

Mandates of the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; 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 situation of human rights defenders; the Special Rapporteur on minority issues; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes

Ref.: AL PAK 11/2025

(Please use this reference in your reply)

1 December 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; Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; 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 situation of human rights defenders; Special Rapporteur on minority issues; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, pursuant to Human Rights Council resolutions 53/3, 60/8, 54/14, 53/4, 52/9, 52/4, 52/5, 58/14 and 54/10.

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 and abuses related to mining operations in the Chagai District of Balochistan, specifically to the Reko Diq mine operated by a subsidiary of Canadian based Barrick Gold Corporation. The allegations entail repeated acts of reprisals, arbitrary arrest and detention, enforced disappearances, and inhuman or degrading treatment in custody, of human rights defenders who have raised concerns about the mining activities and toxic contamination, in particular human rights defenders Dr. Mahrang Baloch and Mr. Sibghat Ullah Shah Jee Baloch.**

As Special Procedures mandate-holders, we have raised our concerns regarding the situation of human rights defenders, including the arrest, arbitrary detention, enforced disappearances, extra-judicial killings, torture and other forms of cruel, inhuman, or degrading treatment, the use of force against peaceful protests, and limitations on freedom of expression, among others during counter-terrorism operations in the province of Balochistan ([PAK 1/2025](#)) We have also raised our concern regarding the impacts of counter-terrorism measures on fundamental rights and freedoms, particularly in relation to members of the Baloch minority, as well as human rights defenders and civil society organizations advocating for their rights ([PAK 6/2024](#), [PAK 4/2024](#) and [PAK 6/2025](#)). More recently, we have expressed concern on the recent amendments to the Anti-Terrorism Act 1997, as well as similar legislation enacted in Balochistan (PAK 12/2025). We note with regret that no response has been received to the communications in which various Special Procedures mandate holders have raised

continuous concerns about the numerous serious human rights violations (PAK 6/2024, PAK 4/2024 and PAK 6/2025) and would welcome a response from your Excellency's Government.

According to the information received:

The Reko Diq project is a mining area of 13,000 square kilometers, operated by Reko Diq Mining Company (RDMC), a subsidiary of Barrick Gold Corporation headquartered in Toronto, Canada. The Reko Diq Copper and Gold Mining Project is funded by the International Finance Corporation (IFC), the International Development Association (IDA) and the Asian Development Bank (ADB), and owned in partnership with the Government of Pakistan, being 25 per cent owned by each of three federal State-owned enterprises (OGDCL, GHPL, PPL) and 25 per cent owned by the Government of Balochistan through its entity Balochistan Mineral Resources Limited, of which 15 per cent is on a fully funded basis and 10 per cent is on a free carried noncontributing basis. The estimated total cost of the project, initially set at USD 4.3 billion and later revised to USD 6.6 billion, has most recently been updated to \$7.7 billion. The project is to be funded through a mix of debt and equity from a consortium of lenders, with other potential financiers including the US EXIM Bank, Export Development Canada, and Japan's JBIC. This increase in total cost of the first phase of the Reko Diq copper and gold project reflects potential risks of cost escalation and delays arising from economic volatility, financing pressures, technical and logistical challenges, regulatory and political uncertainties, and unforeseen external shocks.

The project's legal and operational framework started in 1993, with an agreement named 'Chagai Hills Exploration Joint Venture Agreement (CHEJVA), signed between the Balochistan provincial government and the Australian Broken Hill Proprietary Company (BHP). After several ownership transitions, the Tethyan Copper Company (TCC), jointly owned by Barrick Gold (Canada) and Antofagasta (Chile), took over the project and in 2010 proposed a \$3.3 billion investment plan. However, the Balochistan Government rejected TCC's mining license application in 2011, citing insufficient local benefits and demanding greater local participation. In response, TCC filed a claim for an international arbitration with the World Bank's International Centre for Settlement of Investment Disputes (ICSID) (ICSID Case No. ARB/12/1), regarding Pakistan's obligations to perform the contract entered with TTC to allow them mining rights in Reko Diq areas of Balochistan. Pakistan's Supreme Court, meanwhile, declared the original CHEJVA agreement void and invalid in 2013. In 2019, the ICSID ruled against Pakistan and ordered it to pay nearly \$6 billion for breach of the bilateral investment treaty obligations. The federal and provincial governments negotiated an out-of-court settlement with TCC, allowing the mine's development as a joint venture between Barrick Gold, the Balochistan Government, and Pakistani State-owned enterprises. The ICSID dispute reached an out of court settlement in 2022, with the acquisition of Reko Diq by Barrick Gold Corporation, following the conclusion of a framework agreement among the Governments of Pakistan and Balochistan province.

The project is expected to begin production by 2028, with projected revenues of approximately \$74 billion over the estimated 37-year lifespan of the mine's reserves.

However, the international arbitration process with the World Bank's International Centre for Settlement of Investment Disputes (ICSID) (ICSID Case No. ARB/12/1) failed to consider the broader human rights context in Balochistan, particularly the ongoing patterns of enforced disappearances, extrajudicial killings, and repression of the Baloch Indigenous population under the guise of counter-terrorism operations. The process reportedly also did not take into account the perspectives of affected communities and, the rights of Baloch Indigenous Peoples, including the free, prior, and informed consent (FPIC) and disregarded allegations of exposure to hazardous substances and wastes and environmental damage, such as cyanide contamination in grazing areas.

Specific context of Balochistan

Balochistan is a resource rich region, abundant in oil, coal, gold, copper, and gas. Although it is the largest province in Pakistan by area, Balochistan remains one of the most impoverished regions in the country and continues to face systemic under-development. According to the 2023 census, the province is home to approximately 15 million of Pakistan's estimated 240 million people, with over 70 per cent of the population living in extreme poverty¹.

