

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances

Ref.: AL MOZ 2/2025
(Please use this reference in your reply)

18 February 2025

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Working Group on Arbitrary Detention and Working Group on Enforced or Involuntary Disappearances, pursuant to Human Rights Council resolutions 52/9, 51/8 and 54/14.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **enforced disappearance of the journalist Mr. Arlindo Chissale**.

Mr. Arlindo Chissale is a freelance journalist who has been reporting on the post-electoral violence in Mozambique, and is reportedly close to the opposition.

We have been concerned by recent human rights violations in Mozambique, an alarming aspect of which has been the attacks on journalists. In this context, we wish to recall the communication [AL MOZ 1/2024](#), regarding the killing of a journalist and [AL MOZ 2/2024](#), on the intimidation against journalists in the post-electoral context. In this regard, we encourage your Excellency's Government to provide responses to these communications.

Moreover, on 7 February 2025, the Working Group on Enforced or Involuntary Disappearances transmitted the case under its humanitarian procedure. The Government is required to respond separately to the General Communications of the Special Procedures and to the Working Group's humanitarian procedure.

According to the information received:

On 7 January 2025, Mr. Arlindo Chissale was reportedly forcibly disappeared while traveling in a minibus from Pemba (Cabo Delgado) to Nacala (Nampula).

According to witnesses, during the journey, in Silva Macua (Cabo Delgado), the transport in which Mr. Chissale was traveling was intercepted by a white car, from which five armed men got out, including two in police uniform. The armed men asked Mr. Chissale to leave the car. When he resisted their order, Mr. Chissale was reportedly beaten, forcibly removed from the public transport and taken to the white car heading again towards Pemba.

Since then, Mr. Chissale's fate and whereabouts have remained unknown.

According to people associated with him, their last contact with him was on 7 January 2025, during the trip. Since 8 January 2025, persons associated with

him have been searching and gathering information in the provinces of Cabo Delgado and Nampula from the security forces and local communities. On 16 January 2025, a complaint about Mr. Chissale's disappearance was filed with the Police in Pemba, under the file registry number 1, SAF.M.V.V.

Without wishing to prejudge the accuracy of the above-mentioned allegations, we express our deepest concern about the alleged enforced disappearance of Mr. Arlindo Chissale. We are alarmed that his fate and whereabouts remain unknown a month after his reported enforced disappearance, and we are greatly concerned that the latter appears to be an attempt to silence his investigative and reporting work as a journalist as well as his activities as an activist reportedly linked to the opposition and therefore a violation of his right to freedom of opinion and expression. We are concerned about Mr. Chissale's safety. We are also concerned that his enforced disappearance will have a serious chilling effect on journalists and civil society in the country with serious consequences for freedom of expression and other human rights.

Should they be confirmed, the allegations could amount to violations of several human rights rules and standards contained in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), acceded by Mozambique on 21 July 1993. In particular, we refer to the rights to life, to liberty and security of person, which includes the right not to be subject to arbitrary arrest or detention, the prohibition of torture, the right to be recognized before the law and the right to freedom of opinion and freedom of expression, enshrined in articles 6, 7, 9, 16 and 19, read alone and in conjunction with article 2.3, of ICCPR. Mr. Chissale's enforced disappearance could further entail a violation of art. 7, on the prohibition of torture, with regard to his relatives.

We recall the absolute prohibition of enforced disappearances and recall that this, as well as the right to life, are *jus cogens* peremptory rules under international law. We moreover underline that enforced disappearance constitutes a particularly aggravated form of arbitrary detention.

We refer to articles 2, 7, 9, 10, 11, 12, 13 and 19 of the UN Declaration on Enforced Disappearance. We also refer to Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, to which Mozambique acceded on 14 September 1999, recalling that enforced disappearance amounts to ill-treatment for the disappeared person and the family, under international human rights standards.

In this regard, we urge the relevant authorities to adopt the necessary measures to prevent any irreparable damage to the life and personal integrity of Mr. Chissale and undertake all necessary measures to search for him, pursuant to the Guidelines for the Search for Disappeared Persons, establish and disclose his fate and whereabouts, and to release him if he is arbitrarily detained. We call on the authorities to conduct a prompt, impartial, independent, and exhaustive investigation into the allegations of his enforced disappearance, identify those responsible, prosecute and sanction them as appropriate.

