

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

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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.

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 also concerned about the allegations that your Excellency's Government is failing to meet its international human rights obligations to protect the human rights, including of Indigenous Peoples against the human rights abuses by the British business enterprises operating overseas, such as Tullow Oil.

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 the measures the Government of your Excellency has taken, or is considering taking, to ensure that business enterprises domiciled in its territory and/or jurisdiction respect human rights in all their activities, including when operating overseas. Specifically, what measures are being implemented to ensure that business enterprises 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.
3. Please provide information on concrete steps taken by the Government of your Excellency in requiring or encouraging business enterprises domiciled in its territory and/or jurisdiction to implement human rights due diligence processes, including when operating overseas, in accordance with the UN Guiding Principles on business and human rights.
4. Please, kindly provide information on the steps your Excellency's Government has taken, or is planning to take, to ensure that the overseas activities of British companies are not adversely affecting the rights of Indigenous Peoples, and respect their free, prior and informed consent (FPIC) before launching their business activities on Indigenous Peoples lands and territories.
5. Please provide information regarding the measures that your Excellency's Government is taking or considering to take to ensure that those adversely affected by the overseas activities of British companies, including Tullow Oil involved in South Lokichar Basin Oil Development Project, have access to effective and adequate remedies, as per the UN Guiding Principles on Business and Human Rights.
6. 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.

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 influence the situation so 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 South Lokichar Basin Oil Development Project, including *Tullow Oil and Gulf Energy Ltd*, as well as to the home-State of the involved company (*Kenya*).

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

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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, with a favourable vote by the United Kingdom, 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, 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.

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 the United Kingdom in 1976. 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 the United Kingdom acceded to on 20 May 1976. 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, acceded by the UK on 18 November 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 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 requires 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.

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 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".

We would also like to draw attention to the United Nations Guiding Principles on Business and Human Rights (A/HRC/17/31). The Guiding Principles affirm the international legal obligations applicable to the State: "States must protect against human rights violations committed within their territory and/or jurisdiction by third parties, including business" (guiding principle 1). This requires States to "clearly state that all companies domiciled in their territory and/or jurisdiction are expected to respect human rights in all their activities" (guiding principle 2). "In compliance with their obligation to protect, States must: (b) Ensure that other laws and regulations governing the creation and activities of companies, such as commercial law, do not restrict but rather encourage respect for human rights by companies; (d) Encourage and if necessary require companies to explain how they take into account the impact of their activities on human rights (guiding principle 3). States should also take appropriate measures to ensure, through appropriate judicial, administrative, legislative or other appropriate channels, that when such abuses occur in their territory and/or jurisdiction, those affected have access to effective redress mechanisms" (principle 25). The Guiding Principles also emphasize that "States must ensure [...] that no obstacles are placed in

the way of legitimate and peaceful activities of human rights defenders" (commentary on guiding principle 26). The obligation to protect, respect, and fulfil human rights, recognized under treaty and customary law entails a duty on the part of the State not only to refrain from violating human rights, but to exercise due diligence to prevent and protect individuals from abuse committed by non-State actors (see for example Human Rights Committee, general comment No. 31 para. 8). Businesses also have a responsibility to respect human rights, which requires them to have appropriate policies and procedures in place; such as a human rights due diligence process to identify, prevent, mitigate, and account for how they address their human rights impact; and processes to redress all negative human rights consequences they have caused or contributed to causing (principles 11-24). The Guiding Principles also recognise 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.

It is also important to recall that the Committee on Economic, Social and Cultural Rights, in its general recommendation 24 (2017), states that "the extraterritorial obligation to protect requires States parties to take steps to prevent and remedy violations of Covenant rights that occur outside their territory as a result of the activities of business entities over which they may exercise control, in particular in cases where remedies available to victims before the domestic courts of the State where the harm occurs are unavailable or ineffective".

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