The significant reserves of natural gas and minerals have attracted the interest of multinational businesses, but the Baloch population has long demanded autonomy in managing their natural resources, as stipulated by the 18th Amendment of 2010, which designates this as a provincial matter. Despite this, ethnic Baloch communities allege systematic marginalization by the Pakistani State, which has extracted substantial wealth from Balochistan's resources without meaningful consultation or engagement. This has reportedly resulted in a lack of fair benefit-sharing with local populations and has fueled political unrest and ongoing human rights violations in the province.

In that context, Baloch people's struggles are closely tied to the foreign business operations on their lands and the appropriation of natural resources. State security forces have reportedly carried out extensive crackdowns marked by unnecessary and disproportionate use of force to silence and suppress social and political movements advocating for Balochistan's rights, leading allegedly to the enforced disappearance of up to 18,000 people in the province since 2000, as well as tortured and extrajudicially killed, particularly among Baloch indigenous communities. Additionally, local leaders and residents have described an increasingly oppressive environment since 2023, marked by intensified State repression of those peacefully advocating for the return of forcibly disappeared individuals and the people's community's right to self-determination.

¹ Balochistan has the second highest headcount for multi-dimensional poverty out of all the provinces; at 71.2 per cent. Available at: <https://www.undp.org/pakistan/projects/balochistan-sdgs-bsdg-accelerated-delivery>

Environmental impacts of Reko Diq project

In the context of the new framework agreement for Barrick Gold's acquisition of mining rights, the required initial environmental and social impact assessment for the project, as mandated under section 15 of the Balochistan Environmental Protection Act (BEPA) 2012, has not been conducted. The 2024 environmental and social impact assessment (ESIA) for the Reko Diq Mining Project – approved by regulatory authorities for infrastructure development – disregards BEPA 2012's procedural requirements, which state that only after the Balochistan Environmental Agency has reviewed and granted approval can any further steps, including strategic assessments, be taken.

Despite Barrick's Gold statement that the ESIA was based on comprehensive social and environmental studies conducted over a period of 2.5 years by a team of independent experts, in consultation with local communities, environmental groups, and Government stakeholders, local stakeholders have argued that the consultations lacked transparency, and that there is no clear mechanism to demonstrate how community feedback was incorporated into decision-making processes. Additionally, it was alleged that the ESIA report lacks clarity on the structure of the grievance system and the criteria for its accessibility.

The environmental impacts of the Reko Diq project are a major source of concern. The extraction of large quantities of water from deep aquifers threatens to deplete groundwater resources and worsen drought conditions in an already arid region, exacerbating water insecurity for local communities. These communities, already facing water scarcity and land dispossession, are also exposed to the broader environmental consequences of the project. Additionally, the mine poses risks to traditional livelihoods, particularly for those relying on pastoralism and small-scale agriculture. Developed on land purchased or leased from the government of Balochistan, the project will reportedly limit access to crucial grazing areas and migration routes essential for livestock herders.

The high water consumption of the mine raises concerns about the depletion and toxic contamination of groundwater, directly affecting crop irrigation and drinking water for people and animals. Dust emissions from mining operations could also damage pastureland, reduce crop productivity, and contaminate animal fodder with heavy metals. The project could further exacerbate water scarcity in Balochistan, with the added risk of worsening water quality, already compromised by previous cyanide contamination incidents.

These risks are inherent to large-scale industrial copper mining and pose adverse effects on animal health, as well as to water and air quality. Additionally, the mine will be powered by a heavy fuel oil (HFO) plant, a highly polluting and carbon-intensive energy source. The IFC Environmental and Social Review Summary (ESRS) highlights that the project is expected to emit significant levels of particulate matter, affecting air quality and posing risks to workers on-site.

Adverse impact on the rights of Indigenous Peoples

The Baloch people, who identify themselves as Indigenous, have consistently demanded greater autonomy and the right to determine how their natural resources are managed, as they allege that the Pakistani State has systematically marginalized them while extracting significant wealth from Balochistan's natural resources. These demands stem from long-standing grievances over the federal Government's control of provincial resources and its failure to translate mineral wealth into local development. Although the Government of Pakistan does not formally recognize Indigenous Peoples and does not have any national policies on indigenous and tribal peoples, the Baloch people meet the criteria established under the Indigenous and Tribal Peoples Convention, 1989 (No. 169), and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), including self-identification, traditional lifestyle, a distinct language and culture, a unique social organization, and a historical connection to land.

The Chagai district, located in the Balochistan province of Pakistan, is home to various tribes, with the land holding deep cultural and historical significance for these Indigenous groups. The Balochistan High Court has ruled in *Sher Zaman v. The Government of Balochistan* (constitutional petition No. 1269 of 2018 and 1128 of 2020 in the Balochistan High Court) that, under section 50(2)5 of the Land Revenue Act 1967 ("LRA"), ownership of unsettled lands – land that does not have any formal or written documents authorised by the state – is presumed to belong to the local tribes, and that the Government is responsible for maintaining the settlement records. Over 90 per cent of the land in Balochistan remains unsettled and has been inhabited by indigenous tribes for centuries. The Court emphasized that longstanding possession and control by these tribes over the land provide them with legitimate ownership rights, even in the absence of formal documentation. This ruling underscores the critical need for Government recognition and respect of Indigenous land rights.

In this context, the Pakistani Government's increased security measures around the Reko Diq project have been perceived by many Baloch Indigenous leaders as militarization, which intensifies regional tensions and unrest. Local communities and human rights defenders have raised serious concerns regarding the lack of transparency, limited access to project-related information, and human rights abuses linked to this militarization. Moreover, fear of retaliation and a history of violence have reportedly silenced many Indigenous voices, resulting in their exclusion from meaningful consultation and consent processes.

