**Questionnaire for associations**

UNSR Thematic Report on Natural Resource Exploitation and the rights to freedom of peaceful assembly and of association

**Questionnaire**

 In his upcoming report to the UN Human Rights Council to be presented in June 2015, the Special Rapporteur turns his attention to the exercise of the rights to freedom of peaceful assembly and of association (FOAA rights) in the context of natural resource exploitation. The report will focus on three key actors with obligations and responsibilities with respect to the promotion and protection of FOAA rights: (1) the corporations or private actors exploiting the natural resources, (2) the States where natural resources are to be exploited (host State), and (3) the State of origin of the corporations or private actors. The report will assess the legal framework and practices within each category and explore how these help or hinder FOAA rights.

 This questionnaire solicits information from States, businesses engaged in natural resource exploitation, civil society organizations and other relevant actors with a view to assisting the Special Rapporteur in his assessment.

 The term “natural resource exploitation” is used broadly in this questionnaire to include any activities involving the use, extraction or development of natural resources, including but not limited to land, water, timber, minerals, oil, and gas.

Kindly send your responses by 31 January 2015 to freeassembly@ohchr.org

You may submit your responses in English, French or Spanish.

 1. What are the particular challenges to exercising assembly and association rights in the context of natural resource exploitation in your country or region? For example, are all stakeholders affected by projects consulted, with their rights and concerns taken into account? Are peaceful assemblies facilitated or viewed as a nuisance? Are companies cooperative and understanding of the need to preserve individuals peaceful assembly and association rights?

The Constitution of the Republic of Uganda provides for freedom of speech, assembly and association, and it also t provides for free movement of people within the country as well as access to information. However, there are many challenges when it comes to government respecting these provisions of the constitution. The Government of Uganda usually stops meetings and breaks up peaceful demonstrations. What is also unfortunate is that the projects’ affected communities are also not consulted and more often than not, in the consultation process the communities are used as rubber stamps whenever a project has a precondition of stakeholders’ participation. In most projects, the rights of the project affected communities are not taken care of, these communities are usually victimised. It has also been noted that, it difficult to draw a line between government and the private developer since government usually acts as a mouth piece and advocate for private developers.

To legitimize and further curtail these constitutional freedoms, government recently passed an act; the **Public Order Management Act (POMA)**, which delegitimizes some of these freedoms. The Public Order Management Act which provides that for any meeting of over three people to take place in a public place, police permission must be sought. However, Civil Society Organisations (CSOs) have, been trying much to ensure that people associate freely and participate in development processes. Whereas in the past many CSOs have been engaged in service delivery, they are now increasingly getting into active community empowerment, policy dialogue with government and project developers. However, government seems to be determined to hold ground and continue suppressing its people while the ability of CSOs to put real pressure behind important issues of governance is increasingly being suppressed as well. Government has continuously termed advocacy groups as Economic Saboteurs, Anti-Development and as agents of Foreign Donor. It has thus continued to put in place laws and policies that are unfavourable to the work of civil society.

Government recently passed the Anti-Homosexuality Act (This has been outlawed by the constitutional court though some enthusiastic Members of parliament and government technocrats plan to re-introduce it). Government is going ahead to review the infamous 2010 NGO Policy to further suppress NGOs in the country. All these are intended to deny CSOs operational space and de-campaign their work among the general public. The net effect is that important discussions still take place without CSOs participation or their participation is evoked late under donor pressure. With the extraction of important minerals such as Oil, this has seen many project operations take off without proper environmental impact assessments (EIAs) being conducted and comprehensively discussed and agreed upon by CSO and community stakeholders.

The companies sometimes hold meetings with the host communities mostly to promote themselves but rarely take seriously the views of community members. They usually say that their actions are tied by the contracts they sign with the government. When the companies give inadequate compensation to the affected communities, they usually claim that it is the government which sets the low compensation rates. If people demonstrate against the company work as it has sometimes happened in the oil region, and in the dam affected people in Karuma, the government usually steps in quickly with the police and the military to quell the demonstrations in most cases without addressing why the people are complaining.

