

Mandates of the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the human right to a clean, healthy and sustainable environment; the Special Rapporteur on the right to food; 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 the situation of human rights defenders; the Working Group on the rights of peasants and other people working in rural areas; the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes and the Special Rapporteur on the human rights to safe drinking water and sanitation

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(Please use this reference in your reply)

14 January 2025

Excellency,

We have the honour to address you in our capacities as Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur on the human right to a clean, healthy and sustainable environment; Special Rapporteur on the right to food; 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 the situation of human rights defenders; Working Group on the rights of peasants and other people working in rural areas; Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes and Special Rapporteur on the human rights to safe drinking water and sanitation, pursuant to Human Rights Council resolutions 53/3, 55/2, 49/13, 52/9, 50/17, 52/4, 54/9, 54/10 and 51/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **alleged human rights violations committed at Chatree gold mine against local communities. The Chatree mine is operated by Akara Resources Public Company Limited (Akara), a subsidiary of Kingsgate Consolidated Limited (Kingsgate), whose top shareholders include HSBC Custody Nominees (Australia) Limited, Citicorp Nominees PTY LIMITED, BNP Paribas Nominees PTY LTD and JP Morgan Nominees Australia PTY LTD, with the involvement of Taurus Funds Management PTY LTD and Nebari Holdings as lenders, Precious Metal Refining Co. Limited and Ausiris Company Limited as downstream buyers, and LotusHall Mining Heavy Engineering Construction Co., Ltd as the operator.**

According to the information received:

Timeline

Opening

In 1993, Akara was granted a licence by the Thai Government to undertake gold exploration along the Phichit, Phetchabun and Phitsanulok province borders. In 1994, Akara commenced exploration. In 2000, the Office of Environment Policy and Planning approved Akara's Environmental Impact Assessment and

provided Akara with four licenses to operate the Chatree Mining Complex for a period of 20 years. Akara officially started its commercial gold mining production in 2001 with a capacity of 1 million tons per annum.

Expansion

Starting in 2004, Akara underwent a period of expansion of the mining site and extension of mining licenses, acquiring an increasing amount of land, which forced residents to move out of their homes and land. Villagers sought to curb this expansion and filed complaints with local authorities and the National Human Rights Commission of Thailand (NHRCT). In 2007, the NHRCT alerted the Government about human rights violations faced by communities surrounding the mine. Despite this, Akara's Environmental Impact Assessments for tailing storage facilities were approved by the Office of Environment Policy and Planning, and it received new licenses in 2008 for a northern expansion of the mining complex. In 2012, Akara obtained a new license from the Government and expanded its plant's manufacturing capacities to 5 million tonnes per annum.

Suspension

In February 2015, Akara's activities were briefly suspended by the Department of Primary Industries and Mines (DPIM) due to health concerns from heavy metal contamination of groundwater sources, including manganese, arsenic, and iron contamination, which was later determined to be related to a leak from a tailings storage facility of the mine. Activities resumed within the same month.

Closure

In 2016, the Government terminated Akara's operations due to complaints from surrounding communities, effective 1 January 2017. Kingsgate, Akara's parent company, filed for arbitration against the Thai Government. In November 2020, immediately following the arbitration process, the Thai Government granted Akara 44 new special prospecting licenses, enabling the company to continue its gold exploration in the Phetchabun Province.

Reopening

In January 2022, Kingsgate announced it had received four renewed licenses, valid for 10 years. The Chatree mine officially reopened in March 2023. In May 2024, a second plant received authorization to operate.

Right of access to information and public participation

Local villagers reported that neither the authorities, nor Akara properly consulted them regarding the development of the mine. Their rights to access to information and to public participation were consistently undermined, including via inaccurate reporting of villagers' concerns and favoritism toward pro-mining villagers (such as providing them with transportation to attend meetings) in the context of public hearings related to Akara's request for concession licenses.