Reprisals against those opposing the projects

Human rights defenders and Indigenous leaders who have denounced the adverse human rights impact of the Reko Diq mining project have reportedly suffered retaliation, attacks and detention. The demonstrations they have held have been reportedly violently suppressed by local authorities and the private security of the company. This would include targeted attacks against the Baloch Yekhehti Committee (BYC), an organization known for its vocal opposition to the exploitation of the region and aiming to raise awareness of human rights abuses, particularly extrajudicial killings and enforced disappearances, against ethnic Baloch people.

On 28 July 2024, the BYC called for a ‘Baloch Raaji Machi’ (Baloch National Gathering) in Gwadar to protest systemic discrimination, enforced disappearances, State violence, impunity, and the unlawful appropriation of Indigenous lands and resources linked to foreign investment operations. Notwithstanding the peaceful nature of the protests, various measures were reportedly taken by the authorities to impede the demonstrations. Highways were blocked by authorities, resulting in clashes and arrests. Pakistani State forces reportedly employed unnecessary and disproportionate force against peaceful protesters and human rights defenders attending the gathering, who were reportedly targeted and injured during the protest, including an alleged attempt on the life of woman human rights defender Dr. Mahrang Baloch. Following the tragic deaths of at least three activists, the rally transformed into a 12-day sit-in protest, which ended after negotiations between the BYC and Government representatives, including the release of detainees.

On 25 January 2025, during a movement organized in Dalbandin by the BYC to mark Baloch Genocide Remembrance Day, Dr. Mahrang Baloch publicly criticized foreign investors and the Government for the exploitation and displacement of local communities. She highlighted the lack of consent of Baloch People for the Reko Diq project, and denounced forced evictions, environmental degradation, and violations of Indigenous Peoples’ rights, including their right to self-determination and control over natural resources. After the BYC announced that they would be commemorating 25 January as ‘Baloch Genocide Remembrance Day’, there have been allegedly increased repression against the organization, including intimidation, arbitrary arrests, police brutality, restrictions on public gatherings, and the shutdown of mobile and internet services to prevent public participation.

In that context, on 22 March 2025, members of the BYC were reportedly subjected to State violence and arbitrary arrests while participating in a peaceful sit-in protest in Quetta, Balochistan. On that day, Dr. Mahrang Baloch and Beebow Baloch were arrested and later charged under Pakistan’s anti-terrorism laws. The following day, on 23 March, three protesters were killed as a result of the excessive use of force by law enforcement agencies. Subsequently, Mr. Sibghat Ullah Shah Jee Baloch was arrested in Quetta between the night of 30 and 31 March, and on 7 April 2025, Gulzadi Baloch was also detained by Pakistani authorities.

Following Dr. Mahrang’s arrest, protests and sit-ins were held across Balochistan, including in Turbat, Gwadar, and Khuzdar. Despite the peaceful nature of these gatherings, the provincial Government has repeatedly extended Dr. Baloch’s detention under section 3 of the Maintenance of Public Order (MPO) ordinance. On 11 October, the Balochistan Government decided to hold hearings of the detained BYC leaders inside prison premises, citing security concerns. During these closed proceedings, the judicial remand of all detained leaders was extended for an additional ten days, with a further hearing held on 22 October. Other BYC leaders and activists, including Beebarg Baloch, remain in custody under the same law.

The Balochistan Home Department has repeatedly extended the custody of Dr. Mahrang and members of the BYC, who were later transferred from preventive custody under section 3 of the MPO law to the Anti-Terrorism Court (ATC) and cases were filed against them under provisions of the Anti-Terrorism Act and the Pakistan Penal Code. The ATC in Quetta repeatedly prolonged their custody for nearly two months. After six extensions, the ATC rejected a request from the Counter Terrorism Department (CTD) to extend the physical remand of BYC leaders and transferred them to judicial custody in September 2025, while the charges against them remain under dispute. The BYC leaders, who were detained in March and April 2025, are now eligible to apply for bail.

Additionally, according to Pakistan's National Counter Terrorism Authority (NACTA), 563 individuals from Balochistan remain listed under the Fourth Schedule of the Anti-Terrorism Act. Reports indicate that among them are political and human rights activists, including members of the BYC, who have been reportedly listed in reprisal for their peaceful advocacy and legitimate human rights work.

Balochistan Mines and Minerals Act

On 12 March 2025, the Balochistan Assembly approved the Balochistan Mines and Minerals Act, which introduces a significant transformation, restricting provincial autonomy and stakeholder participation and consent over the province's natural resources and mineral reserves. The 2025 Act acknowledges foreign investment potential, but hands substantial authority to the federal Government, particularly in areas designated as "sensitive zones" that cover almost the whole of Balochistan, given the security situation. The Balochistan High Court has accepted petitions challenging the law.

Experts and community leaders fear that without proper checks and local participation, this Act could deepen economic disparities and disempower the people of the province, given that there is currently no formal compensation mechanism in place to adequately compensate local communities. The Balochistan Mines and Minerals Act seems to reinforce the existing pattern of resource extraction without equitable local development, deepening problems, exacerbating existing tensions and risks perpetuating the instability in Balochistan, where grievances over resource control and mismanagement of mineral wealth are already a significant driver of unrest.

While we do not wish to prejudge the accuracy of these allegations, we are deeply concerned about the potential negative impact this mining project would have on the local community's rights to a clean, healthy and sustainable environment, the rights of the Baloch as an Indigenous People, and the potential exacerbation of environmental and social risks in this fragile and conflict-affected context. We are further concerned about the right of the local community to legitimately express their discontent and about the detrimental effects the project's completion might have on the environment, the climate, their cultural heritage, and their livelihoods.

