

Mandates of the Special Rapporteur in the field of cultural rights; 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 right to development; the Special Rapporteur on the human right to a clean, healthy and sustainable environment; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on the rights of Indigenous Peoples; the Special Rapporteur on the human rights of internally displaced persons; the Special Rapporteur on minority issues and the Special Rapporteur on freedom of religion or belief

Ref.: AL OTH 107/2024

(Please use this reference in your reply)

8 July 2024

Dear Mr. Hu,

We have the honour to address you in our capacities as Special Rapporteur in the field of cultural rights; 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 right to development; Special Rapporteur on the human right to a clean, healthy and sustainable environment; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Special Rapporteur on the rights of Indigenous Peoples; Special Rapporteur on the human rights of internally displaced persons; Special Rapporteur on minority issues and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 55/5, 53/3, 48/14, 51/7, 55/2, 52/9, 50/17, 52/10, 51/16, 50/6, 52/5 and 49/5.

We are independent human rights experts appointed and mandated by the United Nations Human Rights Council to report and advise on human rights issues from a thematic or country-specific perspective. We are part of the special procedures system of the United Nations, which has 60 thematic and country mandates on a broad range of human rights issues. We are sending this letter under the communications procedure of the Special Procedures of the United Nations Human Rights Council to seek clarification on information we have received. Special Procedures mechanisms can intervene directly with Governments and other stakeholders (including companies) on allegations of abuses of human rights that come within their mandates by means of letters, which include urgent appeals, allegation letters, and other communications. The intervention may relate to a human rights violation that has already occurred, is ongoing, or which has a high risk of occurring. The process involves sending a letter to the concerned actors identifying the facts of the allegation, applicable international human rights norms and standards, the concerns and questions of the mandate-holder(s), and a request for follow-up action. Communications may deal with individual cases, general patterns and trends of human rights violations, cases affecting a particular group or community, or the content of draft or existing legislation, policy or practice considered not to be fully compatible with international

Huadian Jinsha River Upstream Hydropower Development Co. Ltd.

human rights standards.

In this connection, we would like to bring to your attention information we have received concerning **the widespread crackdown on Tibetan individuals peacefully expressing their opposition to the construction of the Kamtok (Gangtuo) hydroelectric power plant, that would result in the forced displacement and relocation of Tibetans living along the Drichu river (Jinsha) from their ancestral villages and irreversible destruction of important cultural and religious sites, and irreversible environmental (including biodiversity and climate) impacts. The project is developed by Huadian Jinsha River Upstream Hydropower Development Co., Ltd., a subsidiary of the state-owned enterprise China Huadian Corporation Ltd.**

The allegations described below reportedly form part of a general crackdown against the Tibetan people, in breach of the human rights to take part in cultural life, freedom of opinion and expression and freedom of peaceful assembly and of association. Similar concerns have been raised with the Government of China in previous communications, including [JAL CHN 14/2023](#), [JAL CHN 8/2023](#), [JAL CHN 14/2022](#), [JAL CHN 6/2022](#), [JAL CHN 14/2021](#), [JAL CHN 5/2019](#) and [JAL CHN 16/2018](#).

According to the information received:

The construction of Kamtok (Gangtuo) hydroelectric dam was approved in 2012, and its construction began in 2018. The project is developed by Huadian Jinsha River Upstream Hydropower Development Co., Ltd., a subsidiary of the state-owned enterprise China Huadian Corporation Ltd. It is one of at least 8 cascading dams proposed in Tibet along the upper reaches of the Yangtze River (also known as the Drichu (Jinsha) river), and one of hundreds of large hydroelectric dams currently planned, under development, or under construction across the Tibetan plateau. This is part of China's goal to build a hydropower network across Tibet to export power to eastern China, and later to neighbouring countries. The power of this hydroelectric station, estimated at 1 gigawatt, is to be transferred through the "West to East transmission project", an ultra-high voltage direct current power transmission line, to Chinese cities, whereas Tibet will allegedly not benefit significantly from the hydropower of the dam.

Once completed, the basin of the Kamtok (Gangtuo) dam will submerge a historical area now split across the Kardze (Ganzi) Tibetan Autonomous Prefecture, incorporated into the Chinese Sichuan Province, and Chamdo (Changdu) Prefecture in the Tibet Autonomous Region. Two villages will be submerged, Wonpotoe (Wangbuding) township in Derge (Dege (Kardze)) County and Shepa village in Jomda (Jiangda) County (Chamdo (Changdu)), as well as six monasteries situated along the riverbanks, namely Yena, Wontoe, Khadho, Rabten, Gonsar and Tashi Monasteries. In addition, the dams would cause important environmental (biodiversity and climate) negative impacts to the Tibetan plateau, impacting one of the largest rivers on Earth, and an important and strategic area to guarantee water and food security, as well as ecosystem health and climate stability.

