

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:
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22 February 2018

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 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 charges of threat to life, non-registration of an organisation and defamation of character, brought against Mr. Ibrahim Garba Wala, allegedly in relation to his work as anti-corruption human rights defender.

Mr. Ibrahim Garba Wala is a Nigerian human rights defender, currently national coordinator for the human rights, anti-corruption and pro-democracy platform Citizens Action to Take Back Nigeria (CATBAN). Through CATBAN, he has led various campaigns and peaceful movements to promote human rights and the rule of law while documenting human rights violations resulting from alleged practices of impunity and corruption by government officials. Mr. Ibrahim Garba Wala has in particular sought to gather information concerning cases of alleged corruption and extortion by members of the National Hajj Commission (NAHCON), a body tasked with licensing, regulating, performing over-sight, and undertaking supervisory functions over governmental agencies.

According to the information received:

On 4 January 2018, Mr. Ibrahim Garba Wala was summoned to appear before prosecutors in Abuja with regard to an open criminal investigation against him concerning accusations of threats to life and defamation of character. These allegedly relate to his work documenting cases of corruption in the NAHCON, as well as making on and offline statements denouncing them, which is deemed by the prosecutors as instigating the public against the members of the Commission.

On 5 January 2018, Mr. Ibrahim Garba Wala was arrested and detained at the Force Intelligence Bureau of Abuja following a request by the prosecutor conducting the case.

On 8 January 2018, the prosecutor formally presented charges of intimidation, threat to life and defamation of character against Mr. Ibrahim Garba Wala. In the same hearing, the court granted an order giving the prosecutor more time to investigate the case.

On 24 January 2018, Mr. Ibrahim Garba Wala attended a bail hearing which confirmed the charges of threat to life and defamation of character, and added charges for non-registration of an organisation. On 30 January 2018, he was released on bail.

The next hearing of the case is expected to take place on 26 February 2018.

We express our concern about the charges brought against Mr. Ibrahim Garba Wala in relation to his activities as an anti-corruption human rights defender. We express additional concern that these measures appear to be a retaliation against Mr. Garba following his work on issues of government accountability in the context of allegations of corruption at NAHCON and that they represent a restriction on the public's right to information about the conduct of public officials and public organs.

The above-mentioned allegations appear to be in contravention of the right to freedom of opinion and expression as established in article 19 of the International Covenant on Civil and Political Rights, acceded by Nigeria on 29 July 1993.

In particular, the criminal procedures pursued against Mr. Ibrahim Garba Wala appear to fall short of the requirements of article 19(3) of the ICCPR, under which any restriction on freedom of expression must be provided by law and be necessary for the respect of the right of others, or for the protection of national security or public order, or of public health or morals. Restrictions must be sufficiently clear, accessible and predictable (CCPR/C/GC/34), pursue a legitimate objective, and be necessary and proportional. The requirements of necessity and proportionality have the aim of ensuring that restrictions "target a specific objective and do not unduly intrude upon the rights of targeted persons". The ensuing interference with third parties' rights must also be limited and justified in the interest supported by the intrusion (A/HRC/29/32). Finally, the restrictions must be "the least intrusive instrument among those which might achieve the desired result" (CCPR/C/GC/34).

It should also be added that article 19 encompasses, not only the right to disseminate information, but also the right to receive information held by all public bodies, whether legislative, executive or judicial. In this sense, whistle-blowers must be protected from the threat or imposition of retaliation, remedies should be made available to targets and penalties should be imposed on those who retaliate (A/70/361, para 41).

Moreover, we would like to refer 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, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right 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. Article 5 of the Declaration provides for the right to form, join and participate in non-governmental organizations, associations or groups.

We would finally like to highlight article 6(b and c) of the UN Declaration on Human Rights Defenders which states that everyone has the right, individually and in association with others, 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. Further, article 9, paragraph 3(c) of the same Declaration provides that everyone has the right, individually and in association with others to offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.

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. Ibrahim Garba Wala 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 therefore 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 information on the events underlying and evidence substantiating the charges of death threats pressed against Mr. Ibrahim Garba Wala.
3. Please provide additional information on the legal basis of the procedures against Mr. Ibrahim Garba Wala. In particular, please explain how the charges against him, which seek to silence his research and statements

about corruption in a public institution, meet the criteria of necessity and proportionality for restrictions to freedom of expression under article 19 of the International Covenant on Civil and Political Rights.

4. Please indicate what measures have been put in place to ensure that human rights defenders in Nigeria are able to carry out their legitimate work in a safe and enabling environment without fear of threats, prosecution or acts of intimidation and harassment of any sort.

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