

Mandates of the Special Rapporteur on the rights of indigenous peoples; the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on the human rights of internally displaced persons; the Special Rapporteur on violence against women and girls, its causes and consequences and the Special Rapporteur on the human rights to safe drinking water and sanitation

Ref.: AL UGA 5/2022
(Please use this reference in your reply)

20 October 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights of indigenous peoples; Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Special Rapporteur on the human rights of internally displaced persons; Special Rapporteur on violence against women and girls, its causes and consequences and Special Rapporteur on the human rights to safe drinking water and sanitation, pursuant to Human Rights Council resolutions 42/20, 42/22, 44/5, 43/14, 50/L4, 50/7 and 42/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the multiple forced evictions of Benet Indigenous Peoples from their ancestral lands at Mt. Elgon National Park in Uganda, as well as alleged arbitrary arrests, killings, and the torture and ill-treatment they are continuously subjected to.**

According to the information received:

The Mosoposyek of Benet are an indigenous community of forest-dwelling hunters-gatherers and pastoralists. Their livelihood depends on hunting, cattle keeping and subsistence farming. They are *Sabins* from the present day *Sebei* region covering Bukwo and Kween districts and original inhabitants of the Benet Forest which has been gazetted as Mt. Elgon National Park. Over the past four decades, the Benet have faced repeated evictions and displacement from their traditional lands within the National Park and have been resettled in temporary camps without adequate housing or compensation.

In 1993, the Government of Uganda declared the ancestral area as a national park named Mount Elgon National Park. The management of this National Park was transferred to the Uganda Wildlife Authority (hereinafter: UWA). The Benet were never consulted, nor did they provide their free, prior and informed consent. Reportedly, the government failed to provide adequate settlement solutions and other forms of protection.

In 2004, a legal suit was filed in the High Court of Uganda, *Uganda Land Alliance, Ltd v. Uganda Wildlife Authority* (UWA) on the rights of the Benet Indigenous Peoples to their ancestral land in Mount Elgon Region. On 27 October 2005, a judgment commonly referred to as the "Consent Judgment" was settled and agreed between the Benet indigenous community,

the UWA, and the Attorney General of Uganda. In this judgement, the court recognized the Benet Indigenous Peoples as the historical and indigenous inhabitants of the forest. The judgment also emphasized on the need to “redress the imbalance” that the Benet Indigenous Peoples face in fulfilling their basic rights such as education, infrastructure, health, and social services. However, instead of enforcing the judgment, in 2008, authorities, including UWA and other statutory bodies officers evicted hundreds of Benet Indigenous Peoples without their free, prior, and informed consent. This has resulted in myriad human rights violations including their homes destroyed, the shooting and killing of Benet community members by the UWA and the Uganda National Forestry Authority (NFA), backed by the Uganda People’s Defence Force.

There is also no implementation of related laws and policies. The 2019 Uganda Wildlife Act provides for community involvement in wildlife conservation, including equitable sharing of benefits and establishment of a “Community Wildlife Committee” for each wildlife conservation area, however the Benet have never been consulted or engaged in implementation. On 25 January 2019 in the case *Muhindo & Others vs. the Attorney General*, the High Court of Uganda found that there are no adequate procedures governing evictions. The High Court declared that Uganda’s lack of adequate procedures governing evictions violates the rights to life, dignity, and property under Uganda’s Constitution and ordered the Government to develop comprehensive guidelines governing land evictions, which should be participatory and inclusive of affected persons.

Most of the evicted Benet Indigenous Peoples still live in temporary resettlement camps with no permission to build permanent structures, living in small mud huts constructed from sticks and mud. They also do not have any access to electricity and safe drinking water and sanitation. The denial of rights of Benet Indigenous Peoples by the Government of Uganda and UWA impacted their life, livelihood and their economic, social, and cultural rights. No compensation was provided to the Benet Indigenous Peoples for the destruction of their property and forced eviction.

The human rights violations of Benet Indigenous Peoples are systematic and ongoing. The Benet have been denied the right to cultivate crops and graze animals within the park, threatening their subsistence lifestyle and leading to food insecurity. Animals are impounded if found grazing near the park and hefty fines are levied to recover them. The Benet are also denied the right to perform cultural and religious rituals in the park. Series of ill treatment, incidents of eviction and excessive use of force took place in June 2022 against Benet Indigenous Peoples following a visit of President Yoweri Museveni to the Eastern Uganda. The President denied having made any concession to the community as to their right to access their ancestral land.

