

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the rights of Indigenous Peoples and the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes**

Ref.: AL MLT 1/2023

(Please use this reference in your reply)

6 November 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the rights of Indigenous Peoples and Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, pursuant to Human Rights Council resolutions 52/9, 53/3, 46/7, 52/4, 51/16 and 45/17.

In this connection, we would like to bring to the attention of your organization information we have received concerning **allegations of judicial harassment and criminalisation of independent journalist and human rights defender Mr. Carlos Ernesto Choc Chub, in relation to his journalistic work reporting on the activities of Solway Holding LTD's subsidiary, Solway Investment Group, and its Guatemalan subsidiaries, Compañía Guatemalteca de Níquel SA (CGN) and Compañía Procesadora de Níquel de Izabal SA (PRONICO), in the Fénix nickel mine in El Estor, Izabal, and the deeply concerning health and environmental impacts on the local Maya Q'eqchi Indigenous community.**

Mr. Choc is an independent journalist and human rights defender from the Maya Q'eqchi Indigenous community. His journalistic work in the municipality of El Estor, Izabal has had a high reach and since 2017 he has faced digital attacks, judicial harassment, criminalization and threats that have materialised in aggressions against him. The journalist has had to relocate several times for his safety.

Solway Holding LTD is based in Malta, Solway Investment Group is based in Switzerland and its subsidiaries CGN and PRONICO are both based in Guatemala.

According to the information received:

#### *Background*

In February 2017 a red slick appeared in Lake Izabal near the operations of the Fénix nickel mine, operated by Compañía Guatemalteca de Níquel SA (CGN). Compañía Procesadora de Níquel de Izabal SA (PRONICO) owns the nickel processing plant for the mine, though PRONICO closed operations in 2023. Local Indigenous communities demanded that relevant state institutions carry

out investigations and examinations of the waste from the mine. In official communications, the Government and CGN claimed that the colouring was caused by micro-algae and that an analysis showed that 90% of the water pollution was not generated by the company's operations, but by local communities along the Polochi River.<sup>1</sup> However, internal company documentation subsequently accessed by Forbidden Stories' network of journalists shows that CGN allegedly knew from the outset that the mine's wastewater was seriously polluting the lake.

In mid-May 2017, the artisanal fishermen's union (Gremial de Pescadores Artesanales), local Indigenous Maya Q'eqchi fishermen from Izabal, filed a complaint with the Public Prosecutor's Office regarding the pollution of Lake Izabal. At the same time, they highlighted CGN's lack of dialogue with local communities.

On 27 May 2017, following the failure of roundtable negotiations with CGN, Indigenous fishermen and other concerned citizens exercised their right to protest in opposition to the mine. In the course of alleged clashes during the protest, the police reportedly killed an Indigenous fisherman present at the protest and another protester was injured. The police reported six injured policemen as a result of the protest.

According to analyses of samples taken from Lake Izabal on 20 August 2017, conducted by an institute of environmental hygiene and toxicology, and the environmental health and water protection department of North Rhine-Westphalia (Germany), the amount of nickel present in the samples considerably exceeds the maximum permissible level. The analysis stated that an amount of nickel between 0.2 and 0.3 mg/l is not harmful for fish and other organisms in the water. However, the analyses found 2.05 mg/l of nickel was present in the lake water closest to the mine, and 0.872 mg/l of nickel was present on the water's surface.

In 2018, the fishermen's union filed a complaint with the Supreme Court, alleging that CGN's mining licence was invalid, because the company did not consult the community as required by international law. CGN alleged that it had already conducted two consultations in 2005 and 2018. After the Supreme Court rejected the fishermen union's complaint, the union appealed to the Constitutional Court.

In July 2019, one person was killed and a child seriously injured when they were reportedly run over by a CGN truck. The event caused a group of people to burn 12 trucks belonging to a contractor of the mine. As a result, a state of siege was implemented on 4 September 2019 by the Government.

On 18 July 2019, the Constitutional Court issued a statement indicating that the Fénix mine licence was granted in violation of the rights of local Indigenous Peoples. The Court ordered the temporary suspension of the Fénix mine's operations until an inquiry against the Ministry of Energy and Mines is resolved. CGN reportedly continued its operations without interruption.

