

Mandates of the Special Rapporteur on the rights of Indigenous Peoples; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the human rights of internally displaced persons and the Special Rapporteur on extreme poverty and human rights

Ref.: AL OTH 1/2023
(Please use this reference in your reply)

14 February 2023

Dear Mr. Malki,

We have the honour to address you in our capacities as Special Rapporteur on the rights of Indigenous Peoples; Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the human rights of internally displaced persons and Special Rapporteur on extreme poverty and human rights, pursuant to Human Rights Council resolutions 51/16, 44/15, 43/4, 50/17, 43/14, 43/16, 50/6 and 44/13.

We are sending this letter under the communications procedure of the Special Procedures of the United Nations Human Rights Council to seek clarification on the information we have received¹. 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 allegations of human rights violations surrounding the Mandalika urban development and tourism project. Previous concerns have been expressed concerning the implementation of this project by the Special Procedures in AL OTH 179/2021. We remain extremely concerned about the situation in the Mandalika region.

¹ Further information about the communication procedure is available at: <http://www.ohchr.org/EN/HRBodies/SP/Pages/Communications.aspx>.

According to the information received:

The Mandalika urban development and tourism project ("the Mandalika project") is a major project implemented by the ITDC, an enterprise fully owned by the Government of Indonesia, in the Mandalika region, Central Lombok Regency, West Nusa Tenggara Province.

The project was approved in December 2018, amidst conflicts as a result of alleged involuntary land acquisition and resettlement of the Sasak Indigenous Peoples in preparation for the project. It is alleged that the project moved forward without comprehensive social and environmental assessments, meaningful and inclusive consultations or the free, prior and informed consent of the Sasak Indigenous Peoples who have reportedly been affected by land confiscations, forced resettlement, and coercion and intimidation by security forces since 2018.

Estimated to be worth over US\$300 million in total, this project is largely funded by the Asia Infrastructure Investment Bank ("AIIB"), which provides 78.5 percent of its funding in loans to the ITDC. It is alleged that ITDC is failing to respect human rights and is not in compliance with the AIIB's Environmental and Social Standards on Environmental and Social Assessment and Management, Involuntary Resettlement and Indigenous Peoples. Rather the ITDC submitted to the AIIB that over 92.7% of the land required for the project was 'free and clear' of any disputes and belonged to the ITDC which the AIIB relied on as precondition of project approval without undertaking its own comprehensive land survey. However, local residents have occupied or used this land for many years, without possessing formal titles but with certain user rights, as is common in Indonesia.

West Nusa Tenggara is one of the provinces in Indonesia with a consistently high poverty rate. Eighty-five percent of Lombok's inhabitants are Sasak Indigenous Peoples with their own language, culture and traditions. The Sasak peoples account for over 99 percent of the total population in four villages of the Mandalika region (Kuta, Sukadana, Mertak and Sengkol). The majority of the Mandalika residents are farmers and fishers, who rely on natural resources as their source of livelihood. Many of them live in poverty and struggle to meet their basic needs including access to food, clothing, education, adequate housing and adequate health care.

Involvement of EBD Paragon in the Mandalika project

A communication was sent to EBD Paragon, a company domiciled in the United States of America, on [26 March 2021](#). However, no response was received. The previous communication alleged that EBD Paragon entered into an agreement with the ITDC to build Paramount Lombok Resort & Residences on 7.65 hectares of land in the Mandalika. In parallel, EBD Paragon's arm specializing in water and wastewater treatment entered into a 50 year water concession agreement with ITDC. The agreement included the construction of two Sea Water Reverse Osmosis plants, which are described as "state-of-the-art" facilities capable of processing seawater into clean, potable water to serve the needs of international hotels in the Mandalika SEZ.

Allegations of forced evictions, involuntary resettlement, and increased militarisation

The Mandalika International Circuit, a motorcycle racetrack, is marketed as a touristic highlight for the island. There is a high degree of homelessness as a result of involuntary resettlement in the areas surrounding the newly built racetrack.

Despite assurances by the ITDC that permanent resettlement would occur within 12 months of relocation, approximately 100 people from an estimated 36 households remain in self-built temporary shelters, almost 3 years later. Essential public services guaranteed by the ITDC, such as trash collection, were delayed by over a year. Permanent homes in the Ngolang resettlement site are still under construction, cramped together on a hillside in between mountains. The project-affected communities were reportedly not involved in the design of the resettlement site, nor did they have a say in deciding its location. The first few involuntarily resettled families who have moved into the permanent resettlement site have been informed that they would be required to pay a monthly payment of 300,000 IDR (currently around USD 20) towards home ownership. Neither AIIB, nor ITDC have informed them for how long they would be required to make such payments. They were under the impression that these new homes would be provided for free as part of compensation for the lands and homes they have lost due to the Mandalika project. This is placing already indebted and impoverished families at risk of homelessness (for non-payment of these amounts) and further extreme poverty. In addition, there is no running water, and involuntarily resettled families are being asked to pay for a water pump themselves.

