

Mandates of the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

Ref.: AL ZAF 5/2021
(Please use this reference in your reply)

16 November 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders and Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, pursuant to Human Rights Council resolutions 43/16 and 46/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning alleged stigmatising statements made against Colombian human rights defender Mr. Robinson Arley Mejía Alonso by representatives of AngloGold Ashanti Colombia, a branch of AngloGold Ashanti, a global mining company with its head office in South Africa.

Mr. **Robinson Arley Mejía Alonso** is a Colombian human rights defender, member of the Comité Ambiental y Campesino de Cajamarca y Anaime and the Colectivo Socio Ambiental y Juvenil de Cajamarca (COSAJUCA). He accompanies peasant communities in the defence of their land rights, in particular in the context of projects developed within the extractive industries. In 2017, Mr. Mejía Alonso was part of a committee that promoted a binding popular consultation in the municipality of Cajamarca, Department of Tolima, concerning the La Colosa mining project, 100% owned and managed by AngloGold Ashanti, wherein the community expressed its opposition to mining activities in the municipality. This project has possibly some significant environmental risks including, on the local ecosystems and biodiversity of the region. In addition, open pit mining could lead to risks of contamination of the soil and adjacent water resources. In the same year, the National Protection Unit granted protection measures to Mr. Mejía Alonso. The human rights defender is one of the legal representatives of the committee involved in the 2017 popular consultation, and is involved in various judicial processes related to AngloGold Ashanti's activities in Colombia.

According to the information received:

In February 2021, Mr. Robinson Arley Mejía Alonso received a call from an unknown number. Upon answering the call, a funeral song was played, which was interpreted by the human rights defender as a death threat.

On 20 July 2021, a pamphlet signed by the Águilas Negras, Bloque Centro-Sur, a paramilitary group, was circulated in the Department of Tolima. The pamphlet declared "all leaders of social organisations" ("todos los líderes de organizaciones sociales") and "those involved in human rights networks and commissions" ("los de la red-comisiones de derechos humanos") in the Department as "military targets" ("objetivo militar"). The pamphlet signaled that the paramilitary group had profiled those who supported, among other things, popular consultations in the Department, as well as those who had been

“attacking private companies from Colombia and abroad, to the effect of setting back development in the Department and nation” (“atacando empresas privadas nacionales y de otros países logrando el retroceso del desarrollo del departamento y nación”).

On 9 September 2021, another pamphlet was circulated in the Department of Tolima, in this instance signed by the Águilas Negras, Bloque Capital D.C. The pamphlet included death threats and declared “all collaborators with the guerilla, so called social leaders, trade unionists and the entire human rights bureau” (“todos los colaboradores de la guerrilla llamados líderes sociales y sindicales y a toda la mesa de defensores de derechos humanos”) as “immediate military targets” (“objetivos militares inmediatos”). The pamphlet also directly mentioned the name of several leaders in Tolima who had opposed the La Colosa project.

On 17 September 2021, an invitation addressed to the school community of two homes for children in Cajamarca, allegedly sent by AngloGold Ashanti Colombia, about the delivery of ICT materials to the children of the municipality, began to circulate on social networks. The invitation, which allegedly included the letterhead of the company and was signed by its representative, was interpreted by the Comité Ambiental y Campesino de Cajamarca y Anaimé as an indication of the return of AngloGold Ashanti to Cajamarca following the popular consultation of 2017, and the group organised a peaceful protest in response to this.

On the night of the same date, Mr. Mejía Alonso published an image of the invitation in question on his Twitter account, along with the following message: “@AGAColombia said it would respect the popular consultation in Cajamarca but it has never done so. It challenged Council agreement and @Cortolima resolutions adopting the results of the consultation and now it continues with the same old tricks #CajamarcaSeRespeta” (“@AGAColombia dijo que respetaría el mandato de la Consulta Popular en Cajamarca pero nunca lo ha hecho. Demandó acuerdo del Concejo y resoluciones de @Cortolima que adoptan los resultados de la consulta y ahora sigue con las mismas artimañas de siempre #CajamarcaSeRespeta”).