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<sup>1</sup> [https://media.business-humanrights.org/media/documents/files/documents/SolwayStatementCGN\\_Espanol.pdf](https://media.business-humanrights.org/media/documents/files/documents/SolwayStatementCGN_Espanol.pdf)

In May 2020, CGN was accused by local residents of ignoring COVID-19 requirements and continuing operations in the Fénix mine, despite the Constitutional Court order suspending CGN's license in July 2019. Furthermore, mine workers were reportedly threatened with dismissal if they did not report to work during the COVID-19 crisis. The company replied in a statement that it was operating in line with State regulations and with authorisation from the Ministry of Energy and Mines.<sup>2</sup>

On 19 June 2020, the Constitutional Court ruled on the inquiry against the Ministry of Energy and Mines, in relation to granting the licence to CGN for the mining right called "Extracción Minera Fénix". The Court confirmed the injunction on the grounds that the rights of the Indigenous community were violated and ordered: 1) that the area of the licence granted to the mine be limited to 6.29 km<sup>2</sup> of the 247.9978 km<sup>2</sup> where an environmental impact study was conducted; 2) that a consultation with the affected people be carried out within 18 months, and; 3) that the mining operation be suspended until the consultation is concluded.

On 4 October 2021, the local population began a peaceful protest for 20 days, blocking the passage of trucks loaded with the coal that the mine needs to operate, demanding that the resolution of the Constitutional Court be correctly complied with.

On 22 October 2021, the National Civil Police (PNC) and the army reportedly cracked down on the peaceful protest. Despite this, the peaceful protest continued for another two days, until 24 October 2021, when the Government declared a state of siege in the municipality of El Estor for 30 days. There were multiple injured protesters, as well as seven injured members of the police. Several human rights organisations expressed concern about human rights violations in this context, and the Inter-American Commission on Human Rights noted excessive use of force by the security forces.<sup>3</sup>

#### *Criminalisation of Mr. Carlos Ernesto Choc Chub*

On 27 May 2017, Mr. Choc reported on the protest in which local Indigenous fishermen from El Estor demanded an environmental study following the appearance of a red slick in Lake Izabal, which they attributed to the CGN-operated Fénix mine. Mr. Choc photographed the exact moment when a fisherman was shot dead by police. The police reportedly denied that anyone was killed.

Solway Investment Group, a subsidiary of Solway Holdings Ltd, issued a statement alleging that they were not responsible for the events. In addition, they reported the alleged "kidnapping of four CGN employees, violation of human rights in terms of freedom of movement, detention of the employees' families and roadblocks".<sup>4</sup>

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<sup>2</sup> [https://media.business-humanrights.org/media/documents/files/documents/Respuesta\\_por\\_parte\\_de\\_Solway\\_Investment\\_Group.pdf](https://media.business-humanrights.org/media/documents/files/documents/Respuesta_por_parte_de_Solway_Investment_Group.pdf)

<sup>3</sup> [https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media\\_center/preleases/2021/293.asp](https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2021/293.asp)

<sup>4</sup> [https://media.business-humanrights.org/media/documents/files/documents/SolwayStatementCGN\\_Espanol.pdf](https://media.business-humanrights.org/media/documents/files/documents/SolwayStatementCGN_Espanol.pdf)

In the following weeks, Mr. Choc received threats via anonymous phone calls in relation to the photographs taken. A warrant was issued for his arrest on 14 August 2017 by the Public Prosecutor's Officer. In August 2017, he was charged with the crimes of threats, instigation to commit a crime, unlawful association, unlawful assembly and demonstrations, damage and illegal detentions of four CGN employees. These charges were allegedly the result of a complaint filed by CGN and PRONICO.

The prosecution's lawyer reportedly accused Mr. Choc, another journalist and Indigenous fishermen from the Gremial de Pescadores Artesanales of illegally detaining four CGN employees on 3 and 4 May 2017 during a demonstration. According to reports received, the two journalists were not present during the events. Mr. Choc's lawyer presented a letter from the municipality of El Estor, indicating that the journalist was working for a media outlet, Prensa Comunitaria, on the days of the events.

On 20 February 2018, Mr. Choc appeared in the Court of First Criminal Instance, Narcoactivity and Environmental Crimes of the department of Izabal, city of Puerto Barrios. He went into hiding when an arrest warrant was issued against him in August 2017.

On 22 January 2019, the judge from the Court of First Criminal Instance, Narcoactivity and Crimes against the Environment of the department of Izabal, city of Puerto Barrios decided to prosecute Mr. Choc and three Indigenous fishermen from Izabal for the crime of illegal detentions, though the Public Prosecutor's Office requested that the case be closed for lack of merit. Mr. Choc received alternative precautionary measures under which he had to present himself to the municipality's Public Prosecutor's Office every 30 days, a measure that he has complied with to date.

