

**Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Independent Expert on the situation of human rights in Somalia**

REFERENCE:  
AL SOM 1/2018

29 August 2018

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Independent Expert on the situation of human rights in Somalia, pursuant to Human Rights Council resolutions 35/15, 34/18 and 36/27.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the killing of Mr. Abdirisak Qasim Iman, a journalist, as well as concerns at the criminal prosecution of journalists and interference with the independence of the media.

Mr. Abdirisak Qasim Iman was a cameraman for the privately owned Somali Broadcasting Services (SBS).

According to the information received:

*Concerning the killing of Mr. Abdirisak Qasim Iman*

On 26 July 2018, in Via Liberia Street of Mogadishu's Waberi district, an armed police officer ordered a motorcycle taxi that Mr. Iman was riding to deviate from the street while reportedly pointing a gun at him. The motorcycle taxi driver and Mr. Iman argued with the police officer; during which the police officer shot Mr. Iman twice in the head. He was taken to Madina Hospital, where he was pronounced dead. The police officer reportedly fled the scene after the shooting.

Mr. Iman's family reported the incident to the police in Mogadishu the same day. It has been reported that the police officer has subsequently been identified by the media. Media professionals reporting on the case have subsequently been targeted by security officers of the Government threatening them against exposing the police.

*Concerning restrictions on media freedoms in Somalia*

Between January and July 2018, UNSOM recorded twenty arrests and four convictions of journalists and bloggers in the country on the basis of charges including "disseminating anti-national propaganda", defamation against public officials, "false news", and "offending the honour or prestige of the State".

Several media outlets have reportedly also been subject of undue restrictions by the authorities.

The joint report issued in September 2016 by the UN Assistance Mission in Somalia (UNSOM) and the Office of the UN High Commissioner for Human Rights found that between August 2012 and June 2016, a total of 30 journalists were killed in Somalia. The report also documented 120 cases of arbitrary arrest and detention of media workers between January 2014 and July 2016.

We express serious concern at the killing of Mr. Iman, and call upon the authorities to initiate an immediate, independent and thorough investigation and to bring the perpetrator(s) to justice in accordance with Somalia's obligations under international human rights law. We express further concern at the large number of arrests and convictions of journalists that have taken place in the country on legal basis that is incompatible with international standards on the right to freedom of expression. We express concern that these arrests and convictions in addition to violating the right of individuals, are damaging to independent reporting and to the public's right to information.

We would also like to highlight that the Independent Expert on the situation of human rights in Somalia has also, in his previous reports to the Human Rights Council and in his forthcoming report to the Council, raised concerns regarding the violations to the right to freedom of expression. Notwithstanding those concerns, the situation does not appear to improve, particularly regarding the continued harassment, arbitrary arrests and intimidation of journalists, suspension of broadcasts of television stations and other media houses (See for instance: A/HRC/33/64, paragraphs 53 to 63 and A/HRC/36/62, paragraphs 31 to 39).

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 any comment you may have on the above-mentioned allegations.
2. Please provide information about the status of the investigation into the killing of Mr. Iman by a police officer. If no such investigation has been initiated, please explain why.
3. Please indicate what measures have been taken to ensure that journalists and human rights defenders in Somalia are able to express their views and

disseminate information without fear of intimidation, harassment or prosecution 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.

Agnes Callamard  
Special Rapporteur on extrajudicial, summary or arbitrary executions

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

Bahame Nyanduga  
Independent Expert on the situation of human rights in Somalia

### **Annex**

#### **Reference to international human rights law**

Without making any judgment as to the accuracy of the information made available to us, the above allegations appear to be in contravention of the rights of every individual to liberty and security of person, the rights not to be arbitrarily deprived of the liberty and to fair proceedings as well as to freedom of opinion and expression, established in articles 9 and 19 of the Universal Declaration of Human Rights (UDHR) and 9, 14 and 19 the International Covenant on Civil and Political Rights (ICCPR). We would like to recall that any restriction to freedom of expression must meet the high threshold established under article 19(3) of the ICCPR. That is, be provided by law and be necessary and proportionate to achieve the legitimate aims listed in the provision.

Regarding the right to freedom of expression, as has been interpreted by the Human Rights Committee in its General Comment 34 (CCPR/C/GC/34), article 19 requires that authorities guarantee the right to seek, receive and impart information and ideas of all kinds regardless of frontiers, including political discourse, commentary on one's own and on public affairs, discussion of human rights, journalism, among others (paragraph 11). Article 19 also protects all forms of expression and the means of their dissemination, including all forms of audio-visual as well as electronic and internet-based modes of expression (paragraph 12). Concerning the specific issue of freedom of expression online, the Human Rights Committee also interpreted in General Comment 34 that "any restrictions on the operation of websites, blogs or any other internet-based (...)

are only permissible to the extent that they are compatible with paragraph 3” (paragraph 43).

We would like to recall that, according to the Human Rights Committee in the above mentioned General Comment 34, it is contrary to article 19 to permit general prohibitions of expressions opinions of an erroneous opinion or an incorrect interpretation of past events (paragraph 49), and that the application of the criminal law should only be countenanced in the most serious of cases, imprisonment never being an appropriate penalty for sanctioning the expression of opinions (paragraph 34).

Finally, we would like to emphasize the importance of the respect of the guarantees of due process in the course of criminal proceedings. In particular, we would like to recall that articles 10 and 11 of the UDHR and 14 of the ICCPR establish the right to adequate time and facilities for the preparation of legal defense and to communicate with counsel of one’s own choosing.