

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 UGA 3/2017

22 December 2017

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 34/18 and 34/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arrest of feminist academic and human rights defender, Stella Nyanzi, for statements made on social media.

According to the information received:

On 28 January 2017, Ms. Nyanzi posted a statement on Facebook that referred to the President of Uganda as "a pair of buttocks".

In March 2017, Ms. Nyanzi criticized First Lady Janet Museveni, who is also Uganda's Education Minister, for stating that there is no money in the Government budget for providing school girls with sanitary pads.

On 19 March 2017, immigration officials at the Entebbe International Airport acting on police orders reportedly blocked Ms. Nyanzi from travelling to the Netherlands for an international conference.

On 31 March 2017, Ms. Nyanzi was suspended from her job at the Makerere Institute of Social Research for "continually insulting First Lady Janet Museveni". She is still appealing her suspension as of the date of this communication.

On 7 April 2017, Ms. Nyanzi was arrested after she gave a talk at Kampala's Rotary Club. She was charged with "cyber harassment" under Section 24 of the Computer Misuse Act of 2011 and "offensive communication" under Section 25 of the same law for her social media statements against the President and the First Lady.

From 7 April 2017 to 10 May 2017, Ms. Nyanzi was held in Luzira prison. She was released on bail on 10 May 2017.

The trial has been adjourned multiple times, and is still ongoing as of the date of this communication.

State prosecutors have reportedly attempted to submit Ms. Nyanzi to a psychiatric examination under the Mental Treatment Act. Ms. Nyanzi has objected to the examination, and filed a constitutional petition against the relevant provisions of the Mental Treatment Act on 24 May 2017.

Since March 2017, the police has reportedly been conducting surveillance on Ms. Nyanzi's phone calls, e-mails, and cell phone activities. Her children have reportedly also been followed and monitored.

We are concerned at the prosecution of Ms. Nyanzi and at the suspension from her university position which appear to be related to her criticisms of government officials and policies on social media. We are also concerned that the alleged surveillance and monitoring of Ms. Nyanzi and her children are aimed to further intimidate and silence her.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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 therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide the full details and where available, the results of any investigation, judicial or other inquiry undertaken in relation to the several complaints filed by Ms. Nyanzi. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please provide information concerning the legal grounds for the arrest, detention and prosecution of Ms. Nyanzi under the Computer Misuse Act of 2011, and explain how these legal grounds are compatible with international human rights law.
4. Please provide information about the trial against Ms. Nyanzi.
5. Please indicate what measures have been taken to ensure that human rights activists and defenders in Uganda are able to carry out their work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

We would appreciate receiving a response within 60 days. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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(s) responsible for the alleged violations.

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

Annex
Reference to international human rights law

In connection with the above alleged facts and concerns, we would like to stress your Excellency's Government's obligation to protect the right to freedom of expression as guaranteed under article 19 of the International Covenant on Civil and Political Rights, acceded by Uganda on 21 June 1995.

In particular, article 19 (3) provides that interferences with this right must be "provided by law", and "necessary" for the "respect of the rights or reputations of others", or for "the protection of national security or of public order (ordre public), or of public health or morals". Permissible restrictions on the internet are the same as those offline (A/HRC/17/27).

The Human Rights Committee has emphasized in General Comment 34 that "in circumstances of public debate concerning public figures in the political domain and public institutions, the value placed by the Covenant upon uninhibited expression is particularly high". Even though public figures may benefit from the provisions of the Covenant, the "mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties" (CCPR/C/GC/34).

We would also like to draw your Excellency's Government's attention to 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, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2, 5, 6, 9, 12 and 17.