On 18 April 2020, an unidentified individual broke into Mr. Choc's house in El Estor, and stole his work equipment, including a camera and two mobile phones. It has been reported that the theft is in retaliation for Mr. Choc's reporting on the Fénix mine. The journalist reported the theft to the Public Prosecutor's Office for Crimes against Journalists on 20 April 2020. Though an investigation was opened, the Public Prosecutor's Office said that there was insufficient evidence to conclude an investigation and closed the case on 8 November 2022.

On 23 May 2020, Mr. Choc reported being surveilled by a car parked for more than 46 hours in front of his house. The journalist called the PNC, though the PNC did not go to his residence. Mr. Choc was advised to request the transfer of the information of his complaint to the Public Prosecutor's Office for Crimes Committed against Journalists. Despite doing so, the PNC and the Prosecutor's Office for Crimes against Journalists have not conducted an investigation to date, nor did it file a report. no investigation has been conducted.

On 22 October 2021, Mr. Choc covered the community protests against CGN. He was reportedly assaulted by agents of the PNC while covering the protests and was stripped of his work equipment.

On 26 October 2021, the police allegedly raided the homes of Mr. Choc and another journalist covering the protests against CGN.

On 25 March 2022, 13 PNC agents and prosecutors from the Public Prosecutor's Office filed a complaint against Mr. Choc. The complaint was based on the charge of “incitement to commit a crime” in relation to the wave of violence and repression on 22 and 23 October 2021 in El Estor.

On 13 September 2022, the judge of the Criminal Court of First Instance, Narcoactivity and Crimes against the Environment of the department of Izabal, city of Puerto Barrios rejected the accusations of the thirteen PNC agents and representatives from the Public Prosecutor's Office against Mr. Choc. The judge dismissed the accusations, considering that there were insufficient elements to sustain the accusation by the PNC and the Public Prosecutor's Office.

Mr. Choc was due to appear at a hearing on 21 August 2023 with regard to the previous allegations of illegal detentions linked to the events of May 2017. The Public Prosecutor's Office is said to be requesting the closure of the case. On 21 August 2023, Mr. Choc was informed by his lawyers that the court would not be working due to the presidential elections and therefore his hearing was suspended. His hearing was rescheduled for 7 December 2023 in the Criminal Court of First Instance, Narcoactivity and Crimes against the Environment of the department of Izabal, city of Puerto Barrios.

While we do not wish to prejudge the accuracy of these allegations, serious concern is expressed about the apparent judicial harassment and criminalisation of independent journalist and human rights defender Mr. Choc, in relation to his work reporting on the activities of Solway Investment Group's (of which Solway Holding LTD is the parent company) Guatemalan subsidiaries, CGN and PRONICO, in the Fénix nickel mine in El Estor, Izabal. We express particular concern regarding the use of legal action against journalist and human rights defender Mr. Choc. Such legal action presents the hallmarks of Strategic Lawsuits against Public Participation (SLAPPs), which undermines journalistic work and discourages legitimate advocacy work, particularly for those documenting human rights violations in relation to corporate activities, thus creating a chilling effect on journalists', activists' and human rights defenders' right to public participation.

We further wish to express our concerns regarding the health and environmental impacts of the Fénix mine on the local Maya Q'eqchi Indigenous community, including the contamination of Lake Izabal. Given the analyses of water samples taken from Lake Izabal, there is serious concerns about the quantity of nickel found in the lake, which could seriously harm fish and other organisms present in the water. This directly impacts the Maya Q'eqchi Indigenous community and their livelihoods, who rely on fishing in the lake as a source of food. Also of concern is the continuation of the mine's operations despite the resolution of the Constitutional Court, which reportedly has not been properly complied with. We are further concerned about Solway Holding LTD's alleged failure to prevent, mitigate or address adverse human rights impacts that are directly linked to its subsidiaries' operations, products or services, in line with the UN Guiding Principles on Business and Human Rights, and Solway Holding LTD's own corporate governance commitments.

Freedom of expression is an essential enabler of sustainable development. In addition to empowering individuals, communities and civil society, “it facilitates a range of other rights, including those underpinning sustainable development, such as the rights to health, education, water and a clean environment.”<sup>5</sup> The right to freedom of opinion and expression, enshrined in article 19 of the Universal Declaration of Human Rights and of the International Covenant on Civil and Political Rights, and in various international and regional instruments, encompasses the right to seek, receive and impart information and ideas, regardless of frontiers and in any media.<sup>6</sup> Further, the UN Guiding Principles on Business and Human Rights recognize the responsibility of companies to respect the right to information in relation to their operations and activities.<sup>7</sup> Such information must be sufficient to evaluate the adequacy of an enterprise’s response to the particular human rights impact(s) involved.<sup>8</sup> We therefore urge your Excellency to ensure the right to information regarding its operations and activities is respected, particularly information regarding possible environmental, health and human rights impacts that such operations or activities may have on local communities, including Indigenous Peoples.

In connection with the above alleged facts and concerns, please refer to the **Annex referring to international human rights law and standards** 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 comments you may have on the above allegations.
2. Please provide information your Excellency’s Government may have on Solway Holding Ltd’s human rights and environmental due diligence policies and processes to prevent, mitigate and remediate adverse human rights impacts that are directly related to their operations, products or services, including those related to the Fenix mine, in accordance with the UN Guiding Principles on Business and Human Rights.
3. As “[s]trong corporate governance is a guiding principle of Solway Holding [Ltd.], which drives the leadership structure and ensures ethical behavior of the subsidiaries/companies,” please provide information your Excellency’s Government may have on how Solway Holding Ltd puts this into practice, particularly in the context of mining operations that may have adverse human rights impacts on the environment and Indigenous Peoples. As part of this response, please provide information on the role that Solway Holding Ltd, as the parent company, plays in relation to the policy and decision-making of its subsidiaries relevant to the above-mentioned incidents and more

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<sup>5</sup> A/HRC/53/25, para 3.

<sup>6</sup> International Covenant on Civil and Political Rights, art. 19 (2).

<sup>7</sup> A/HRC/53/25, para 35.

<sup>8</sup> A/HRC/17/31, Principle 21 (b).

generally to human rights-related issues.

4. Please indicate the measures your Excellency's Government has taken to ensure that Maltese multinational companies, such as Solway Holding Ltd, complies with local and international environmental laws and human rights standards.
5. Please provide up-to-date and comprehensive information on the impact and damage of mining operations on health and the environment. Please indicate if your Excellency's Government is aware of any measures Solway Holding Ltd has taken to guarantee health care services for affected communities, including Indigenous Peoples.
6. Please indicate if your Excellency's Government is aware of measures Solway Holding Ltd has taken, or intends to take, to ensure the environmentally sound management and disposal of hazardous substances and wastes.
7. Please provide any information your Excellency's Government has on how Solway Holding Ltd addresses potential land conflicts with Indigenous Peoples living in concession areas, as well as other relevant stakeholder concerns. As part of your response, please indicate if your Excellency's Government is aware of whether Solway Holding Ltd engages in public consultation, including free, prior and informed consent of indigenous peoples.
8. Please explain what measures have been taken to ensure that human rights defenders and journalists can carry out their peaceful and legitimate activities without fear of judicial harassment, strategic lawsuits against public participation, violence or other restrictions. In particular, please indicate how your Excellency's Government has integrated the recommendations made by the Working Group on Business and Human Rights to companies and States in its 2021 guide on ensuring respect for human rights defenders (A/HRC/47/39/Add.2).
9. Please provide information on the interim measures your Excellency's Government can take to suspend CGN and PRONICO's activities in the Fénix mine, until the rights and survival of the Maya Q'eqchi indigenous community living on the company's concessions are safeguarded, and until guarantees are put in place to prevent any form of legal action against Mr. Carlos Ernesto Choc Chub, who appears to have been directly targeted for his peaceful and legitimate work as a journalist and defender of indigenous human rights.
10. Please indicate if your Excellency's Government is aware of whether the stakeholders affected by the above-mentioned allegations have had access to remedies and specify the measures taken by Solway Holding Ltd to identify and hold accountable perpetrators of human rights violations.
11. Please provide any information your Excellency's Government may have on the steps taken Solway Holding Ltd to establish or participate

in grievance mechanisms at the operational level, in accordance with the UN Guiding Principles, in order to effectively address the negative human rights impacts caused by it (or to which it has contributed) throughout its operations.

This communication and any response received from your Excellency's Government 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.

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.

