

Kampala, Uganda

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In November and December 2013, I had the pleasure of working at the offices of Onyango & Co in Kampala, Uganda. The firm consists of three partners and two associates who practice in a broad range of areas, from land law and crime to international taxation. Its reputation for human rights and international criminal law was the reason I was drawn to spend time with the firm, and in the relatively short period I was there, I was exposed to some fascinating work at the cutting edge of human rights and constitutional law in Uganda and East Africa.

The first task I was given was to assist with the drafting of a challenge to the Public Order Management Act 2013. This controversial Act, recently brought into force, allows the police very wide scope to determine what a 'public meeting' is. The definition focuses largely on the fact that such a meeting would include people gathering to petition on issues of 'public interest'. It then provides the police with great powers of enforcement in order to disperse such meetings. This is seen by civil society groups as a means of containing political opposition masquerading as the maintenance of public order. The constitutional challenge has now been lodged and hopefully the case will be heard at some point in 2014.

In addition to this human rights and public order work, the firm has been advising on a lengthy land purchase on behalf of a group of displaced farmers. Having been violently removed from the land by the police (in order for the land to be transferred to a single corporation) the farmers formed a co-operative and sought compensation. Onyango & Co represented them, funded by an international NGO, as they set up the legal architecture required to buy land communally and redistribute it to their members in such a way as to protect the legal interests of each member and the collective.

It was significantly less uplifting to assist with the cases of the firm's numerous lesbian, gay, bisexual and transgender (LGBT) clients. LGBT rights are not high on the political agenda in Uganda, to say the least. In the course of my time in Kampala, I worked on one high-profile case of a European accused of trafficking, obscene publications, the bail application of a man accused of having homosexual sex and a constitutional challenge to a Cabinet Minister's power to shut down a human rights training exercise conducted in private by an LGBT NGO. This is, tragically, the tip of the iceberg for LGBT work in Uganda.

Indeed, shortly after I returned from Uganda, the Government rushed through draconian legislation that increased the punishment for certain homosexual acts to life imprisonment. This was rightly condemned by governments and NGOs around the world; however, this was to no avail and the law is beginning to be enforced.

I was fortunate enough that my visit coincided with the listing of Uganda's first constitutional challenge to the practice of so-called 'rendition'. The case arose out of the bombings which took place at a rugby club and a restaurant in Kampala during the World Cup Final in 2010. Over 70 people were killed in the blasts and it

was linked to the Somali group Al-Shabaab. The case raised significant human rights and constitutional issues because many of the accused were returned from Kenya and Tanzania without due process. There were serious and consistent allegations of torture by those involved in the transfer of the prisoners from one jurisdiction to the other, leaving the Constitutional Court in the difficult position of balancing the petitioners' rights against the obvious need to prosecute someone for these crimes.

It was of particular note that the petitioners relied on numerous decisions of the UK House of Lords and the European Court of Human Rights, whereas many of the state's authorities came from the Bush administration's success in convincing its own courts that the absolute prohibition on torture is more malleable than it may appear. If ever there was a clear-cut example of the leadership role and responsibilities of Western courts in considering their obligations under international human rights treaties, this petition was just such a case. It was fascinating to see in oral argument just how significant and far-reaching the impact of self-interested interpretations of such treaties can be.

One of the areas I was most interested in before I went to Uganda was the international criminal law element of the work of the country's courts. The firm represents a senior member of the Lord's Resistance Army, a religious armed group from the north of Uganda, a number of whose leaders are indicted at the International Criminal Court. One senior member of this group was recommended for an amnesty by an independent commission acting within its statutory powers, and the firm had successfully challenged the DPP's refusal to stay the prosecution on the basis of this recommended amnesty at the Constitutional Court. The court had found that he was being discriminated against by being refused the effect of the recommended amnesty without just cause or reason. Interestingly, this was a constitutional challenge, whereby the Attorney General was challenging the constitutionality of one of the Government's own actions. Having lost in the Constitutional Court, the Attorney General then appealed, and the client has remained in jail for the intervening two years as he awaits a hearing date in the Supreme Court. Despite the fact that the Government has since repealed the Act granting the powers of amnesty before re-enacting it in almost the same terms, the Attorney General is continuing to challenge the constitutionality of the law.

The volume of fascinating work which is conducted by Onyango & Co and the dedication of the firm's lawyers was inspiring to witness. I learned a huge amount from my time in Kampala. We now hope to foster future links between the firm and chambers in cases in which such collaboration can be mutually beneficial. I am grateful to the Trustees of the Pegasus Scholarship for providing me with the support needed to undertake this visit. Without them, it would never have been possible.

James Mehigan