

**Mandates of the Special Rapporteur on the promotion and protection of human rights in the context of climate change; the Special Rapporteur on the human right to a clean, healthy and sustainable environment and the Special Rapporteur on the situation of human rights defenders**

Ref.: AL IND 8/2024  
(Please use this reference in your reply)

30 October 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of human rights in the context of climate change; Special Rapporteur on the human right to a clean, healthy and sustainable environment and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 48/14, 55/2 and 52/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arrest of human rights defender and lawyer Mr. Ebo Mili and restrictions on his human rights work.

Mr. **Ebo Mili** is a lawyer and human rights defender, convenor of the Siang Indigenous Farmers Forum (SIFF). The SIFF was established in 2013, with its membership comprised of small-scale farmers from the indigenous Adi people. Since its formation, the SIFF has been raising environmental and human rights concerns about the proposed construction of a 11,000 megawatts hydroelectric dam on the Siang River, as part of the Upper Siang Hydroelectric Project, which has reportedly been pushed through on national security grounds without public consultation. To make way for the project, Adi indigenous peoples risk being displaced. The project is being constructed by NHPC Limited, of which the Indian State is the major shareholder.

According to the information received:

On the morning of 8 July 2024, in advance of a visit by the Minister of Power to Arunachal Pradesh in connection with the development of the Upper Siang Hydroelectric Project, Mr. Mili was arrested in Itanagar by Itanagar police. No warrant for his arrest was presented. He was initially taken to Itanagar police station, where he was not permitted access to a lawyer or to communicate with the outside world. He was then moved to Niti Vihar Police Station, after people concerned about his detention began to come to the Itanagar station. Only following his transfer to Niti Vihar Police Station, Mr. Mili was allowed to communicate with his lawyer. During his arrest, Mr. Mili was interrogated as to his work raising concerns about the human rights and environmental impact of hydropower projects in the Arunachal Pradesh, and about those he has been working with in this advocacy. The police also informed him that he had been under surveillance, with police stationed outside his apartment and tracking his movements via his mobile phone. The human rights defender was held for approximately 10 hours before being released. He was discharged after signing a bond obliging him to refrain from any activity that could be considered "breaching the peace" or "causing a breach of the peace" for a period of one year, or until an inquiry into police cases filed against him was closed. Failure to comply with the bond would result in a fine of 50,000 Indian

rupees for any breach identified.

Mr. Mili had previously been arrested under similar circumstances. On 12 August 2023, the lawyer and human rights defender was arrested while protesting against the signing of a Memorandum of Understanding for 13 hydroelectric power projects during another visit by the Minister of Power to Arunachal Pradesh. He was interrogated before being released after approximately 8 hours. Also on that occasion, he had to sign a bond before being discharged, agreeing to refrain from activities that could be considered a breach of the peace for a period of one year or face a fine.

Without wishing to prejudge the accuracy of the above-detailed allegations, we express our serious concern at the arrest and detention of Mr. Mili, including the previous surveillance that he was subject to, as well as the restrictions imposed on him, which we fear to be arbitrary, and directly aimed at curtailing his legitimate human rights, environmental and climate work. Our concern in this sense is aggravated by the apparent repeated nature of this retaliation, given the alleged circumstances of the arrest of Mr. Mili in 2023.

We note that large-scale hydroelectric projects have raised serious human rights concerns. The Special Rapporteur on the promotion and protection of human rights in the context of climate change indicated that States must ensure access to information on proposed and ongoing climate response measures and their impact on human rights, to empower the public to assess the adequacy of State action to combat climate change and promote, protect and fulfil human rights (A/79/176). The Special Rapporteur on the human rights to safe drinking water and sanitation has warned against large hydroelectric dams that cause widespread negative social impacts and serious irreversible impacts on ecosystems (AL IND (8.2024)).<sup>1</sup> The Special Rapporteur on the human rights of Indigenous Peoples called for ensuring that renewable energy projects located on or near Indigenous territories are allowed only after: adequate and participatory environmental and social impact assessments; free, prior and informed consent; appropriate remuneration and benefit-sharing (including access to national energy distribution grids) with indigenous peoples; and the prevention of negative health and environmental impacts, notably forced displacement or the degradation of the environment and means of sustenance of Indigenous peoples (A/HRC/54/31).

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 provide information as to the legal and factual basis for the

---

<sup>1</sup> <https://www.ohchr.org/sites/default/files/2022-03/climate-change-3-final.docx>.

arrest and detention of Mr. Mili on 8 July 2024, and on 12 August 2023, and how the deprivation of liberty on these instances was compatible with India's obligations under international human rights law, in particular article 9 of the International Covenant on Civil and Political Rights (see annex). Please provide information as to the status of any criminal investigation or complaint open against Mr. Mili.

3. Please provide information as to the allegation that Mr. Mili has been under surveillance, including the legal grounds for any surveillance that has or is taking place, and an explanation of how this complies with India's obligations under international human rights law, in particular the right to privacy, guaranteed under article 17 of the International Covenant on Civil and Political Rights (see annex), and the human right to a clean, healthy and sustainable environment (see annex).
4. Please provide information as to how the human rights of local communities, in particular local indigenous peoples, have been protected in the proposed hydropower project on the Siang Dam, including their human right to a clean, healthy and sustainable environment, and their right to information, participation and access to justice. If no such measures have been taken in this regard, please indicate steps that will be taken to guarantee and enforce these rights.
5. Please provide information on the measures undertaken to ensure that human rights defenders, including those engaged in the protection of the environment and of the rights of indigenous peoples, are able to carry out their legitimate work in a safe and enabling environment, without fear of intimidation or harassment, in full respect of their 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.

