

Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE:
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5 November 2021

Excellency,

We have the honour to address you in our capacity as Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 45/3, 43/4, 43/16 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning acts of intimidation and reprisals against human rights defender Mr. **Noël Zihabamwe** and persons associated with him, following the demarches undertaken to search for, and establish the fate and whereabouts of his forcibly disappeared brothers, Mr. **Antoine Zihabamwe** and Mr. **Jean Nsengimana**. It is feared that further acts of intimidation are linked to a communication transmitted on behalf of Mr. Noël Zihabamwe on 4 June 2021 to the WGEID regarding his brothers' enforced disappearances.

According to the information received:

Mr. Noël Zihabamwe, who resides in Australia, and persons associated with him residing in Rwanda, have experienced intimidation and harassment by Rwandan government officials in Rwanda since Australian medias reported that he had brought the cases of enforced disappearances of his brothers Mr. Antoine Zihabamwe and Mr. Jean Nsengimana, to the attention of the WGEID on 4 June 2021. The Working Group transmitted the two cases to the Government of Rwanda on 15 October 2021.

On 10 June 2021, the media outlet *New Times*, alleged to be a Rwandan state-owned newspaper, issued an article referring to the Australian media reports. The *New Times* article accused Mr. Noël Zihabamwe of being involved with the Rwandan Alliance for National Pact (RANP), which the Government of Rwanda labelled as a terrorist organisation. It also claimed that he recruited his brothers to the RANP and that he is aware of their fate and whereabouts. The article warned that Mr. Noël Zihabamwe would face justice if he did not "give up terror".

Mr. Zihabamwe is a human rights advocate, who, since arriving in Australia, has been a non-political advocate for human rights in Rwanda. He is the founder of the African Australian Advocacy Centre, an advocacy body for African Australian communities. Mr. Zihabamwe faced numerous threats and

intimidation from Rwandan officials in the past. However, the latest acts of intimidation against him and persons associated with him appear to be linked to the communication transmitted on his behalf to the WGEID.

On 18 June 2021, agents from the Rwanda Investigation Bureau (RIB) interrogated persons associated with Mr. Noël Zihabamwe in Rwanda.

On 21 June 2021, a person associated with Mr. Zihabamwe was refused medical treatment from the Kibungo Referral Hospital, which advised that they had no record of that person in their system, although this person had been using a Mutuelle de Santé card for the past two years without any issue.

During the week of 21 June 2021, another person associated with Mr. Zihabamwe, who had previously lost his job due to his involvement in the search of the two forcibly disappeared brothers, was threatened by unknown persons and evicted from his home by his landlord due to these threats. He now struggles to find accommodation and work. This person had previously been subject to interrogation and monitoring by Rwandan security agents.

We express our serious concerns regarding these allegations of intimidation and harassment, especially given that they appear to be consequential to the filing of complaints of enforced disappearance with the WGEID about the two brothers. These acts may indeed be in reprisal against Mr. Zihabamwe and his entourage for his cooperation with a Special Procedure mandate of the UN Human Rights Council.

In this regard, we wish to refer to Human Rights Council resolutions including 12/2, 36/21 and 48/17 which, inter alia, reaffirm the right of everyone, individually or in association with others, to unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights. Human Rights Council resolutions further **condemn all acts of intimidation or reprisal by Governments and non-State actors against individuals and groups, including human rights defenders, who seek to cooperate or have cooperated with the United Nations, in the field of human rights** and calls upon all States to ensure adequate protection from intimidation or reprisals for cooperation with the United Nations, its representatives and mechanisms in the field of human rights.

The UN Secretary-General has reiterated 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 (A/HRC/33/19, para. 49).

We further refer to the provisions of the United Nations Declaration on the Protection of All Persons from Enforced Disappearance which require States to investigate reported cases of enforced disappearance and take steps to ensure that all involved in the investigation, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal (article 13).

Article 19 of the International Covenant on Civil and Political Rights (ICCPR), which Rwanda acceded to on 16 April 1975, guarantees the right to freedom of opinion and expression. It provides the right of all persons to freedom of opinion and expression, encompassing the freedom to seek, receive and impart information and ideas of all kinds. As interpreted by the Human Rights Committee in General Comment No. 34 (CCPR/C/GC/34), such information and ideas include, inter alia, political discourse, commentary on one's own and on public affairs, cultural and artistic expression, and discussion of human rights (Paragraph 11).

Articles 1 and 2 of the 1998 United Nations Declaration on human rights defenders¹ states that everyone has the right to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels and that each State has the primary responsibility and duty to protect, promote and fulfil all human rights and fundamental freedoms. Article 9, paragraph 4, point a), of the Declaration provides for the right to **unhindered access to and communication with international bodies**; and article 12, paragraphs 2 and 3, that **the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.**

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 risks potentially involved for these individuals following the threats they were subjected to, we would appreciate a prompt response concerning these allegations, and in particular the steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons in compliance with the international human rights law obligations of Rwanda.

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 information and any comment you may have concerning the above-mentioned allegations.
2. Please provide information on the fate and whereabouts of Mr. Antoine Zihabamwe and Mr. Jean Nsengimana, and the efforts undertaken by the relevant authorities to clarify what happened to them;
3. Please provide information about the steps taken by the Government to protect persons associated with Mr Noël Zihabamwe following the publication of the article in the *New Times* newspaper;

¹ Declaration on human rights defenders on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, commonly known as Declaration on Human Rights Defenders.

4. Please provide information about the Government's policy and practical measures - legal, institutional, procedural - to protect all the persons who are involved in searching for victims of enforced or involuntary disappearances as well as in any corresponding criminal investigation.
5. Please indicate Government's policy and measures – legal, institutional, procedural - to ensure that human rights defenders in Rwanda are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort, and are able to cooperate safely and freely with the United Nations in the field of human rights without fear of acts of intimidation or reprisals.

While awaiting a reply, we urge that all necessary measures be taken to halt the intimidation and threats against persons associated with Mr. Zihabamwe in the search of his disappeared brothers, and prevent their continuation and recurrence and in the event that investigations confirm the allegations, to ensure the accountability of any person responsible of the violations.

In light of the allegations of reprisals for cooperation with the United Nations in relation to enforced and involuntary disappearances, we reserve the right to share this communication – and any response received from Your Excellency's Government - with other UN bodies or representatives addressing reprisals for cooperation with the UN in the field of human rights, in particular the senior United Nations official designated by the Secretary General to lead the efforts within the United Nations system to address this issue.

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.

A copy of this communication will be sent to the government of Australia.

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

Luciano Hazan
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Nils Melzer
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