

Mandates of the Special Rapporteur on the rights of Indigenous Peoples; 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 the human right to a clean, healthy and sustainable environment; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the human rights of internally displaced persons

Ref.: AL KEN 4/2025
(Please use this reference in your reply)

16 January 2026

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights of Indigenous Peoples; 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 the human right to a clean, healthy and sustainable environment; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights defenders and Special Rapporteur on the human rights of internally displaced persons, pursuant to Human Rights Council resolutions 60/4, 53/3, 57/31, 55/2, 60/10, 52/4 and 59/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the alleged human rights violations and abuses arising from ongoing fossil fuel extraction in Lokichar Basin, Turkana County by Tullow Oil (2012-until September 2025) and Gulf Energy Ltd (since September 2025) without the free, prior and informed consent of Turkana Indigenous Peoples, in violation of international and national law.**

According to the information received:

Oil extraction in Turkana began in 2012 when a British company, Tullow Oil, discovered oil in the region (South Lokichar Basin Oil Development Project). Tullow Oil was the operating partner of the oil fields in the South Lokichar Basin, as part of a joint venture with Africa Oil and Total Energies. Tullow Oil exited the project in September 2025, selling its assets to Auron Energy E&P Ltd, which is an affiliate of Kenya based Gulf Energy Ltd.

The land on which these activities occur is communally owned and was leased under compulsory acquisition by the National Land Commission without the free, prior and informed consent of affected Turkana Indigenous Peoples (Nakukulas, and Kapese Turkana Indigenous communities). They were neither consulted nor compensated adequately for the loss of land and livelihoods. The acquisition disregarded the cultural, ecological, and medicinal importance of the land for Turkana People, offering inadequate compensation and dismissing traditional dwellings as insignificant.

Following the enactment of Kenya's 2010 Constitution, which recognized community land ownership, the Community Land Act was passed in 2016 and implemented in 2017. This law required county governments to act as trustees for unregistered community lands and mandated the transfer of compensation funds to community land management committees upon registration. Despite these legal provisions, implementation was slow and hindered by political resistance and lack of awareness, leaving the law's promises largely unmet in pastoralist regions like Turkana.

This has been worsened by the Land Value (Amendment) Act 2019, which introduced zero-rating of land value for rangelands, again disregarding the social, cultural, economic, and ecological value of the lands and traditional economy that sustains Turkana People as pastoralists.

As oil operations expanded, environmental degradation became a growing concern. Tullow Oil facilities store toxic drilling residues improperly, failing to meet the standards of the National Environmental Management Authority (NEMA). Improper storage of toxic drilling waste led to contamination of water sources, resulting in livestock deaths and health issues among local Indigenous Peoples. These practices violated national environmental laws and international standards. The situation is further aggravated today by the continued environmental degradation resulting from fossil fuel operations with serious negative impacts on human rights, including on the right to a healthy environment. Toxic waste and drilling residues are reportedly stored improperly, and rainfall runoff often contaminates community water sources, leading to livestock deaths and health complications. These violations contravene the Environmental Management and Coordination Act (EMCA No. 8 of 1999) and the Environmental Management and Coordination Regulations, 2006, as well as numerous international standards, including the UN Declaration on the rights of Indigenous Peoples. In addition, this ecosystem plays a key role in climate adaptation and mitigation, and in this context, environmental harm affecting such ecosystem may result in heightened human rights impacts on the communities.

The Indigenous communities faced displacement and restricted access to vital cultural and medicinal sites, threatening their traditional way of life. Meanwhile, displacement has stripped Turkana Peoples of land, trees, and medicinal plants, deemed "valueless" by authorities, while only "temporary houses of no value" were offered in return. Pastoralist Indigenous communities view the shrinkage of pastoral land as systematic displacement and loss of livelihood means, that can only be supported by such a fragile ecosystem which they have depended upon for centuries.

