

Mandates of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

REFERENCE:
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18 January 2019

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, pursuant to Human Rights Council resolutions 33/30 and 34/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arrest of the journalist, Mr. **Amade Abubacar**, and his subsequent incommunicado detention in a military prison.

According to the information received:

Mr. Amade Abubacar, a community radio journalist for the state-owned Rádio e Televisão Comunitária Nacédje de Macomia and independent journalist for Zitamar News, was arrested without a warrant, on 5 January 2019, in Macomia, Cabo Delgado province. He had been photographing and interviewing people who had fled militant attacks in the province.

Mr. Abubacar was transferred to a military prison in Mueda district, where he is being held incommunicado. Allegedly, he was repeatedly and brutally kicked during the transfer. He has not been officially charged with any crime. According to some media reports, Mr. Abubacar is accused of having links with a Facebook account that promotes and recruits insurgents. Last month another journalist was detained in the area. A third journalist was detained in the area recently.

On 16 January, the public prosecutors' spokesperson announced on television that Mr. Abubacar had been transferred from military to police custody. However, his lawyer had not received any official notification on his whereabouts or charges against him.

We express grave concern at the alleged arbitrary arrest and ill-treatment endured by Mr. Abubacar, which appears to be directly related to his work as a journalist. We express concern at the broader chilling effect this has on the exercise of the right to freedom of expression in Mozambique, in particular when exercised by the media.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw attention of your Excellency's Government to the relevant international norms

and standards that are applicable to the issues brought forth by the situation described above.

Mozambique acceded to the International Covenant on Civil and Political Rights (ICCPR), on 21 July 1993. We would like to remind your Excellency's Government that article 19 of the ICCPR provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

We also recall Human Rights Council Resolution A/HRC/RES/21/12, calling upon States "to promote a safe and enabling environment for journalists to perform their work independently and without undue interference, including by means of (a) legislative measures; (b) awareness-raising in the judiciary, law enforcement officers and military personnel, as well as journalists and civil society, regarding international human rights and humanitarian law obligations and commitments relating to the safety of journalists; (c) the monitoring and reporting of attacks against journalists; (d) publicly condemning attacks; and (e) dedicating necessary resources to investigate and prosecute such attacks".

In addition, we would like to recall that the prohibition of torture and other cruel, inhuman or degrading treatment or punishment is codified in article 7 of the ICCPR and that everyone has the right not to be deprived arbitrarily of liberty and to a fair trial before an independent and impartial tribunal, in accordance with articles 9 and 14 of the ICCPR.

The full texts of the human rights instruments and standards referred to 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 the above-mentioned person 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 detailed information on the legal basis for the arrest and detention of Mr. Abubacar, the reasons for keeping him incommunicado as well as on the charges against him.
3. Please provide details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to

allegations of ill-treatment suffered by Mr. Abubacar. If no inquiries have taken place, or if they have been inconclusive, please explain why.

4. Please provide information on the steps taken by your Excellency's Government to safeguard the rights of freedom of expression of the above-mentioned persons in compliance with international human rights standards.

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.

We intend to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

We would like to inform your Excellency's Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such appeals in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

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

Elina Steinerte
Vice-Chair of the Working Group on Arbitrary Detention

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