These ongoing challenges highlight the urgent necessity of addressing the rights of Indigenous Peoples in Balochistan. The lack of meaningful consultation and failure

to uphold the principle of FPIC, combined with increasing militarization and the negative environmental and socio-economic impacts of the Reko Diq project, risks worsening existing tensions, undermining local sovereignty, and further marginalizing Baloch communities. Protecting cultural, social, and land rights, as well as ensuring the Baloch people's right to self-determination, is critical. If left unaddressed, these issues could perpetuate historical grievances and exacerbate the economic and cultural marginalization of Baloch Peoples.

The allegations suggest that the Reko Diq project may be proceeding without proper human rights-based due diligence or meaningful community participation, in contravention of the standards set out in the UN Guiding Principles on Business and Human Rights (UNGPs). There is a need for comprehensive and participatory human rights and environmental impact assessments, integrating community concerns through participatory decision-making and establishing an effective grievance mechanism. Opportunities to participate in such evaluations should furthermore be made public to ensure timely access to accurate and meaningful information. Access to justice and effective remedies must be provided if there are concerns about the quality and inclusivity of these evaluations. Such measures are essential to align with international human rights standards and help mitigate social risks. Companies involved in such projects must ensure that they do not contribute to or benefit from human rights violations and are required to conduct heightened human rights due diligence, especially in conflict-affected or high-risk environments. Your Excellency's Government must adequately regulate private actors to ensure that their activities are conducted with full respect for international human rights law.

Furthermore, we are concerned that the recent Balochistan Mines and Minerals Act may further exacerbate the ongoing human rights violations in the conflict-affected region. We would like to draw your Excellency's Government's attention to the Guiding Principles, which emphasize that meaningful consultation with potentially affected stakeholders is a critical component of effective human rights due diligence. The absence of inclusive and transparent engagement processes risks undermining the legitimacy of legislative measures and exacerbating tensions on the ground. This law is likely not only to fail to address these issues but could aggravate most of them.

Additionally, we are concerned about the reported arrest, detention, and criminal prosecution of the BYC leaders and members, including woman human rights defender Dr. Mahrang Baloch, and Mr. Sibghat Ullah Shah Jee Baloch, under terrorism and national security-related charges. These actions appear to be directly linked to their legitimate human rights work and public advocacy related to the environmental and social impacts of the Reko Diq mining project. We reiterate our concern regarding the misuse of counter-terrorism legislation against civil society organisations. These concerns are further heightened by recent amendments to the counter-terrorism framework, which risk expanding the scope for arbitrary application (see PAK 12/2025). We respectfully request your Excellency's Government to take all necessary measures to ensure that BYC members, including woman human rights defender Dr. Mahrang Baloch, are released from arbitrary detention and are allowed to continue their legitimate activities without restraints in a safe and enabling environment, without fear of threats or acts of intimidation, harassment or criminalization of any sort, including in relation to their engagement with the UN human rights mechanisms. We remain deeply concerned about the reported violations

of due process, particularly the alleged use of closed-door hearings within detention facilities, which contravene article 14 of ICCPR, guaranteeing the right to a fair and public hearing by an independent and impartial tribunal. We remain concerned about the listing of individuals under the Fourth Schedule, and we refer your Excellency's Government to our concerns outlined in communication PAK 1/2025 and its related legal analysis.

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 any steps taken by your Excellency's Government to effectively protect human rights defenders and activists in Pakistan, including women human rights defenders, and ensure that they are able to freely and safely exercise their rights to freedom of peaceful assembly, association and expression, and their right to participate in public affairs, and to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation, harassment, reprisals, criminalization or violence of any sort.
3. Please advise what steps your Excellency's Government is taking to investigate and ensure accountability for serious violations against those who are exercising their rights to freedom of peaceful assembly, association, expression, and their right to participate in public affairs, and to ensure that victims have access to appropriate forms of redress. If no such measure has been taken, please explain why, and how this is compatible with Pakistan's international human rights obligations.
4. Please provide detailed information on the current legal status of woman human rights defender Dr. Mahrang Baloch and other members and leaders of the Baloch Yakjehti Committee who remain in detention, including the specific legal and factual grounds invoked to justify the repeated extensions of their preventive detention. In particular, please explain how the continued application of these measures is compatible with Pakistan's obligations under international human rights law, in particular regarding the rights to liberty and security of person, due process guarantees, freedom of expression, peaceful assembly and association, the right to participate in public affairs, and the protection of human rights defenders. Furthermore, please clarify the legal basis under which closed hearings are being conducted in relation to these cases.

5. Please provide detailed information on the measures which have been taken, or which are foreseen, to ensure law enforcement authorities respond to protests in a manner that is consistent with international human rights standards, particularly with regard to the prohibition of excessive use of force. Please also indicate the manner in which your Excellency Government investigates and punishes any disproportionate use of force by public security forces.
6. Please indicate the manner in which your Excellency's Government ensures do not use excessive force in response to protests to ensure that human rights defenders are able to carry out their legitimate work without fear of threats or acts of intimidation, harassment, reprisals, criminalization or violence of any sort.
7. Please indicate what steps your Excellency's Government has taken or is considering to take, including policies, legislation, and regulations, to uphold its obligations to protect against human rights abuses by business enterprises, including private military and security companies, in its territory and/or under its jurisdiction, and ensuring that business enterprises within its territory and/or jurisdiction conduct effective human rights due diligence to identify, prevent, mitigate, and account for how they address their impacts on human rights, including on the natural environment, throughout their operations, as set forth by the UN Guiding Principles on Business and Human Rights.
8. Please provide information about all measures the Government has taken to inform the potentially affected people about the Reko Diq project, ensure their right to access all relevant information and seek their meaningful consultation in the decision-making processes about the project, that will have an impact on their livelihoods and ways of life. If no such consultation was organized, please indicate how this is compatible with Pakistan's international human rights commitments, including the rights of Indigenous Peoples.
9. Please provide information on the measures taken by your Excellency's Government to ensure that potentially affected Indigenous Peoples are consulted and that their free, prior and informed consent is obtained.
10. Please provide information in relation to the validity of the mining license for the Reko Diq Project, and the validity of the environmental license. Please advise how this environmental license has been taken into account and address the environmental impacts raised in this letter.
11. Please advise what steps your Excellency's Government is taking to ensure the fulfilment of the right to a clean healthy and sustainable environment – which encompasses the right to live in a toxic-free environment – for communities in the area, and provide information on steps taken to prevent and address the negative social, cultural, human rights, environmental and climate impacts on the local population in the Balochistan, including to assess the possible harms of the Reko Diq