Villagers also routinely faced intimidation by supporters of the mine when expressing their views at public meetings. With regard to the reopening of the mine, public hearings were only held in November 2022, months after the Government had approved the new mining licenses in January 2022. Additionally, at an April 2023 meeting concerning Community Development Funds, villagers were initially excluded and later prevented from speaking, highlighting continued barriers to meaningful participation.

Further, local communities lack access to information regarding the mine's activities. Environmental Impact Assessments are not publicly available, and only monitoring reports from June to December 2023 have been published, making it difficult for community members and independent observers to effectively monitor health or environmental impacts. Despite claims by the DPIM in March 2022 that baseline environmental and health assessments were conducted, no data has been published. Since the reopening of the mine, villagers have reported that they did not receive any information about the risks linked to the reopening, or about prevention and mitigation measures. Further, safeguards under the Mineral Act of 2017, such as the monitoring of health and environmental impacts, have not been fully respected, as reports and findings have not been shared with affected communities.

Freedom of expression and peaceful assembly

Between 2008 and 2015, and again since the mine reopened, villagers have reported repeated instances of threats and intimidation by Akara and its associates, including LotusHall. These threats included job termination, police questioning, and physical threats, creating a climate of fear that has hindered the communities' efforts to seek justice and their ability to express dissent, criticism or opposition to the activity of the mine. Between 2013 and 2016, Akara also pursued legal action against community members for alleged defamation, trespassing and peaceful protests. For instance, in July 2016, villagers held a peaceful protest to prevent Akara's trucks from transporting ore out of the mining area. The Thab Khlo district police subsequently filed charges against 27 out of 100 villagers who participated in the protest for allegedly violating section 309 of the Criminal Code and article 16 of the Public Assembly Act of 2015.

Since the mine started its activities, local communities have progressively been divided between villagers who support the mine, notably villagers working at the mine, and villagers seeking reparations for the human rights impacts they have faced.

Right to an adequate standard of living, right to food, right to safe drinking water, right to land, and right to a clean, healthy and sustainable environment that is free of toxic substances

Water contamination has been a longstanding issue around the mine, with several studies confirming the presence of heavy metals, including cyanide, arsenic, and manganese. In fact, authorities warned villagers in 2002 and 2010 not to consume water from wells due to high levels of contamination.

Investigations in 2010 and 2011 by the Pollution Control Department and Khon Kaen University, respectively, confirmed poor water quality, including finding cyanide in surface water. In 2015, villagers reported black-colored surface water over harvested rice paddy fields, later confirmed to contain high cyanide levels, likely due to leakage from a tailings storage facility (TSF1). In 2017, a study conducted by an international research team appointed by a fact-finding committee confirmed groundwater contamination due to leakage from the mine's TSF1 facility. Further assessments by DPIM in 2018 confirmed the TSF1 leak, and data showed that areas contaminated with manganese, arsenic and iron had expanded since the 2001-2005 period. Exposure to some of these chemicals could lead to death or negative health impacts on the cardiovascular, neurological, respiratory, reproductive, endocrine systems, amongst others.

Since the mine's reopening, seepage from TSF1 has not been addressed and signs of continued water pollution were observed in 2023. Villagers remain concerned about water quality and have experienced continued water shortages, affecting domestic use and farming, since the mine resumed operations.

The environmental contamination caused by the operations at the Chatree mine has also had significant impacts on the local communities' rights to land and food. For instance, the lack of water for farming left villagers with the impossibility to sustain their economic activities which impacted their livelihoods as crops showed stunted growth.

In 2014, a study by Rangsit University found unsafe levels of heavy metals within 10 km of the mine and concluded that they would affect the food chain. In 2022, a study confirmed mercury levels in chicken and duck eggs above the permissible limits set by the Ministry of Public Health. These instances of contamination severely affected local agriculture, with some farmers experiencing a drastic drop in rice yields. Due to the gradual extension of the mine and environmental contamination during this period, many villagers sold their land to Akara and moved elsewhere.

Since the mine's reopening, there have again been concerns about heavy metal contamination of water sources, leading villagers to purchase drinking water. Farmers have also encountered challenges in selling their produce, which has impacted their income.

Although the Thai Government and Akara provided temporary solutions, such as providing water and offering coupons to purchase crops from other sources, not all affected villagers were granted access to these resources. Further, this aid stopped when the Government suspended the operations of Chatree mine in 2016.

Beyond land and livelihood issues, the mine's operation caused noise, dust and vibrations. In March 2009, the Pollution Control Department (PCD) found that between 2009 and 2010 the noise levels exceeded the standard limits.

Right to the highest attainable standard of health

Between 2014 and 2016, several studies by consultants conducting an environmental and health impact assessment found levels of heavy metals, such as manganese, arsenic, and cyanide, exceeding standards set by the Ministry of Public Health in the blood and urine of residents living near the gold mine. These findings led to a suspension of mining operations, which resumed after less than a month when Akara presented evidence of medical treatment for affected locals and initiated academic investigations into the health impacts.

In 2019, a comparison study showed that following the suspension of the mine, arsenic contamination levels in children, which have been proven to result in a decrease in learning and intellectual abilities, decreased significantly and coincided with a drop in the number of children with learning impairments. Further, in 2019, a study concluded that the mine cyanide discharge limit of 20 mg/L set by the company was not safe for human health. A 2022 study found an elevated risk of cancer for villagers living near the mine, associated with both lead and cadmium consumption, especially for those consuming eggs within 25 km of the mine.

As a result of these instances of contamination, local communities suffered physical and mental health issues like itchy skin, skin rashes, wounds, numbness, lung and respiratory diseases, sleep deprivation, blurred vision, cancer, depression, anxiety, and paranoia. Even after the mine reopened, villagers continued to suffer from chronic conditions and expressed concerns about increased cancer risk.

Right to effective remedy

In 2016, affected rightsholders filed a class action lawsuit demanding compensation for loss of livelihood, negative health impacts, and environmental damage. The court accepted the lawsuit on 31 October 2019, but Akara's delaying tactics and the COVID-19 pandemic pushed back the hearings multiple times. Mediation efforts in 2020 failed as Akara objected to the compensation demanded by the villagers and instead wanted to distribute payments through state-mandated rehabilitation funds, which the villagers rejected.

The second and third court hearings occurred on 25 January 2022 and between 22 and 24 February 2023, respectively. In March 2023, the plaintiffs submitted their proposal for Akara to pay the amount of 100 million THB for 300 people, which Akara rejected. Akara also attempted to delay the process further by encouraging objections to the appointment of new petitioners and reportedly assisting dissenters with legal documents. The court heard the applications of three petitioners on 19-20 September 2023, two on 22 January 2024 and the last one on 19 April 2024. On 8 July 2024, Akara's Community Relations Manager was heard as an objector to the new petitioners. On 21 August 2024, the court approved the new petitioners to be plaintiffs; however on 10 September 2024 Akara appealed this decision, arguing procedural flaws. On 17 December 2024, a mediation hearing was held during which petitioners submitted their proposal for Akara to pay 60 million THB to the class action lawsuit members and to be

managed directly by them. The company instead wants to establish a new fund that it would manage. The next mediation hearing is scheduled for 21 February 2025.

While we do not wish to prejudge the accuracy of these allegations, we wish to express deep concern about the allegations of human rights abuses related to the operations of Akara. We are particularly concerned that the mine's operations severely affected the right to life, the right to the highest attainable standard of health, the right to food, the right of access to information and public participation, the right to land, the right to safe drinking water, the right to an adequate standard of living, and the right to a clean, healthy and sustainable environment that is free of toxic substances. We are extremely concerned about the prolonged lack of access to effective remedy for those adversely affected by the operations of the mine.

In addition, we are seriously concerned at the reported harassment, intimidation and persecution of human rights defenders who have denounced and exposed the reported abuses and sought reparation for the human rights impact of the mine's activities, which appear to be directly related to the legitimate exercise of their rights to freedom of peaceful assembly and expression on an issue of public interest, where transparency and access to information are essential. Additional concern is expressed about the broader impact of the above-mentioned allegations, which can have a deep chilling effect on human rights defenders and civil society as a whole.

Financial institutions have their own responsibilities under the UN Guiding Principles to respect human rights and conduct human rights due diligence. Financial businesses can be directly linked to adverse human rights impacts through its business relationships (such as through the provision of financing); they can also contribute to human rights harm through their own operations and actions. Further, the Office of the United Nations High Commissioner for Human Rights has issued statements indicating that if a bank identifies, or is made aware of, an ongoing human rights issue that is directly linked to its operations, products or services through a client relationship, yet over time fails to take reasonable steps to seek to prevent or mitigate the impact, it can be viewed as enabling the situation. The Organisation for Economic Co-operation and Development (OECD) Guidance on Due Diligence for Responsible Corporate Lending and Securities Underwriting further states that where a bank is directly linked to an adverse human rights impact through a client, it still has a responsibility to prevent or mitigate the impact, and that "[w]here the adverse impacts are directly linked to a bank's lending or securities underwriting through a client, it should also use its leverage to seek to prevent and mitigate those impacts". This approach has been applied by the OECD National Contact Points (NCP): for example, the Norwegian NCP concluded that "If [an investor], after investing, learns of a portfolio company's human rights impacts, it still has a number of tools available, including shareholder proposals, engagement with management, and the threat of divestment". Further, in the Society for Threatened Peoples Switzerland's complaint to the Swiss NCP regarding UBS Group AG, the Swiss NCP recognized that a financial business, through investing in a business enterprise, was directly linked to potential adverse human rights impacts by its relationship with that business enterprise.

Further, a financial business can move from being directly linked to an adverse human rights impact to contributing to that impact if it does not take action to prevent

or mitigate the business relationship to which it is directly linked, including by undertaking human rights due diligence. Therefore, the alleged involvement of financial institutions in the financing of the Chatree mine's activities could be in violation of international human rights law and standards.

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 advise the steps taken to ensure that Your Excellency's Government encourages business respect for human rights in line with the UN Guiding Principles on Business and Human Rights (UNGPs) including by requiring businesses, including investors, to conduct human rights due diligence that addresses how to prevent, mitigate and remediate the adverse human rights impacts that business may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships.
3. Please provide information on any steps taken by Your Excellency's Government to set out clearly the expectation that all business enterprises respect human rights throughout their operations.
4. Please provide information on the measures Your Excellency's Government is taking or considering taking to ensure that persons affected by the activities of businesses domiciled in your jurisdiction have access to redress in your country, through judicial or extrajudicial State mechanisms.
5. Please indicate the steps that Your Excellency's Government has taken, or is considering taking, to ensure that business enterprises domiciled in your territory and/or jurisdiction establish and participate in effective operational-level grievance mechanisms in line with UNGP 31.

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.

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 your Excellency's Government's to clarify the issues in question.

Please be informed that a letter on this subject matter has been sent to the Governments of Australia, France, United States of America, Thailand, and to Akara Resources Public Company Limited, Kingsgate Consolidated Limited, HSBC Custody Nominees (Australia) Limited, HSBC Holdings PLC, Citicorp Nominees PTY Limited, Citigroup, BNP Paris Nominees PTY Ltd., BNP Paribas, JP Morgan Nominees Australia PTY Limited, JP Morgan Chase & Co., Taurus Funds Management PTY LTD, Nebari Holdings, Precious Metal Refining Co. Limited, Ausiris Company Limited, LotusHall Mining Heavy Engineering Construction Co., Ltd, with a copy to Responsible Jewellery Council.

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

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

Astrid Puentes Riaño
Special Rapporteur on the human right to a clean, healthy and sustainable
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Michael Fakhri
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Marcos A. Orellana
Special Rapporteur on the implications for human rights of the environmentally sound
management and disposal of hazardous substances and wastes

Pedro Arrojo-Agudo
Special Rapporteur on the human rights to safe drinking water and sanitation

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to the applicable international human rights norms and standards, as well as authoritative guidance on their interpretation.

UN Guiding Principles on Business and Human Rights

We would like to highlight the UN Guiding Principles on Business and Human Rights, which were unanimously endorsed in 2011 by the Human Rights Council in its resolution (A/HRC/RES/17/31) after years of consultation with governments, civil society, human rights defenders and the business community. The guiding principles have been established as the authoritative global standard for all States and businesses to prevent and address business-related adverse human rights impacts. These guiding principles are based on the recognition of:

- a) "The existing obligations of States to respect, protect and fulfil human rights and fundamental freedoms.
- b) The role of business enterprises as specialized bodies or corporations performing specialized functions, which must comply with all applicable laws and respect human rights.
- c) The need for rights and obligations to be matched by appropriate and effective remedies when they are violated".

The guiding principles also make clear that companies have an independent responsibility to respect human rights. Principles 11-24 and 29-31 provide guidance to companies on how to meet their responsibility to respect human rights and to provide remedies where they have caused or contributed to adverse impacts. The guiding principles have identified two main components of the corporate responsibility to respect human rights, which require "business enterprises to:

- a) Prevent their own activities from causing or contributing to adverse human rights impacts and address those impacts when they occur.
- b) Seek to prevent or mitigate adverse human rights impacts directly related to operations, products or services provided through their business relationships, even where they have not contributed to those impacts".
(guiding principle 13)

The commentary to guiding principle 13 notes that companies can be affected by adverse human rights impacts, either through their own activities or as a result of their business relationships with other parties (...) The 'activities' of business enterprises are understood to include both actions and omissions; and their 'business relationships' include relationships with business partners, entities in their value chain and any other non-State or State entities directly linked to their business operations, products or services.

To meet their responsibility to respect human rights, companies should have in place policies and procedures appropriate to their size and circumstances:

- a) A political commitment to uphold their responsibility to respect human rights.
- b) A human rights due diligence process to identify, prevent, mitigate and account for how they address their human rights impact.
- c) Processes to redress any adverse human rights impacts they have caused or contributed to (guiding principle 15).

According to guiding principles 16-21, human rights due diligence involves:

- a) Identifying and assessing actual or potential adverse human rights impacts that the enterprise has caused or contributed to through its activities, or that are directly related to the operations, products or services provided by its business relationships.
- b) Integrate the results of impact assessments into relevant business functions and processes, and take appropriate action in accordance with their involvement in the impact.
- c) Monitor the effectiveness of the measures and processes adopted to address these adverse human rights impacts in order to know whether they are working.
- d) Communicate how adverse effects are addressed and demonstrate to stakeholders - particularly those affected - that appropriate policies and processes are in place to implement respect for human rights in practice.

This process of identifying and assessing actual or potential adverse human rights impacts should include substantive consultation with potentially affected groups and other stakeholders (guiding principle 18).

Where an enterprise causes or is likely to cause an adverse human rights impact, it should take the necessary steps to end or prevent that impact. “The establishment of operational-level grievance mechanisms for those potentially affected by corporate activities can be an effective means of redress provided they meet certain requirements listed in principle 31 (guiding principle 22).

Furthermore, business enterprises should remedy any actual adverse impact that they cause or to which they contribute. Remedies can take a variety of forms and may include apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition. Procedures for the provision of remedy should be impartial, protected from corruption and free from political and other attempts to influence the outcome (commentary to guiding principle 25).

Right of access of information and public participation

International normative principles acknowledge that information and participation rights are a key point of intersection between environmental and human rights law. Principle 10 of the Rio Declaration, for example, states that “environmental issues are best handled with the participation of all concerned citizens”.

The rights of access to information and public participation are guaranteed under the Universal Declaration on Human Rights (UDHR) (articles 19 and 20) and the ICCPR (articles 19, 21, and 25), which was ratified by the United Kingdom of Great Britain and Northern Ireland on 10 December 1999. As explained by general comment No. 34 on freedom of opinion and expression, the right to freedom of expression “is a necessary condition for the realization of the human rights principles of transparency and accountability”. Moreover, to give effect to the right of access to information, “States Parties should proactively put in the public domain Government information of public interest.” States Parties should also “make every effort to ensure easy, prompt, effective and practical access to such information.” As for the right to peaceful assembly, general comment No. 37 specifies that article 21 protects peaceful assemblies “wherever they take place: outdoors, indoors and online; in public and private spaces; or a combination thereof. Such assemblies may take many forms, including demonstrations, protests, meetings, processions, rallies, sit-ins, candlelit and flash mobs.” Finally, general comment No. 25 on the right to take part in the conduct of public affairs clarifies that “citizens also take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves”.

Under the UN Declaration on the Rights of Peasants, article 2 states that “States shall consult and cooperate in good faith with peasants and other people working in rural areas through their own representative institutions, engaging with and seeking the support of peasants and other people working in rural areas who could be affected by decisions before those decisions are made, and responding to their contributions, taking into consideration existing power imbalances between different parties and ensuring active, free, effective, meaningful and informed participation of individuals and groups in associated decision-making processes”. Article 8 protects the right to participate in peaceful activities against violations of human rights. Article 10 protects the right to active and free participation in the preparation and implementation of policies, programs and projects that may affect their lives, land, and livelihood. Article 11 protects the right to information and requires States to “take appropriate measures to ensure that peasants have access to relevant, transparent, timely, and adequate information”.

Lastly, the Office of the High Commissioner for Human Rights issued a set of guidelines with the Human Rights Council which provides a set of orientations for States on the effective implementation of the right to participation of all actors of society in public affairs.¹ Meaningful participation requires laws, policies, and institutional arrangements to ensure the equal participation of individuals and groups in

¹ OHCHR, Guidelines on the effective implementation on the right to participate in public affairs, (20 July 2018), available at: <https://www.ohchr.org/en/documents/tools-and-resources/guidelines-effective-implementation-right-participate-public-affairs>

the design, implementation, and evaluation of any law, regulation, policy, program or strategy affecting them. The right to participate in public affairs requires “that the life, physical integrity, liberty, security, and privacy of all members of society, including journalists and human rights defenders, be protected at all times.” The guidelines add that “States should create and maintain a safe and enabling environment that is conducive to the exercise of the right to participate in public affairs”, by creating a legal framework that guarantees an equal participation of all civil society actors or by protecting them from all threats, attacks, reprisals, and acts of intimidation. The right to participate in public affairs should be recognized as a continuum that requires open and honest interaction between public authorities and all members of society, including those most at risk of being marginalized or discriminated against.

Right to water

We also recall to your Excellency the explicit recognition of the human rights to safe drinking water and sanitation by the UN General Assembly (resolution 64/292) and the Human Rights Council (resolution 15/9), which derives from the right to an adequate standard of living, protected under, inter alia, article 25 of the Universal Declaration of Human Rights, and article 11 of ICESCR.

General comment No. 15 on the right to water stresses that the right to water “clearly falls within the category of guarantees essential for securing an adequate standard of living” enshrined in article 11 of the ICESCR, ratified by the United Kingdom of Great Britain and Northern Ireland on 20 May 1976, and that it is also “inextricably related to the right to the highest attainable standard of health” guaranteed under article 12. A sufficient and continuous water supply must be available for personal and domestic use, and “water is necessary to produce food (right to adequate food) and ensure environmental hygiene (right to health).”

Moreover, water required for each personal or domestic use must be safe, i.e., free from micro-organisms, chemical substances, and radiological hazards that constitute a threat to a person’s health. Water facilities and services must be accessible to everyone, both physically and economically, and must be free from discrimination. Such accessibility includes the right to seek, receive, and impart information on water issues. Further, “access to traditional water sources in rural areas should be protected from unlawful encroachment and pollution”.

In addition, considering the importance of water for rural communities, the UN Declaration on the Rights of Peasants protects the right to safe and clean drinking water under article 21. Peasants have the right to water for personal and domestic use and farming. They also have the right to equitable access to water and water management systems and to be free from the contamination of water supplies. Accordingly, states are required to prioritize water for human needs before other uses.

Right to adequate standard of living and right to land

The right to adequate standard of living guaranteed under the UDHR (article 25) and the ICESCR (article 11) encompasses among others, the right to adequate food and housing. General comment No. 4 on the right to adequate housing states that the right to housing “should be seen as the right to live somewhere in security, peace, and

dignity”. Therefore, for instance, “housing should not be built on polluted sites nor in immediate proximity to pollution sources that threaten the right to health of the inhabitants”. General comment No. 12 on the right to adequate food states that food must be free from adverse substances and requires means to prevent contamination of foodstuffs, for instance, through bad environmental hygiene. The UN Declaration on the Rights of Peasants protects the right to adequate food which includes the right to produce food (article 15), the right to an adequate standard of living (article 16), and the right to adequate housing (article 24).

Although land is not mentioned in the ICESCR, it plays an essential role in the realization of a range of human rights under the Covenant such as the right to adequate food, the right to adequate housing, the right to water, the right to the highest attainable standard of physical and mental health, the right to take part in cultural life, and the right to self-determination. General comment No. 26 on land and economic, social, and cultural rights stresses that “the sustainable use of land is essential to ensure the right to a clean, healthy, and sustainable environment and to promote the right to development, among other rights”. Communities must be “properly informed about and allowed to meaningfully participate in decision-making processes that may affect their enjoyment of rights under the Covenant in land-related contexts, without retaliation”.

Reliance of rural communities on the land is crucial. Article 17 of the UN Declaration on the Rights of Peasants protects the right to land, both individually and collectively, which includes the right to have access to, sustainably use, and manage land and the water bodies and forests to achieve an adequate standard of living as well as to have a place to live in security. Peasants have “the rights to be protected against arbitrary and unlawful displacement from their land or place of habitual residence, or from other natural resources used in their activities and necessary for the enjoyment of adequate living conditions”.

Right to health

The right to health is protected under the UDHR (article 25.1) and the ICESCR (article 12) and it includes the enjoyment of the highest attainable standard of both physical and mental health. General comment No. 14 on the right to health interprets the right “as an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions (...)”. “A further important aspect is the participation of the population in all health-related decision-making at the community, national and international levels.” The right to health also comprises the prevention and reduction of the population’s exposure to harmful substances, such as harmful chemicals or other detrimental environmental conditions that directly or indirectly affect human health. Moreover, under the UN Declaration on the Rights of Peasants, article 23 protects the right to health.

Right to freedom of expression

Article 19 of the ICCPR guarantees the right to freedom of opinion and the right to freedom of expression, which includes the right “to seek, receive and impart information and ideas of all kinds, either orally, in writing or in print, in the form of art,

or through any other media”. This right applies online as well as offline, and includes not only the exchange of information that is favourable, but also that which may criticize, shock, or offend.

In its general comment No. 34, the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of expression, including “political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse” (CCPR/C/GC/34, para. 11). The Committee further asserts that there is a duty of States to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression (para. 23). Recognizing how journalists and persons who engage in the gathering and analysis of information on the human rights situation and who publish human rights-related reports, including judges and lawyers, are frequently subjected to threats, intimidation and attacks because of their activities, the Committee stresses that “all such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims, or, in the case of killings, their representatives, be in receipt of appropriate forms of redress” (para. 23).

Any restriction on the right to freedom of expression must be compatible with the requirements set out in article 19(3) ICCPR. Under these requirements, restrictions must (i) be provided by law; (ii) pursue one of the legitimate aims for restriction, which are the respect of the rights or reputations of others and the protection of national security or of public order (*ordre public*), or of public health or morals; and (iii) be necessary and proportionate for those objectives. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant, proving “in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat” (CCPR/C/GC/34, para. 35). The Human Rights Committee recalled that the relation between right and restriction and between norm and exception must not be reversed. In this regard, the Human Rights Committee stated that the restrictions must be “the least intrusive instrument among those which might achieve their protective function”. (CCPR/C/GC/34, para. 34).

The right of access to information of citizens is an essential component of the right to freedom of expression. As provided for in article 19 ICCPR, the right to freedom of opinion and expression encompasses the right to seek and receive information of all kinds. The Human Rights Committee in its general comment No. 34 affirmed that freedom of expression, including therefore the right to access information, “is a necessary condition for the achievement of the principles of transparency and accountability which, in turn, are essential for the promotion and protection of human rights” (CCPR/C/GC/34, para. 3). The Committee reaffirmed that “article 19 sets out a right of access to information held by public bodies” and, accordingly, “to give effect to the right of access to information, States parties should actively pursue the incorporation into the public domain of government information that is in the public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information” (paras 18 and 19).

The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has repeatedly stressed the importance of access to information and transparency as fundamental pillars for peace, democracy and development, as well as the fundamental role that this right plays in the enjoyment of other rights (A/68/362, paras. 18, 19, 20 and 89; E/CN.4/1998/40, para. 12; E/CN.4/1995/32, para. 135). Along these lines, the Special Rapporteur has recommended and encouraged States to review their regulatory and institutional frameworks, mechanisms and tools to guarantee and promote the right of access to information and transparency as fully and completely as possible. The action of the States should tend in this direction and, in any measure adopted, take into account the impact on this right that may be caused by any measure that may be adopted, in order to avoid setbacks in this area.

Human rights defenders

We would like to refer your Excellency's Government 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 the Rights of Human Rights Defenders. Article 5 guarantees the rights to meet or assemble peacefully for the purpose of promoting and protecting human rights. Article 6 affirms that everyone has the right to know, seek, obtain, receive and hold information, including having access to information as to how rights and freedoms are given effect. Article 8 provides for everyone's right to participate in the conduct of public affairs, including the right to submit to governmental bodies criticism and proposals drawing attention to aspects of their work that might hinder or impede the promotion, protection and realization of human rights. Article 9 recalls the right to an effective remedy. Finally, article 12 reaffirms the right to participate in peaceful activities against violations of human rights and requires State to take all necessary measures to ensure the protection of human rights defenders against "any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary action".

Right to liberty and security of person

Further, the right to liberty and security of person is protected under the UDHR (article 3), the ICCPR (article 9) and the UN Declaration on the Rights of Peasants (article 6). The later document also states in article 8 that "States shall take all necessary measures to ensure protection by the competent authorities of everyone, individually and in association with others, against any violence, threat, retaliation, *de jure* or *de facto* discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise and defense of the rights described in the present Declaration". General comment No. 35 on the right to liberty and security of person clarifies that security of person concerns "freedom from injury to the body and the mind, or bodily and mental integrity".

The right to healthy environment

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 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 respect, protect and fulfil human rights in order to ensure a safe, clean, healthy and sustainable environment (principle 2).

The rights of peasants and rural workers

We also wish to refer to the rights of peasants and rural workers which appear in the United Nations Declaration on the Rights of Peasants and Rural Workers (UNDROP), adopted by the General Assembly in 2018. This declaration provides for a number of rights of peasants and rural workers, including in particular article 4 which provides the right of peasant women to "participate equally and effectively in the formulation and implementation of development at all levels," article 5 (right to sovereignty over natural resources), article 6 (right to liberty and security of the person), article 8 (right to participate in decision-making), article 9 (right to land and natural resources), article 10 (right to a decent income and livelihood), article 11 (rights related to agricultural production), article 12 (right to rural housing in rural areas), article 15 (right to health), article 16 (right to work), article 17 (right to food sovereignty), article 20 (right to biodiversity), article 21 (right to water), article 22 (right to a clean and healthy environment), article 23 (freedom from forced eviction), and article 24 (right to access to justice).

Extraterritorial obligations

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.