There are numerous reports of violence, killings and arbitrary arrests of the Benet by forest rangers and the UWA. It is alleged that those arrested by UWA were forced to spend nights in a construction pit partly filled with water. Others were forced to burn down their houses with their belongings inside. It is further alleged that Benet women have been raped by UWA officials and often don’t report these crimes for fear of being divorced by their husbands.

On 17 June 2022 the UWA agents went to Moorland and targeted four households. The houses of Cherirei Ndiwa in Kweimen, Wilson Kaptigol in Kaborom, Cheptoek Francis in Atari were burned down to ashes. In Piswa, Agnes Chepkurkat's (Kokop Chemos) house was burnt down by her son as the UWA agents forced him to burn it at gun point. UWA agents also confiscated a large number of Benet Indigenous Peoples' livestock which directly affects their survival.

On 18 June 2022, in another incident, the UWA rangers attached to Mulungwa confiscated 100 cows and demanded 50,000 Ugandan Shillings per cow as price for their restitution to the owners. In a separate incident, an Indigenous Benet person Malamik Kaptiyoi was arrested and tortured by UWA agent, on 22 June. He was released on the same evening, however, was told to get money to bail his 48 cows that were confiscated on the same day. Another Benet indigenous community member, Chemusto Veronica, was beaten during the process of burning and confiscation of animals by a UWA agent. She reported the case to the police. The panic is on the rise among the Benet indigenous community as they do not know which area will be targeted next.

Benet families made homeless by the eviction have been arbitrarily displaced and forced to relocate to the Benet resettlement area. Because of the temporary nature of this site, families are prohibited from building permanent structures. They live in dire conditions with no access to clean and safe water and sanitation, adequate housing, quality education or health care facilities.

While we do not wish to prejudge the accuracy of these allegations, we are expressing our serious concern, should they be confirmed, at what may constitute forced evictions, arbitrary arrest, arbitrary displacement, torture and ill-treatment of Benet Indigenous Peoples. We are concerned over the lack of security of land tenure for the Benet Indigenous Peoples and the creation of Mt. Elgon National Park in the absence of consultations and without their free, prior and informed consent. We also express our grave concern about the destruction and confiscation of the Benet Indigenous Peoples' homes, property and livestock, as well as reports of violence, rape and killings of Benet Indigenous Peoples by UWA officials in order to address these serious allegations, we are calling for an immediate, impartial and effective investigation compliant with international standards into all allegations of human rights violations and abuses raised.

We would like to highlight that conservation projects should recognize the rights of Indigenous Peoples to their traditional lands; to free, prior and informed consent; to be consulted for the decisions affecting them and their right to fair compensation. Such conservation projects and decisions should employ a human rights-based approach that considers indigenous cultures, promotes participation and incorporates knowledge and skills of the Indigenous Peoples. In this regard, we remain concerned over the continued denial of the rights of the Benet Indigenous Peoples to access their lands by the UWA and the continued disruption of their lives. We are very troubled by reports of evicted families living in unsafe and inadequate conditions without proper access to safe water and sanitation, health care, and education.

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 explain the measures that your Excellency's Government has taken to ensure that free, prior and informed consent is obtained from the Benet Indigenous Peoples during the planning of projects relating to conservation on indigenous lands.
3. Please, provide information on if the Government has engaged in consultations with the affected indigenous communities? If yes, please give the details, date and outcome of these consultations, and where appropriate, information on the measures of compensation put in place for all concerned persons, with a due assessment of the loss of their housing and property.
4. Please provide information on the measures taken to implement the consent decree of the High Court of Uganda in *Uganda Land Alliance v. Uganda Wildlife Authority, 2005*, recognizing Benet as the historical and indigenous inhabitants of the Benet Forest and ordering the Government to resettle them back to their traditional lands.
5. Please explain how Your Excellency's Government aims to ensure that the Benet Indigenous Peoples enjoy the right to adequate housing on an equal footing with the rest of the population.
6. Please provide information on what has Uganda done to combat widespread and routine commission of arbitrary displacement, arbitrary detention, pillage and destruction of property, torture, gender-based violence and ill-treatment by UWA against displaced Benet Indigenous Peoples in Mount Elgon region, as well as, where available, the results, of such investigation and judicial or other official inquiries carried out in relation to the raised allegations. If no investigation has been initiated, please, explain why.
7. Please provide information on any investigations conducted into the alleged killings of Benet Indigenous Peoples and the extent to which the investigations complied with international standards including the United Nations Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (1989) and the United Nations Revised Manual for the Effective Investigation of Extra-Legal, Arbitrary and Summary Executions (The Minnesota Protocol on the Investigation of Potentially Unlawful Death

(2016)¹).

