

United Nations Working Group on Arbitrary Detention

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**Update to Urgent appeal of 23 August 2019 concerning the arrest and detention of Mr Omoyele Sowore, Nigerian journalist and human rights defender**

To the members of the Working Group and the Special Rapporteurs:

On 23 August, 48 human rights and press freedom organisations, now joined by two additional signatories, Amnesty International Nigeria and Amnesty International USA, submitted an Urgent Appeal concerning the arrest and arbitrary detention of Nigerian journalist and human rights defender Omoyele Sowore.

Mr Sowore was arrested on 3 August 2019 by the authorities following a call for peaceful protest. He was never arraigned before a competent court, but following an *ex parte* request made by the State Security Service, a court order was issued on August, granting the authorities permission to detain Mr Sowore for 45 days. This term lapsed on 21 September. Mr Sowore, however, remains in detention, having been charged on 20 September with treason, cyberstalking and money laundering. A 24 September court order to release Mr Sowore on bail is yet to be complied with.

This update is intended to (1) provide updated information on the situation of Mr Sowore and (2) reiterate our request of 23 August that you urgently intervene to secure the immediate release of Mr Sowore and declare his arrest, prosecution and detention a gross violation of his human rights.

### **Developments since 23 August 2019**

1. Following the Court's order of 8 August which granted the authorities permission to detain Mr Sowore for 45 days, his legal team, led by Mr Femi Falana, filed a motion on 9 August to set aside the order and request Mr Sowore's immediate release, arguing that his detention was contrary to the Nigerian Constitution. The judge at the Federal High Court of Nigeria who had made the detention order refused to hear this application.
2. After several attempts by the legal team, the 9 August motion was eventually responded to on 22 August with the relevant judge indicating that "patience was required" as he was going on holiday.
3. In the absence of the judge who made the detention order, the legal team took the motion to another judge at the Federal High Court, who on 28 August refused to hear the case, arguing that reviewing a decision made by a colleague was outside her jurisdiction. This is contrary to Nigerian procedural law, which in Order 26 of the Federal High Court stipulates that anyone affected by an *ex parte* order can return to the same court to set it aside.
4. Efforts to get the court to hear the various bail applications filed shortly after Mr Sowore's detention continued through August and September to no avail, until on 24 September Mr Sowore's release on bail was ordered. Mr Sowore has since surrendered his passport, but nevertheless remains in custody in spite of continued attempts by his legal team to secure his release.

### **Charges brought against Mr Sowore**

5. On 20 September 2019, the Federal Government formally charged Mr Sowore with the following:
  - a. One count of "conspiracy to commit **treasonable felony**" and one count of "treasonable felony", citing Mr Sowore's call for a #RevolutionNow protest;
  - b. One count of "**cyberstalking**", citing Mr Sowore's appearance in a media interview during which he allegedly insulted the President of Nigeria;
  - c. Four counts of "transfer of funds contrary to the **Money Laundering (Prohibition) Act**", citing four money transfers made in April, May, June and July 2019 from Sahara Reporters' United States account to its Nigerian account.
6. The treason charges brought against Mr Sowore are a direct consequence of his call for a peaceful protest scheduled to take place on 5 August 2019, using the hashtag

#RevolutionNow. As explained in the 23 August Urgent Appeal, the objective of the protest was to demand that the Nigerian government end corruption and economic inequality and guarantee education to all. This, by no means, can be qualified as a treasonable offence.

7. The cyberstalking charge is based on an interview with the Arise News channel, according to the charge sheet. The charge fails to specify which comments in which of the various interviews Mr Sowore gave to Arise could be qualified as “causing insult, enmity, hatred and ill will” on the President of Nigeria, meeting the threshold of “cyberstalking”. Being able to express critical views on political leaders is an essential element of a democratic society.
8. Finally, the money laundering charges relate to operational transfers between the US and Nigerian accounts of Sahara Reporters, which, having its main basis in New Jersey, also has the majority of its operating funds there. This necessitates the regular transfer of funds to cover expenses for local staff in Nigeria. It is unclear how money transfers between legitimate business accounts of the same entity could be qualified as “money laundering”.

#### **Reiteration of request for urgent action**

9. It is clear that Mr Sowore’s arrest and the charges now brought against him are unfounded. He is charged with treason for having exercised his right to call for a peaceful assembly. He is charged with cyberstalking for having exercised his right to freedom of expression. Finally, trumped-up charges of money laundering have been created related to transfers for the operating expenses of a media outlet that is critical of the Nigerian government. All of this strengthens the position expressed in our Urgent Appeal of 23 August that Mr Sowore’s arrest and prosecution stem from ulterior motives than responding to any actual criminal wrongdoing.
10. Furthermore, the authorities have failed to respect Mr Sowore’s fair trial rights. No proper arraignment has taken place until this day, and the attempts of his legal team to challenge the *ex parte* order on grounds of which he has been detained for more than 45 days have been consistently thwarted. It is also worth noting that the grounds for the detention order (investigation of potential terrorism offences) do not relate to the charges that were belatedly brought against Mr Sowore.
11. Importantly, in violation of an order to release Mr Sowore on bail, he is still being detained by the authorities in spite of having complied with all requirements to enable his release, including surrendering his passport.
12. In light of the above, we reiterate that the arrest and continued detention of Mr Sowore amount to a violation of his right not to be arbitrarily detained as guaranteed under Article 9 ICCPR and Article 6 of the Banjul Charter. The fact that the charges brought

against him stem from his call for a peaceful demonstration and his critical stance on the Nigerian government also violates Mr Sowore's right to free expression under Article 19 of the ICCPR and Article 9 of the Banjul Charter and his right of freedom of peaceful assembly and of association under Articles 21 and 22 ICCPR and Articles 10 and 11 of the Banjul Charter. Not properly arraigning Mr Sowore before a competent court within the time limit mandated by the Nigerian Constitution, not allowing him access to a lawyer during the initial days of his detention, the refusal of the Nigerian courts to engage with challenges to his detention order, and the failure to execute his bail order violates his right to a fair trial as protected by Article 14 ICCPR and Article 7 of the Banjul Charter. The foregoing also constitutes a violation of his rights as a human rights defender as defined in the 1999 UN Declaration on Human Rights Defenders and 2017 African Commission Cotonou Declaration on strengthening and expanding the protection of all Human Rights Defenders in Africa.

13. Accordingly, we renew our appeal to the Working Group and UN and AU Special Rapporteurs to:

- intervene urgently to secure the immediate release of Mr Sowore; and
- declare his arrest, prosecution and continued detention a gross violation of his human rights.

Please do not hesitate to contact us if you have any questions or if we can provide you with any additional information you may need.

Yours sincerely,

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