Please note that the allegations contained in this letter will also be sent to the Government of Guatemala, Solway Investment Group, Solway Holding Ltd, Compañía Guatemalteca de Níquel SA (CGN), Compañía Procesadora de Níquel de Izabal SA (PRONICO), and the Government of Switzerland.

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

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

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

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

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

Marcos A. Orellana  
Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes



## **Annex**

### **Reference to international human rights law**

With respect to the aforementioned allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards.

We would like to recall article 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Malta on 13 September 1990, concerning the right to freedom of opinion and expression.

We would like to recall that article 19 of the ICCPR guarantees the right to opinion and expression. In General Comment 34, the Human Rights Committee affirmed that States parties to the International Covenant on Civil and Political Rights must guarantee the right to freedom of opinion and expression, including, inter alia, 'political speech, commentary on own and public affairs, election campaigns, discussion of human rights, journalism', subject only to permissible restrictions as well as the prohibition of hate propaganda and incitement to hatred, violence and discrimination.

Restrictions on the right to freedom of expression must be compatible with the requirements set out in article 19(3), i.e. they must be provided for by law, pursue a legitimate aim and be necessary and proportionate. The State has the burden of proof to demonstrate that such restrictions are compatible with the Covenant.

In this regard, the Human Rights Committee in general comment 34 has held that "under no circumstances can an attack against a person on account of the exercise of his or her freedom of opinion or expression, including forms of attack such as arbitrary detention, torture, death threats and death threats, be compatible with article 19. Journalists are frequently subjected to such threats, intimidation and attacks because of their activities (...) All such attacks must be vigorously investigated in a timely manner, and the perpetrators prosecuted (...)". Furthermore, in her report A/HRC/50/29, the Special Rapporteur on the right to freedom of opinion and expression expressed concern about the criminalization of journalists, including through laws prohibiting criticism of state institutions or officials, which negatively affects press freedom. and harm democratic discourse and public participation.

We would like to refer to article 22 of the ICCPR, which recognizes the right to associate freely with others, including the right to form and join trade unions for the protection of their interests.

We would like to recall Human Rights Council resolution 24/5 on the obligation of States to fully respect and protect the rights of all persons to freedom of peaceful assembly and of association by any means, electronic or otherwise, including persons espousing minority or dissenting opinions or beliefs, human rights defenders, trade union members and others, and to take all necessary measures to ensure that any restrictions on the free exercise of the right to freedom of peaceful assembly and of association are in conformity with their obligations under international human rights law.

States not only have a negative obligation to refrain from unduly interfering with the rights to peaceful assembly and association, but also have a positive obligation to facilitate and protect these rights in accordance with international human rights law. This means ensuring that everyone enjoys the rights to freedom of peaceful assembly and of association, without discrimination on the grounds of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (article 2, paragraph 1, of the International Covenant on Civil and Political Rights) (A/HRC/41/41/41 para. 12).

On 8 October 2021, the Human Rights Council adopted resolution 48/13 recognizing the right to a clean, healthy and sustainable environment. In addition, the Framework Principles on Human Rights and the Environment, submitted to the Human Rights Council in March 2018 (A/HRC/37/59) set out the core obligations of States under human rights law regarding the enjoyment of a safe, clean, healthy and sustainable environment. Principle 4 states that "States should establish a safe and enabling environment in which individuals, groups of individuals and organs of society concerned with human rights or environmental issues can operate free from threats, harassment, intimidation and violence."

In addition, we consider it appropriate to recall the important and legitimate role played by human rights defenders and the protection to which they are entitled under international law. We wish to highlight in particular the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the Declaration on Human Rights Defenders, which states that everyone has the right to promote and to strive for the protection and realization 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 fulfill all human rights and fundamental freedoms.

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 caused 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 lay 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".

The Guiding Principles also recognise the important and valuable role played by independent civil society organisations and human rights defenders. In particular, principle 18 underlines the essential role of civil society and human rights defenders in helping to identify potential adverse business-related human rights impacts. In its 2021 guidance on ensuring respect for human rights defenders (A/HRC/47/39/Add.2), the Working Group on Business and Human Rights highlighted the urgent need to address the adverse impacts of business activities on human rights defenders. It explains, for States and business, the normative and practical implications of the guiding principles in relation to protecting and respecting the vital work of human rights defenders.

Furthermore, we would like to bring to your attention the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized 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 of the Declaration which states that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

We would also like to bring to your attention the following provisions of the UN Declaration on Human Rights Defenders:

- article 6(a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- article 6(b) and (c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights.

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.