

Mandates of the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Ref.: AL KEN 1/2024
(Please use this reference in your reply)

21 May 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, pursuant to Human Rights Council resolutions 52/4 and 52/9.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **violent physical attack against human rights defender Mr. Chris Owalla**.

Mr. **Chris Owalla** is a human rights defender and executive director of Community Initiative Action Group – Kenya (CIAG-K), a non-governmental organisation founded in 2005 that carries out research, analysis, training and advocacy on human rights, social justice and governance. Mr. Owalla is also the coordinator of the Siaya Civil Society Network and a member of the steering committee of the Kenya Devolution Civil Society Organisations Working Group, an umbrella network of civil society organisations whose objective is to contribute to the effective implementation of devolution in Kenya in accordance with the 2010 Constitution.

According to the information received:

Previous attacks against CIAG-K and Mr. Owalla

Between 2020 and 2023, Mr. Owalla lodged multiple complaints against the government of Siaya County. Some complaints were related to alleged lack of budget transparency and public participation in the recruitment of public officials in the county, and others called for an end to alleged illegal land-grabbing by public authorities of the county.

On 14 January 2020, while Mr. Owalla was working on a case involving alleged corruption and illegal land grabbing by the Siaya County government, CIAG-K's offices were broken into by unknown individuals who stole some files and the office's computer.

On 4 July 2020, Mr. Owalla was physically attacked in the Uganja Township of Siaya County. His attacker told Mr. Owalla that he was raising issues that went against the interests of the County Governor, indicating that the attack against Mr. Owalla was related to his work as a human rights defender calling for greater transparency from the local government. On 6 July 2020, Mr. Owalla lodged a complaint at the Ugunja Police Station in relation to this attack. However, to date, no meaningful investigation has been opened into this attack.

9 February 2024 attack

On 9 February 2024, Mr. Owalla attended the funeral of a local journalist in the Bondo Sub-County of Siaya County. As he was leaving the funeral, Mr. Owalla was violently attacked by five armed individuals. Mr. Owalla was reportedly beaten by the attackers, one of whom had a baton and machete, and suffered severe injuries to his knee, elbow, chest and back. His clothes were also torn during the attack and his wallet containing cash and other personal belongings was stolen.

Mr. Owalla's attackers allegedly told him that he was causing issues for the government and governor of Siaya County, particularly in relation to a complaint he filed on 15 September 2023 in the High Court of Kenya against several officials of the government of Siaya County, in relation to alleged irregular recruitment and employment within the government. Sources recognised two of the attackers [REDACTED].

Mr. Owalla was transferred to and received treatment in the Agha Khan Hospital in Kisumu following this attack. He underwent a further medical review on 19 March 2024 and has been prescribed medication to manage his pain and injuries.

Mr. Owalla reported this attack at the Bondo Police station and three men were arrested in relation to this attack. These individuals were arraigned in court on 14 March 2024 and charged with robbery with violence. The matter came up for mention before the court on 2 April 2024 and the next hearing in this case is scheduled for 20 and 21 May 2024. Nobody else has been arrested in relation to the attack against Mr. Owalla.

Without wishing to prejudge the accuracy of the information available, we wish to express our concern in relation to the violent physical attack against Mr. Owalla, which we fear is related to his peaceful and legitimate human rights work. The attack against Mr. Owalla appears to have been a direct attempt to intimidate and dissuade him from continuing his work calling for greater transparency and accountability in public affairs. Our concern is heightened given that this is not the first time that Mr. Owalla nor his organisation have been targeted in relation to their human rights work.

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 be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.

2. Please provide detailed information on the ongoing investigation into the attack against Mr. Owalla on 9 February 2024.
3. Please provide detailed information on the measures taken by your Excellency's Government to ensure that Mr. Owalla, and more generally human rights defenders in Kenya, including those advocating for greater transparency in public affairs, can carry out their work in a safe and enabling environment.

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

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.

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

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

Annex

Reference to international human rights law

In connection with above-mentioned allegations and concerns, we would like to refer your Excellency's Government to articles 6, 9 and 22 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by Kenya on 1 May 1972, which guarantee the rights to life, liberty and security of person and freedom of association.

In its general comment no. 36 (CCPR/C/GC/36), the Human Rights Committee highlighted that the obligation to protect the right to life as per article 6 of the ICCPR requires States to take special measures of protection towards persons in vulnerable situations whose lives have been placed at particular risk because of specific threats or pre-existing patterns of violence, and that such persons include human rights defenders (para. 23). Similarly, in its general comment no. 35 (CCPR/C/GC/35) to article 9 of the ICCPR, the Committee underlined that in order to protect the rights to liberty and security of person, States must respond appropriately to patterns of violence against categories of victims such as intimidation against human rights defenders and journalists (para. 9).

We would also like to draw the attention of your Excellency's Government to the fundamental principles set forth in 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. Paragraphs 1 and 2 of the Declaration state that everyone has the right to promote and strive for the protection and realization of human rights and that the State has the prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms. In this connection, we would like to draw particular attention to the following provisions of the Declaration:

- Article 5, part b, which guarantees the right of everyone to form, join and participate in non-governmental organizations, associations or groups.
- Article 9, paragraph 3, part a, which guarantees the right of everyone, individually and in association with others, to complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means, to competent domestic judicial, administrative or legislative authorities.
- Article 12, paragraph 2, which holds that States shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of their legitimate exercise of the rights referred to in the Declaration.

We would also like to draw the attention of your Excellency's Government to the report of the Special Rapporteur on the situation of human rights defenders on human rights defenders working against corruption (A/HRC/49/49). In this report, the Special Rapporteur underlined that human rights defenders working against corruption are frequently attacked for exposing abuses of power, fraud and other malpractices (para. 19) and identified local anti-corruption defenders as a category of human rights defender particularly vulnerable to attacks (para. 97-99). The Special Rapporteur on freedom of opinion and expression also underlined that "those who dare to speak truth to power or shine the light on human rights violations, corruption and illegal exploitation of natural resources are censored, intimidated, prosecuted, attacked or killed with impunity", and further called on States to take measures to "protect those on the frontlines of the struggle for sustainable development, including disadvantaged communities, human rights defenders (including environmental, land and Indigenous rights defenders) and journalists" (See her report on freedom of expression and sustainable development (A/HRC/53/25)).

Finally, we would like to recall Human Rights Council resolution 38/12, which calls on States to take all steps necessary to prevent threats, attacks, discrimination, arbitrary arrests and detention or other forms of harassment, reprisals and acts of intimidation against civil society actors, to investigate any such alleged acts, to ensure access to justice and accountability, and to end impunity where such violations and abuses have occurred.