

**Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on Arbitrary Detention; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment and the Special Rapporteur on the rights to freedom of peaceful assembly and of association**

Ref.: AL UGA 2/2023  
(Please use this reference in your reply)

9 August 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Working Group on Arbitrary Detention; Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment and Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolutions 52/4, 51/8, 53/3, 46/7 and 50/17.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arrest of Mr. **Bob Barigye**, an environmental human rights defender working on human rights issues in the oil and gas sector. We would also like to draw attention to the continued threats against, and intimidation of, human rights defenders working on protecting the rights of communities including the right to a clean, healthy, and sustainable environment in the context of oil and gas extraction in Uganda, as well as those working on land, including compensation of communities affected by the East African Crude Oil Pipeline (EACOP) reaching from Uganda to Tanzania. The intimidation, attacks and threats appear to be directly related to their legitimate human rights activities. EACOP has operations in Uganda and EACOP Ltd is registered in the United Kingdom of Great Britain and Northern Ireland.

Mr. Bob Barigye works with the African Initiative on Food Security and Environment – Uganda (AIFE-Uganda), a non-governmental organisation (NGO) that organises communities around environmental conservation. He was active in the campaign regarding the environmental and economic impact of the East African Crude Oil Pipeline (EACOP).

The East African Crude Oil Pipeline Project (EACOP) is a pipeline under construction that will transport oil produced from Uganda's Lake Albert oil fields, to the port of Tanga in Tanzania, running over 1443 km, where the oil will then be sold to world markets. The shareholders of EACOP are Total Energies, the Uganda National Oil Company, Tanzania Petroleum Development Corporation and the Chinese CNOOC limited. The project will cross several conservation areas, protected areas and key biodiversity areas.

Special Procedures mandate holders have previously sent communications to your Excellency's Government regarding acts of intimidation against human rights defenders and civil society organizations working on human rights violations and

abuses in the oil and gas sector (cf. UGA 1/2022) sent on 24 January 2022 and UGA 3/2021 sent on 6 July 2021. We regret not receiving a reply to either of these communications and remain gravely concerned at what appears to be a trend of violations and abuses continuing with impunity, considering the new allegations detailed below.

According to the information received:

On 24 January 2023, Mr. Bob Barigye organised an AIFE-Uganda public meeting in a local hotel to debate the environmental, economic and other human rights impacts of the EACOP. Reportedly, police intervened, preventing the event from starting, and arrested Mr. Barigye. Some 15 police officers allegedly beat him when he refused to obey to the order to stand up from where he was sitting on the ground. After putting him into a police van, officers forced him to lie on the floor underneath the seats in the van, and took him to the Wandegeya Police Station. Officers allegedly continued to beat him on the way. He sustained injuries to his left arm and leg as a result of the beatings.

On the same day, Mr. Barigye was placed in an unhygienic, cold and crowded cell at the police station, with no bedding. He was denied access to his lawyer for two days, during which time he was insulted, and required to sign a statement, which he refused to do. During this period, he was, at first, denied medical attention for his injuries and developed a fever.

On 26 January 2023 Mr. Barigye's lawyer was allowed to see him. On this occasion, Mr. Barigye signed the statement in his presence and was granted release, with instructions to report back to the police station.

On 27 January 2023. Mr. Barigye was charged with obstructing police officers while on duty and was released on police bond.

On 28 January 2023, Mr. Barigye visited his doctor and was prescribed medication for chest and abdominal pain. The doctor's medical certificate indicated he had a mild haemorrhage from bruises to his left elbow and soft tissue injury in his left lower limb.

On 30 January 2023, Mr. Barigye reported back to Wandegeya Police Station as instructed and was told to return on 28 February 2023, while his case was under investigation. No charge was pronounced or court date set.

On 28 February 2023, Mr. Barigye reported to the police station and was told to return the next day with his lawyer.

On 1 March 2023, Mr. Barigye and his lawyer were told the case had been closed and the charges dropped.