8. Please provide information on the factual and legal grounds for the arrest and detention of Benet individuals by the UWA, and their compatibility with the obligations of Uganda under international human rights law. Please also indicate what measures have been implemented to guarantee their right to a fair trial and due process.
9. Please provide information on efforts undertaken to assess and ensure the standard of living of persons displaced from Mt. Elgon National Park and measures undertaken or envisaged to ensure they enjoy an adequate standard of living, including access to essential food and safe water and sanitation, basic shelter and housing, appropriate clothing, and essential medical services
10. Please provide information on any measures taken evaluate all feasible alternatives to displacement, provide those displaced with accommodation and ensure displacement was effected in satisfactory conditions of safety, nutrition, health, and hygiene, and carried out in a manner that violates the rights to life, dignity, liberty, and security of those affected, to involve affected communities in planning their relocation, and to ensure displaced persons' right to an effective remedy.

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.

We would also like to inform your Excellency's Government that having transmitted an allegation letter to the Government, the Working Group on Arbitrary Detention may also transmit a 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.

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

José Francisco Cali Tzay
Special Rapporteur on the rights of Indigenous Peoples

Mumba Malila
Vice-Chair of the Working Group on Arbitrary Detention

¹ <https://www.ohchr.org/sites/default/files/Documents/Publications/MinnesotaProtocol.pdf>.

Morris Tidball-Binz
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Pedro Arrojo-Agudo
Special Rapporteur on the human rights to safe drinking water and sanitation

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your Excellency's government's attention to the applicable international human rights norms and standards as well as authoritative guidance on their interpretation.

In this connection, we wish to draw your Excellency's Government's attention to articles 3 of the Universal Declaration of Human Rights and 6 (1) of the International Covenant on Civil and Political Rights (ICCPR), ratified by Uganda on 21 June 1995, which respectively guarantee the right of every individual to life and security and provide that these rights shall be protected by law and that no one shall be arbitrarily deprived of his life. The right to life is non-derogable, a *jus cogens*, and a norm of international customary law, that must be respected in all circumstances (A/HRC/35/23, paras 25-26).

We also wish to draw your Excellency's Government's attention to relevant international principles and norms governing the use of force by law enforcement authorities. Under international law any loss of life that results from the excessive use of force without strict compliance with the principles of necessity and proportionality is an arbitrary deprivation of life and therefore illegal.

The obligation to protect the right to life requires that States take special measures to protect persons who are in vulnerable situations and whose lives are particularly endangered by specific threats or pre-existing patterns of violence, including Indigenous Peoples (CCPR/C/GC/36, para. 23).

In light of the reports of repeated killings of Benet Indigenous Peoples, we would like to remind your Excellency's Government of the duty to investigate, prosecute, and punish all violations of the right to life. We urge your Excellency's Government in line with the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, in particular principle 9, that there must be thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions. This principle was reiterated by the Human Rights Council in Resolution 17/5 on the "Mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions" (OP 4). The Council added that this includes the obligation "to identify and bring to justice those responsible ... to adopt all necessary measures, including legal and judicial measures, in order to bring an end to impunity and prevent the recurrence of such executions". Principle 17 provides that "[a] written report shall be made within a reasonable period of time on the methods and findings of such investigations." In addition, the *Revised Version of the United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (the Minnesota Protocol on the Investigation of a Potentially Unlawful Death (2016))*² also provides that investigations must be aimed at ensuring that those responsible are brought to justice, at promoting accountability and preventing impunity, at avoiding denial of justice and at drawing necessary lessons for revising practices and policies with a view to avoiding repeated violations.

² <https://www.ohchr.org/sites/default/files/Documents/Publications/MinnesotaProtocol.pdf>.

