

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 BGD 7/2016

27 December 2016

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 28/11, 25/2, 32/32, and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **allegations of excessive use of force against environmental protestors as well as a persistent campaign of harassment and stigmatization directed at environmental human rights defenders through slander and anonymous death threats, which seem to be related to their legitimate and peaceful activities in defence of environmental rights in the context of the proposed Rampal Power Station.**

The **Rampal Power Station** is a proposed coal-fired power station at Rampal in Kulna, sponsored by the Bangladesh-India Friendship Power Company. In July 2016, the contract for its construction was awarded to Bharat Heavy Electrical Ltd. In October 2016, following a fact-finding mission, UNESCO and the International Union for the Conservation of Nature recommended to cancel the construction of the power station and relocate it to a more suitable location, as it otherwise could damage the world-heritage listed Sundarbans mangrove forest.

According to the information received:

In the period of August to October 2016, a large group of defenders of environmental rights, civil society activists and peaceful protestors who oppose the proposed coal-based thermal power plant at Rampal, Bangladesh have reportedly been subject to threats and harassment by representatives of the Government of Bangladesh.

The plant could allegedly cause, inter alia, severe air and water pollution, and harm the world's largest mangrove forest, the Sundarbans, located adjacent to the project site. The Sundarbans is a vital ecosystem providing millions of people

with healthy food and protection from deadly cyclones. The Sundarbans is also a UNESCO World Heritage Site.

At a press conference convened on 27 August 2016, the Prime Minister of Bangladesh, [REDACTED], compared Rampal protesters to terrorists who carried out the deadly attack in Holey Artisan Bakery in Dhaka on 1 July 2016.

On 10 September 2016, at a discussion in Dhaka, the State Minister for Power, Energy and Mineral Resources of the Government of Bangladesh, [REDACTED], claimed that most Rampal protesters were linked to the Islamist political party Jamaat-e-Islami the registration of which has been declared illegal by the Supreme Court of Bangladesh in 2013.

On 13 October 2016, one of the leading figures of the campaign against the Rampal plant allegedly received two anonymous death threats to his mobile telephone. Six other prominent intellectuals, who have been critical of the Government in the past, also received death threats from the same telephone number.

On 18 October 2016, in the Malibagh area of Dhaka, police forces of Dhaka violently dispersed a peaceful protest, attended by three hundred people, with tear gas shells and water cannons. It has been reported that at least 30 persons received injuries of varying degrees. The protestors were scheduled to march towards the High Commission of India in Dhaka with the aim of submitting an open letter to the Indian Prime Minister to oppose the construction of the plant at Rampal.

In addition to the above alleged facts, on 17 October 2015, at least 25 protestors were injured when police forces charged batons on them at Manikganj during their peaceful road march from Dhaka to the Sundarbans demanding the cancellation of Rampal plant project.

Other protestors for environmental protection issues have also been subject to excessive use of force in Bangladesh. On 4 April 2016, police opened fire on protesters opposing the seizure of their land for proposed coal plants by the Bangladeshi conglomerate S. Alam in Chittagong, killing at least four people and severely injuring others. Some of the protesters have also been reported missing. Despite the peaceful nature of the protests, the police has claimed the force was justified to counter alleged attacks against them, without conducting a thorough and independent inquiry into those incidents. Allegations related to the excessive use of force against protesters in Chittagong were communicated to your Excellency's Government on 28 April 2016 (BGD 2/2016), to which only an acknowledgement of receipt was received. We reiterate the importance of providing detailed clarifications to that communication, especially given the on-going concerns received in relation to the treatment of environmental human rights defenders in Bangladesh.

Serious concern is expressed about the alleged use of excessive force by the police against environmental protestors, as well as threats and harassment directed at environmental defenders, which seem to be related to their legitimate activities in protesting against the Rampal Power Station through the exercise of their rights to freedom of expression and peaceful assembly. We express concern that this appears to fall into a pattern of use of force against peaceful environmental defenders, which may have a deterrent effect on such defenders' exercise of freedom of expression and peaceful assembly on a matter of great public interest. We express further concern at the authorities' stigmatization of environmental defenders through comparing their activities to terrorist activities.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

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.

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 therefore 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 the details, and where available the results, of any investigation and judicial or other inquiry undertaken in relation to these allegations, both in relation to the excessive use of force and concerning the death threats against the human rights defenders. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please provide information about the directives issued, if any, by the Government to law-enforcement personnel concerning the precise circumstances in which the use of force is authorized, and indicate how these directives comply with Bangladesh's obligations under the International Covenant on Civil and Political Rights, as well as with the requirements of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
4. Please provide any information about measures taken or to be taken to ensure that peaceful protests can be carried out without the threat or use of force.
5. Please kindly indicate what measures have been taken to ensure that human rights defenders, including environmental rights defenders, in Bangladesh can

operate in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

We would appreciate receiving 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(s) responsible for 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 H. 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 draw your attention to the following human rights standards:

We would like to refer you Excellency's Government to articles 9, 19, and 21 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Bangladesh on 6 September 2000, which guarantee the rights to liberty and security of person, the right to freedom of opinion and expression and the right to freedom of peaceful assembly, respectively.

In this connection, we refer to the 2014 report of the previous Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression which emphasizes the central role of freedom of expression in the effective functioning of a vibrant democratic political system, and recalls the responsibility of States to ensure an environment in which a diverse range of opinions and ideas can be freely and openly expressed and debated (A/HRC/26/30).

We would like to draw the attention of your Excellency's Government to resolution 25/38 of the Human Rights Council, which urges states to avoid using force during peaceful protests, and to ensure that, where force is absolutely necessary, no one is subject to excessive or indiscriminate use of force. In addition, we would like to draw the attention of your Excellency's Government to the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials which provides that force may only be used as a last resort when unavoidable and only when less dangerous means are not practicable.

We also wish to refer to the joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies (A/HRC/31/66), which contains several recommendations on the use of force in the context of protests, which are most relevant to the present case.

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 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. Articles 5 and 6 of the Declaration provide respectively for the rights to meet or assemble peacefully and to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, as well as article 12, paragraphs 2 and 3, which states that the State shall take

all necessary measures to ensure the protection of everyone 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 Declaration.

We would also like to draw your attention to United Nations Human Rights Council resolution 31/32, which in its paragraph 1 reaffirms the urgent need to respect, protect, promote and facilitate the work of those defending economic, social and cultural rights as a vital factor contributing towards the realization of those rights, including as they relate to environmental and land issues as well as development.

We further refer to the report of the Special Rapporteur on the situation of human rights defenders to the United Nations General Assembly (A/71/281), which states that all States should reaffirm and recognize the role of environmental human rights defenders and respect, protect and fulfil their rights.