

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:
UA RWA 1/2017

18 January 2017

Excellency,

We have the honour to address you in our capacity 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 25/2 and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning acts of intimidation and reprisals, including an attempted kidnapping and intense interrogation on daily basis, against Mr. **Robert Mugabe**, a journalist and human rights defender, following his cooperation with United Nations human rights mechanisms.

Mr. Mugabe is a journalist and human rights defender, and Head of Press House (Maison de la Presse), a coalition of Rwandan civil society organizations dealing with freedom of press issues in the country. He has been actively engaging with the UN Universal Periodic Review mechanism.

According to the information received:

In November 2015, Mr. Mugabe, on behalf of Legal Aid Rwanda, submitted a report to the Universal Periodic Review consideration of Rwanda, scheduled for 4 November 2015.

In September 2016, Mr. Mugabe attended the 33rd session of the Human Rights Council, and met with, among others, OHCHR staff supporting the mandate of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

On 11 October 2016, once back in Rwanda, at approximately 11.35 p.m., Mr. Mugabe was stopped while on his way home by several plain-clothed armed men who took his cell-phone. When Mr. Mugabe raised alarm, nearby taxi-motor drivers chased after the men who threw the phone away, which was returned to Mr. Mugabe, who was able to go home following the incident.

On 12 October 2016, at approximately 10.15 p.m., a car followed Mr. Mugabe when he was out walking. Several plain-clothed men got out and tried to force

him into the car. Motorcyclists witnessing the event came to Mr. Mugabe's rescue and the men drove off after pushing him into a ditch.

On 14 October 2016, at approximately 10.45 p.m., Mr. Mugabe was exiting a restaurant when he suddenly was intercepted by three plain-clothed armed men stepping out of a car. The men man-handled him and grabbed his cell phone before they drove off and reportedly said that they were security agents. Mr. Mugabe's cell phone contained sources used in his journalistic and human rights work.

Following these two instances of attempted kidnapping, Mr. Mugabe filed a complaint with the Rwanda Media Commission (RMC) requesting them to follow up on his case. RMC wrote to the police, asking for an investigation and to ensure Mr. Mugabe's safety. The police instead reportedly launched charges against Mr. Mugabe of treason and spreading rumours with intent to undermine the Government. The charges are based on articles 462 and 463 of the Rwandan Criminal Code, respectively.

Since 23 December 2016, the police started a series of daily intense interrogations of Mr. Mugabe on the mentioned charges. The daily interrogations continue to date and reportedly take five to seven hours and prevent Mr. Mugabe from doing his job as a human rights defender and a journalist who runs three publications.

The interrogations include questions about Mr. Mugabe's Twitter posts and Facebook posts, as well as questions about interviews Mr. Mugabe has conducted with members of the political opposition. The police is reported to use Mr. Mugabe's WhatsApp messages retrieved from his confiscated phone to accuse him of treason and undermining of the Government.

We express grave concern at the physical attacks against Mr. Mugabe, the charges brought against him and the intense interrogation he is subjected to, which seem to be aimed at discouraging his peaceful and legitimate activities in favor of human rights protection in Rwanda and represent a criminalization of the legitimate exercise of his right to freedom of expression, as guaranteed by article 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Rwanda 16 April 1975. We express concern at such criminalization of expression through the application of treason and national security charges to target speech that is dissenting or critical.

We express additional concern that these acts may constitute acts of intimidation and reprisal for Mr. Mugabe's cooperation with the United Nations human rights mechanisms, including the Universal Periodic Review, Human Rights Council and Special Procedures.

In this regard, we wish to refer to Human Rights Council resolutions 12/2 and 24/24 which, inter alia, condemn all acts of intimidation or reprisal by Governments and non-State actors against individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights and calls upon all States to ensure adequate protection from intimidation or reprisals for cooperation with the United Nations, its representatives and mechanisms in the field of human rights.

Moreover, in his 2016 report on cooperation with the United Nations, its representatives and mechanisms in the field of human rights (A/HRC/33/19), the UN Secretary-General reiterates his firm position that all such acts, no matter how seemingly subtle or explicit, are without exception unacceptable and must be halted immediately and unconditionally, effective remedies provided and preventive measures adopted and implemented to prevent reoccurrence. (para. 49).

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of Mr. Mugabe in compliance with international instruments.

As 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, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide the details, and where available the results, of any investigation and judicial or other inquiry undertaken in relation to these allegations. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please provide information about the charges brought against Mr. Mugabe, in particular how his actions amount to "treason" or "undermining of the government", and explain how this is compatible with Rwanda's obligations under international human rights law.
4. Please provide information about the justification and legal basis for the daily interrogations of Mr. Mugabe.

5. Please provide information about the legal basis for confiscating Mr. Mugabe's phone.

6. Please indicate what measures have been taken to ensure that human rights defenders in Rwanda are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort, and are able to cooperate freely with the United Nations in the field of human rights without fear of acts of intimidation or reprisals.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Michel Forst
Special Rapporteur on the situation of human rights defenders