*Mr. Barigye was arrested previously and still faces charges as described below:*

On 9 December 2022, Mr. Barigye and three members of the StopEACOP global campaign were arrested while protesting peacefully against the EACOP. They were held in an unhygienic and crowded cell in Kampala Police Station.

On 11 December 2022, Mr. Barigye and his fellow activists were released on precautionary measures requiring them to report regularly at the Kampala Police Station.

On 12 January 2023, Mr. Barigye and his fellow activists were detained when they reported to Kampala Police Station as instructed. They were brought to court where they were officially charged with “inciting violence,” and “common nuisance,” for which a court hearing was set for 23 February 2023. They were released the same day.

On 23 February 2023, and on 22 March 2023 Mr. Barigye appeared in court for hearings from prosecution witnesses.

On 9 May, Mr. Bargiye again attended a hearing in court. His case was dismissed on account of a lack of evidence from the state.

On 11 July 2023, Mr. Barigye was arrested again after protests against EACOP in Kampala. He is currently on police bond.

Without prejudging the accuracy of the above-mentioned allegations, we wish to express our concerns regarding the allegations of arrests, acts of intimidation and judicial harassment in the past year of Mr. Barigye and other human rights defenders in relation to their work. Some 30 human rights defenders and 20 non-governmental organisations that work with communities affected by the EACOP project have been reportedly subjected to surveillance, smear campaigns and threats. Many human rights defenders have reportedly been arrested while holding peaceful demonstrations or events critical of the EACOP pipeline and were allegedly held in custody longer than the permitted 48 hours, with no family contact or access to legal support.

These acts seem to be part of a broader pattern of intimidation and harassment of civil society organisations and groups in Uganda who have raised human rights concerns arising from oil and gas projects, which may include the potential displacement of more than 100,000 people without guarantees of proper compensation. These practices would amount to serious breaches of the fundamental rights to freedom of peaceful assembly, freedom of association, and freedom of expression and opinion.

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.

We are issuing this appeal in order to safeguard the rights of the above-mentioned individuals from irreparable harm and without prejudging any eventual legal determination.

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 as to the factual and legal basis for the arrest and detention of Mr. Barigye and the charges against him, and how they meet international human rights standards.
3. Please detail the measures taken by your Excellency's Government to guarantee the right of Mr. Barigye to a fair trial and due process and explain how such measures are compatible with international human rights standards.
4. Please indicate measures taken by your Excellency's Government to ensure that human rights defenders and civil society organizations are able to carry out their legitimate and peaceful activities in an enabling environment, free from threats, attacks, reprisals and acts of intimidation, of any kind.
5. Please highlight the steps that your Excellency's Government has taken, or is considering taking, to effectively implement the commitments under the National Action plan on Business and Human Rights (NAP), including requiring businesses to conduct "human rights due diligence through comprehensive human rights impact assessments involving meaningful consultation with potentially affected groups, including consideration of gendered impacts of operations and covering value and supply chains (cf. objective 4.2.2)".
6. Please provide information regarding any measures that your Excellency's Government is taking, or is considering taking, to ensure that people affected by the activities of EACOP have access to effective remedies, including guarantees of non-repetition of the reported allegations, in line with the UN Guiding Principles on Business and Human Rights, and the commitment under the Ugandan NAP (cf. objective 5).
7. As Uganda National Oil Company is EACOP's second largest shareholder, please highlight the additional steps that your Excellency's Government is taking to protect against abuses using all the means at its disposal, as per recommendations contained in report A/HRC/32/45 of the Working Group on Business and Human Rights on the duty of States to protect against human rights abuses involving those business enterprises that they own or control.
8. Please kindly provide information on how your Excellency's Government ensures that business enterprises under its jurisdiction do not impact negatively the work of human rights defenders, specifically

in light of the recommendations provided to States in the report of the Working Group on the issue of human rights and transnational corporations and other business enterprises (A/HRC/47/39/Add.2) the normative and practical implications of the Guiding Principles on Business and Human Rights in relation to protecting and respecting the vital work of human rights defenders.