Between 2012 and 2016, payments from Tullow Oil were directed to municipal authorities. In June 2024, the Tullow Oil company deposited a substantial sum with the Turkana County Government, as compensation for land leased for extraction. However, local officials claimed the funds were accrued levies and taxes, not compensation, and absorbed the money into the county's development budget. This sparked indignation among civil society groups and community leaders who argued that the funds should have been transferred directly to the

affected Indigenous communities. In response, a petition was filed in July 2025 at the Environmental and Land Court in Lodwar, seeking disclosure of the agreement between the Tullow Oil company and the county government, restitution of the funds, and enforcement of community land rights.

Although the court held a hearing in October 2025, it focused narrowly on access to information, neglecting broader issues related to land rights and compensation. Meanwhile, a government notice issued in October 2025 announced further compulsory acquisitions of land for oil development, again without the consent of the Indigenous communities. This move was perceived as a continuation of systemic marginalization and a violation of both constitutional and international obligations, reinforcing the community's demand for accountability, restitution, and respect for their rights. The Indigenous human rights defenders opposed to the project received threats and were subjected to intimidation.

While the Kenyan Constitution recognizes community land ownership, the right to free, prior and informed consent (FPIC) is not explicitly incorporated into the national legal framework governing land acquisition. Instead, the law provides for "public participation," which, though important, is not equivalent in national law to FPIC, as guaranteed under international human rights standards. These standards, including the FPIC requirement, have been explained in detail to Kenya in orders of the African Court, decisions of the African Commission and by various UN treaty bodies, Special Procedures and others. The Community Land Act 2016, however, remains the primary statute recognizing community tenure and sets obligations for County Governments to act as trustees for unregistered community land, establishing a fiduciary obligation that includes acting in our best interests.

The section 6(3) of the Community Land Act explicitly requires that once community land is registered, any funds held in trust for the community, including compensation for land acquisition, must be promptly released to that community. Reportedly, the County Government of Turkana has failed to comply with this legal obligation, after on 20 June 2024, Tullow Oil paid the County Government KES 258 million as compensation for communities affected by land acquisition for oil extraction, which never reached them. Instead of transferring the funds to the affected Indigenous communities as required by law, the County Government kept it for using it as it deems appropriate. This breach, compounding others, compelled the affected Indigenous communities to file a case before the Environmental and Land Court (ELC) in Lodwar on 24 July 2025. It seeks judicial orders disclosing the terms of the agreement between the County Government and Tullow Oil, seeking restitution of funds secured for their benefit, and enforcement of their rights. Attempts to obtain redress through the legal channels resulted in a hearing on 15 October 2025, however, the court focused narrowly on the issue of access to information, overlooking the community's broader grievances. As a result, the Indigenous communities remain without clear information on the compensation process or lease agreements, and without information on the lack of fair and equitable benefit-sharing, reflecting ongoing and continuous barriers to transparency and participation in decisions affecting their lands and livelihoods.

Urgent concerns regarding further land forceful acquisition, adding to the long-standing pattern of disregard for and gross violation of Turkana People's rights, the Gazette Notice No. 14647 was issued by the Government of Kenya to compulsorily acquire land in Nakukulus and Kapese communities in October 2025. It expresses the intent to compulsorily acquire further areas of Turkana lands for oil wells, again without the effective participation and FPIC of the affected Indigenous communities. This affects Turkana Indigenous Peoples greatly as it reflects an intensification and expansion of the persistent infringement on their collective rights to their ancestral lands, territories and resources, culture, livelihoods, and survival. It also represents a discriminatory privileging business interests over their rights, yet again, and without consideration for either the obligations of the Kenyan State or the responsibilities of the business entities pursuant to international treaties ratified by Kenya and the UN Guiding Principles on Business and Human Rights.

On 18 and 19 November 2025, the Kenya National Land Commission, together with the investor Gulf Energy and the Ministry of Petroleum team, visited the area and demarcated the land they intend to acquire compulsorily without considering the concerns of the Indigenous communities, and contrary to their plea for land lease as opposed to compulsory land acquisition.

While we do not wish to prejudge the accuracy of these allegations, we are expressing our grave concern, should they be confirmed, at what may constitute violations of the Turkana Peoples rights to their lands, territories and resources, their right to free, prior and informed consent, as well as the right to a healthy environment and the right to the highest standards of physical and mental health. This may further undermine Kenya's obligations under international human rights law. In 2020, 2023, and 2025 we expressed concern over the situation of the rights of Indigenous Peoples in Kenya (UA KEN 4/2023, AL KEN 3/2020 and AL KEN 2/2025).