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 fate and whereabouts of Mr. Arlindo Chissale. Please indicate, in detail, all measures taken to search for him, in accordance with the Guidelines for the Search for Disappeared Persons, and to investigate promptly, exhaustively, independently and impartially his alleged enforced disappearance.
3. If Mr. Chissale is currently detained, please indicate the place and conditions of his detention, his health status, the factual and legal basis for his detention, the charges he faces and the measures taken to guarantee his access to his family and representatives. Please indicate all measures taken to bring Mr. Chissale before a judge as promptly as possible (habeas corpus). Please further indicate how his detention complies with international law, including the rights to liberty and security of the person, a fair trial and freedom of expression.
4. Please indicate the measures taken to ensure full accountability of any person responsible for his reported enforced disappearance, including the State security forces if applicable.

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 the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

While awaiting a reply, we urge that all necessary interim measures be taken to be taken to prevent any irreparable damage to the life and personal integrity of Mr. Chissale, 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.

Irene Khan

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

Ganna Yudkivska

Vice-Chair on Communications of the Working Group on Arbitrary Detention

Gabriella Citroni

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

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, I would like to draw the attention of your Excellency's Government to articles 6, 7, 9, 14, 16 and 19 of the ICCPR, which provide for the rights to life, not to be subjected to arbitrary arrest or detention, to be promptly informed of the reasons for the arrest and of any charges against him or her, to be brought promptly before a judge, to be recognized before the law, to freedom of expression as well as the for the *erga omnes* prohibition of enforced disappearances and of torture. These articles shall be read individually and together with article 2.3. of the ICCPR, which provides for the right to an effective remedy for every person whose rights contained in the Covenant have been violated.

We emphasize the jus cogens character of the absolute prohibition of enforced disappearances and the corresponding obligation to investigate them. We also refer to the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), signed on 24 December 2008. While Mozambique is yet to ratify the ICPPED, as a signatory to the ICPPED, Mozambique has an obligation to refrain from any acts which would defeat the object and purpose of the Convention prior to its entry into force (article 18 of the 1969 Vienna Convention on the Law of Treaties).

In this regard, the Working Group would like to refer to the [United Nations Declaration on the Protection of All Persons from Enforced Disappearances](#) which establishes that “all acts of enforced disappearance shall be offences under criminal law punishable by appropriate penalties which shall take into account their extreme seriousness” (article 4), “no order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance” (article 6). Furthermore, “no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances” (article 7), and that “the right to a prompt and effective judicial remedy must be guaranteed as a means of determining the whereabouts or state of health of persons deprived of their liberty and identifying the authority ordering or carrying out the deprivation of liberty is required to prevent enforced disappearances under all circumstances” (article 9).

The Declaration further sets out the necessary protection relating to the rights to be held in an officially recognized place of detention, and to be brought before a judicial authority promptly after detention; to accurate information on the detention of persons and their place of detention being made available to their family, counsel or other persons with a legitimate interest; and to the maintenance in every place of detention of official up-to-date registers of all detained persons (articles 10 and 12). It further stipulates that “any person having knowledge or a legitimate interest who alleges that a person has been subjected to enforced disappearance has the right to complain to a competent and independent State authority and to have that complaint promptly, thoroughly and impartially investigated by that authority” (article 13). The Declaration also establishes that “States should take any lawful and appropriate action to bring to justice persons presumed to be responsible for acts of enforced disappearance” (article 14), and that “the persons responsible for these acts shall be tried only by ordinary courts and not by other special tribunal, notably military courts” (article 16);

“not benefit from any amnesty law” (article 18); and that “the victims or family relatives have the right to obtain redress, including adequate compensation” (article 19).

In this connection, in its general comment on on the [right to recognition as a person before the law](#), the Working Group stipulated that any deprivation of liberty must be done in an officially recognized place of detention and that in no circumstances a State interest may be invoked to justify or legitimize secret or unofficial places of detention. The Working Group noted that when a person deprived of liberty is not acknowledged by the State, the legal rights of this person are placed in a legal limbo, a situation of total defencelessness. The crime of enforced disappearance puts the detainee outside of the protection of the law, denies the person of legal existence and prevents the enjoyment of their rights, including due process rights and judicial safeguards, and other fundamental rights and freedoms. The Working Group also observed that enforced disappearances also entail violations of the rights of other persons, including the next-of-kin and others connected to the disappeared persons. In this regard, whenever the legal personality of the disappeared person is denied at the domestic level, the humanitarian mandate implemented by the Working Group should be understood as an international guarantee of this right.