UN Declaration on the Rights of Indigenous Peoples in its article 1 states that Indigenous Peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law. This includes the rights to life, physical and mental integrity, liberty and security of person (article 7). It further provides in article 2 that Indigenous Peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular based on their indigenous origin or identity.

We would like to draw your Excellency's attention to article 11(1) of the ICESCR on the rights to housing. In its General Comment No. 4, the CESCR affirmed that the right to housing includes legal protection against forced evictions, harassment and other threats. State parties should thus take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection. It also declared that forced evictions are *prima facie* incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances.

In relation to article 11(2) of the ICESCR, the Committee stated in its General Comment No. 7 that Indigenous Peoples suffer disproportionately from the practice of forced eviction. Therefore, State parties must ensure that legislative and other measures are adequate to prevent and, if appropriate, punish forced evictions carried out without appropriate safeguards by private persons or bodies. State parties must also see to it that all the individuals concerned have a right to adequate compensation for any affected property.

In a report to the UN General Assembly (A/74/83), the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context called Member States to declare a moratorium on forced evictions affecting Indigenous Peoples until national legislation governing eviction and resettlement has been adopted that is fully compliant with international human rights standards and that allows for recourses before independent judicial institutions. The Special Rapporteur also stated that prior to carrying out any evictions; States must ensure that all feasible alternatives are explored in consultation with the indigenous communities affected. Indigenous Peoples must not be rendered homeless as a result of evictions nor should they be made vulnerable to the violation of other human rights. Where the affected communities are unable to provide for themselves, states shall take all appropriate measures to the maximum of its available resources to ensure access to adequate alternative housing, resettlement or access to productive land as appropriate. States should also monitor and prevent forced evictions carried out by private persons or other third parties.

In addition to recognizing the right to an adequate standard of living, the ICESCR provides for the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (art. 12). According to the CESCR, this is "an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information." (CESCR General Comment No. 14).

In relation to the human rights to safe drinking water and sanitation, we wish to draw the attention of your Excellency's Government to the General Comment No. 15 of the CESCR, which affirms that everyone is entitled to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. In particular, commenting on the physical accessibility aspect of this right, the Committee has stated that water must be within safe physical reach for all sections of the population, and that physical security should not be threatened during access to water facilities.

Furthermore, in his report (A/HRC/51/24) the Special Rapporteur on the human rights to safe drinking water and sanitation on the human rights to safe drinking water and sanitation of Indigenous Peoples brings to the Human Rights Council's attention the fact that the establishment of protected areas and national parks has had adverse effects on Indigenous Peoples in several countries. In the report's recommendations, the Special Rapporteur reminded member states that they should always respect the right of Indigenous Peoples to free, prior and informed consent, when implementing measures, policies, programmes or projects involving their territories and aquatic ecosystems that may directly or indirectly affect their human rights to safe drinking water and sanitation.

We further wish to recall that the CESCR, in its concluding observations (E/C.12/UGA/CO/1) adopted on the initial report of Uganda, was concerned "that many Indigenous Peoples, including the Benet, Batwa and Pastoralist communities, are denied access to their ancestral lands and are prevented from preserving their traditional way of living; as well as about the inadequate definition of Indigenous Peoples in the State party's Constitution coupled with a complete absence of information on the actual enjoyment of Covenant rights by Indigenous Peoples. The Committee recommended, *inter alia*, that Uganda "harmonize its legal framework governing land rights and that all land-related laws, notably the Land Act and the Forest Act, also be amended in the light of the 2013 Land Policy, which provides additional protection to customary landowners and to Indigenous Peoples' right to land".

Furthermore, in a report to the Human Rights Council (A/HRC/50/26), the Special Rapporteur on violence against women and girls, its causes and consequences drew attention to the gender-based violence and compounded vulnerabilities indigenous women face in the context of displacement, whether it be a result of land disputes or forced deportation. The Special Rapporteur also called for the implementation of the extraterritorial human rights obligations of States, in order to allow accountability for the human rights violations committed by non-State actors.

