

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

REFERENCE:
AL RWA 1/2018

30 May 2018

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, pursuant to Human Rights Council resolution 34/18.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning the detention of journalist Robert (Bob) Mugabe for the purposes of preventing him from attending the 2017 Internet Governance Forum in Geneva.

Mr. Robert Mugabe (Bob Mugabe) is a journalist and human rights defender. He is editor of the online news outlet Great Lakes Voice. He has been actively engaging with the UN Universal Periodic Review mechanism.

Concerns about intimidation, criminal investigation and attacks against Mr. Mugabe for his cooperation with the United Nations were raised in a communication from Special Procedures on 18 January 2017 (RWA 1/2017). We regret that no response has been received from your Excellency's Government to date.

According to the information received:

Mr. Mugabe was invited by Freedom House to attend the Internet Governance Forum in Geneva on 16-21 December 2017.

On 15 December 2017, while at the airport in Kigali and about to travel to Geneva, Mr. Mugabe was stopped by the authorities and barred from leaving the country. He was detained and questioned for several hours on accusations of "working against the state, treason and spreading rumors to undermine the state", reportedly based on his critical reporting published online. The police searched his bags and phone, and questioned him about his planned activities in Geneva and his relationship to the Human Rights Council and Freedom House. He was released after 4 hours of questioning and allowed to return to his home.

On 16 December, Mr. Mugabe was again summoned to the police, but insisted on not speaking to the authorities without having a lawyer present. The police gave him additional time to return with legal representation for further interrogation. It has been reported that the authorities have reopened criminal investigations from January 2017, which may lead to formal charges. If charged and convicted for treason, Mr. Mugabe risks 25 years in prison.

We express concern at the allegations that Mr. Mugabe was prevented from travelling to Geneva as this appears to be aimed at discouraging his activities in favor of human rights protection in Rwanda. We express concern at the accusations of treason which would represent a criminalization of the legitimate exercise of freedom of expression. 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 Human Rights Council and Special Procedures.

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 my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I 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 about the legal basis for denying Mr. Mugabe to travel to Geneva.
3. Please provide the details about the interrogation of and accusations 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 legal basis for searching Mr. Mugabe's bag and phone.
5. 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 or 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 or acts of intimidation or reprisals.

I 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, I 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 my highest consideration.

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

Annex
Reference to international human rights law

In this regard, we would like to refer to article 19 of the International Covenant on Civil and Political Rights (ICCPR), acceded by Rwanda on 16 April 1975, which guarantees the right of everyone to freedom of expression. We would like to remind your Excellency's Government that any restrictions to the right to freedom of expression shall be provided by law; may only be imposed for one of the grounds set out in article 19(3) and must conform to the strict tests of necessity and proportionality. We recall that article 19(3) may never be invoked as a justification for the muzzling of any advocacy of multi-party democracy, democratic tenets and human rights. Extreme care must be taken by States to ensure that provisions relating to national security are crafted and applied in a manner that conforms to the strict requirements of article 19 of the ICCPR and must be clearly defined in order to be compatible with international human rights law to ensure that they do not lead to unnecessary or disproportionate interference with freedom of expression (See CCPR/C/GC/34).

Moreover, we would like 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 such cooperation.

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).