We are concerned that the fossil fuel extractions are carried out without good faith consultation and without obtaining the free, prior, and informed consent of the Indigenous Peoples affected as required under international human rights law, without fair and equitable benefit-sharing, without the necessary environmental protection safeguards, including an adequate environmental, social and human rights impact assessment and without fair and equitable benefit sharing. We are calling to immediately cease any further action on the intent to expropriate additional Turkana lands without first complying with your Excellency's Government's obligation to secure the rights to lands, territories, and resources of Turkana Indigenous Peoples and protect their rights from environmental degradation.

We express particular concern with regard to the failure of the Government of Kenya to guarantee enhanced environmental safeguards and Indigenous Peoples involvement in waste handling, in line with the Petroleum Act 2019, and establish waste treatment facilities in affected areas. Based on fair and equitable benefit-sharing, Indigenous Peoples should be involved in all decision-making on the developments on their lands; and their rights should be protected from environmental degradation arising from all phases of fossil fuel operations. We also call upon your Excellency's Government to remind the County Government of Turkana of its legal duty to adhere

to section 6 of the Community Land Act 2016 and to immediately release to the registered Indigenous communities adequate compensation following land acquisition.

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 on whether your Excellency's Government has consulted, on the basis of a prior and participatory environmental impact assessment and obtained the free, prior, and informed consent, including on fair and equitable benefit-sharing and on compensation, of Indigenous Peoples affected for the current ongoing fossil fuel extraction in Turkana County. If yes, please give the details, date, and outcome of these consultations, and the criteria for the identification of the affected Indigenous Peoples, and where appropriate, information on the measures fair and equitable benefit-sharing, in addition of compensation put in place for all concerned persons, with a due assessment of the damages caused.
3. Please provide information on the measures that will be taken to ensure transparency and access to public information regarding this project across its life cycle and on public information about the potential human rights impacts related to the projects' contributions to climate change.
4. Please provide information on the environmental and human rights impact assessments that your government will have carried out in relation to the above-mentioned project.
5. Please provide updated information on measures taken to protect human rights in the context of climate change, in the context of the use of fossil fuels in all their forms, including in relation to companies within your jurisdiction and the protection and restoration of ecosystems as measures to mitigate and adapt to climate change.
6. Please provide information on measures taken to protect the right to a healthy, clean, and sustainable environment with particular attention to the impacts on Indigenous Peoples and the conservation and ecological protection of the area in the face of business activities and considering the precautionary principle.
7. Please describe how this project can coexist with Kenya's mitigation contribution under the Paris Agreement as outlined in the country's latest Nationally Determined Contribution (2031-2035).

8. Please provide detailed information about the existing laws, regulations, and procedures that guide the consideration of human rights impacts of the establishment of the fossil fuel extraction project, including any environmental impact assessments conducted prior the approval of the project, including considerations regarding the impacts on climate and specific measures for pollution prevention and control.
9. Please provide information on any steps taken by your Excellency's Government to ensure that the affected Turkana People have access to effective, adequate and timely remedies for their human rights violations and abuses arising from fossil fuel extraction in Lokichar Basin. Please provide information on any measures planned to provide reparations to Turkana People for human rights violations and abuses perpetrated in violation of their land rights and their right to free, prior and informed consent.
10. Please indicate what measures your Excellency's Government has taken or is considering taking, including policies, legislation, and regulations, to uphold its obligations to protect people and communities against human rights abuses by business enterprises operating within its territory and/or under its jurisdiction. Specifically, what measures are being implemented to ensure that business enterprises domiciled in your territory and/or jurisdiction, in particular (name of companies involved) conduct effective human rights due diligence to identify, prevent, mitigate, and address their human rights and environmental impacts, in accordance with the UN Guiding Principles on Business and Human Rights.
11. Please, where available, provide the results of investigations and judicial or other official inquiries carried out in relation to the raised allegations. If no investigation has been initiated, please explain why.
12. Please clarify what measures were taken or are envisaged to provide protection and assistance to those displaced, including alternative adequate housing, water, essential food and medical services, and legal assistance.
13. Please provide information on the measures undertaken or envisaged to prevent further arbitrary displacement, provide protection and assistance to IDPs, as well as to investigate violations of their rights and ensure remedy and accountability.