project, such as toxic contamination, and of any governmental decision affecting them.

12. Please indicate specific initiatives taken to ensure that those affected by business-related human rights abuse within your jurisdiction and/or territory have access to justice and effective remedies.
13. Please provide the legal and factual basis for the inclusion of the individuals concerned under the Fourth Schedule of the Anti-Terrorism Act, including the specific criteria used for such listings. Please clarify the procedural safeguards in place to ensure that individuals are not arbitrarily or discriminatorily listed, particularly in relation to their peaceful exercise of the rights to freedom of expression, association, and peaceful assembly.

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 prevent any irreparable damage to the life and personal integrity of the Balochistan Indigenous peoples living in the area that would be interested by the Reko Diq project, 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 would like to bring to the attention of your Excellency's Government that should sources submit allegations concerning any related enforced disappearances for the consideration of the Working Group on Enforced or Involuntary Disappearances under its humanitarian procedure, these will be examined by the Working Group according to its methods of work, in which case your Excellency's Government will be informed by separate correspondence.

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.

Please be informed that a letter on this subject matter has also been sent to the Government of Canada, as well as to those business enterprises that are involved in the development and financing of the Reko Diq project including Barrick Gold Corporation, International Finance Corporation (IFC), International Development Association (IDA) and the Asian Development Bank (ADB).

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

Matthew Gillett
Vice-Chair of the Working Group on Arbitrary Detention

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Nicolas Levrat
Special Rapporteur on minority issues

Ben Saul
Special Rapporteur on the promotion and protection of human rights and fundamental
freedoms while countering terrorism

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

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

Freedom of opinion and expression

We would like to refer your Excellency's Government to articles 6, 7, 9, 10, 14, 16, 19, 21 and 22, read alone and in conjunction with article 2(3) of the International Covenant on Civil and Political Rights (ICCPR), ratified by Pakistan on 23 June 2010.

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 and in any case the restrictions must be "the least intrusive instrument among those which might achieve their protective function" (CCPR/C/GC/34, para. 34).

Respect for human rights while countering terrorism

Many resolutions of the United Nations General Assembly, Security Council and Human Rights Council reaffirm that any measures taken to combat terrorism and violent extremism must comply with the obligations of States under international law,

in particular international human rights law, refugee law and international humanitarian law. Counter-terrorism measures must conform to fundamental requirements of legality, proportionality, necessity and non-discrimination. Disregard for these principles can have exceptionally harmful effects on the protection of fundamental rights, particularly for minorities, historically marginalized communities, and civil society. States must ensure that measures to combat terrorism do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights (A/HRC/RES/22/6, para. 10(a)).

Although no universal treaty generally defines “terrorism”, States should ensure that counter-terrorism legislation is limited to criminalizing conduct which is properly and precisely defined on the basis of the international counter-terrorism instruments, the General Assembly’s Declaration on Measures to Eliminate International Terrorism (1994), and Security Council resolution 1566 (2004). Based on these authoritative sources, the model definition of terrorism advanced by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism provides clear, “best practice” guidance, by identifying conduct that is genuinely terrorist in nature and precisely defining the elements (A/HRC/16/51, para. 28).

In his report to the General Assembly on the impact of counter-terrorism measures on civil society, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism urged States to ensure that their counter-terrorism legislation is sufficiently precise to comply with the principle of legality, so as to prevent the possibility that it may be used to target civil society on political or other unjustified grounds (A/70/371, para. 46(c)).

Due process

We underline that all individuals, regardless of the severity of the charges brought against them, have a right to due process and fair trial. Provisions within many universal terrorism-related conventions require compliance with the right to a fair trial and the rule of law. The right to a fair trial is recognized not only in human rights treaties but also within international humanitarian law, international criminal law, counterterrorism conventions and customary international law (see A/63/223). We remind your Excellency’s Government that article 14 of the ICCPR, ratified by Pakistan, provides inter alia for the principle of equality before competent, independent, and impartial courts and tribunals, the presumption of innocence, provision of adequate time and facilities for the preparation of the defense, and the right of accused persons to communicate with counsel of their own choosing.

Right to life

We further refer to article 6 of the ICCPR, which enshrines the right to life and security of the person and to Human Rights Committee general comment 36.

An important element of the protection afforded to the right to life by the Covenant is the obligation on the States parties, where they know or should have known of potentially unlawful deprivations of life, to investigate and, where appropriate, prosecute the perpetrators of such incidents, including incidents involving allegations

of excessive use of force with lethal consequences.

Loss of life occurring in custody creates a presumption of arbitrary deprivation of life by State authorities, which can only be rebutted on the basis of a proper investigation which establishes the State's compliance with its obligations under article 6. Investigations and prosecutions of potentially unlawful deprivations of life should be independent, impartial, prompt, thorough, effective, credible and transparent and undertaken in accordance with relevant international standards, including the Minnesota Protocol on the Investigation of Potentially Unlawful Death. Investigations must be aimed at ensuring that those responsible are brought to justice, at promoting accountability and preventing impunity, at avoiding denial of justice and at drawing necessary lessons for revising practices and policies with a view to avoiding repeated violations. In the event that a violation is found, full reparation must be provided, including, in view of the particular circumstances of the case, adequate measures of compensation, rehabilitation and satisfaction (Human Rights Committee, general comment 36).

In relation to the use of force by law enforcement officials, the use of potentially lethal force for law enforcement purposes is an extreme measure that should be resorted to only when strictly necessary in order to protect life or prevent serious injury from an imminent threat (*ibid*). Furthermore, States are expected to take all necessary measures intended to prevent arbitrary deprivations of life by their law enforcement officials. These measures include putting in place appropriate legislation controlling the use of lethal force by law enforcement officials, procedures designed to ensure that law enforcement actions are adequately planned in a manner consistent with the need to minimize the risk they pose to human life, mandatory reporting, review and investigation of lethal incidents and other life-threatening incidents, and supplying forces responsible for crowd control with effective, less-lethal means and adequate protective equipment in order to obviate their need to resort to lethal force. In particular, all operations of law enforcement officials should comply with relevant international standards, including the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and law enforcement officials should undergo appropriate training designed to inculcate these standards so as to ensure, in all circumstances, the fullest respect for the right to life (Human Rights Committee, general comment 36).

Arbitrary detention

We recall that article 9 of the ICCPR prohibits arbitrary detention. Specifically, it establishes that no one shall be deprived of his or her liberty (unless it is in accordance with appropriate laws), and that anyone who is arrested shall be brought promptly before a judge or officer authorized by law to exercise judicial power, and that anyone arrested shall be entitled to trial within a reasonable time. Pre-trial detention should thus be the exception rather than the rule (general comment No. 35, para. 38). A person may only be deprived of liberty in accordance with national laws and procedural safeguards governing detention (including in relation to arrest and search warrants), and where the detention is not otherwise arbitrary. In this respect, deprivation of liberty resulting from the exercise of the rights or freedoms guaranteed by the ICCPR is considered arbitrary (general comment No. 35, para. 17).

We would like to remind your Excellency's Government that according to article 9(1) of the ICCPR, no one shall be subjected to arbitrary arrest or detention, and no one shall be deprived of his or her liberty except on grounds established by law and following legal procedures. The Human Rights Committee has established in its general comment No. 35 on article 9 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).

Furthermore, we would like to remind your Excellency's Government that the deprivation of liberty may be rendered as arbitrary when it constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings.

Moreover, article 9.2 of the ICCPR stipulates that the person must be informed, at the moment of the arrest, about the reasons for such deprivation of liberty; in addition, the information about the charges against the person should be provided without delay.

According to article 9.3, anyone deprived of his or her liberty "shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release." Article 9.4 incorporates the right to initiate proceedings before a court to determine the lawfulness of the detention. These guarantees must be satisfied since the very start of the detention period and irrespective of its duration.

Principle 3 of the United Nations Basic Principles and Guidelines on remedies and procedures on the right of anyone deprived of their liberty to bring proceedings before a court upholds the right of any individual who is deprived of liberty in any situation, by or on behalf of a governmental authority at any level including detention by non-state actors that is authorized by domestic legislation, to take proceedings before a court without delay in that State's jurisdiction to challenge the arbitrariness and lawfulness of his or her deprivation of liberty and receive appropriate and accessible remedies. The 2019 annual report of the Working Group on Arbitrary Detention further reiterates that it is essential to preserve the right of all those deprived of their liberty to challenge the legality of detention, which is a peremptory norm of international law. The right to legal assistance must be ensured from the moment of deprivation of liberty and, in the context of the criminal justice setting, prior to questioning by the authorities.

Freedom of peacefully assembly and association

We also recall article 21 of the ICCPR, which recognizes that the right to freedom of peaceful assembly should be enjoyed by everyone, as provided for by article 2 of the ICCPR and resolutions 15/21, 21/16 and 24/5 of the Human Rights Council. In its resolution 24/5, the Council reminded States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs and human rights defenders.²

² A/HRC/26/29, para. 22.

We also recall that article 22 of the ICCPR protects the right to freedom of association, which guarantees the rights of everyone to associate with others and to pursue common interests. Freedom of association is closely linked to the rights to freedom of expression and peaceful assembly; it is of fundamental importance to the functioning of democratic societies and can only be limited through necessary and proportionate restrictions that serve a legitimate public purpose that is consistent with international standards. The Human Rights Committee has further affirmed that recognition of the right of peaceful assembly imposes a corresponding obligation on States parties to respect and ensure its exercise without discrimination.³

We wish to refer to the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted in General Assembly resolution 47/135, which refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt measures to that end (article 1) as well as to adopt the required measures to ensure that persons belonging to minorities can exercise their human rights without discrimination (article 4). Article 2 further establishes that persons belonging to minorities have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely, without any interference or any form of discrimination and provides for the effective participation of minorities in cultural, religious, social, economic and public life, as well as in decision-making processes on matters affecting them.