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

Elisa Morgera  
Special Rapporteur on the promotion and protection of human rights in the  
context of climate change

Astrid Puentes Riaño  
Special Rapporteur on the human right to a clean, healthy and sustainable  
environment

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

## Annex

### Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to articles 9, 17 and 19 of the International Covenant on Civil and Political Rights, ratified by India in 1979, which refer to the right to liberty and security of person, including freedom from arbitrary arrest and detention, the right to privacy and the right to freedom of opinion and expression.

Concerning article 9, which guarantees the right to liberty and security of person, the Human Rights Committee, in its general comment No. 35 interpreting the article's scope, has underscored the arbitrariness of any arrest or detention without a legal basis and further held that an arrest or detention may be arbitrary irrespective of its being authorized by domestic law. In the same comment, the Human Rights Committee stated that the notion of "arbitrariness" introduced in article 9 should be broadly interpreted to include elements of "inappropriateness, injustice, lack of predictability and due process of law, as well as elements of reasonableness, necessity and proportionality."<sup>2</sup> The Committee also held any arrest or detention carried out as punishment for the legitimate exercise of the rights as guaranteed by the Covenant to be arbitrary.

Article 17 of the ICCPR establishes the right of everyone to freedom from arbitrary or unlawful interference with their privacy, family, home, or correspondence, as well as to unlawful attacks on their honour and reputation, and the right to the protection of the law against such interference or attacks. The Human Rights Committee, in general comment No. 16, has emphasized that the obligations imposed by this article require State parties to refrain from engaging in interferences inconsistent with article 17 and to provide the legislative framework prohibiting such acts by natural or legal persons.<sup>3</sup> Interference authorized by States can only take place on the basis of law, which itself must comply with the provisions, aims and objectives of the ICCPR.<sup>4</sup> The Committee stressed that the introduction of the concept of arbitrariness in article 17 is intended to guarantee that even interference provided for by law should be in accordance with the provisions, aims and objectives of the ICCPR and should be, in any event, reasonable in the particular circumstances.<sup>5</sup>

Article 19 of the ICCPR provides guarantees the right of all persons to freedom of expression, encompassing the freedom to seek, receive and impart information and ideas of all kinds. Any restrictions on freedom of expression must be strictly limited and meet the high threshold set out in article 19 (3) of the Covenant, following which any limitations must be determined by law and conform to the strict tests of necessity and proportionality. As underlined by the Human Rights Committee in its general comment No. 34, attacks on persons because of the exercise of their freedom of expression, including in the form of arbitrary arrest, cannot under any circumstance be compatible with article 19. As highlighted by the Committee, persons engaged in gathering, analysing and reporting on human rights are frequently subjected to such acts of intimidation because of their activities.

---

<sup>2</sup> Human Rights Committee, *General Comment No. 35*, CCPR/C/GC/35, para 12

<sup>3</sup> Human Rights Committee, *General Comment No. 16*, CCPR/C/GC/16, para 9

<sup>4</sup> *Ibid.*, para 3

<sup>5</sup> *Ibid.*, para 4

We specifically wish to emphasize the relevant provisions of the United Nations' Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the General Assembly in 2007, which sets out international human rights standards relating to Indigenous Peoples' rights. Article 7 of the UNDRIP, provides that indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person. Article 26 of the UNDRIP asserts the right of Indigenous Peoples to "the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired". Article 32 affirms that Indigenous Peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and resources and that "States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources".

We would also like to refer to 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, which state that everyone has the right to promote and to strive for the protection and realization of human rights and that each State has a prime responsibility and duty to protect, promote and implement all human rights.

We would further like to refer to articles 6(b), which states that everyone has the right, individually or in association with others, to freely publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; 6(c), which states that everyone has the right, individually or in association with others, to study, discuss, form and hold opinions on the observance in law and in practice of all human rights and fundamental freedoms and to draw public attention to these matters; and 9(3)(a), which states that everyone has the right individually and in association with others, *inter alia*, to complain about the policies and actions of individual officials or governmental bodies with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means.

Finally, we would like to draw attention to article 12 of the Declaration, and in particular paragraphs 2 and 3, which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

We also wish to refer to Human Rights Council resolution 48/13 of 8 October 2021 and General Assembly resolution 76/300 of 29 July 2022, which recognize the right to a clean, healthy and sustainable environment as a human right.

We would also like to bring to the attention of your Excellency's Government the Framework Principles on Human Rights and the Environment as detailed in the 2018 report of the Special Rapporteur on human rights and the environment (A/HRC/37/59). The Principles indicate that States should: provide a safe and enabling environment in which individuals, groups and organs of society that work on

human rights or environmental issues can operate free from threats, harassment, intimidation and violence; respect and protect the rights to freedom of expression, association and peaceful assembly in relation to environmental matters; and provide public access to environmental information by collecting and disseminating information and by providing affordable, effective and timely access to information to any person upon request. (principles 4-5 and 7). The Principles also state that States should ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights (principle 1); States should ensure that they comply with their obligations to indigenous peoples and members of traditional communities, including by: a) recognizing and protecting their rights to the lands, territories and resources that they have traditionally owned, occupied or used; b) Consulting with them and obtaining their free, prior and informed consent before relocating them or taking or approving any other measures that may affect their lands, territories or resources; c) Respecting and protecting their traditional knowledge and practices in relation to the conservation and sustainable use of their lands, territories and resources; d) Ensuring that they fairly and equitably share the benefits from activities relating to their lands, territories or resources (principle 15).