Furthermore, the Committee on the Elimination of Discrimination against Women in its General Recommendation No. 28 and General Recommendation No. 33 confirmed that discrimination against women was inextricably linked to other factors that affected their lives. The Committee, in its jurisprudence, has highlighted the fact that such factors include women's indigenous status, among other factors. In its General Recommendation 35 the Committee recommends that States parties provide effective reparations to victims/survivors of gender-based violence against women. Reparations should include different measures, such as monetary compensation, the provision of legal, social and health services, including sexual, reproductive and mental health services for a complete recovery, and satisfaction and guarantees of non-repetition, in line with General Recommendation No. 28, General

Recommendation No. 30 and general recommendation No. 33 of the Committee. Such reparations should be adequate, promptly attributed, holistic and proportionate to the gravity of the harm suffered.

We also refer to the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) adopted by the General Assembly in 2007 which elaborates upon existing binding rights in the specific cultural, historical, social and economic circumstances of Indigenous Peoples. These fundamental human rights include equality and non-discrimination, life, personal integrity, culture, health and property all of which are recognized in the principal human rights treaties ratified by Uganda. In particular, we would like to recall article 19 which provides for the rights of Indigenous Peoples to free, prior and informed consent and consultation before any measures are adopted. We also would like to recall article 7 of the UNDRIP which provides that Indigenous Peoples have the right to life, physical and mental integrity, liberty and security of person.

With respect to their rights to property in the form of land and natural resources, article 26 provides for the right of Indigenous Peoples to lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired and for legal recognition of those rights with due respect to the customs, traditions and land tenure systems of the Indigenous Peoples concerned. Article 10 affirms that Indigenous Peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the Indigenous Peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

Furthermore, the UNDRIP provides for the rights of Indigenous Peoples to redress for actions that have affected the use and enjoyment of their traditional lands and resources. In that regard, article 28 states that Indigenous Peoples have the right to just, fair and equitable compensation for the lands, territories and resources which they have traditionally owned, occupied or used and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

We would also like to refer your Excellency's Government to the 1998 Guiding Principles on Internal Displacement which establishes that all authorities shall respect their obligations under international law, including human rights and humanitarian law to prevent and avoid conditions that might lead to displacement of persons. We more over stress that according to the guiding principles, every human being shall have the right to be protected against being arbitrarily displaced from his/her home including due to gross human rights violations, discrimination or fear of persecution (principle 6). Prior to undertaking any decision requiring the displacement of people, the authorities concerned should explore all feasible alternatives, provide affected communities with full information on the reasons and procedures for their displacement, endeavor to involve them in the planning and management of their relocation, ensure that proper accommodation is provided to displaced persons such that displacements are effected in satisfactory conditions of safety, nutrition, health, and hygiene, and ensure the right to effective remedy (principle 7). Displacement should also not be carried out in a manner that violates the rights to life, dignity, liberty, and security of those affected (principle 8).

We would like to particularly draw your attention to principle 9 which highlights that states are under a particular obligation to protect against the

displacement of Indigenous Peoples and minorities, peasants, pastoralists and other groups with social dependency on and attachment to their lands.

Principle 10 recalls that every human being has an inherent right to life, and prohibits attacks against internally displaced persons who are not participating in hostilities, in particular direct or indiscriminate attacks. Internally displaced persons should also be protected in particular against rape, torture, and other inhuman, cruel, or degrading treatment and punishment, as well as outrages upon personal dignity such as gender-specific violence and acts of violence intended to spread terror (principle 11). Internally displaced persons do not lose the right to liberty and security of person, and as such should not be subject to arbitrary arrest or detention (principle 12). All internally displaced persons have the right to an adequate standard of living, including essential food and potable water, basic shelter and housing, appropriate clothing, and essential medical services (principle 18). The property and possessions of internally displaced persons shall be protected *inter alia* against pillage, being made the object of reprisal, and being destroyed or appropriated as a form of collective punishment (principle 21).

Guiding principle 28 establishes that competent authorities have the primary duty and responsibility to establish conditions as well as provide the means which allow internally displaced persons to return voluntarily in safety and with dignity to their homes or places of habitual residence or to resettle voluntarily in another part of the country. Such authorities shall endeavor to facilitate the re-integration of returned or resettled internally displaced persons; where return to places of origin is deemed unsafe, alternative solutions must be found in consultations with affected communities and until such time that safe and dignified return is possible. Moreover, guiding principle 29 states that competent authorities have the duty and responsibility to assist resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of upon their displacement. When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation.

