

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 OTH 96/2023
(Please use this reference in your reply)

9 August 2023

Dear Mr. Tiffen,

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.

We are independent human rights experts appointed and mandated by the United Nations Human Rights Council to report and advise on human rights issues from a thematic or country-specific perspective. We are part of the special procedures system of the United Nations, which has 56 thematic and country mandates on a broad range of human rights issues. We are sending this letter under the communications procedure of the Special Procedures of the United Nations Human Rights Council to seek clarification on information we have received. Special Procedures mechanisms can intervene directly with Governments and other stakeholders (including companies) on allegations of abuses of human rights that come within their mandates by means of letters, which include urgent appeals, allegation letters, and other communications. The intervention may relate to a human rights violation that has already occurred, is ongoing, or which has a high risk of occurring. The process involves sending a letter to the concerned actors identifying the facts of the allegation, applicable international human rights norms and standards, the concerns and questions of the mandate-holder(s), and a request for follow-up action. Communications may deal with individual cases, general patterns and trends of human rights violations, cases affecting a particular group or community, or the content of draft or existing legislation, policy or practice considered not to be fully compatible with international human rights standards.

In this connection, we would like to bring to your attention the 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 alleged 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 those 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 oilfields, 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.

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 human rights impact of the EACOP. Police intervened, preventing the event from starting, and arrested Mr. Barigye. Some 15 police officers allegedly beat him when he refused to stand up from where he was sitting on the ground when they asked him to. After putting him into a police van, officers forced him to lie on the floor underneath the seats in the van, which was taking 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 and he 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, he 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 participating in 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, according to a European parliament resolution (2022/2826(RSP)). 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.

We would like to express our most serious concern regarding the adverse impacts on human rights caused by these activities. As noted in OHCHR’s key

messages on human rights and business, the baseline responsibility of all business enterprises is to respect all internationally recognized human rights. This means that businesses should avoid infringing on human rights by taking proactive steps to identify, prevent, mitigate and address adverse impacts with which they are involved, including impacts on communities impacted by their activities.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law and standards** 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 prejudicing 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 information on the human rights due diligence policies and processes in place by EACOP UK to identify, prevent, mitigate, and remedy the adverse human rights and environmental impacts of the project's activities, in line with the UN Guiding Principles on Business and Human Rights. This includes information on the risk assessments that EACOP UK carries out prior to engaging in business activities or business relationships, and whether these studies are prepared with a human rights-based approach, as well as social and cultural impacts on relevant communities located in affected areas.
3. Please provide information on the steps taken by EACOP UK to establish, implement and/or participate in operational-level grievance mechanisms, and how it provides an effective remedy when harm occurs, in line with the UN Guiding Principles on Business and Human Rights.
4. Please provide information on how EACOP UK ensures respect of the work of human rights defenders, specifically in light of the recommendations provided to Businesses in the Report of the Working Group on Business and Human Rights (A/HRC/47/39/Add.2).

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your company 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.

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

Please accept, Sir, 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

In connection with above alleged facts and concerns, 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:

- a. “States’ existing obligations to respect, protect and fulfil human rights and fundamental freedoms;
- b. 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;
- c. 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. 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.

Furthermore, we would like to note that as set forth in the United Nations Guiding Principles on Business and Human Rights, all business enterprises have a responsibility to respect human rights, which requires them to avoid infringing on the human rights of others to address adverse human rights impacts with which they are involved. The responsibility to respect human rights is a global standard of expected conduct for all business enterprises wherever they operate. It exists independently of States’ abilities and/or willingness to fulfil their own human rights obligations, and does not diminish those obligations. Furthermore, it exists over and above compliance with national laws and regulations protecting human rights.

Principles 11 to 24 and principles 29 to 31 provide guidance to business enterprises on how to meet their responsibility to respect human rights and to provide for remedies when they have cause or contributed to adverse impacts. Moreover, the commentary of principle 11 states that “business enterprises should not undermine States’ abilities to meet their own human rights obligations, including by actions that might weaken the integrity of judicial processes”. The commentary of guiding principle 13 notes that business enterprises may be involved with adverse human rights impacts either through their own activities or as a result of their business relationships with other parties. [...] Business enterprise’s “activities” are understood to include both actions and omissions; and its “business relationships” are understood to include relationships with business partners, entities in its value chain, and any other non-State or State entity directly linked to its business operations, products or services”.

The Guiding Principles have identified two main components to the business responsibility to respect human rights, which require that “business enterprises: (a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur; [and] (b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts” (guiding principle 13).

Principles 17-21 lays down the four-step human rights due diligence process that all business enterprises should take to identify, prevent, mitigate and account for how they address their adverse human rights impacts. Principle 22 further provides that when “business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes”.

Finally, business enterprises should remedy any actual adverse impact that they cause or to which they contribute. Remedies can take a variety of forms and may include apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition. Procedures for the provision of remedy should be impartial, protected from corruption and free from political or other attempts to influence the outcome (commentary to guiding principle 25).