Torture and other forms of cruel, inhuman, or degrading treatment

The prohibition on torture and cruel, inhuman or degrading treatment or punishment is absolute and non-derogable (UDHR article 5; ICCPR article 7 and 2(3); Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT) articles 1, 2, 15 and 16). States parties to the CAT must establish all acts of torture as offences under domestic law (article 4), exercise jurisdiction over said offences (article 5), receive complaints and examine them promptly and impartially (article 13), and investigate those allegations promptly and impartially (article 12). At no time shall torture be used to extract information or a confession (article 1), and any statement which has been obtained via such methods shall be excluded from any proceedings except against a person accused of torture as evidence that the statement was made (article 15). Victims are to be protected from reprisals or intimidation during said investigations (article 13) and they have an enforceable right to fair and adequate compensation including the means for as full rehabilitation as possible (article 14). States party to the CAT have overarching obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment via effective legislative, administrative, judicial and other measures (articles 2 and 16), to educate and train relevant personnel on the prohibition (article 10) and to keep all rules, instructions, methods and practices relating to interrogation, custody and treatment under systematic review (article 11). The standards of conditions and treatment of persons deprived of their liberty are contained in the UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), which establish that all prisoners shall be treated with dignity and no prisoner shall be subjected to torture or other cruel, inhuman or degrading treatment or

³ CCPR/C/GC/37, para. 8.

punishment. prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment (General Assembly resolution 79/209, para. 18); prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by article 7 of the ICCPR (general comment No. 20, para. 6). Furthermore, under CAT there is an obligation to prevent acts of torture and ill-treatment (article 2), to promptly and impartially investigate allegations (article 12), and to prosecute those responsible (articles 4 and 5).

We would also like to remind your Excellency's Government that while enforced disappearance is a crime in itself, it may also amount to torture or other cruel, inhuman or degrading treatment or punishment, and is a serious violation of international law. The Committee against Torture⁴ and the Human Rights Committee⁵ have concluded that enforced disappearances may amount to torture and other forms of ill-treatment both with regard to the disappeared and with regard to their family members, due to the anguish and uncertainty concerning the fate and whereabouts of the disappeared. The absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment, is an international norm of jus cogens, reflected inter alia, in Human Rights Council resolution 25/13 and General Assembly resolution 68/156.

Minority rights

We wish to refer to the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted in General Assembly resolution 47/135, which refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt measures to that end (article 1) as well as to adopt the required measures to ensure that persons belonging to minorities can exercise their human rights without discrimination (article 4). Article 2 further establishes that persons belonging to minorities have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely, without any interference or any form of discrimination and provides for the effective participation of minorities in cultural, religious, social, economic and public life, as well as in decision-making processes on matters affecting them.

Indigenous Peoples

Furthermore, the United Nations Declaration on the Rights of Indigenous Peoples, adopted by the General Assembly on 13 September 2007, establishes in article 18 that "Indigenous Peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures as well as to maintain and develop their own indigenous decision-making institutions." Article 19 stipulates 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, prior and informed consent

⁴ See, for example, conclusions and recommendations on the second periodic report of Algeria (A/52/44, para. 79), on the initial report of Namibia (A/52/44, para. 247) and on the initial report of Sri Lanka (A/53/44, paras. 249 and 251).

⁵ CCPR/C/50/D/440/1990 (24 March 1994), para. 5.4.

before adopting or implementing legislative or administrative measures that may affect them.

Enforced disappearances

We recall that the prohibition of enforced disappearances and the corresponding obligation to investigate them and hold perpetrators accountable has attained the status of jus cogens.

We would further like to refer to the United Nations Declaration on the Protection of All Persons from Enforced Disappearance which establishes the prohibition to practice, permit or tolerate enforced disappearances (article 2); the obligation to take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance (article 3); the obligation to criminalize enforced disappearances as autonomous offense in domestic legislation (article 4) and that no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances (article 7). In addition, the Declaration stipulates the right to be held in an officially recognized place of detention, in conformity with national law and to be brought before a judicial authority promptly after detention in order to challenge the legality of the detention (article 10). In particular, in its paragraphs 3 and 5 of article 13, the Declaration provides that States shall ensure that all persons involved in the investigation of cases of enforced disappearance, including the complainant, counsel and witnesses, are protected against ill-treatment, intimidation or reprisal; and that steps shall be taken to ensure that any ill-treatment, intimidation or reprisal or any other form of interference on the occasion of the lodging of a complaint or during the investigation procedure is appropriately punished. Paragraphs 3 and 5 of article 13 of the Declaration on Enforced Disappearances specifically establish that your Excellency's Government has the duty to ensure that all persons involved in the investigation of cases of enforced disappearance remain protected against ill-treatment, intimidation or retaliation and that any such acts or forms of interference on the occasion of lodging of a complaint or during the investigation procedure are appropriately punished. The assistance to family members and disappeared persons that have been subjects of acts of retaliation is a crucial factor in order to interrupt persisting cycles of impunity (A/63/313, para. 14). Ultimately, the Declaration establishes the obligation to bring perpetrators of enforced disappearances before competent civil authorities for the purpose of prosecution and trial (article 14 and 16) and that victims of enforced disappearance shall obtain redress and shall have the right to adequate compensation, including the means for as complete rehabilitation as possible (article 19).

We also bring to the attention of your Excellency's Government the [report](#) on *Enforced disappearance in the context of the defence of land, natural resources and environment* by the Working Group on Enforced or Involuntary Disappearances, which examines the alarming global trend of enforced disappearances targeting individuals defending land, natural resources, and the environment (LNRE defenders), highlighting the disproportionate impact on Indigenous Peoples, Afro-Descendant communities, and rural populations, and underscoring the role of business enterprises and financial institutions in enabling or perpetrating such violations with the State's acquiescence. The report outlines the obligations of both State and non-State actors under international

law, and offers concrete recommendations to ensure prevention, accountability, and holistic reparations for victims and affected communities.