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.

Please be informed that a letter on this subject matter has also been sent to those business enterprises that are involved in- *Tullow Oil and Gulf Energy*, as well as to the home-State of the involved company (*the United Kingdom of Great Britain and Northern Ireland*).

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

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Damilola S. Olawuyi
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Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Paula Gaviria
Special Rapporteur on the human rights of internally displaced persons

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we wish to refer to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) adopted by the General Assembly in 2007, and endorsed by Kenya, that elaborates upon existing binding rights in the specific cultural, historical, and social economic circumstances of Indigenous Peoples.

We would like to recall article 7 of the UNDRIP, which provides that Indigenous individuals have a right to life, physical and mental integrity, liberty, and security of the person. Furthermore, article 26 of UNDRIP provides that Indigenous Peoples have a right to lands and territories, and resources which they have traditionally owned and occupied or otherwise used and acquired. Article 19 of UNDRIP further elaborates that States shall consult and cooperate in good faith with the indigenous Peoples concerned in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them, and article 32 requires such consultations before approving any projects affecting their lands and territories. Article 28 stipulates the right of Indigenous Peoples to redress for lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

International human rights standards on Indigenous Peoples' human rights also include an obligation to ensure fair and equitable benefit-sharing, in addition to compensation, for any development on Indigenous territories. The African Commission on Human and Peoples' Rights, Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v Kenya, communication No. 276/2003, Judgment, 4 February 2010 clarified that States should put in place norms and practices to ensure that fair and equitable benefit-sharing supports community agency in the context of a dialogue aimed at understanding different world views and realizing communities' choice and capabilities, which is also considered necessary to protect Indigenous Peoples' human rights in the context of climate change (A/80/188). The UN Special Rapporteur on the rights of Indigenous Peoples has clarified that there is a clear international standard of fair and equitable benefit-sharing in relation to extractives in Indigenous territories. (A/HRC/15/37), which includes but also goes beyond restrictive approaches based solely on financial payments which, depending on the specific circumstances, may not be adequate for the communities receiving them (A/HRC/15/37). The Rapporteur clarified the duty to share benefits is independent of compensation measures (A/HRC/15/37, A/HRC/24/41) and should comprise direct financial benefits beyond incidental benefits like jobs or corporate charity to Indigenous Peoples because of their allowing access to their territories and giving up alternatives for the future development of their territories, in addition to compensation for suffering any adverse effects (A/HRC/24/41).

The right to remedy is also reaffirmed by the article 2(3) of International Covenant on Civil and Political Rights (ICCPR), ratified by Kenya on 1 May 1972. Article 19 further indicates, inter alia, that everyone shall have the right to seek, receive

and impart information. Article 25 of the ICCPR elaborates that every citizen shall have the right to take part in the conduct of public affairs.

We would also like to draw your attention to article 12 of the ICESCR, which Kenya acceded to on 1 May 1972. The Article enshrines the right to the highest attainable standard of physical and mental health, which is also guaranteed as a part of the UDHR, article 25, including in terms of the social and environmental conditions affecting the health of the individual, and in terms of health care services. In its general comment No. 14, the Committee on Economic, Social and Cultural Rights (CESCR) interprets the right to health as "an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information". Accordingly, States have a duty to adopt measures against environmental and occupational health hazards and against any other threat as demonstrated by epidemiological data. Furthermore, article 24 of the CRC recognizes the right of the child to the enjoyment of the highest attainable standard of physical and mental health, and the concomitant duty of the State to provide adequate nutritious foods and clean drinking water, taking into consideration the dangers and risks of toxic pollution.