9. Please provide information as to any steps taken by your Excellency's Government to allow affected communities by the EACOP project to engage in peaceful assemblies and to freely disseminate materials which may include dissenting views or beliefs on those oil transportation activities.
10. Please provide a detailed explanation as to how your Excellency's Government ensures that remedies are adequate, in view of the current needs of affected groups and individuals as well as their future long-term needs. Please provide information on any steps taken by your Excellency's Government to ensure that the affected communities can obtain adequate, fair and timely compensation for all assets lost and any affected property, regardless of whether or not they enjoy formalized land rights.

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.

Further, 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.

Please be informed that a letter on this subject matter has been also sent to representatives of EACOP Ltd, and of the EACOP Uganda Branch, as well as to the United Kingdom of Great Britain and Northern Ireland where EACOP Ltd is registered.

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

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

Matthew Gillett  
Vice-Chair on communications of the Working Group on Arbitrary Detention

Damilola S. Olawuyi  
Chair-Rapporteur of the Working Group on the issue of human rights and  
transnational corporations and other business enterprises

David R. Boyd  
Special Rapporteur on the issue of human rights obligations relating to the enjoyment  
of a safe, clean, healthy and sustainable environment

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

## Annex

### Reference to international human rights law and standards

In connection with above alleged facts and concerns, we would like to recall article 20 (1) of the Universal Declaration of Human Rights, which states that “[e]veryone has the right to freedom of peaceful assembly and association”.

We would further like to refer your Excellency’s Government to the International Covenant on Civil and Political Rights (ICCPR), to which Uganda acceded on 21 June 1995, in particular articles 9, 14, 19, 20, 21, and 22.

We would also like to refer your Excellency’s Government to article 9 of the UDHR, prohibiting arbitrary arrest, detention or exile, and article 9 of the ICCPR, enshrining the right to liberty and security of person. In particular, article 9 of the ICCPR provides that any arrest or detention shall be carried out in accordance with the grounds and procedures established by law. As per the jurisprudence of the Working Group on Arbitrary Detention and General comment no. 35, detention of an individual as punishment for the legitimate exercise of rights guaranteed by the Covenant is arbitrary. In addition, in accordance with article 9 (3) and (4) of the Covenant, anyone deprived of their liberty shall be entitled to challenge the legality of such detention before a court or judicial authority; this is a self-standing human right, the absence of which constitutes a human rights violation (A/HRC/30/37).

We also wish to emphasize article 14 of the Covenant which enshrines the right to a fair trial and due process. In particular, article 14 (3) of the ICCPR guarantees the right of detainees to have adequate time and facilities for the preparation of their defence and the right to communicate with counsel of their choosing. The right to access legal counsel, at any time during the detention, including immediately after the moment of apprehension, and to communicate and consult with such counsel is further protected by principles 17 and 18 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and principles 7 and 8 of the Basic Principles on the Role of Lawyers.

Article 21 of the International Covenant on Civil and Political Rights (ICCPR) guarantees the right to freedom of peaceful assembly. It states that “[t]he right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law, and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others”. Article 22 of the ICCPR protects the right to freedom of association with others. As stated in a report by the Special Rapporteur on the rights to freedom of peaceful assembly and of association, States not only have a negative obligation to abstain from unduly interfering with the rights of peaceful assembly and of association but also have a positive obligation to facilitate and protect these rights in accordance with international human rights standards [A/HRC/17/27, para. 66; and A/HRC/29/25/Add.1]. This means ensuring that the rights to freedom of peaceful assembly and of association are enjoyed by everyone, without discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national

or social origin, property, birth or other status (article 2 (1) of the International Covenant on Civil and Political Rights) [see also ICCPR, art. 26].

Both the United Nations General Assembly and the Human Rights Council recognized the right to a clean, healthy and sustainable environment with the adoption of resolutions A/RES/76/300 and A/HRC/RES/48/13. In addition, the Framework Principles on Human Rights and the Environment, presented to the Human Rights Council in March 2018 (A/HRC/37/59) set out basic obligations of States under human rights law as they relate to the enjoyment of a safe, clean, healthy and sustainable environment. Principle 4 provides, specifically, that “States should provide a safe and enabling environment in which individuals, groups and organs of society that work on human rights or environmental issues can operate free from threats, harassment, intimidation and violence.”

