

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 GBR 14/2023
(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 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.

Special Procedures mandate holders have previously sent communications to your Excellency's Government regarding acts of intimidation against human rights defenders and civil society organisations working on human rights violations and abuses in the oil and gas sector, related to the activities of companies domiciled in the United Kingdom of Great Britain and Northern Ireland, including on 26 June 2023

(GBR 13/2023) and on 19 May 2023 (GBR 12/2023). 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 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, 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 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 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 highlight the steps that Your Excellency's Government has taken, or is considering taking, including policies, legislation, and regulations, to fulfil its obligations to protect against human rights abuse by business enterprises under its jurisdiction and or territory (including abroad), such as in the context of operations of EACOP. This includes ensuring that EACOP conducts effective human rights due diligence to identify, prevent, mitigate and account for human rights impacts throughout its operation, as set forth by the UN Guiding Principles on Business and Human Rights (UNGPs). This includes any effective measures to enforce existing legal obligations to protect human rights and the environment in the context of the extractive sector.
3. Please provide information regarding the measures that Your Excellency's Government has taken, or is considering taking, to ensure that victims of human rights abuses which have occurred in the context of the EACOP have access to effective judicial and/or State-based non-judicial remedies, or cooperate with legitimate remedial processes, to address adverse human rights impacts that they have caused or contributed to, in line with the UN Guiding Principles on Business and Human Rights and relevant provisions contained in the UK's 2016 National Action Plan on Business and Human Rights.
4. 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 Business and Human Rights (A/HRC/47/39/Add.2) on protecting and respecting the vital work of human rights defenders in the context of business operations.

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.

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 EACOP Uganda Branch, as well as to the Government of Uganda, where these alleged abuses have taken place.

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 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 UN Guiding Principles on Business and Human Rights, 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”.

Furthermore, 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).

States have a duty to prevent exposure to hazardous substances and wastes, as detailed in the 2019 report of the Special Rapporteur on the human rights implications of the environmentally sound management and disposal of hazardous substances and wastes to the United Nations General Assembly (A/74/480). This obligation derives implicitly, but clearly, from a range of rights and duties enshrined in the global human rights framework, under which States are obliged to respect and fulfil recognized human rights, and to protect those rights, including from the consequences of exposure to toxic substances. These rights include the human rights to life, health, food and drinking water, a healthy environment, adequate housing and safe and healthy working conditions.

In addition, the Committee on Economic, Social and Cultural Rights in its General Recommendation 24 (2017) states that "the extraterritorial obligation to protect requires States parties to take steps to prevent and redress violations of Covenant rights occurring outside their territories due to the activities of business entities over which they may exercise control, especially in cases where the remedies available to victims before the domestic courts of the State where the harm occurs are unavailable or ineffective."

Furthermore, it should be noted that, based on international law, the Maastricht Principles aim to clarify the content of States' extraterritorial obligations to realize economic, social and cultural rights in order to promote and give full effect to the purposes of the Charter of the United Nations and international human rights. [...] All States have obligations to respect, protect and fulfill human rights, including civil, cultural, economic, political and social rights, both within their territories and extraterritorially. Each State has the obligation to realize the economic, social and

cultural rights of all persons within its territory to the maximum extent of its capabilities. All States also have extraterritorial obligations to respect, protect and fulfill economic, social and cultural rights.

The full texts of the above-mentioned human rights instruments and standards are available at www.ohchr.org or can be made available upon request.