



Media Foundation for West Africa

Fondation des Médias pour l'Afrique de
l'Ouest (MFWA)

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Mr. Sulemana Braimah

December 7, 2022

**The Special Rapporteur on Freedom of Opinion and Expression
OHCHR-UNOG**
8-14 Avenue de la Paix
1211 Geneve 10, Switzerland

Dear Ms. Irene Khan,

Petition to Secure the Release of Jailed Senegalese Journalist

The Media Foundation for West Africa (MFWA) brings you our warm compliments and wishes you success in your new role as the United Nation's principal advocate for freedom of expression.

We are writing to you as the leading press freedom organisation in West Africa which works in all the countries in the sub-region, to express our concern about the detention of Senegalese journalist Pape Alé Niang and to seek your intervention to secure his release.

Niang is managing editor of the privately-owned news website, DakarMatin and a regular panelist on socio-political programmes on radio and television in Dakar. The police arrested and detained him on November 3, 2022, on the orders of the public prosecutor, Amady Diouf. On November 9, 2022, the judicial authorities granted the police authorisation to continue to keep Niang in detention after formally charging him.

The authorities accuse Pape Niang of revealing information likely to undermine national defense, possessing administrative and military documents, and disseminating false news likely to discredit public institutions.

The accusations relate to a November 3, 2022, publication by the journalist, who cited alleged military sources, about the trial for rape of a leading opposition politician, Ousmane Sonko. In a video published online, Pape Niang read a report which purportedly shows that the military had conducted investigations that absolved the politician from the rape allegation.

Niang's arrest has provoked indignation among the fraternity in Senegal. The Coordination of Press Associations (CAP) and the Syndicat des professionnels de l'information et de la communication du Sénégal (SYNPICS) have expressed full support for the journalist.

The MFWA is equally appalled at the persecution of the Pape Niang which we consider as an attack on freedom of expression and a violation Senegal's constitution which guarantees press freedom.

To summarily declare a publication as false news and, therefore, deem it a crime and proceed to punish the author is an abuse of power and due process. While the three days' extra-judicial detention of Pape Niang was abusive, the court's subsequent authorisation of his continued detention is equally disturbing. The judicial authorisation falls short of the *clear and present danger* test which bars governments from penalizing speech unless that speech is "directed to inciting or producing imminent lawless action and is likely to incite or produce such action."

In the case of Pape Niang, he neither uttered inflammatory speech nor called for any individual or institution to be attacked. He merely made public the content of a document that has a bearing on the trial of a public figure, which is a matter of public interest.

So far, the authorities have failed to prove as a forgery the document Pape Niang referenced. In the absence of such a proof, the claim of false publication is questionable.

Also, the claim of undermining national security does not meet international norms for restricting the right to free expression. Regarding the invocation of threats to public order or national security to restrict freedoms, the United Nations Human Rights Committee (general comment No. 34, para. 35) requires that the State must establish a direct and immediate connection between the expression and the threat said to exist. In this case, only the government appears to perceive the public safety and national security threat posed the journalist's expose. Incidentally, the Senegalese public, whose security the government is supposed to be protecting, have mobilised massively in support of the journalist.

It is our view that the detention of Pape Ale Niang is an abuse of executive power and an attempt to protect regime interest in the trial of the opposition politician. The action has the potential to intimidate journalists in Senegal into self-censorship. Such a situation has the potential to undermine democracy in Senegal, given the centrality of the media to democratic and accountable governance.

The journalist is on hunger strike and his health is failing. Consequently, we are requesting your intervention with the authorities in Senegal to help secure the release of the journalist to prevent further abuse of his rights and a possible fatal outcome.

In the expectation of your positive response to this petition, we hope you will accept the assurances of our greatest respect.

Yours sincerely,



Sulemana Braimah
Executive Director