The underline that States bear the primary responsibility to prevent and remedy human rights violations, including by addressing the root causes of enforced disappearance. Under international law, including the Declaration on the Protection of All Persons from Enforced Disappearance, State responsibility may arise not only from direct participation in a disappearance, but also from support, direct or indirect, consent or acquiescence in cases of disappearances perpetrated by non-State actors, such as business enterprises and financial institutions. The prohibition of enforced disappearances and the corresponding obligation to investigate them have attained the status of jus cogens and, as such, generate obligations *erga omnes*, including to non-State actors. Some of the recommendations include, for States, secure land tenure for communities; ensure free, prior, and informed consultation; regulate corporate conduct through obligatory laws aligned with the UN Guiding Principles on Business and Human Rights; include anti-disappearance clauses in trade agreements; conduct effective investigations; ensure accountability of all actors involved, including business enterprises, with the support of independent experts, and provide holistic reparations. Business enterprises and financial institutions should avoid acts of corruption; conduct exhaustive risk assessments before launching projects; ensure transparency in all projects; suspend activities when there is a risk of enforced disappearances; and cooperate with the State for prevention, searching, investigation and reparation of cases of enforced disappearances that occur in the territories where they are operating.

We would like to once again respectfully remind your Excellency's Government that it is obliged under the international treaties ratified or acceded to by Pakistan, to provide effective protection of their rights to individuals at risk of enforced disappearance, and to those participating in organisations aiming to establish the circumstances of enforced disappearances and the fate and whereabouts of disappeared persons and to assist victims, and other human rights violations, to establish an enabling environment for the exercise of freedom of association and expression free from any forms of intimidation, and to take concrete steps to prevent threats, harassment and attacks against any individuals, including human rights defenders.

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 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.

In particular, 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 5, point a), which states that everyone has the right to meet or assemble peacefully;
- article 6, point a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- 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;
- and 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.

Principles Applicable to Watchlisting

We respectfully refer your Excellency's Government of the Human Rights Principles Applicable to Watchlisting, which require: (i) a fair and accountable legal process that offers a reasonable and legally-based opportunity for listed persons to administratively and judicially challenge the basis of their inclusion on the list; (ii) a person's inclusion on the list to be a necessary and proportionate response to an actual, distinct, and measurable terrorism threat that is consistent with the definition of terrorism found in the international counter-terrorism conventions and United Nations Security Council resolution 1566 (2004); (iii) consideration of the human rights implications that arise from watchlisting, including for freedoms of movement, association, expression and religion, the rights to privacy, property, health, due process and family life, and social and economic rights, including the right to work; and (iv) non-discrimination based on any protected attribute under international human rights law, which relevantly include political opinion and religious belief.

National designation of terrorist individuals or organizations

We recall that the designation of "terrorist" individuals or organizations must meet the requirements of due process and judicial protection under international human rights law, as set out by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. Specifically: (a) there must be reasonable grounds to believe that the person or entity has knowingly

engaged in terrorism, as properly defined according to international standards, including the requirement of legality; (b) a listed person or entity must be promptly informed of the listing and its factual grounds, the consequences of such listing and the applicable procedural rights; (c) there must be a right to apply for de-listing and to have it reviewed within a reasonable time, and a right to judicial review of any resulting decision, in both cases affording due process, including sufficient disclosure of evidence and access to a lawyer; and (d) listings must lapse automatically after 12 months unless renewed afresh; and reparation, including compensation, must be available for any wrongful listing. (A/HRC/16/51, para. 35)

Business and Human Rights

We also would like to refer to the Guiding Principles on Business and Human Rights, which were unanimously endorsed by the Human Rights Council in its resolution (A/HRC/RES/17/4) in 2011. The Guiding Principles have been established as the authoritative global standard for all States and businesses with regard to preventing and addressing adverse business-related human rights impacts.

The Guiding Principles clarify that under international human rights obligations "States must protect against human rights violations committed in their territory and / or their jurisdiction by third parties, including companies" (principle 1). This requires States to "state clearly that all companies domiciled within their territory and / or jurisdiction are expected to respect human rights in all their activities" (principle 2). In particular, this includes companies undertaking a due diligence process in the field of human rights to identify, prevent, mitigate and respond to the negative human rights consequences in which they may be involved, either through their own activities or as a result of their commercial relations (principles 17-21). This process of identifying and assessing actual or potential negative human rights consequences should include substantive consultations with potentially affected groups and other stakeholders (principle 18).

The guiding principles 25 to 31 provide guidance to States and business enterprises on steps to be taken to ensure that victims of business-related human rights abuse have access to effective remedy.

In this connection, we recall that guiding principle 25 states that as part of their duty to protect against business-related human rights abuse, "States must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy". As underlined in the commentary to guiding principle 25, "State-based judicial and non-judicial grievance mechanisms should form the foundation of a wider system of remedy. Within such a system, operational-level grievance mechanisms can provide early stage recourse and resolution."

Guiding principle 26 further notes that States should take appropriate steps to ensure the effectiveness of domestic judicial mechanisms when addressing business-related human rights abuses, including considering ways to reduce legal, practical and other relevant barriers that could lead to a denial of access to remedy.

Guiding principle 28 highlights that, “States should consider ways to facilitate access to effective non-State based grievance mechanisms dealing with business-related human rights harms.” The commentary to guiding principle 29 further provides that operational-level grievance mechanisms should not be used to preclude access to judicial or non-judicial grievance mechanisms.

Guiding principle 31 clarifies that in order to ensure their effectiveness, nonjudicial grievance mechanisms, both State-based and non-State-based, should be:

- a) Legitimate: enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes;
- b) Accessible: being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access;
- c) Predictable: providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation;
- d) Equitable: seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;
- e) Transparent: keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism’s performance to build confidence in its effectiveness and meet any public interest at stake;
- f) Rights-compatible: ensuring that outcomes and remedies accord with internationally recognized human rights;
- g) A source of continuous learning: drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms.

Operational-level mechanisms should also be:

- h) Based on engagement and dialogue: consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances.”