

**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 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; and the Special Rapporteur on the situation of human rights defenders**

REFERENCE: AL  
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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 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; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 19/10, 25/2, 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 **excessive use of force against, harassment and arbitrary arrests of peaceful protesters in Okinawa, including Mr. Masatsugi Isa, Mr. Hiroj Yamashiro, Mr. Dagakku Tanimoto, and Mr. Nakasone.**

Peaceful protesters have been demonstrating against the construction of a new military base since 2014. Some of those protesters are private individuals and others are member of civil society organisations. Mr. Yamashiro is the Secretary-General of the Okinawa Peace Movement Centre, a coalition of organizations that specializes in peace movement activities specific to Okinawa.

According to the information received:

Okinawa seems to have a concentration of 74 percent of all US military facilities in Japan, while having 0.6 percent of the total land area of the country. The annual number of military takeoffs and landings is approximately 20,000 which equals 50 drills per day which causes daily noise pollution. The maximum level of aircraft noise exceeds 120 decibels and the sound of explosions exceed 100 decibels in training sessions. Noise pollution from the military facilities is said to affect the daily lives of local residents.

Currently there are plans to build a new military base in Henoko, Oura Bay in the northern region of Okinawa. Oura Bay is a unique ecosystem combining forests, rivers and oceans and coral colonies. It is the habitat of a number of species of plants and animals that live in the mangrove forests and mountains, and is an essential habitat for the sea turtle and the dugong which is frequently observed in Oura bay. Okinawa is considered the northern limit for the endangered dugong.

This rich, biodiverse ecosystem has been maintained by Okinawa residents to ensure a delicate balance with the forests and rivers and they have developed a unique culture and relationship with the sea that supports the local community.

Controversial construction has begun to build a new air base at Henoko (Futenma Replacement Facility) which will involve the landfill of the entire bay covering 205 hectares. The total length of the runway will be 1,800 metres, 10 metres above sea level. A 40 tonne anchor was dropped into the bay destroying precious coral colonies (it is said that the communities of porites coral had survived the global coral bleaching of 1998). The construction plans involve reclamation of three beaches, including the site of the traditional Haari boat races which will disappear because of the landfill.

It is alleged that the public consultations carried out by the government were merely a formality, with insufficient access to information and no attempt at consensus building. It is alleged that the environmental damage assessment report was produced without any public input and that the local governor who tried to halt construction to build on the grounds of improper permission, has requested to meet with the Prime Minister on six occasions without success. In response, the people of Okinawa have organized their opposition through collective actions and peaceful protests since 2014, which have been met with harassment and excessive use of force by police officers.

In July 2014, sit-in protests began in front of the gate of Camp Schwab, the construction site of the proposed base, in an attempt to stop the construction work. About 100 individuals participated in the sit-in on a daily basis.

In August 2014, an individual in a canoe calling for a halt to the construction was grabbed by the neck by a member of the Coast Guard resulting in cervical spine sprain. He filed a lawsuit against the officer but the district prosecutor did not pursue it, maintaining that it was an action justified by law and that no crime was committed.

In January 2015, another protester in a canoe was held down with both hands by a member of the Coast Guard which resulted in a broken rib. On 20 January 2015, a member of the Coast Guard grabbed the camera of a female journalist who was reporting from the scene and impeded her movement by sitting on top of her.

On 13 February 2015, Mr. **Masatsugi Isa** was protesting in front of Camp Scwab where he attempted to prevent a vehicle carrying officers from the Japanese Coast Guard to enter the construction site. The protestors were successful in blocking the entrance of the site in a peaceful manner. Subsequently, approximately 50 riot police officers arrived on the site and surrounded the leader of the protest, Mr. Yamashiro, and started confronting the protestors. Mr. Isa fell down while trying to prevent the police from detaining Mr. Yamashiro. Mr. Isa's fall unintentionally made one of the riot police officers also fall down. As a result, the police arrested

him for suspicion of obstructing executive officers. Mr. Isa was detained and interrogated for one day and was released on parole the following day.

On 22 February 2015, some 40 individuals including Mr. **Yamashiro** and Mr. **Tanimoto** were protesting in front of the gate of the Camp Schwab against repeated acts of violence by the riot police which led to arguments with riot police officers. During the arguments some protesters stepped over the yellow line which delimits the US military base. On previous occasions, participants who stepped over the line were instructed to step back by the organizers. In this particular case, a US security guard grabbed Mr. Yamashiro and tried to forcibly drag him inside the gate. Mr. Tanimoto tried to rescue Mr. Yamashiro by standing in between him and the guard. As a result, Mr. Tanimoto was also grabbed by four guards and dragged inside the gate and handcuffed. Both men were detained and interrogated by the US Marines Police who then informed the prefectural police of their detention and requested the police to arrest them. The prefectural police arrested Mr. Yamashiro and Mr. Tanimoto for contravening the Act on Special Measures Concerning Criminal Cases by illegally entering the premises of the U.S. Marine Camp. On 23 February 2015, the police sent Mr. Yamashiro and Mr. Tanimoto to the Public Prosecutor's Office, who did not request for an extension of their detention. They were therefore released.

On 31 March 2015, a peaceful sit-in protest took place in front of the gate of Camp Schwab. The protest took place on the roads around the gate to prevent vehicles of the Defence Department and those of the constructors from entering the base. The riot police reportedly surrounded the protesters in order to disperse them. The protestors asked the police to free them but they were prevented from moving for about ten minutes. Mr. **Nakasone** was detained by the riot police for holding one of the police officers by the collar and tearing his clothes when he protested against police actions to prevent the protestors from moving. He was then taken inside the base and arrested. On 1 April 2015, the police sent Mr. Nakasone to the Public Prosecutor Office for obstructing executive officers. He was detained in the police station on the same day. The next day, on 2 April 2015, the Public Prosecutor Office requested custody of Mr. Nakasone, to prevent him from fleeing or destroying evidence. The request was rejected by the Summary Court and he was therefore released on 2 April.

While we do not wish to prejudge the accuracy of these allegations, concern is expressed at the physical and psychological integrity of the aforementioned persons. Further concern is expressed that the allegations of undue restrictions and excessive use of force during peaceful assemblies and the arbitrary arrest of a number of protestors including members of civil society organizations could be based on the peaceful exercise of their rights to freedom of expression and assembly and their efforts to protect the biodiverse ecosystem of Okinawa upon which local communities depend for their livelihoods and their culture.

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. Has a complaint been lodged by or on behalf of the aforementioned protesters?
3. Please provide information on or confirm the legal grounds for the use of force and arrest during the aforementioned protests and they are compatible with international human rights standards on the use of force and management of assemblies.
4. Please provide information on whether there are still judicial investigations pending for Mr. Yamashiro, Mr. Tanimoto and Mr. Nakasone and what their status is.
5. Please provide the full details of any investigations into the above allegations and explain how they are compatible with Japan's obligations under international human rights law and standards, particularly with regard to the right of peaceful assembly.
6. Please indicate what measures have been taken to ensure that the legitimate right to associate and assemble peacefully is respected and that the physical and psychological integrity of those exercising this right is guaranteed.

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 the enjoyment of the right to peaceful assembly is effectively guaranteed to the individuals in Okinawa who wish to express their views on the construction of a new military base.

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

David Kaye  
Special Rapporteur on the promotion and protection of the right to freedom of opinion  
and expression

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 take all necessary steps to secure the rights to freedom of expression and opinion and freedom of peaceful assembly, as per articles 19 and 21 of the International Covenant on Civil and Political rights, ratified by Japan on 21 June 1979.

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, in particular its articles 1, 2, 5, 6 and 12, are also relevant here.

In addition, the 2006 report to the General Assembly of the Special Representative of the Secretary-General on the situation of human rights defenders (A/61/312) recommends that police officers be trained in international human rights law and standards, and that all allegations of indiscriminate and/or excessive use of force by law enforcement officials be properly investigated and appropriate action taken against the responsible officials.

Human Rights Council resolution 24/5, and in particular its paragraph 1, is also of relevance in that "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law."

We would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms. Furthermore, we would like to refer to article 5 (a) of the UN Declaration on Human Rights Defenders, which provides for the right to meet or assemble peacefully;

We would also like to refer to the report of the former Special Representative of the Secretary-General on the situation of human rights defenders to the General Assembly in 2006 (A/61/312), where the Special Representative urges States to ensure that law enforcement officials are trained in and aware of international human rights

standards and international standards for the policing of peaceful assemblies and to investigate allegations of indiscriminate and/or excessive use of force by law enforcement officials.