In addition, in general comment No. 26 on land and economic, social, and cultural rights, the CESCR stressed that "the sustainable use of land is essential to ensure the right to a clean, healthy, and sustainable environment and to promote the right to development, among other rights". The general comment further emphasizes the essential role of land in the realization of a range of rights under ICESCR. In fact, the secure and equitable access to, use of and control over land for individuals and communities can be essential to eradicate hunger and poverty and to guarantee the right to an adequate standard of living, including the right to food and to adequate housing.

Regarding the possible adverse effects on the environment, we would like to cite 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. The right to a clean, healthy and sustainable environment comprises six substantive elements, including the need to ensure a sustainable climate for humanity, which was further elaborated in a report to the UN General Assembly in 2019 (A/74/161). Other substantial elements of the right to a clean, healthy, and sustainable environment include clean air, safe and sufficient water, healthy and sustainable food, non-toxic environments, and healthy biodiversity and ecosystems. In addition, the right to a healthy environment also includes procedural elements, namely access to information, citizen participation, and access to justice, which are also autonomously recognized human rights.

We would also like to bring to your attention the report of the Special Rapporteur on the human right to a clean, healthy and sustainable environment A/80/187 presented before the General Assembly, which highlights that States have binding obligations under international law to protect the environment and the climate system, including the duty to prevent foreseeable harms to people and ecosystems. To comply with this duty, States must carry out Environmental, Social, and Human Rights Impact Assessments (ESHRIAs). The International Court of Justice has clarified that such assessments are

required under customary international law. Importantly, these assessments must not be treated as a formality; they must be carried out prior to project authorization, be comprehensive in scope, and address cumulative, transboundary, and long-term impacts.

We would also like to draw your attention to the Paris Agreement on Climate Change, ratified by Kenya on 28 December 2016, which acknowledges that State Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights (preamble). This obligation includes the human right to a clean, healthy and sustainable environment. Moreover, article 12 of the Paris Agreement provides that “Parties shall cooperate in taking measures, as appropriate, to enhance climate change education, training, public awareness, public participation and public access to information, recognizing the importance of these steps with respect to enhancing actions under this Agreement”.

In this regard, the International Court of Justice in its advisory opinion of 23 July 2025 established that “the failure of a State to take adequate measures to protect the climate system from greenhouse gas emissions – including through the production of fossil fuels, the consumption of fossil fuels, the granting of licenses for fossil fuel exploration, or the granting of subsidies for fossil fuels – may constitute an internationally wrongful act attributable to that State”. The Court also emphasized “that States have an obligation under international human rights law to respect and ensure the effective enjoyment of human rights by taking the necessary measures to protect the climate system and other components of the environment.” Furthermore, it noted that in the current context, “all States have a common interest in the protection of global environmental commons like the atmosphere and the high seas. Consequently, States’ obligations pertaining to the protection of the climate system and other parts of the environment from anthropogenic GHG emissions, in particular the obligation to prevent significant transboundary harm under customary international law, are obligations *erga omnes*. In the treaty context, the Court recalls that the UNFCCC and Paris Agreement acknowledge that climate change is “a common concern of humankind” (UNFCCC, first preambular paragraph; Paris Agreement, eleventh preambular paragraph), requiring “a global response” (Paris Agreement, article 2). They seek to protect the essential interest of all States in the safeguarding of the climate system, which benefits the international community as a whole. As such, the Court considers that the obligations of States under these treaties are obligations *erga omnes partes*”.

The Special Rapporteur on climate change in A/HRC/59/42 concluded that “priority, comprehensive, coherent action on the fossil fuel phaseout within this decade is necessary to ensure a liveable future for all, as an urgent precondition for a just transition and for effective human rights protection in the context of current planetary crises” In this context, she recommended, “While decarbonization continues to be essential, coupled with detoxification of any decarbonization technology, it must be accompanied by the defossilization of our economies with a view to:(a) Prioritizing the phaseout of fossil fuel production and of the use of fossil fuels, as the main cause of climate change; (b) Overcoming “carbon tunnel vision”, to prevent biodiversity loss and toxic pollution from the fossil fuels life cycle, which cause further human rights harm and worsen climate impacts on those in vulnerable situations”.

