

**Mandates of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders**

REFERENCE: AL  
IND 7/2015:

18 June 2015

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 19/10, 24/5, and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged arbitrary freezing of funds of Greenpeace India, and more generally the allegedly increasing restrictions placed upon associations in regard to accessing funding.**

Greenpeace India is a human rights organisation focusing on various environmental issues, including climate change, sustainable agriculture, preservation of the oceans and prevention of nuclear catastrophes.

According to the information received:

On 9 April 2015, the registration of Greenpeace India was suspended with immediate effect for six months. As a result, the organization's bank accounts in India were frozen. It is reported that this decision, taken by the Ministry of Home Affairs was based on the organization's alleged failure to inform the concerned authorities about the transfer of certain foreign contributions which it had received. The Ministry of Home Affairs also claimed that Greenpeace India spent over 50 per cent of foreign donations on administrative expenditure between 2011 and 2013 without prior approval. Greenpeace India denies these accusations.

On 27 May 2015, the Delhi High Court granted Greenpeace India access to only two of its bank accounts in order to receive domestic donations for its day-to-day functioning.

It is alleged that the decision to freeze Greenpeace India's bank accounts was in retaliation for the organization's work in the country, including campaigns against Coal India Limited and the creation of regional anti-coal protest movements. This decision reportedly follows the Istanbul Coal Strategy Conference of 2012, during which India was subject to their campaign against thermal power plants. Further in January 2015, an Intelligence Bureau report accused Greenpeace India of "serving as tools for foreign policy interests of western governments". In March 2015, a travel ban was imposed on a senior Greenpeace campaigner, which was later lifted by the Delhi High Court.

It is reported that the restrictions placed on Greenpeace India occur in the context of increased limitations on civil society's access to funding. In early 2015, the Ministry of Home Affairs reportedly issued notices to more than 30,000 NGOs for not filing mandatory annual returns on their foreign contribution under the Foreign Contribution Regulation Act. The NGOs concerned were requested to submit their tax details within a month of receiving the notice, specifying the amount of foreign funds received, the sources and the purpose for which they were received and how they were spent.

In late April 2015, the authorities cancelled the registration of nearly 9,000 foreign funded NGOs on the ground that they had failed to comply with their obligations to file their annual tax returns without explanation for this. In early June, the licenses of another 4,470 organizations were reportedly cancelled.

Concern is expressed at the restrictions imposed on Greenpeace India, which seem to be based solely on its activities in promotion of human rights, including a safe, clean environment. Concern is expressed at the apparent increasing limitation placed on associations, including limitations on their access to foreign funding and the undue cancellation of their registration on the basis of burdensome administrative requirements imposed to those organizations in receipt of foreign funds.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** 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 about the decision to suspend the registration of Greenpeace India and to freeze its bank accounts and explain how these decisions comply with the Indian Government's obligations under international human rights law.

3. Please provide information about the decisions to cancel the registration of more than 13,000 organizations and how these decisions comply with your obligations under international human rights law.

4. Please indicate what measures have been taken by the Indian Government to ensure that initiatives to monitor funding transactions to associations do not adversely impact on the associations' ability to access the funds.

We would appreciate receiving a response within 60 days. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

While awaiting a reply, we urge that all necessary interim measures be taken to ensure that Greenpeace International, as well as other organizations whose registration was cancelled in the past months, , are allowed to operate freely and restored their registration and access to resources.

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

John Knox

Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

Maina Kiai

Special Rapporteur on the rights to freedom of peaceful assembly and of association

Michel Forst

Special Rapporteur on the situation of human rights defenders

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to the right to freedom of association and of peaceful assembly, as per article 22 of the International Covenant on Civil and Political Rights, which India acceded on 10 April 1979.

We would also like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms. Furthermore, article 13 of the Declaration is particularly relevant as it provides that "everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means."

In addition, in his report (A/HRC/23/39), the Special Rapporteur on the rights to freedom of peaceful assembly and of association also called upon States "to ensure that associations – registered and unregistered – can seek, receive and use funding and other resources from natural and legal persons, whether domestic, foreign or international, without prior authorization or other undue impediments, including from individuals; associations, foundations or other civil society organizations; foreign Governments and aid agencies; the private sector; the United Nations and other entities."