

**Mandates of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity; the Working Group on Arbitrary Detention; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders**

REFERENCE:  
UA UGA 5/2020

24 December 2020

Excellency,

We have the honour to address you in our capacity as Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity; Working Group on Arbitrary Detention; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 41/18, 42/22, 41/12 and 43/16,

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the alleged arbitrary arrest and detention of Nicholas Opiyo, human rights defender and Executive Director and lead Attorney at the NGO Chapter Four Uganda. Chapter Four Uganda has been at the front of defending the rights of human rights defenders in Uganda.**

We would also recall our letter (AL UGA 4/2020), sent on 21 December 2020, concerning alleged arbitrary arrest and detention, as well as judicial harassment of Mr. Kyagulanyi, Ms. Florence Namayanja, Mr. Mathias Mpuuga, and Dr. Abed Bwanika, and the excessive use of force against protesters by Ugandan Police Forces (UPF) during the 17 and 18 November protests in Uganda.

According to the information received:

In the early afternoon of 22 December 2020, Mr. Opiyo was arrested by a group of security forces while he was at a restaurant called "Lamoro" in Kamwokya quarter, a Kampala suburb. Three lawyers and human rights defenders who work with Mr. Opiyo and were with him were also arrested. The law enforcement officers were allegedly dressed in plain clothes, did not identify themselves, and did not present any arrest warrant. They also failed to inform Mr. Opiyo of the reasons for the arrests or the charges against them.

According to a Tweet post issued by the UPF, Mr. Opiyo was arrested by a joint Task Team of security forces and the Financial Intelligence Authority (FIA) on allegations of "money laundering and malicious acts". The security team further stated that Mr. Opiyo is being detained at the Special Investigation Division (SID) in Kireka, near Kampala. Additionally, the police indicated that investigations into this case are progressing and that any new development will be communicated in due course. However, the police did not disclose the further

circumstances about the arrest of Mr. Opiyo, or about the charges against the other arrested people.

On 22 December 2020 in the evening, a team of lawyers proceeded to the Special Investigations Division in order to provide legal representation to Mr. Opiyo, but access to him was denied. They were informally notified that the investigation is actually being led by the Special Forces Command (SFC) of the UPDF, under the coverage of a Police operation.

On 23 December, the lawyers were finally granted access to Mr. Opiyo, while he could not still see his family. A house search was also carried out in the presence of his lawyers. However, nothing was taken away.

In an evening post on 22 December 2020, the newspaper, Daily Monitor, reported that Mr. Opiyo is the lawyer of the NGOs whose bank accounts were blocked by security on allegations of supporting terrorism. According to information at our disposal, since mid- December, the bank accounts of four Ugandan civil society organizations were frozen by the FIA of Uganda, on allegations that they are “Terrorist organizations”, according to the Anti-Terrorism (Amendment) Act, 2017. These four organizations include the Uganda Women’s Network (UWONET), the National NGO Forum, the Women International Peace Centre, and the Alliance of Finance Election Monitoring (AFEM). According to the information, these cases have been transferred to the Directorate of Public Prosecution (DPP) for further investigations.

Recently, Mr. Nicholas Opiyo has allegedly been vocal against actions by the State security agencies and other institutions in the context of the electoral process. He criticized the EC guidelines for lacking the force of law yet it is being applied by the security forces to limit dissent. He also condemned the directive by the Uganda Communications Commission (UCC) blocking selected social media sites including YouTube sites.

While we do not wish to prejudge the accuracy of the information made available to us, we express our serious concern that the facts, as alleged, would be in contravention of the right to freedom of opinion and expression, the rights of every individual to liberty and security of persons, and fair trial as laid down to, inter alia, in articles 3, 9, 10, and 19 of the Universal Declaration of Human Rights (UDHR); article 9, 14 and 19 of the International Covenant on Civil and Political Rights (ICCPR), which Uganda acceded to on 21 June 1995.

We also refer your Excellency’s Government to article 19 of the UDHR, which provides that “[e]veryone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.” In addition, we recall the absolute prohibition of arbitrary detention and we recall that arresting and detaining someone purely for the exercise of protected rights and freedoms is arbitrary and contrary to article 9 of the International Covenant on Civil and Political Rights (see

General Comment No. 35, paragraph 17). We also recall that pursuant to article 9 (1) of the Covenant, no one may be deprived of liberty except on such grounds and in accordance with such procedure as are established by law, and that pursuant to article 9 (3) and (4) of the Covenant, anyone arrested or detained on a criminal charge must be brought promptly before a judge and has the right to challenge the lawfulness of the detention before a court.

We would recall that arbitrary arrest and detention of individuals is a clear breach of international law, in particular the right not to be deprived arbitrarily of liberty and to due process, in accordance with articles 9 and 10 of the UDHR. The right to have access to a lawyer without delay and in full confidentiality is also enshrined in the Basic Principles on the Role of Lawyers.

We also refer to the UN Declaration on Human Rights Defenders, particularly to articles 1, 2, 5 and 6 which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels, while each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms. Legitimate exercise of these rights by human rights defenders should not be criminalized.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

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 the observations of your Excellency's Government 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 information on the legal grounds for the arrest and detention of Nicholas Opiyo and explain how these measures are compatible with Uganda's international human rights obligations.

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 responsible of the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

We would like to inform your Excellency's Government that after having transmitted an allegation letter to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such letters in no way prejudge any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

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.

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

Victor Madrigal-Borloz  
Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity

Elina Steinerte  
Vice-Chair of the Working Group on Arbitrary Detention

Clement Nyaletsossi Voule  
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders