

Mandates of the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the promotion and protection of human rights in the context of climate change; the Special Rapporteur on extrajudicial, summary or arbitrary executions; 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 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)

9 September 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 promotion and protection of human rights in the context of climate change; Special Rapporteur on extrajudicial, summary or arbitrary executions; 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; 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, 57/31, 53/4, 52/9, 59/4, 52/4, 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 the actual and potential adverse human rights impacts of a critical mineral sands development project in South-West Madagascar – the Base Toliara Project – operated by Base Resources, owned by United States-based Energy Fuels Inc. Energy Fuels' main investors BlackRock Inc., Alps Advisors Inc., both based in the United States, and Mirae Asset Global Investments, based in the Republic of Korea. The Base Toliara Project would encroach on the lands of communities, and as a result those communities members may lose their lands and livelihoods as they fully depend on these lands and natural resources. The project would also pose severe environmental threats that impact local livelihoods and health. Public protests from local communities against the project have been reportedly violently suppressed, resulting this year in the killing of three people on 23 March 2025 and the detention of twenty others from March to May 2025.

According to the information received:

The **Base Toliara Project** aims to extract critical mineral sands – containing rutile, ilmenite, and zircon – from South-West Madagascar. Estimated at USD 591 million in capital expenditure, it is one of the largest foreign investments in the country. The project was halted in 2019 due to tensions with local communities and ongoing negotiations over fiscal terms, then resumed in January 2025 after a Memorandum of Understanding was concluded between the company and the Government.

Formerly Australia-based, Base Resources was acquired in April 2024 by United States-based Energy Fuels Inc. Energy Fuels' main investors include BlackRock Inc., Alps Advisors Inc., and Mirae Asset Global Investments.

The Base Toliara mining concession covers approximately 407.53 km², across twelve communes – Ankililoake, Ankilimalinike, Tsianisiha, Maromiandra, Analamisampy, Benetsy, Belalanda, Manombo sud, Saint- Augustin, Beheloke, Behompy, Andranovory – in the Atsimo-Andrefana region, affecting an estimated population of over 30,000 people.

The mining facilities consists of three research zones located in the Manombo – Morombe coastal dune system and a mining zone located in the Ranobe deposit, in the communes of Tsianisiha and Ankilimalinike in south-west Madagascar, 45 kilometres north of the town of Toliara. The Base Toliara project foresees the construction of processing facilities at the mine site, a 55 km haul road to the port of Toliara, and a bridge across the Fiherena River.

Main human rights impacts caused by Base Toliara project

Land rights:

The construction of the haul road and full-scale mining operations put approximately one thousand people at risk of eviction and loss of access to grazing and farming lands. The planned haul road will cut through grazing lands on which local farmers and their livestock depend. Many community members do not hold formal land titles despite long-standing customary tenure and may be evicted without compensation.

Additionally, approximately 400 hectares of a protected area at PK 32 Ranobe – will be destroyed for the road. A 2020 audit by the Court of Auditors warned of the risk of encroachment on this protected area and highlighted that traditional land rights were ignored, as no lease or formal agreement was concluded with affected communities.¹

Impacts to the right to a clean, healthy and sustainable environment and the right to health

The Toliara Project holds a 40-year mining license (PDE 37242), re-issued on 23 October 2017. The 2020 report by the Court of Auditors noted irregularities in the granting of mining and environmental permits.²

The company's own pre-feasibility study of December 2023³ acknowledges significant health risks due to monazite's uranium and thorium content. These risks include:

- Occupational exposure to radioactive materials and dust;

¹ <https://ccomptes.mg/uploads/RAPPORT-PUBLIC-2020-1637605105.pdf>

² <https://ccomptes.mg/uploads/RAPPORT-PUBLIC-2020-1637605105.pdf>

³ <https://mb.cision.com/Public/22548/3893356/89a168c3d231921e.pdf>

- Radioactive contamination of soil, water, and food;
- Transport risks such as contamination via accidents, port incidents, or maritime spills; and
- Exposure to local communities and ecosystems.

Similarly, the 2013 draft Environmental and Social Impact Assessment undertaken by the former owner of the project – World Titanium Resources, and subsequent studies of 2014 and 2021 conducted by scientists of the University of Antananarivo⁴ warned of high levels of deforestation and radiation. Ranobe ilmenite contains thorium-232 at 10,600-10,700 Bq/kg – exceeding the International Atomic Energy Agency safety threshold of 10,000 Bq/kg. This radioactivity threatens local biodiversity and public health.

In addition, water consumption by the Base Toliara project will be substantial in a region already facing water scarcity which is exacerbated by climate change and environmental degradation. This may also impact ecosystems services, playing a key role in terms of climate adaptation and preventing further negative human rights impacts in the context of climate change. The project involves high levels of water consumption which may significantly reduce the availability of water for the local communities which suffer in recent decades from more frequent periods of drought. In addition, public information on how contaminated water will be treated is lacking.

Due to expected land deprivation and contamination of lands and water, negatively impacting the human right to a clean, healthy and sustainable environment of the population, community members mostly made of farmers and fishers will lose most of their livelihoods.

Lack of engagement with local population:

Civil society organizations and community members have denounced the lack of meaningful engagement with the company and the relevant public authorities, in addition to a lack of transparent information in relation to the adverse impacts. The requirement of public consultation in the context of environmental and social assessment has not been met by the company and administrative authorities.

Despite some groups of people mostly farmers and cattle breeders have consented to the displacement from their villages and their relocation for the project's implementation, a large part of the local population, mainly fishing communities, have publicly opposed to being displaced from their lands.

Suppression of civic space:

Since January 2025 and the announcement of the start of the project, civil

⁴ EM de Base Toliara et d'autres exploitations minières actives dans cette région aboutiront à la perte d'environ 58 138 ha de forêt naturelle avec un net recul de couvert forestier dans le camp minier

society organisations and communities representatives have been organizing demonstrations and protests. Nevertheless, the government has been communicating its support to the project and has made numerous visits to the site to convince and inform local stakeholders. Some of these protests have resulted in deaths, injuries and detentions.

- On Sunday 23 March 2025 a march of 2,000 people took place in the city of Toliara from the locality of Anketraka to the Andaboy beach (in Toliara II) The public security forces (gendarmerie) violently suppressed the protest, resulting in three deaths and eight persons injured (including two police officers). The incidents were filmed and widely shared on social media.
- On 26 March, a local community leader and retired colonel, Colonel Fanampera, considered the leader of the movement against Base Toliara, was arrested and transferred to Fianarantsoa where is being held in custody.
- On 06 April, protesters gathered at a rally called by Siteny Randrianasoloniaiko – a member of the parliament from the opposition – in the city of Toliara as regards to Base Toliara issues. The defense and public security forces (gendarmerie) intervened to prevent such unauthorized demonstration. They fired tear gas, arrested eight protesters and injured several others. On 27 April 2025, a protest was held in Benetse. Six people were detained and five were put in preventive detention by the judge of the Tribunal of First Instance of Toliara.
- The 15 protesters from the Toliara I and Toliara II districts who were arrested and placed in custody during the course of April and May 2025 had been all released on the orders of the President of the Republic during his visit to the site in mid-May.
- On 17 May, the President of Madagascar decided to meet with the communities affected by the project in order to reassure them that the project complies with the international norms and standards, particularly with regard to environmental, health, social and cultural issues. He also met the zanadriake (fisher tribe) in the village of Mangily, as well as with other leaders of the local movement opposing the project. According to local sources, no commitments or decisions were made at the end of the meeting, with the President merely promising local communities that he would return shortly to discuss proposals with a view to resolving the situation.
- Between 10-13 July 2025 , there have been some clashes between Base Toliara supporters and opponents within the locality of Tsiafanoke in the community of Tsianisiha. On 11 July, a group of opponents to the project blocked the national road 9 between such locality and the city of Toliara. In response to a demonstration held in Benetse, against the project 250 members of the gendarmerie entered the locality and occupied the school. Five people have been arrested, including one children of

15 years old. These people have been reportedly subjected of ill treatment and remain in detention.

- On 29 July, in the locality of Benetsy, six project opponents and two journalists were arrested by security forces while attempting to negotiate with local authorities for the safe return of several members of the Mazoto association – which opposes the Base Toliara project. These members had been forced to flee into the forest for fear of violence from administration-backed villagers’ groups established to locally secure the project’s operations. The six opponents and two journalists were taken into custody on charges of disrupting public order in Ankilimalinike, a zone covered by the project. They were also accused of financing a recent student demonstration at the University of Maninday in the city of Toliara, as well as encouraging employees of the National Water and Electricity Company (JIRAMA) to strike. When brought before the court on 30 July, the two journalists were released, while the six others were placed under judicial supervision pending a trial scheduled for 12 August, charged with disrupting public order.

Without intending to prejudge the veracity of the information received, we would like to express our deep concern about the actual and potential human rights impacts of the Base Toliara Project, owned by Energy Fuels Inc. that Mirae Asset Global Investments without any clear scheme on how those impacts would be prevented, mitigated and redressed and how benefits would be shared with the local population. The lack of meaningful consultation with the affected population from the businesses side, including investors has eroded trust and escalated tensions, including with the company, public authorities and among communities themselves.

We also wish to express once again our deep concern at the allegations of violent repression against people, human rights activists and protesters who have expressed concerns in relation to the Base Toliara Project.

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, as set forth by the UN Guiding Principles on Business and Human Rights (UNGPs).

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, taking into account the human rights impacts of climate change as well as of environmental harm caused by the 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, in particular by the Base Toliara Project have access to information and 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.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We 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 issue/s in question.

We inform you that a letter on this matter has also been sent to Madagascar, Australia, and United States, to the involved companies, including investors, Energy Fuels inc., BlackRock Inc. , Alps Advisors Inc. and Mirae Asset Global Investments.

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

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

Elisa Morgera
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Special Rapporteur on the situation of human rights defenders

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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. These include the following:

- Universal Declaration of Human Rights;
- International Covenant on Economic, Social and Cultural Rights;
- International Covenant on Civil and Political Rights;
- Convention on the Rights of the Child;
- United Nations Declaration on the Rights of Peasants;
- United Nations Framework Principles on Human Rights and the Environment;
- United Nations Guiding Principles on Business and Human Rights, and
- African Charter on Human and Peoples Rights.

We would like to recall to your Excellency's Government the obligations under the International Covenant on Civil and Political Rights (ICCPR) to which the Republic of Korea acceded in April 1990, which provides in its article 9(1) and (4) as well as the general comment 35 on article 9 of the Human Rights Committee that an arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant, including freedom of opinion, expression, assembly and association, is arbitrary (CCPR/C/GC/35, para. 17).

UN Guiding Principles on Business and Human Rights

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:

1. "States' existing obligations to respect, protect and fulfill human rights and fundamental freedoms;
2. 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;
3. 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 fulfill 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 provide 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."

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 or other attempts to influence the outcome (commentary to guiding principle 25).

We would like to bring to your Excellency's Government's attention that these obligations have been further clarified in the report of the Working Group on the issue of human rights and transnational corporations and other business enterprises in A/78/155 "Extractive Sector, Just Transition and Human Rights." The Working Group calls on States to "develop national strategies and legislation and support regional green mineral strategies, in order to strengthen reliable, responsible and Guiding Principle-compatible production and supply of critical transition minerals that are essential to the energy transition." Acknowledging the crucial importance of just and right-based development of critical and energy transition minerals, the Working Group highlighted the need for States to "Require business enterprises to respect and fulfil international human rights obligations when designing or implementing energy transition programmes, including by assessing intersecting forms of discrimination and social exclusion, to develop inclusive, coherent and gender-responsive programmes." The Working Group also stressed that States should "require extractive sector businesses to prove that they are taking effective action to address the impacts of energy transition programmes on human rights and the environment, by reporting on their board composition, appointments, procurement practices and operations."

Human rights obligations in the context of just transition

We would like to bring to your Excellency's Government's attention that these obligations have been further clarified in the report of the Working Group on the issue of human rights and transnational corporations and other business enterprises in A/78/155 "Extractive Sector, Just Transition and Human Rights." The Working Group calls on States to "develop national strategies and legislation and support regional green mineral strategies, in order to strengthen reliable, responsible and Guiding Principle-compatible production and supply of critical transition minerals that are essential to the energy transition." Acknowledging the crucial importance of just and right-based development of critical and energy transition minerals, the Working Group highlighted the need for States to "Require business enterprises to respect and fulfil international human rights obligations when designing or implementing energy transition programmes, including by assessing intersecting forms of discrimination and social exclusion, to develop inclusive, coherent and gender-responsive programmes." The Working Group also stressed that States should "require extractive sector businesses to prove that they are taking effective action to address the impacts of energy transition programmes on human rights and the environment, by reporting on their board composition, appointments, procurement practices and operations."

Additionally, we would like to draw your attention to the Guidelines of the United Nations Secretary-General's Expert Group on Minerals Critical for the Energy Transition, which propose seven voluntary guiding principles based on existing standards, commitments and legal obligations set out in United Nations resolutions. Principle 1 states in particular that 'Human rights must be at the heart of all mining value chains'. Furthermore, human rights experts have specified that "while these Principles refer to the international human rights framework "recognised by all

countries”, international human rights instruments that have not been ratified by all countries are nevertheless applicable in the context of the exploitation of minerals essential to the States Parties to those instruments. Furthermore, all States should respect the principle that human rights are universal, interdependent, inherent and indivisible,” in a statement published last year (Any action concerning minerals essential to the energy transition must respect human rights: UN experts | OHCHR).

Furthermore, in her report entitled “A human rights-based approach to the energy transition” (A/80/188), the Special Rapporteur on the promotion and protection of human rights in the context of climate change emphasises that “(t)he fair and equitable sharing of the benefits of a just energy transition, as a requirement of the human right to science, the human rights of indigenous peoples and the human rights of peasants, implies moving away from a simple logic of exchange and “damage control”.

In addition, the Special Rapporteur recommends that “States should put in place standards and practices that ensure that the fair and equitable sharing of benefits supports the action of communities in the context of ongoing dialogue aimed at understanding different worldviews and realising the choices and capacities of communities. There is a need for both benefits that protect or strengthen communities’ control over natural resources and benefits that support the exercise of effective control. Furthermore, when analysing the possibilities and justification of the final outcome, it is necessary to show how the assessments differ from simply presenting communities with a pre-determined range of development options. Any benefits must be measured in the broader context of the historical and systemic injustices faced by communities. Therefore, States should (among other things):

- Oversee consultations and their outcomes to mitigate power imbalances between companies and communities, including by ensuring access to independent technical and legal advice;
- Ensure that strategic environmental assessments and environmental impact assessments serve to identify, in an integrated manner, the positive and negative environmental and human rights impacts of renewable energy and related mining projects, in addition to any potential damage to ways of life, livelihoods, well-being and knowledge systems;
- Ensure that strategic environmental assessments and environmental impact studies are used to genuinely support consultation and free, prior and informed consent processes by providing comprehensive, reliable and accessible information and considering benefit sharing from the selection and scoping phases, including the examination of all alternatives and location options, and integrating indigenous and community methodologies;
- Support, first and foremost, community ownership or co-ownership and, where communities choose to deal with a commercial entity, require both community participation in decision-making and a share of the profits and other benefits, such as highly skilled jobs and energy price

reduction measures;

- Require compensation above market value for land acquisition to ensure full restoration of livelihoods, ensuring that full compensation for resettlement is provided before landowners are required to leave the land;
- Verify that benefit-sharing agreements with companies fully respect human rights.

The protection of human rights defenders

We would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 6 points 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;
- article 9, paragraph 1, which provides for the right to benefit from an effective remedy and to be protected in the event of the violation of those rights;
- article 12, 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.

The Special Rapporteur on freedom of peaceful assembly and of association to the General Assembly on the exercise of the rights to freedom of peaceful assembly and of association as essential to advancing climate justice, in its reports calls upon States to: "Adopt all necessary measures to ensure that individuals, organizations, communities and indigenous people exercising their rights to freedom of peaceful assembly and of association in support of climate justice are not subjected to attacks, harassment, threats and intimidation, including conducting thorough, prompt, effective and impartial investigations into killings and violence against civil society actors, ensuring that perpetrators are brought to justice and refraining from issuing official and unofficial statements stigmatizing civil society groups engaged in climate justice" (A/HRC/76/222, para. 90(b)). The Special Rapporteur further called States to "ensure that law and practice illegitimately restricting the place where and manner in which protests may take place, including laws criminalizing protests at or near business worksites as well as blanket bans on particular forms of protest, are reformed, in order to ensure full access to and enjoyment of the right to freedom of peaceful assembly." (A/HRC/76/222, para. 90(d)).

According to international human rights law standards, the use of force by law enforcement officials must be exceptional and strictly regulated in order to safeguard the right to life. Lethal force may only be used as a last resort, when strictly unavoidable

to protect life against an imminent threat, and only to the minimum extent necessary. Any other use may constitute an arbitrary deprivation of life. More generally, force may only be used for a lawful purpose (legality), only when strictly necessary to achieve that purpose (necessity), and must not cause harm disproportionate to the aim pursued (proportionality) or be applied in a discriminatory manner (non-discrimination). The authorities must also take all possible precautions in practice when planning, preparing and conducting operations to avoid any unnecessary, excessive or otherwise unlawful use of force and, where the use of force is unavoidable, to minimise the risk to life and the risk of injury. Failure to comply with these obligations constitutes a violation of the right to life and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, giving rise to an obligation to conduct effective investigations.

We would also like to further recall that the Special Rapporteur on the situation of human rights defenders noted in her report to the Human Rights Council (A/64/226) that the only legal grounds upon which an interference with the freedom of association that is prescribed by law can be justified is if it meets the test as outlined by article 22, paragraph 2 of the ICCPR. These provisions require the interference in question to be pursuant to ‘legitimate aims’, such as in the interests of national security or public safety; public order (*ordre public*); the protection of public health or morals, or the protection of rights and freedoms of others. Without such a legitimate aim, interference is rendered contrary to international human rights law, and in the context of the activities of NGOs, the Special Rapporteur has argued that “difficulties in the formation and registration of human rights associations; criminal sanctions for unregistered activities; government interference, supervision and monitoring of NGO activities; and difficulties in accessing funding may restrict the right to freedom of association and therefore must reach the very high threshold under article 22, paragraph 2, of the International Covenant on Civil and Political Rights in order to be admissible.” (A/64/226, para. 58.) 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, protects the freedom of the press as one of its core elements 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 and any restrictions must be “the least intrusive instrument among those which might achieve their protective function” (CCPR/C/GC/34, para. 34).

The right to a clean, healthy and sustainable environment

Furthermore, the Special Rapporteur on the human right to a clean, healthy and sustainable environment in its report – “Overview of the implementation of the human right to a clean, healthy and sustainable environment” (A/79/270) – states in paragraph 45 that States have the obligation to guarantee safe civic spaces for all environmental, climate and human rights defenders, who must be free from any stigmatization, intimidation, criminalization and violence. Furthermore, States must diligently investigate, prosecute and punish perpetrators of such acts, while addressing the root causes of environmental and climate-related conflicts. This includes those at high risk as a result of their efforts in protecting their lands, the environment and climate, such as Indigenous Peoples, young people, children, women, journalists and scientists.

The Special Rapporteur on the rights to freedom of peaceful assembly and of association called on States to: adopt all necessary measures to ensure that climate defenders meaningfully participate in all just-transition policy development and implementation at all levels of decision-making; conduct thorough, prompt, effective and impartial investigations into killings and violence against civil society actors; ensure that perpetrators are brought to justice; and refrain from issuing official and unofficial statements stigmatizing climate defenders (A/76/222).

The Special Rapporteur on climate change and human rights highlighted that the public should have access to information on compliance with environmental regulations in the context of investments in renewable energy and just transition programmes. In addition, it was noted that intimidation of environmental human rights defenders by public administration bodies, business and other actors can have a deterrent effect on requesting information; and that States should gather and share information on threats of violence or attacks against environmental human rights defenders and available protection measures and challenges faced in accessing justice 12 (A/79/176). States have heightened obligations to protect climate activists, scientists and journalists as environmental human rights defenders (see A/HRC/54/25).

Furthermore, we 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 state 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.

Similarly, we would like to recall that on 8 October 2021, the Human Rights Council adopted resolution 48/13, recognizing the right to a clean, healthy and sustainable environment, confirmed by the General Assembly in July 2022 with resolution A/RES/76/300. A safe climate has been identified as a substantial element of this right.

The Framework Principles on Human Rights and the Environment, presented to the Human Rights Council in March 2018 (A/HRC/37/59) set out basic obligations of States under human rights law as they relate to the enjoyment of a safe, clean, healthy and sustainable environment. They underline States' substantive responsibilities in this regard including the obligation to prevent from violating the right to a healthy environment or other human rights. They state 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 (principle 4).

States may be considered to have breached their international human rights law obligations when they fail to take appropriate measures to prevent, investigate and remedy human rights violations committed by private actors. While States generally have discretion in deciding on such measures, they must consider the full range of permissible preventive and remedial measures.

The full texts of the above human rights instruments and standards are available at www.ohchr.org or can be made available upon request.