

Mandates of the Independent Expert on the issue of human rights obligations related to the enjoyment of a safe, clean, healthy and sustainable environment; the Special Rapporteur on the right to food; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the Independent Expert on the enjoyment of all human rights by older persons; and the Special Rapporteur on violence against women, its causes and consequences.

REFERENCE: AL
KOR 3/2014:

18 August 2014

Excellency,

We have the honour to address you in our capacity as Independent Expert on the issue of human rights obligations related to the enjoyment of a safe, clean, healthy and sustainable environment; Special Rapporteur on the right to food; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; Independent Expert on the enjoyment of all human rights by older persons; and the Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolutions 19/10, 22/9, 24/5, 25/18, 24/20, and 23/25.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning alleged human rights violations as a result of excessive force by governmental, private security and police forces against environmental and human rights defenders as well as communities affected by the construction of sixty-nine high-voltage nuclear power transmission towers by the Korea Electric Power Corporation (KEPCO) in five villages of Miryang, Gyeongsang-do Province.

According to reports received:

The Korea Electric Power Corporation (KEPCO) received permission from the Government of the Republic of Korea in December 2007, to start the construction of 69 765kv transmission towers throughout five villages of Miryang. Protesters share a grave concern that construction of these transmission towers will cause environmental destruction and damage to food crops, and result in serious violations of human rights for the largely aging population, including the right to an adequate standard of living, the right to food and the right to health. Most residents are older citizens in their seventies, who have been denied meaningful, participatory consultations with related governmental agencies or KEPCO since 2007.

Reports indicate that the rights of those opposing the project have been violently suppressed since 2011 by Government officials, KEPCO employees and Miryang City Hall employees on numerous occasions. It is alleged that on 10 November 2011, representatives from KEPCO and a subsidiary company sexually, physically and verbally assaulted an elderly nun, while on 16 January 2012, residents who were blocking the construction on site had to endure a barrage of profanities and physical violence from approximately 50 private security officers. The number of injured protesters reached 64 during the two months of police action in October and November of 2013.

The most recent incident occurred on 11 June 2014 when it is alleged that around 2,000 police officers and 200 Miryang public officers used excessive force against approximately 100 senior residents gathered in five sit-in protest sites areas – namely, site numbers 101 (Miryang's Danjang-Myeon Taeryol village, mountain 10), 115 (Miryang's Sangdong-Myeon Gojung village, 1340), 127 (Boobook-Myeon Weeyang village, mountain 50), 129 (Boobook-Myeon Daehang village, mountain 66) and Jang-dong entrance site (Boobook-Myeon Weeyang village, mountain 87). These sites were defined as "illegal facilities" by Miryang City Hall and reports suggest that on 11 June 2014, Miryang City Hall carried out Administrative Execution of Action forcefully tearing down the sit-in protest sites in accordance with a warrant issued on 9 June 2014.

It is alleged that the police physically dragged the protesters out of the sit-in site facilities injuring several of them. Ms. [REDACTED] fell and fractured her right ankle and experienced difficulties in breathing as a result of the police taking away her cane and physically assaulting her. Ms. [REDACTED], a nun, had her arm fractured while two other nuns – Ms. [REDACTED] and Ms. [REDACTED] – sustained injuries to their back, shoulder and neck. Two residents from Miryang's Boobook-Myeon Weeyang village – Ms. [REDACTED] and Ms. [REDACTED] - were also treated for fractured legs and back injuries. One elderly protester was stopped by the police when attempting to get his medication

for high blood pressure from his shelter. Ms. [REDACTED], Ms. [REDACTED] and Ms. [REDACTED], who were wearing undergarments felt sexually humiliated when male police officers dragged them out of the sit-in site. It is alleged that the police displayed a serious lack of regard for the frail condition of the protesters not only by their use of excessive force, but also by a lack of pre-planning, having only one ambulance on stand-by at the protest sites.

Ms. [REDACTED], Mr. [REDACTED] and Mr. [REDACTED], were arrested on charges of obstruction of performance of official duties under article 136 of the Penal Code of the Republic of Korea. Ms. [REDACTED] and Mr. [REDACTED] were released on 12 June 2014 and Mr. [REDACTED] was release within 48 hours after his arrest on 11 June 2014.

Furthermore, the lawyer representing the residents, Mr. [REDACTED], was denied access to meet his clients by the police.

Additionally, it is alleged that the police used cameras to regularly film the residents and protesters at the sites prior to and during the Administrative Execution of Action, which is deemed illegal during various allies and demonstrations under the 'Regulation of collection of evidence' of the National Police. The National Human Rights Committee voiced concerns that the widespread and indiscriminate collection of evidence by the police "might result in the violation of right to assembly and right of privacy" and advised the National Police to restrict the collection of evidence at sites of assembly or demonstrations.

It is also alleged that in May 2013, KEPCO and the residents came to an agreement for an alternative solution with the participation of a professional consultancy group and agreed on a 40 day tentative suspension of construction. However, it is reported that the consultancy group was unable to properly conduct its work due to the insufficient and false information provided by KEPCO. Furthermore, in July 2013, KEPCO and its chief executive did not follow the recommendation of the National Assembly to reach a compromise with the protesters.

Concern is expressed that the alleged excessive use of force by government employees, private security and police officers against environmental and human rights defenders, particularly elderly residents of Miryang, who were protesting against construction of 69 high-voltage nuclear power transmission towers. Further concern is expressed that these nuclear power towers will cause environmental destruction and damage to food crops, and result in serious violations of human rights for the largely aging population, including the right to an adequate standard of living, the right to food and the right to health.

In connection to 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.

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 any comment you may have on the above mentioned allegations.
2. Has a complaint been lodged by the victims or the families of the victims against government employees, private security and police officers?
3. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. In the event that the alleged perpetrators of the excessive force are identified, please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
5. Please indicate any remedial action taken vis-à-vis the victims.

We would appreciate a response within 60 days.

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 responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

John Knox

Independent Expert on the issue of human rights obligations related to the enjoyment of a safe, clean, healthy and sustainable environment

Hilal Elver
Special Rapporteur on the right to food

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

Rosa Kornfeld-Matte
Independent Expert on the enjoyment of all human rights by older persons

Rashida Manjoo
Special Rapporteur on violence against women, its causes and consequences

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer to article 21 of the International Covenant on Civil and Political Rights (ICCPR), which guarantees the right to freedom of peaceful assembly.

We would further like to refer to Human Rights Council resolution 24/5, which highlights the State's obligation to respect and protect the right to freedom of peaceful assembly.

In addition, we would also like to refer your Excellency's Government to article 9(1) of the ICCPR, which states that "Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law."

We also wish 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.

Regarding the arrest of Mr. [REDACTED], we would like to refer Your Excellency's Government to the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, and in particular principle 16 and principle 18, which states: "Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions."

Furthermore, we would also like to draw your Excellency's Government's attention to the United Nations Principles for Older Persons, adopted, without a vote, by the United Nations General Assembly resolution 46/91 on 16 December 1991. In particular, Principle 5 states that "Older persons should be able to live in environments that are safe and adaptable to personal preferences and changing capacities"; and Principle 7, which states that "Older persons should remain integrated in society, participate actively in the formulation and implementation of policies that directly affect their well-being [...]".

Finally, we would like to refer your Excellency's Government to article 4 (c & d) of the United Nations Declaration on the Elimination of Violence against Women, which

notes the responsibility of States to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. To this end, States should develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence.