 2. To what extent do these challenges stem from:

a) Gaps/inadequacies in the domestic or international legal framework (e.g., laws on FOAA rights themselves, environmental laws, labour laws, trade agreements)

To some extent these challenges come from lack of legal frame work in place. In Uganda for example, laws to regulate the oil industry are being enacted almost 10 years after exploration started. Again other companies contracted by the government in the extractive industry come from governments which are difficult to approach for help incase these companies abuse the rights of the host communities. Good examples are companies from China which the Ugandan government now likes contracting

b) Government institutions (e.g., ineffective enforcement, lack of independence, lack of capacity, corruption, lack of political will, independence of the judiciary)?

Uganda has a problem of lack of political will to enforce even the good laws in place. Though the laws provide for office for example that of the Inspector General of Government (IGG) the president can for example take two or more years without appointing a substantial IGG. Another good example is that Uganda has for the last two years not had a Chief Justice after the expiry of term of the former one. This seriously affects the legal framework in the whole country.

c) The broader business environment (e.g., lack of voluntary guidelines or industry standards, deregulation/pro-business attitude by governments and Questionnaire for associations 2 the “race to the bottom”, unequal bargaining power for affected communities)

The government of Uganda has not come up with any policies to give communities any bargaining power. Though the Constitution provides that where government develops interest in any piece of land the peopleliving on it are supposed to be adequately compensated, the term ‘adequately’ is not well defined. Most of the rates based on to compensate people are usually outdated and even then the compensation comes in after too much agitation from the communities. In 2014, President Yoweri Museveni said that he wants to push for a law which takes the companies out of negotiations with land owners. According to him, if this law is passed, the owner of the land where companies (he likes to call them investors) develop interest in any piece of land, the owner is supposed to give way and then go to government for compensation. He/she is not supposed to ‘disturb’ the company in anyway. It is the government to intercede on behalf of investors.

d) Businesses themselves (e.g., focus on profits over rights, lack of interest in consulting local communities, willingness to leverage government corruption)

The businesses seem not to be interested in rights of local communities. They prefer to deal with few government individuals and corrupt them where possible to ensure that they get contracts which allow them to maximize profits. The companies find it more ‘expensive’ to work on respecting the rights of the communities where they operate from. It was for example reported in the newspapers of the United Kingdom that Tullow Company which originates there and is doing oil exploration in Uganda held a meeting and agreed to bribe President Yoweri Museveni by contributing huge amounts of money towards his 2011 re-election campaign. Other allegations of other government officials being bribed by companies are very rampant

 e) Any other factors

Other factors include the ignorance of ordinary Ugandans who are usually affected by the work of these companies about their rights. Some representatives of people in district councils and even in parliament also seem to be most of the time in information blackouts regarding the operations of companies. It is only few government officials who know and they usually don’t like divulging details of contracts. This lack of transparency is usually a huge challenge when it comes to protecting the rights of host communities and seeking compliancy to good practices from these companies.

3. What type of action should be taken to mitigate these challenges?

Several actions should be taken and these include

1. Supporting CSO action in empowering communities to know their rights
2. Providing more information to policy makers on the operations of companies and their relationships with the host communities. This can be done through media engagements and civil society action among others.
3. Petitioning governments where the companies originate from
4. Seeking legal redress/Petitioning courts of law.

 4. Please provide any specific case studies illustrating natural resource exploitation activities which you believe had a positive or negative impact upon FOAA rights, for example: (1) suppression or facilitation of lawful/peaceful protests regarding a project; (2) harassment or facilitation of civil society or grassroots groups involved in opposing a project; (3) outcomes when consulting – or failing to consult – with affected communities; (4) harassment/violation/sexual abuse committed particularly against women; (5) involvement of private security companies; (6) role of the trade unions in these contexts. We would especially appreciate examples that demonstrate how government or business action helped or hurt the protection and promotion of FOAA rights.

1. The Lutembe Case where a company (Rosebud Flower Firm) was given over 50 hectares land in a wetland bordering Lake Victoria to grow flowers. Government used police to quell riots from the communities which were protesting that act
2. Oil exploration, drilling and refinery activities in the Albertine Region in Western Uganda where government uses the security agencies to protect the oil companies and where many community members have had their land grabbed
3. The Bujagali hydro power project which displaced hundreds of people

 5. What measures/actions would you recommend that States, businesses and individuals take to enhance the promotion and protection of freedom of peaceful assembly and of association in their policies, projects, goals and other engagements with civil society?

1. Community participation in decision making processes
2. Ethical and participatory EIA processes
3. Adequate compensation
4. Deliberate actions to respect human rights
5. Awareness raising activities on people’s rights