On 18 September 2021, AngloGold Ashanti Colombia, a branch of AngloGold Ashanti, published the following message on its Twitter account: “#ATTENTION Don't be a victim of #FakeNews AngloGold Ashanti Colombia is not carrying out any type of activity in Cajamarca (Tolima). We invite you to build a country based on respect and accurate information #PorElRespeto #ComunicamosConTransparencia” (“#ATENCIÓN No se víctima de #FakeNews AngloGold Ashanti Colombia no está realizando ningún tipo de actividades en Cajamarca (Tolima). Los invitamos a construir un país con base en el respeto e información veraz #PorElRespeto #ComunicamosConTransparencia”). The company included two screenshots alongside the message, showing Mr. Mejía Alonso's tweet from the day before with a red watermark saying “Fake News”. This tweet was followed by two comments made on the social network by alleged employees of the company, who stated that Mr. Mejía Alonso had forged the invitation in order to generate false information and as such had committed a crime.

Without wishing to prejudge the accuracy of the information received, we express our deep concern for the security of human rights defenders in the Department of Tolima, and in particular Mr. Mejía Alonso, who we fear to have been placed in a situation of increased risk as a result of the comments allegedly published by representatives of AngloGold Ashanti Colombia, a branch of the South-African based AngloGold Ashanti.

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 highlight the steps taken by your Excellency's Government to protect against extraterritorial human rights abuses by businesses domiciled in its territory, including violations of the rights of human rights defenders, in accordance with the UN Guiding Principles on Business and Human 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.

We would like to inform you that a letter on the same matter has also been addressed to the Government of Colombia, as well as to representatives of AngloGold Ashanti and AngloGold Ashanti Colombia.

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

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

Annex

Reference to international human rights law

In connection with the above alleged facts and concerns, we would first like to draw the attention of your Excellency's Government to the International Covenant on Civil and Political Rights, ratified by South Africa on 10 December 1998, and in particular to articles 6(1) and 9 of the Covenant, which protect the right to life and to liberty and security of person.

As the Human Rights Committee has emphasised, in order to guarantee the right to life guaranteed in Article 6(1), States must exercise due diligence to protect life from deprivations caused by persons or entities whose conduct is not attributable to the State.¹ State parties' obligation to respect and ensure the right to life extends to reasonably foreseeable threats and situations of danger to life that may result in death. States parties may be in violation of article 6, even if such threats and situations do not result in loss of life², and the duty to protect the right to life requires State parties to take special measures of protection for persons in situations of vulnerability whose lives are at particular risk due to specific threats or pre-existing patterns of violence. Such persons include human rights defenders.

The right to security of person refers to protection against physical or psychological injury, or attacks on physical and moral integrity, and obliges State parties to take appropriate measures to protect individuals from foreseeable threats to their life or physical integrity from any State or non-State actor. As the Human Rights Committee has underlined, States parties should respond appropriately to patterns of violence against certain categories of victims, such as intimidation of human rights defenders, and should take appropriate measures to protect the victims of such violence.³

Furthermore, we would like to draw the attention of your Excellency's Government to the fundamental norms set out in the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 which declare that everyone has the right to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels and that each State has the primary responsibility and duty to protect, promote and fulfil all human rights and fundamental freedoms, as well as Article 12, paragraphs 2 and 3, which stipulate that the State shall ensure the protection of everyone from violence, threats, retaliation, discrimination, denial in law or in fact, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

Finally, we would like to refer to the UN Guiding Principles on Business and Human Rights, which clearly state that companies have a responsibility to respect human rights and to address adverse impacts on rights arising from their own

¹ CCPR/C/GC/36, paras 7, 13, 15 and 17

² Ibid., para. 7

³ CCPR/C/GC/35, para 9

activities or omissions or from their business relationships (principle 11), including the rights of human rights defenders. In order to fulfil their responsibility to respect human rights, they should conduct human rights due diligence. This should be an ongoing process, including assessments of actual and potential human rights impacts (principle 17) and substantive consultations with potentially affected groups (principle 18(b)). If companies determine that they have caused or contributed to adverse human rights impacts, they have a responsibility to do their utmost to remedy the situation, which is not a substitute for the responsibility of States to ensure access to effective remedy for those affected (principle 22).