

**NATIONS UNIES**  
**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on the situation of human rights defenders.**

REFERENCE: AL G/SO 214 (67-17G/SO 214 (107-9)  
KEN 4/2014

3 April 2014

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 16/4 and 16/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning allegations of declaring Ms. **Lucy Elizabeth Hannan** as a member of the prohibited class and a prohibited immigrant in Kenya.

Ms. Lucy Elizabeth Hannan is a British journalist, filmmaker and the co-director of the human rights organization *InformAction* together with Mr. Maina Kiai, Kenyan human rights defender and United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association. Ms. Hannan has lived and worked in Kenya for the past 18 years.

*InformAction* produces social justice films which are screened throughout the country to highlight the alleged crisis of impunity and governance in Kenya. It has seven field teams and more than 40 employees. Approximately 15 different films and video features are screened every week in rural areas, followed up by community discussions on justice, impunity, governance and insecurity issues. It has also leafleted tens of thousands of DVDs of the films in areas without Internet and television.

Mr. Maina Kiai was the subject of an Urgent Appeal to your Excellency's Government by the mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on extrajudicial, summary or arbitrary executions on 23 September 2013 (KEN 6/2013). He was also subject of an Urgent Appeal to your Excellency's Government by the then Special Representative of the Secretary-General on the situation of human rights defenders on 15 January 2008

(KEN 1/2008). We regret that to this date, no response has been received to these two Urgent Appeals.

According to the information received:

On 12 March 2014, Ms. Lucy Elizabeth Hannan's presence in Kenya was declared "contrary to national interest" by the High Court of Kenya. The alleged reason given was that "confidential security reports indicate that (she) has been engaged in subversive activities against the Kenyan Government."

The Declaration announcing Ms. Hannan as a member of the prohibited class and a prohibited immigrant was signed by the Cabinet Secretary of the Ministry of Interior and Co-ordination of National Government on 30 October 2013. However, this Declaration was allegedly only produced in court on 12 March 2014, after Ms. Hannan had challenged the Government's lack of response to her application for citizenship and renewal of her work permit.

According to sources, when Ms. Hannan first informally sought to know the reason why her work permit was being delayed, immigrations officials reportedly told her that it was because of her work with Mr. Kiai.

It is reported that Kenya stopped using the accusation of "subversion" at the end of the one-party era in 1992.

Serious concerns are expressed that the harassment of Ms. Lucy Elizabeth Hannan appears to be linked to her peaceful and legitimate activities in advocating for social justice in Kenya alongside Mr. Maina Kiai. Further concerns are raised that the declaration of Ms. Hannan as a member of the prohibited class and a prohibited immigrant may form part of a wider crackdown on the space of civil society in Kenya.

While we do not wish to prejudge the accuracy of these allegations, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice".

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 5 points b) and c) which provide that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right to form, join and participate in non-governmental organizations, associations or groups, and to communicate with non-governmental or intergovernmental organizations.
- article 6 point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems.
- article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

We would also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the International Covenant on Civil and Political Rights (ICCPR), which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary accurate?
2. Please provide information concerning the legal grounds for the declaration of Ms. Lucy Elizabeth Hannan as a member of the prohibited class and a prohibited immigrant and how this is compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR.
3. Please indicate what measures have been taken to ensure that human rights defenders, including civil society and activists, can operate in a safe and enabling environment and can carry out their legitimate activities without fear of harassment, stigmatization or criminalization of any kind.

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Ms. Lucy Elizabeth Hannan are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

Frank La Rue  
Special Rapporteur on the promotion and protection of the right to  
freedom of opinion and expression

Margaret Sekaggya  
Special Rapporteur on the situation of human rights defenders