Additionally, the Working Group also addressed the impact of enforced disappearances on the victims and the larger community. In its study on [enforced disappearances and economic, social and cultural rights](#), the Working Group noted that due to the collective character of certain economic, social and cultural rights, violations stemming from enforced disappearances, not only impact the rights of journalists, but also the rights of others engaged in related activities and of the larger community who relied on the disappeared person to represent and fight for their rights. Additionally, the Working Group highlighted the chilling effect of the enforced disappearance of journalists and human rights defender and calls on States to “ensur[e] the existence of and respect for cultural diversity and the existence of space where multiple opinions, positions and interpretations of history can find their expression in the public sphere diminishes the level of vulnerability of those questioning in one way or another mainstream ideas and positions, and so prevents against targeting of human rights defender”.

Article 19 of the ICCPR guarantees the right to freedom of opinion and the right to freedom of expression, which includes the right “to seek, receive and impart information and ideas of all kinds, either orally, in writing or in print, in the form of art, or through any other media”. This right applies online as well as offline and protects the freedom of the press as one of its core elements. It includes not only the exchange of information that is favourable, but also that which may criticize, shock, or offend.

In its general comment No. 34, the Human Rights Committee, interpreting article 19, stated that States parties to the ICCPR are required to guarantee the right to freedom of expression, including “political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse” (paragraph 11). The Committee states that article 19 also covers the right of a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion and a corresponding right of the public to receive media output.

The Committee further asserts that there is a duty of States to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression (paragraph 23). Recognizing how journalists and persons who engage in the gathering and analysis of information on the human rights situation and who publish human rights-related reports, including judges and lawyers, are frequently subjected to threats, intimidation and attacks because of their activities, the Committee stresses that “all such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims, or, in the case of killings, their representatives, be in receipt of appropriate forms of redress” (paragraph 23).

Any restriction on the right to freedom of expression must be compatible with the requirements set out in article 19 (3) ICCPR. Under these requirements, restrictions must (i) be provided by law; (ii) pursue one of the legitimate aims for restriction, which are the respect of the rights or reputations of others and the protection of national security or of public order (*ordre public*), or of public health or morals; and (iii) be necessary and proportionate for those objectives. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant, proving “in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat” (CCPR/C/GC/34, para. 35). The Human Rights Committee recalled that the relation between right and restriction and between norm and exception must not be reversed.

Regarding the allegations of his potential arbitrary detention, article 9 of the ICCPR states that no one shall be subjected to arbitrary arrest or detention or deprived of his liberty except on such grounds and in accordance with such procedures as are established by law. As interpreted by the Human Rights Committee in its [general comment No. 35](#), the notion of “arbitrariness” should not be equated with “against the law”, but should be interpreted more broadly to include considerations of inappropriateness, injustice, unpredictability and due process, as well as considerations of reasonableness, necessity and proportionality (paragraph 12). In addition, the Working Group on Arbitrary Detention has established in its jurisprudence that preventive deprivation of liberty, as a precautionary and non-punitive measure, must also comply with the principles of legality, necessity and proportionality to the extent strictly necessary in a democratic society. It may only proceed in accordance with the limits strictly necessary to ensure that the efficient development of investigations is not impeded and justice is not evaded, and provided that the competent authority substantiates and accredits the existence of the aforementioned requirements. Because of the particularly restrictive nature of pre-trial detention, the imposition of this measure should be the exception rather than the rule.

Finally, I would like to remind Your Excellency's Government of the duty of States to investigate and punish serious human rights violations, as established by the Human Rights Committee in its [general comment No. 31](#), which asserts that failure to take the necessary measures to ensure the investigation and prosecution of such violations may in itself constitute a breach of human rights treaties (CCPR/C/21/Rev.1/Add.13, paras. 15-18). Impunity for such human rights violations can be an essential element contributing to their repetition.