The Special Rapporteur also stressed that “States should adopt and enforce explicit and time-bound legislative measures:(a) To prohibit new fossil fuel exploration and exploitation, as well as any expansion of fossil fuel infrastructure;(b) To revoke licenses for existing fossil fuel exploration and exploitation, including for captive and on-grid coal plants; (c) To strictly regulate the import and export of fossil fuels; (d) To prohibit the abandonment of fossil fuel infrastructure without remediation, requiring financial guarantees to cover costs for the environmental management of facility closure and subsequent phases, including regarding extraterritorial impacts”.

We would also like to bring to your attention the report of the Special Rapporteur on the human right to a clean, healthy and sustainable environment A/80/187 presented before the General Assembly, which highlights that States have binding obligations under international law to protect the environment and the climate system, including the duty to prevent foreseeable harms to people and ecosystems. To comply with this duty, States must carry out Environmental, Social, and Human Rights Impact Assessments (ESHRIAs). The International Court of Justice has clarified that such assessments are required under customary international law. Importantly, these assessments must not be treated as a formality; they must be carried out prior to project authorization, be comprehensive in scope, and address cumulative, transboundary, and long-term impacts.

In relation to this, we wish to refer to the Framework Principles on human rights and the environment of the Special Rapporteur on human rights and the environment (A/HRC/37/59, annex), which summarize the main human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment. Namely, framework principle 1 provides that States should ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights. In the same vein, principle 2 reiterates that States should respect, protect and fulfil human rights in order to ensure a safe, clean, healthy and sustainable environment. Principle 8 reaffirms that, to avoid undertaking or authorizing actions with environmental impacts that interfere with the full enjoyment of human rights, States should require the prior assessment of the possible environmental impacts of proposed projects and policies, including their potential effects on the enjoyment of human rights. The assessment requires meaningful participation of the public, done in a manner that does not discriminate anyone. Principle 14 require States to ensure that they take additional measures to protect the rights of those who are most vulnerable to, or at particular risk from, environmental harm, taking into account their needs, risks, and capacities. Principle 15 require States ensure that they comply with their obligations to Indigenous Peoples by: (a) Recognizing and protecting their rights to the lands, territories and resources that they have traditionally owned, occupied or used; (b) Consulting with them and obtaining their free, prior and informed consent before relocating them or taking or approving any other measures that may affect their lands, territories or resources; (c) Respecting and protecting their traditional knowledge and practices in relation to the conservation and sustainable use of their lands, territories and resources; (d) Ensuring that they fairly and equitably share the benefits from activities and relating to their lands, territories or resources.

In addition, we recall that the Committee on the Rights of the Child, in its general comment No. 26 (2023), emphasized that to protect children’s right to a healthy environment, which is implicit in the Convention on the Rights of the Child, States must

take immediate action to equitably phase out the use of coal, oil and gas; and States that have substantial fossil fuel industries should assess the social and economic impact on children of their related decisions. Furthermore, several Special Rapporteurs have pointed out the tremendous negative impacts on human rights of fossil fuels throughout their life cycle, from exploration and extraction to combustion and contamination, noting that fossil fuels exploitation affects the rights to life, health, food, water and sanitation, education, an adequate standard of living, cultural rights, and a clean, healthy and sustainable environment with marginalized and vulnerable communities bearing the brunt of the consequences.

We recall the explicit recognition of the human rights to safe drinking water by the UN General Assembly (resolution 64/292) and the Human Rights Council (resolution 15/9), which derives from the right to an adequate standard of living, protected under, inter alia, article 25 of the Universal Declaration of Human Rights, and article 11 of ICESCR. In its general comment No. 15, the Committee on Economic, Social and Cultural Rights clarified that the human right to water means that everyone is entitled to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. Furthermore, the UN General Assembly (resolution 70/169) and the Human Rights Council (resolution 33/10) recognized that water and sanitation are two distinct but interrelated human rights. In particular, we recall explicit recognition that “the human right to sanitation entitles everyone, without discrimination, to have physical and affordable access to sanitation, in all spheres of life, that is safe, hygienic, secure, socially and culturally acceptable and that provides privacy and ensures dignity, while reaffirming that both rights are components of the right to an adequate standard of living”. In this regard, we would like to refer to the Special Rapporteur on the human rights to water and sanitation report, A/HRC/51/24, in which he recommended Member States to recognize in national legislation the existence of Indigenous Peoples within their borders and their collective rights to lands, territories and natural resources, including aquatic ecosystems, with legal communal ownership of the lands, resources and water rights in their territories.