Hydropower dams also have significant negative impacts on the environment, and climate, as they can increase methane and other emissions, the risk of earthquakes, landslides and flash floods, and further fragilize biodiversity, including by affecting aquatic life, soil and nutrient flows downstream. It is reported that in 2011, an impact assessment was conducted for the whole area of the upper reaches of the Dri Chu (Jinsha) river, which was followed in 2018 by a pre-feasibility study. However, there are no indications that any environmental impact assessment that specifically considered the Kamtok (Gangtuo) project was ever conducted.

Protests against the Kamtok (Gangtuo) hydropower dam first surfaced in 2012. Since then, concerned Tibetans have been appealing to halt the planned construction of the hydroelectric power plant and to withdraw the official order for residents in the affected area to relocate.

Irreversible destruction of religious and cultural heritage sites and ways of life

Derge (Dege) was once a kingdom and has particular historical and cultural significance. The Derge Printing Press built in the 18th century is a famous cultural landmark and a recognized protected heritage site in China.

The 6 centuries-old monasteries along the riverbanks date back to the 13th century and house numerous ancient relics and murals of Buddha of historical and religious significance, that survived the cultural revolution. These monasteries would be entirely and irreversibly flooded and erased as cultural resources. The Wontoe Monastery houses sacred Buddhist murals that date back to the 14th to the 17th century, that have high reference value for the study of Tibetan painting art.

On 20 and 21 February 2024, it is reported that Derge (Dege) county officials and security forces visited the Wontoe and Yena Monasteries in Wopotoe (Wangbuding) township to assess the situation, and were met with a group of Tibetans who kneeled and cried in desperation, appealing the Chinese officials to stop and prevent their destruction.

Forced displacement and relocation.

The broader hydropower development on the Tibetan plateau will necessitate the displacement and relocation of thousands of Tibetans from their homes, which will be flooded and destroyed. It is reported that, in the Qinghai province alone, the authorities announced in 2009 that 120,000 residents in the upper reaches of the Yellow River will be relocate by 2030. The Kamtok (Gangtuo) project is further downstream.

The relocation orders related to the construction of the Kamtok (Gangtuo) dam require the forced displacement of Tibetans from their ancestral village, which will disrupt their livelihoods developed alongside the river for many generations, adversely impacting their rights to development and self-determination, to maintain their ways of life, to land and housing, to access and enjoy heritage to exercise their religious and cultural practices, and their right to a clean, healthy and sustainable environment. These persons have developed distinct spiritual relationship with these lands and a sense of

community that cannot be preserved if they are relocated.

In recent months, Chinese government employees have reportedly started to arrive in the region to prepare the ground for the resettlements. In some places, they organised meetings with local communities, asking them to comply with the relocation orders, not to protest or ask questions, and to follow the instructions. At the time of writing, a timeline to leave the area, information about the place of relocation, on whether communities would be moved together or be separated, and the arrangements for housing and compensation had not been shared with those concerned. It is also reported that no avenues have been made available for people to raise their legitimate concerns.

Lack of meaningful consultation with and adequate information to affected persons and communities.

Tibetan protesters are concerned about the Chinese authorities' alleged failure to respect the right to information and to ensure adequate consultation of the local Tibetans, whose traditional livelihoods and customary ways of life are at the risk of facing complete disruption with the planned dam construction.

In 2012, local resident communities did not have access to adequate information about the project, and that information was also not provided in the Tibetan language. A complete environmental impact assessment and a full evaluation of the project's potential impacts on health, living conditions, and adequate housing were reportedly neither developed nor sufficiently studied.

Communities living up- and downstream of the project site, who will also be affected by the dam construction, were also not adequately informed, consulted and given the opportunity to participate in decision-making processes related to the dam construction.

In October 2012, residents issued an appeal against the forced relocations that would result from the dam's construction, stating the government had deceptively promised to cancel the project unless more than 80 percent of locals agreed to it. There is no evidence this consent was ever given. The concerned communities have continued protesting against the project ever since.

In October 2022, it is reported that a group of approximately 100 Tibetans in Jomda county requested an audience with the county headquarters to call for the halt to the dam's construction. Only 8-9 residents were allowed to speak with county officials and could share their environmental concerns, their continued and profound connection with the land since ancient times, where they had developed their ways of life, monasteries and homes. Officials advised that the decision about the dam had not been finalised, and that the residents would be informed when a decision was made. No updates have since been shared.

Furthermore, it is alleged that similar lack of access to adequate information, meaningful consultation and participation in decision-making processes, are being observed in the context of the construction of other hydroelectric dams in the regions, where people who are forced to relocate due to these projects

have not been able to raise their concerns and protest.

Recent reprisals against protesters

On 7 March 2022, a public notice issued by the people's court, people's procuratorate, public security bureau and judicial office was allegedly published in the Derge (Dege) County, warning against public gatherings and manifestations in public spaces (art. 1-4), the obstruction of the work on the dam (art. 5), the display of banners and ritual artefacts (art. 7), the submission of petitions and claims for rights (art. 8- 9), announcing related fines for minor offences, and detention of 5 to 10 years for protest organisers and participants.

On 15 April 2022, the Deputy Director of Kartze Prefecture visited the Kamtok (Gangtuo) dam site and allegedly announced a crackdown on all kinds of illegal and criminal acts, such as obstructing work and disturbing work, as well as the advancement of the overall resettlement and relocation work of Kamtok (Gangtuo) project.

On 13 February 2024, between 100 and 300 Tibetans peacefully protested outside the Derge (Dege) county government in Kardze (Ganzi) Tibetan Autonomous Prefecture and were allegedly met with violent responses from the Chinese authorities.

Since then, the Chinese police have reportedly beaten and arrested hundreds of residents of Derge (Dege) county, including monks from local monasteries, who have been protesting against the construction of the hydropower dam on the Drichu River.

On 22 February, the Tibetan monks and civilians who had gathered at the Wontoe and Yena Monasteries, were severely beaten by the Chinese police, resulting in injuries that required hospitalization for many of those participating in the peaceful protest. It is unclear whether those injured and arrested were given appropriate medical care.

The police conducted several hundred arrests and detentions, reportedly without due process, in response to the peaceful exercise of the residents' the rights to freedom of expression, of peaceful assembly and of association. Community members and leaders who had not been participating in the protest were also arrested. It is also reported that some community members who visited the detention centres to appeal for the detainees' release were themselves detained.

In the following days, a large number of armed police officers was reportedly patrolling the streets of Wonpotoe (Wangbuding) township. Chinese authorities completely also shut down internet access and censored information relating to the protest on social media platforms as part of an alleged widespread security clampdown in the area.

Although most detainees were released by 25 March 2024, at least five are known to remain in detention, who are accused of disrupting social order. In addition, there are other Tibetans who are suspected to be in detention but whose whereabouts remain unknown, and whose families and lawyers are

unable to contact.

While we do not wish to prejudge the accuracy of these allegations, we are deeply concerned about the reports of alleged violation and abuse of the human rights of Tibetan communities, leaders and religious figures living in the surrounding areas of the Kamtok (Gangtuo) dam's project site, who do not appear to have been consulted in a meaningful way, and whose free, prior and informed consent has not been obtained, for a project that directly affects them and will have an irreversible impact on many of their human rights, in particular their cultural rights to maintain their ways of life, to access and enjoy heritage, and to exercise their religious and cultural practices, as well as their rights to land, to their livelihoods and to adequate housing, and to a clean, healthy and sustainable environment. Their relocation without their free, prior and informed consent would amount to arbitrary displacement. We recall that meaningful participation in decision-making processes that have an impact on a person's and communities' way of life requires that information is available, accessible and provided in an appropriate form and language for the affected community; it also requires prior environmental and socio-cultural impact assessment, and fair and equitable benefit-sharing.

We are also concerned about the recent reprisals, use of force, arbitrary arrests and detentions, for some incommunicado, of hundreds of Tibetans for what appears to be directly related to their legitimate exercise of their freedom of opinion, expression, association and peaceful assembly and to their claims for respect for their rights to information and to participate meaningfully in public affairs, including by raising concerns and criticisms regarding government projects. These incidents underscore the alarming reality for people living in Tibet, who have faced similar allegations and consequences, for exercising their fundamental rights.

We are also extremely concerned about the dire and irreversible environmental (including biodiversity and climate) impacts that the dams could cause in the Tibetan plateau, to China and the region, due to the importance of the Drichu (Yangtze) river for the water, food and climate systems, already under pressure. Assuring an independent, adequate and comprehensive assessments of environmental and human rights impact before any construction and development of the project, including assessing other potential alternatives for the energy needs and opportunities for fair and equitable benefit-sharing in accordance with communities' worldviews, in line with international law is of vital importance to prevent irreversible damages.

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 human rights due diligence policies and processes put in place by Huadian Jinsha River Upstream

Hydropower Development Co., Ltd., to identify, prevent, mitigate, and remedy the adverse human rights impacts of your activities and, in particular, with respect to the human rights of the Tibetans affected by the Kamtok (Gangtuo) dam, in line with the UN Guiding Principles on Business and Human Rights.