During the March 2022 Moto Grand Prix race (“MotoGP”), members of the Indonesian police and security forces camped in the homes of project-affected households whose land in the surrounding areas was being disputed by ITDC. The Sasak Indigenous Peoples were prevented from asserting their land rights and demanding fair compensation and dispute settlement. Approximately 36 families (almost 100 people) have remained in the area, forced to live alongside a construction site in proximity to the racetrack.

In Ebunut village, Sasak households opposing the terms of the involuntary resettlement were forced to wear bracelets during the race days in order to travel through security checkpoints set up near their village. Bracelets were distributed in limited quantities with some households not receiving any and were only valid for two checkpoint entries, severely restricting freedom of movement. The increased presence of security forces and restrictions during the MotoGP has had adverse effects on the lives of the Sasak, with some parents keeping their children home from school out of fear that they would lose the bracelets and not be allowed to return to their homes.

Similar to the MotoGP race, the freedom of movement of communities around Mandalika was curtailed during the November 2022 World Superbike (“WSBK”) race. Local officials distributed stickers to be used to pass through checkpoints. It is reported that the number of stickers allocated was again insufficient, cutting Sasak members off from their livelihoods and restricting women’s ability to purchase essential supplies for their children.

Those whose livelihoods relied on fishing, cattle raising, and running small market stalls complained that the compensation offered for involuntary resettlement was not sufficient restitution to replace their income levels, putting them below the poverty line. School was suspended in some cases because parents were unable to pay for tuition, school supplies and uniforms. The resettlement action plan proposed by the AIIB and ITDC promised that those whose livelihoods had been affected by the project would receive job training. While some community members living in self-built temporary homes found day-labor work at nearby construction sites, albeit without any protection or training, most farmers and fishers are struggling to sustain their livelihoods.

Reports of increased intimidation and coercion to clear the land surrounding the Mandalika International Circuit were made prior to the November 2022 WSBK race. Project-affected communities have raised concerns regarding the task force for the acceleration of settlement of land disputes (“SATGAS”). SATGAS comprises members of both the police and provincial army, which have reportedly intimidated and coerced Indigenous Peoples in Mandalika into ceding their lands.

In addition to losing their homes and traditional lands, some project-affected households have also experienced a breakdown in family and Sasak community relations as a result of their relocation. Residents of the Kuta, Sengkol, Mertak, and Sukedane villages in Pujut sub-district in the Mandalika area were not able to relocate nearer to their extended family and neighbors.

It is further alleged that road conditions around the Mandalika race circuit have worsened dramatically after the construction of the racetrack, and the ITDC and AIIB have made no efforts in improving these conditions. What used to be a 10 minute ride now takes more than 30 minutes. Sasek women have expressed concerns that it would be unsafe for them to travel in the dark on poorly maintained roads.

Allegations of restrictions on civic space and freedom of expression

Ahead of the November 2022 WSBK event, Sasak community members set banners on their property and distributed flyers to visitors of the Mandalika region, highlighting the negative impacts of the Mandalika International Circuit on their lives and livelihoods. Indonesian security forces entered the property of affected community members to take down the banners.

In addition, a planned protest in front of the Mandalika Circuit was canceled due to concerns regarding the safety of participants, some of whom were called or visited by the police and asked to avoid participating in protests. In response to community protests, senior officials from the regional police held a meeting with village leaders from Mandalika following the WSBK event.

Ahead of the G20 Summit, activists from the Indonesian People’s Assembly (“IPA”) organised a nationally coordinated protest on 15 November in 15 provinces, including Lombok. The protests opposed the restriction of civic space around the G20 Summit and the inequitable trade agreements and

investments from developed countries that could lead to the destruction of natural resources and labour violations in Indonesia. In Lambok, the demands were tightly intertwined with advocacy messaging focused on the human rights implications of the Mandalika tourism development project.

Meaningful consultations and right to obtain information

Concerns remain that the affected Indigenous Peoples are not being informed or consulted in a meaningful manner about the Mandalika project. Three consultations took place on 7 July 2022, 3 August 2022, and 6 October 2022. It is reported that Major General Djaka Budhi Utama, the Deputy Minister for Political, Legal, and Security Affairs who holds a leadership role within the land acquisition task force, requested a meeting with four village leaders on three days' notice. The representatives who attended the meeting had not been selected by the Indigenous communities. Only three project-affected community members independently attended the meeting after hearing about it from their village leaders. Although Ministry officials said they would address the Sasak's concerns, they did not take the time to do so in-depth or listen to their perspectives. The meetings were not translated into Sasak, which made it difficult to participate in the discussions.

Threats and intimidations against Sasak human rights defenders

Reports received further suggest that the Sasak opposing the ITDC's land acquisitions and movement restrictions have been subject to intimidation, harassment, and threats. During the March 2022 MotoGP race, three Sasak members were arrested in connection with social media posts criticising the Indonesian government for restricting their movement. According to these reports, the protestors were told by the police that they would be arrested again if they posted any more comments critical of the security forces and had to pay 2 million Indonesian rupiah in bribes to be released. Others who were investigating and monitoring the Mandalika project were allegedly subjected to intimidation by unidentified individuals, reportedly linked to the government.