We would like to refer your Excellency’s Government to the International Covenant on Economic, Social and Cultural Rights (ICESC), ratified by Uganda in 1987, which in its article 12 provides for the right to mental and physical health with no discrimination (article 2.2). This includes an obligation on the part of all States parties to, inter alia, refrain from denying or limiting equal access for all persons, including prisoners or detainees, to medical care (General Comment No. 14 of the Committee on Economic, Social, and Cultural rights, para. 34). In this connection, we would like to refer to the UN Standard Minimum Rules for the Treatment of Prisoners adopted unanimously by the UN General Assembly (A/Res/70/175) in December 2015 (“Mandela Rules”).

Rules 24 to 35 establish that healthcare for prisoners is a State responsibility; prisoners should be ensured prompt access to medical attention in urgent cases and those requiring specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals.

We would like to highlight the UN Guiding Principles on Business and Human Rights (A/HRC/17/31), which were unanimously endorsed by the Human Rights Council in June 2011, are relevant to the impact of business activities on human rights. These Guiding Principles are grounded in recognition of:

“States’ existing obligations to respect, protect and fulfil human rights and fundamental freedoms;

The role of business enterprises as specialized organs or society performing specialized functions, required to comply with all applicable laws and to respect human rights;

The need for rights and obligations to be matched to appropriate and effective remedies when breached.”

According to the Guiding Principles, States have a duty to protect against human rights abuses within their territory and/or jurisdiction by third parties, including business enterprises.



The obligation to protect, respect, and fulfil human rights, recognized under treaty and customary law entails a duty on the part of the State not only to refrain from violating human rights, but to exercise due diligence to prevent and protect individuals from abuse committed by non-State actors (see for example Human Rights Committee, General Comment no. 31 para. 8).

It is a recognized principle that States must protect against human rights abuse by business enterprises within their territory. As part of their duty to protect against business-related human rights abuse, States are required to take appropriate steps to “prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication” (guiding principle 1). This requires States to “state clearly that all companies domiciled within their territory and/or jurisdiction are expected to respect human rights in all their activities” (guiding principle 2). In addition, States should “enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights...” (guiding principle 3). The Guiding Principles also require States to ensure that victims have access to effective remedy in instances where adverse human rights impacts linked to business activities occur.

In particular, principle 18 underlines the essential role of civil society and human rights defenders in helping to identify potential adverse business-related human rights impacts. The Commentary to principle 26 underlines how States, in order to ensure access to remedy, should make sure that the legitimate activities of human rights defenders are not obstructed. Moreover, principle 26 stipulates that “States should take appropriate steps to ensure the effectiveness of domestic judicial mechanisms when addressing business-related human rights abuses, including considering ways to reduce legal, practical and other relevant barriers that could lead to a denial of access to remedy.”

States may be considered to have breached their international human law obligations where they fail to take appropriate steps to prevent, investigate and redress human rights violations committed by private actors. While States generally have discretion in deciding upon these steps, they should consider the full range of permissible preventative and remedial measures.

Finally, we would like to recall articles 5 and 6 of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (A/RES/53/144, adopted on 9 December 1998), also known as the UN Declaration on Human Rights Defenders. These articles guarantee the right to meet or assemble peacefully; as well as the right to freely publish, impart or disseminate to others, views, information and knowledge on all human rights and fundamental freedoms, while each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms. Furthermore, we would also like to refer to article 12 (1) and (2), which provide that everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms, and that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.

The Human Rights Council resolution 31/32 in paragraph 2 calls upon all States to take all measures necessary to ensure the rights and safety of human rights defenders, including those working towards realization of economic, social and cultural rights and who, in so doing, exercise other human rights, such as the rights to freedom of opinion, expression, peaceful assembly and association, to participate in public affairs, and to seek an effective remedy.