3. Please provide information about specific human rights due diligence and/or impact assessment measures taken by Huadian Jinsha River Upstream Hydropower Development Co., Ltd., in relation to the development of the Kamtok (Gangtuo) dam. In particular, please highlight how your company has conducted meaningful consultation with affected stakeholders, in particular with concerned Tibetans, in order to obtain their free and informed consent and reach an agreement on fair and equitable benefit-sharing prior to the commencement of work on the dam. Please indicate how these took into consideration the irreversible destruction of significant Tibetan religious and cultural sites and practices in the area, severe and irreversible environmental impacts, and the forced displacement and relocation of Tibetans and what steps were taken to address and prevent the negative social, cultural and environmental and climate impacts on Tibetans located in the surrounding project area.
4. Please provide information on the steps taken by Huadian Jinsha River Upstream Hydropower Development Co., Ltd., to establish, implement and/or enforce an operational-level grievance mechanism, in line with the UN Guiding Principles on Business and Human Rights, in order to address the adverse human rights impacts caused or contributed to by your company's operations.
5. Please provide information about the Kamtok (Gangtuo) dam's development, design and construction plans, including the environmental impact assessments made, and whether and how the environmental (including biodiversity and climate) impacts were considered, as well as measures taken to prevent, mitigate and remediate in case it is needed, impacts to be caused up and downstream. In addition, estimated timelines for relocation. Please indicate if the right not to be displaced, as well as any alternative to relocation and the complete destruction of the area has been considered.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your company will be made public via the communications reporting [website](#). 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 human rights abuses.

Please be informed that a letter on this subject matter has also been sent to the Government of China, as the home-State of the involved company.

Please accept the assurances of our highest consideration.

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Special Rapporteur in the field of cultural rights

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

Elisa Morgera
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Gina Romero
Special Rapporteur on the rights to freedom of peaceful assembly and of association

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

Nicolas Levrat
Special Rapporteur on minority issues

Nazila Ghanea
Special Rapporteur on freedom of religion or belief

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to highlight the UN Guiding Principles on Business and Human Rights (A/HRC/17/31), which were unanimously endorsed by the Human Rights Council in June 2011, are relevant to the impact of business activities on human rights. These Guiding Principles are grounded in recognition of:

- 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.”

According to the Guiding Principles, States have a duty to protect against human rights abuses within their territory and/or jurisdiction by third parties, including business enterprises. States may be considered to have breached their international human law obligations where they fail to take appropriate steps to prevent, investigate and redress human rights violations committed by private actors. While States generally have discretion in deciding upon these steps, they should consider the full range of permissible preventative and remedial measures.

Furthermore we would like to note that as set forth in the United Nations Guiding Principles on Business and Human Rights, all business enterprises have a responsibility to respect human rights, which requires them to avoid infringing on the human rights of others to address adverse human rights impacts with which they are involved. The responsibility to respect human rights is a global standard of expected conduct for all business enterprises wherever they operate. It exists independently of States’ abilities and/or willingness to fulfil their own human rights obligations, and does not diminish those obligations. Furthermore, it exists over and above compliance with national laws and regulations protecting human rights.

The principles 11 to 24 and principles 29 to 31 provide guidance to business enterprises on how to meet their responsibility to respect human rights and to provide for remedies when they have cause or contributed to adverse impacts. Moreover, the commentary of the principle 11 states that “business enterprises should not undermine States’ abilities to meet their own human rights obligations, including by actions that might weaken the integrity of judicial processes”.

The Guiding Principles have identified two main components to the business responsibility to respect human rights, which require that “business enterprises: (a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur; [and] (b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts” (guiding principle 13).

Principles 17-21 lays down the four-step human rights due diligence process that all business enterprises should take to identify, prevent, mitigate and account for how they address their adverse human rights impacts. Principle 22 further provides that when “business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes”.

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

We would like to recall the thematic report of the Working Group on the issue of human rights and transnational corporations and other business enterprises (ref. A/HRC/32/45) examining the duty of States to protect against human rights abuses involving those business enterprises that they own or control. In particular, we would like to highlight the following conclusions and recommendations:

88. All business enterprises, whether they are State-owned or fully private, have the responsibility to respect human rights. This responsibility is distinct but complementary to the State duty to protect against human rights abuses by business enterprises. This duty requires States to take additional steps to protect against abuses by the enterprises they own or control. This goes to the core of how the State should behave as an owner and the ways in which its ownership model is consistent with its international human rights obligations.

101. State-owned enterprises should strive to be role models and fully meet their responsibility to respect human rights.

102. To do so, they should adopt appropriate policies and processes to address abuse, including a policy commitment, human rights due diligence and remediation mechanisms when harm occurs, which are integrated throughout their operations.

Finally, we would like to recall the thematic report of the UN Special Rapporteur on the Human Right to a Healthy Environment recommending that business enterprises follow the Akwé: Kon Voluntary Guidelines for the Conduct of Socio-cultural and Environmental Impact Assessments adopted under the Convention on Biological Diversity (A/HRC/34/49; A/HRC/37/59).