Additionally, we would like to refer your Excellency's Government to the UN Basic Principles and Guidelines on Development-based Evictions and Displacement (A/HRC/4/18), Annex 1) which specifies that evictions can only take place in exceptional circumstances that must be authorized by law and ensure full and fair compensation and rehabilitation. The Guidelines state that any settlement agreement must satisfy the criteria of adequacy, accessibility, affordability, habitability, security of tenure, cultural adequacy, suitability of location and access to essential services such as health and education. The guidelines further state that Governments shall explore fully all possible alternatives to evictions. All potentially affected groups and persons have the right to relevant information, full consultation and participation throughout the entire process and propose alternatives that authorities should duly consider. In the event that agreement cannot be reached on a proposed alternative among concerned parties, an independent body having constitutional authority such as a court of law, tribunal or ombudsperson should mediate, arbitrate or adjudicate as appropriate. Moreover, the guidelines state that Governments must give priority to exploring strategies that minimize displacement. Comprehensive and holistic impact assessments should be carried out prior to the initiation of any project that could result in development based violation and displacement with a view to securing fully the human rights of all potentially affected persons, groups and communities including

their protection against forced evictions. “Eviction – impact” assessment should also include explanation of alternatives and strategies for minimizing harm.

The UN Committee on the Elimination of Racial Discrimination (CERD) in its General Recommendation 23 on the Rights of Indigenous Peoples provides that State parties recognize and protect the rights of Indigenous Peoples to own, develop, control and use their communal lands, territories and resources and where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take up steps to return those lands and territories. Only when this is for factual reasons not possible, the right to restitution should be substituted by the right to just, fair and prompt compensation. Such compensation should, as far as possible, take the form of lands and territories.

Furthermore, the African Charter on Human and Peoples Rights (ACHPR) provides for individual and collective rights including the rights to equality and human dignity including Indigenous Peoples and also expressly recognizes and protects collective rights (article 19, ACHPR), right to equality and freedom from domination (article 19), right to existence (article 20), right to natural resources (article 21), right to economic, social and cultural development (article 22), right to peace and security (article 23), right to satisfactory environment (article 24), right to best attainable physical and mental health (article 16), and right to liberty and to the security of one’s person (article 6).

And finally, we would like to reiterate that the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment is codified in article 5 of UDHR and article 7 of the ICCPR. The latter provides that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” Furthermore, Uganda is a party to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) which states that no exceptional circumstances whatsoever, whether a state of war or threat of war, internal political instability or any other public emergency may be invoked as a justification of torture. In addition, articles 2 of the CAT further states that each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction. Article 12 of the CAT requires that Each State Party ensures that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

In addition, we would like to refer your Excellency’s Government to article 9 of the ICCPR whereby everyone has the right to liberty and security of person, no one shall be subjected to arbitrary arrest or detention, and no one shall be deprived of his or her liberty except on such grounds and in accordance with such procedure as are established by law. As per the jurisprudence of the Working Group on Arbitrary Detention, a deprivation of liberty may be arbitrary when it constitutes a violation of international law on the grounds of discrimination, including on the basis of ethnic or social origin. We would specifically like to recall that article 9 (2) of the ICCPR requires that anyone arrested be informed, at the time of arrest, of the reasons for his or her arrest and be promptly informed of any charges against him or her. Further, article 9 (3) of the ICCPR requires that anyone arrested or detained on a criminal charge be brought promptly before a judge and article 9 (4) guarantees the right to take proceedings before a court, in order that that court may decide without delay on the lawfulness of the detention and order the person’s release if the detention is not

lawful. Access to a lawyer, including immediately after arrest, is an essential safeguard of the right to challenge the legal basis of one's detention.³

Finally, we would like to draw the attention of your Excellency's Government to States' obligations to provide victims of human rights violations with effective remedies. Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, adopted by the General Assembly in 2006, provide that victims of a gross violation of international human rights law or of a serious violation of international humanitarian law must be guaranteed of: equal and effective access to justice; adequate, effective and prompt reparation for harm suffered; and access to relevant information concerning violations and reparation mechanisms.

The full texts of human rights instruments and standards recalled above are available on www.ohchr.org and www.achpr.org or can be provided upon request.

³ A/HRC/30/37, annex, principle 9 and guideline 8; and opinion No. 40/2020, para. 29.