We would also wish to draw the attention of your Excellency’s Government to the 1998 Guiding Principles on Internal Displacement, which establishes that all authorities shall respect their obligation to international law, including human rights and humanitarian law, to prevent and avoid conditions that might lead to displacement. Prior to any decision requiring the displacement of persons, all feasible alternatives to displacement should be evaluated, measures should be taken to minimize displacement where unavoidable, proper accommodation should be provided to displaced persons, and displacements should be carried out in satisfactory conditions of safety, nutrition, health and hygiene...(principle 7). Displacement should not be carried out in a manner that violates the rights to life, dignity, liberty, and security of those affected (principle 8). Principle 9 highlights that states are under a particular obligation to Indigenous Peoples, minorities, pastoralists, peasants, and any other group with a dependency or particular attachment to the land.

We would also wish to refer to the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention). States Parties should refrain from, prohibit, and prevent arbitrary displacement of populations; respect and ensure respect for the principles of humanity and human dignity of internally displaced persons, ensure individual responsibility for acts of arbitrary

displacement, ensure accountability of non-State actors concerned, including multinational companies and those involved in the exploration and exploitation of economic and natural resources leading to displacement (article III). States Parties shall endeavor to protect communities with special attachment to and dependency on land due to their particular culture and spiritual values from being displaced from such lands, except for compelling and overriding public interests (article IV). States Parties, as much as possible, shall prevent displacement caused by projects carried out by public or private actors, ensure that stakeholders concerned will explore feasible alternative, with full information and consultation of persons likely to be displaced by projects, and carry out a socio-economic and environmental impact assessment of a proposed development project prior to undertaking such a project (article X).

We would also like to highlight the UN Guiding Principles on Business and Human Rights, which were unanimously endorsed in 2011 by the Human Rights Council in its resolution (A/HRC/RES/17/31) following years of consultations involving Governments, civil society and the business community. The Guiding Principles have been established as the authoritative global standard for all States and business enterprises with regard to preventing and addressing adverse business-related human rights impacts. These Guiding Principles are grounded in recognition of: a. “States’ existing obligations to respect, protect and fulfil human rights and fundamental freedoms; b. The role of business enterprises as specialized organs or society performing specialized functions, required to comply with all applicable laws and to respect human rights; c. The need for rights and obligations to be matched to appropriate and effective remedies when breached.”

It is a recognized principle that States must protect against human rights abuse by business enterprises, including academic institutions, within their territory. As part of their duty to protect against business-related human rights abuse, States are required to take appropriate steps to “prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication” (guiding 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” (guiding principle 2). In addition, States should “enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights...” (guiding principle 3). The guiding principles also require States to ensure that victims have access to effective remedy in instances where adverse human rights impacts linked to business activities occur. 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. The guiding principles also recognize the important and valuable role played by independent civil society organisations and human rights defenders. In particular, principle 18 underlines the essential role of civil society and human rights defenders in helping to identify potential adverse business-related human rights impacts. The commentary to principle 26 underlines how States, in order to ensure access to remedy, should make sure that the legitimate activities of human rights defenders are not obstructed.

We also wish to draw attention to the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect

Universally Recognized Human Rights and Fundamental Freedoms. Article 1 affirms 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, while article 2 establishes the duty of each State to protect, promote and implement all human rights and fundamental freedoms. Article 12 stipulated that “everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms” and that each “State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, 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 present Declaration.”

And finally, the African Charter on Human and Peoples’ Rights (ACHPR) (Ratified by Kenya on 23 January 1992) in its article 21 states that all peoples shall freely dispose of their wealth and natural resources, and that in case of spoliation the dispossessed people shall have the right to the lawful recovery of its property. Article 22 of the Charter further states that all peoples shall have the right to their economic, social and cultural development.

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