusual or degrading punishment and torture; b) a fair trial. These rights are enshrined not only in the African Commission’s principles and guidelines on the right to a fair trial and legal assistance in Africa but in both the Kenyan and Ugandan Constitutions. In this respect, Kimathi and the MHRF, have demonstrated their commitment to the rule of law—and to the right to equality before the law. He was, in fact, in Uganda on his second observation visit of the trial of the four of the nine Kenyans illegally renditioned to Uganda in relation to the July 11 bombings (there are now 38 suspects, 13 of which are Kenyan). The Kenyan human rights community thus finds the charge of terrorism now laid against him both preposterous and unbelievable.

The Kenyan human rights community also notes the following human rights violations committed in respect of Kimathi’s entrapment and detention:

- Being held incommunicado in the offices of Uganda’s Rapid Response Unit (RRU) at Kireka from Thursday September 16 to Tuesday September 21;
- Being denied access to an advocate during that same period;
- Having his personal laptop searched and its contents copied when he was not present (opening the window for the falsification of evidence);
- Being detained for over the legal period of 48 hours before being brought before a court of law and charged.

In addition, the Kenya human rights community notes the misleading information on Kimathi now being ‘leaked’ to the media, for example, through the supposed joint Kenyan and Ugandan intelligence report on him reported in the Daily Nation on Monday September 20. He was

entrapped and detained in the company of Mbogua Mureithi, an advocate of the High Court of Kenya and a Ugandan taxi driver sent by the hotel at which they were to stay in Kampala to the airport—not in the company of another Kenyan suspect, as has been alleged. The money in his possession at the point of his arrest was intended for payment of fees of the advocate of four of the Kenyan suspects as well as his upkeep in Kampala and can be tracked to the MHRF's fund manager, Githongo and Company, as well as to the registered grantmakers from which it was originally received—not, as has also been alleged, to Al Qaeda or Al Shabaab. Given the search of his personal laptop in his absence during the detention, any documentation supposedly arising from the same is of questionable evidentiary purposes.

Kimathi's being charged with terrorism does little to inspire public confidence in the investigative process around the July 11 bombings to date—if Kimathi is being linked to the July 11 bombings, anybody could be.

With that in mind, the Kenyan human rights community demands:

- That the Kenyan authorities and security services exert the maximum possible pressure on their Ugandan counterparts to have the charge dropped and Kimathi enabled to continue his human rights defence work, including with the 13 Kenyan suspects on trial in Uganda;
- That the Ugandan authorities and security services immediately make known the supposed basis for this preposterous and unbelievable charge of terrorism;
- That the Ugandan authorities ensure Kimathi has full access to an advocate for the period of his remand;
- That the American diplomatic missions in both Kenya and Uganda and their security services, the latter of which were reportedly the final determinants of Kimathi's fate, also offer a full public explanation for their conduct in respect of the entrapment, detention and charge.

Background

The Muslim Human Rights Forum (MHRF) works on human rights violations in relation to counter-terrorism. These human rights violations include: profiling and entrapment in the course of investigating terrorism; illegal renditions for the purposes of interrogation and trial, even where legal extradition processes exist; being held incommunicado and being subjected to cruel, unusual or degrading treatment and torture in the course of interrogation and detention; and lack of due process in respect of trials.

The MHRF has documented and reported on the illegal renditions of Kenyans to Cuba, Ethiopia and Somalia. It has challenged these illegal renditions in the Kenyan courts. And it has tried to seek redress through the Kenyan courts for survivors of these human rights violations.

Most recently, Mbogua Mureithi, advocate of the High Court of Kenya and Al-Amin Kimathi, Executive Director of the MHRF were entrapped and detained by Uganda's Rapid Response Unit (RRU) following their arrival in Kampala last Thursday September 18. They were on their second (for Kimathi) and third (for Mureithi) visit there for purposes of observing the trials of four of the nine Kenyans illegally renditioned to Uganda in relation to the July 11 bombings in Kampala. Their previous two observation visits had proceeded without incident.

They were first detained at the RRU's offices in Kireka, where they were held incommunicado and interrogated as to their alleged links with Al Qaeda and Al Shabaab by Kenya, Ugandan and American interrogators. Mureithi was released and deported back to Kenya on Saturday September 20. Kimathi was held incommunicado until being charged with terrorism on Tuesday September 21—well after the 48 hour legal detention period. He was then transferred to Luzira Prison, where he will be held awaiting trial together with the four suspects whose trials he was to observe in early October.

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