During the WSBK race, security forces set up check points and entered residential areas in Ebunut and Ujung Lauk villages to allegedly intimidate residents involved in protest activities and remove their banners and billboards. Although there have not been any reports of serious altercations, many residents are living in fear after the events they experienced during the previous race.

It is alleged that prior to the 15 November 2022 start of the G20 Summit, local police forces conducted a sweep of the secretariat of student unions where protest materials were being held, and seized posters, banners, and leaflets with slogans criticising the G20 and calling for a resolution to the land disputes in Mandalika.

On the same day, there was also a protest in Mataram against the G20 Summit and the lack of resolution to the land disputes in Mandalika. The protests were quickly dispersed by local police forces. Fourteen activists were arrested and asked to sign a document pledging not to take part in any other protests until

the conclusion of the G20 Summit. Sasak members were en route to Mataram to join the protest when police dispersed the crowd and warned against continued protests.

While we do not wish to prejudge the accuracy of the above allegations, the information described above raises serious concerns that the 2022 World Superbike race and subsequent G20 Summit have led to further threats to the land security of the Sasak people and increased acts of intimidation against Sasak human rights defenders. Rather than contributing to sustainable development that benefits the local population of the region, the project is allegedly fueling the pattern of aggressive land acquisition under coercion without prior consultations or adequate compensation, forced evictions, involuntary resettlements, restrictions on the rights to freedom of expression and peaceful assembly, and loss of livelihood and cultural life for the Sasak people. Moreover, it is of serious concern that the Sasak Indigenous Peoples appear to have no recourse to effective remediation mechanisms.

We are dismayed by the information that the affected Indigenous Peoples are still not being informed or consulted in a meaningful way about the Mandalika project. In this connection, it has been alleged that the consultations regarding the project have not been transparent, nor have they accommodated broad public participation. In particular, concern has been shared over the limited opportunities provided to the Sasak people to take part in this process. It is also reported that forced evictions and involuntary resettlement are still occurring without any consultations with the Sasak people to obtain their free, prior, and informed consent.

Furthermore, the alleged criminalisation and intimidation of local residents and human rights defenders who have opposed the project and or its implementation for its detrimental impact on the affected communities, is cause for further concern. Such attempts to silence and deter human rights defenders from protecting and promoting the rights of others - particularly when such efforts are articulated in statements by high level central government officials - contributes to a harmful and intimidating effect on civil society more broadly. Equally concerning are reports that the freedom of peaceful assembly of the Sasak people has been curtailed due to the deployment of security forces during the WKSJ event and the continued involvement of security forces in the land resolution task force as well as the project's grievance redress mechanism.

In connection with the above alleged facts and concerns, please refer to the Annex which details applicable international human rights law and standards relevant to the present allegations.

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 therefore 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. Noting that we are still to receive a response from your company, we would like to reiterate our previous request for information about the human rights due diligence policies and processes put in place by your company to identify, prevent, mitigate and remedy adverse human

rights impacts of the Mandalika project, in line with the United Nations Guiding Principles on Business and Human Rights and the United Nations Declaration on the Rights of Indigenous Peoples.

3. Please kindly provide information on the measures that EBD Paragon has taken, or is planning to take, to ensure that the rights of human rights defenders, especially those involved in the protection of the rights of indigenous peoples, are guaranteed, free of any surveillance and harassment by security forces, local police and private security companies, specifically in light of the recommendations provided to business enterprises in the report of the Working Group on the issue of human rights and transnational corporations and other business enterprises on the adverse impact of business activities on human rights defenders (A/HRC/47/39/Add.2).

This communication and any response received from you will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with you to clarify the issue/s in question.

Please be informed that a letter on this matter is also being sent to the Permanent Mission of Indonesia, as well as to Vinci Construction Grands Projets, Accor, Dorna Sports, the ITDC and the AIIB, and to the States where they are domiciled, regarding their involvement in the above allegations.

Please accept, Mr. Malki, the assurances of our highest consideration.

José Francisco Cali Tzay
Special Rapporteur on the rights of Indigenous Peoples

Pichamon Yeophantong
Chair-Rapporteur of the Working Group on the issue of human rights and transnational corporations and other business enterprises

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

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

Balakrishnan Rajagopal
Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Paula Gaviria
Special Rapporteur on the human rights of internally displaced persons

Olivier De Schutter
Special Rapporteur on extreme poverty and human rights

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to the United Nations Guiding Principles on Business and Human Rights (A/HRC/17/31), which were unanimously endorsed by the Human Rights Council in June 2011, and which 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, 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.

Principle 13 has 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”.

Principles 17-21 lays down the four-step human rights due diligence process that all 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”.

In addition, the Committee on the Economic, Social and Cultural Rights has indicated that “extraterritorial obligation to protect requires States Parties to take steps to prevent and redress infringements of Covenant rights that occur outside their territories due to the activities of business entities over which they can 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.” (General recommendation 24 (2017)).