

18 February 2013

To,
Dr. Jim Yong Kim
President, World Bank
18 H Street, NW
Washington, DC 20433 USA

REF: Appeal to Consider Alternatives for the Nepal Power Development Project in Sindhuli District

Dear **Mr. President**;

We the undersigned are Indigenous Peoples, leaders of representative organizations, and local people permanently residing in Jalkanya, Bhimeshowr in Sindhuli District, Kamalamai Municipality, Bhadrakali, Ranichuri, Ratanchura Village Development Committees (traditional homeland of Indigenous Peoples) in Nepal. In addition to the community representatives this letter is composed by the communities' legal representation, the Lawyers Association for the Human Rights of Nepalese Indigenous Peoples (LAHURNIP).

We are writing to raise urgent concerns and complaints about the Nepal Power Development Project (P043311), particularly the Khimti-Dhalkebar 220 KV Transmission Line Project (hereinafter Project) undertaken by the government corporation Nepal Electricity Authority (NEA) and funded by the International Development Association, part of the World Bank Group. The NEA has planned and implemented the Project without the consultation and inclusion of Indigenous Peoples and other local communities in the area who expect to be negatively impacted by the project activities. We are requesting that the funding for the Project be suspended until alternative routes are considered for the high voltage line, and local and indigenous peoples are adequately consulted and informed about the Project. Our concerns are expressed in acknowledgement of the World Bank's own safeguard policies as well as Nepali national law. The Project, as it is currently being implemented, violates both the safeguards and Nepali law *vis à vis* international standards that Nepal is party to. Until these violations are adequately addressed and resolved, we ask that the World Bank suspend further funding and work on the Project.

Project Information

The objective of the Project is to augment and make consistent the energy supply for India and the eastern part of Nepal by developing a partially above ground and partially

underground high voltage power line through five districts of Nepal. There are several problems with the project: affected people have not been informed or consulted about the Project; official documents underestimate the number of affected people; and the rights of indigenous people, under both international and national law, have not been adequately protected in the design and implementation of the Project.

Lack of information and consultation

While public hearings on the project were conducted in Dhalkevar of Dhanusha District and Manthali of Rammehhap, they were not carried out in Sindhuli. Thus, people were not aware of the project's scope and their concerns are not reflected in the Environmental Impact Assessment (EIA).

To date, no clear plan for the compensation and relocation of households has been issued and no consultation has been conducted with the affected people, certainly not a consultation that is in compliance with international legal standards.

Inaccurate estimates for number of affected people

The EIA conducted for the project outlines the expected effects to people and the environment surrounding the high voltage power line. According to the EIA, 17 households will be affected, meaning that they will be "acquired" by the project, and 100 people will be affected by relocation. However, in total, more than 200 houses located under the path of the transmission lines are directly affected in Sindhuli District alone. The EIA states that 1,14,516 peoples shall be affected directly and indirectly by the Project in five districts: *Dolkha, Rammehhap, Sindhuli, Dhalkebar and Dhanusha.*

Furthermore, despite Nepal's Electricity Regulation 1994 (52) which prohibits building transmission line above the houses, the planned Khimti-Dhalkebar 220 KV transmission lines will be built above the over the 200 houses already mentioned in Sindhuli District, and four schools (Swiss Sindhuli School , Pani tyanki Ucca Ma.Vi., Academy School and Bardewthakur Primary School where 1700 students, aged 4 years and above, both live and study. The line goes nearby the Manthali Airport and the EIA clearly states the line will cause danger in landing at that airport. However, in June 27, 2003 the Nepal Civil Aviation Corporation (Nepal Naagarik Udhayan Pradhikaran) issued a letter (Ref. No. 569/060) that gave permission for the building of the lines. A number of religious sites(Kamalamai, Bhadrakali, Bhimeshwor, Sidhababa and Kalyani Temples) sacred places (Urguel Chyolungn Gumba, Karma Samtengling Gumba and Tashiling Chyoling Gumba (Monasteries), burial site of Tamang People and historical heritage (Sindhuli Gadi) will be affected by this project.

According to the EIA, 1.06 hectares of land will be affected permanently, but according to independent dataⁱ, more than 70 hectares of land will be seized from more than 250 people in Sindhuli District if the Project follows the currently proposed route. Though the Project has

not published any formal notice for acquisition of the land yet, the Chief District Authority has put local peoples' land under lien, meaning they cannot sell or mortgage their land.¹

The EIA clearly indicates that the route of the high-tension line will exclude Kamala Mai Municipality Ward No 10 and 11 where approximately 5000 peoples live. However, surveys have been conducted in these areas suggesting the Project may, in fact, be carried out in these Wards as well. No official information has been provided about the impacts of the lines on these wards.

As such, it seems that the number of houses and peoples, as well as the amount of land that will be affected, is much higher than what is mentioned in the EIA. It is our belief that the data in the EIA misrepresents the actual Project impacts.

Rights of indigenous people violated

There are a number of indigenous groups in Sindhuli District that will be affected by the Project. They include: Tamang, Magar, Newar, Thami, Bhujel, Majhi and others. Indigenous Peoples are recognized constitutionally (Article 21 of Interim Constitution 2007) and legally (National Foundation for Development of Indigenous Nationalities) in Nepal. Article 35(4) of the Interim Constitution places an affirmative obligation on the Government of Nepal to ensure that the interests of local peoples are prioritized while mobilizing the natural resources. Nepal's 1991 Treaty Act also effectively domesticates international law including the rights to consultation and consent recognized in ILO Convention 169 and the United Nations Declaration on the Rights of Indigenous Peoples.

The World Bank's safeguards also afford special protection and consideration to indigenous peoples. The World Bank Safeguard Policies, in particular the safeguards on Involuntary Resettlement (O.P 4.12) and Indigenous Peoples Safeguard Policy (O.P 4.10), have been disregarded in the planning and implementation of the Nepal Power Development Project. There has not been full disclosure on project plans or expected impacts to any affected groups, including the indigenous communities.

Safe Alternative

There are many possible alternative routes where there are no human settlements and where the potential adverse impact of the project would be much less. For example, if the transmission line is expanded from the route of *Solabhanjyang, Dhamile Khola, Tharhari Bhanjyang and Kalyani Mandir*, it would avoid human settlements and have less environmental impact. Alternative routes may have higher initial monetary costs, but would protect the peoples and land that would be adversely impacted if the project were built on the current route.

¹ In accordance land certificates submitted in LAHURNIP by affected people

Originally, the first Survey for the project was done in a location where there is no human settlement, but it was changed without consulting affected people. On 17 January 2012, indigenous and local people submitted a joint memorandum to the Prime Minister and concerned authority to move the project back to where the original survey was conducted or, alternatively, to where there is no human settlement. In response, the Ministry of Energy acknowledged that people would suffer from the Project. On 31 January 2012, the Ministry of Energy issued a letter requesting that the Project be suspended until an appropriate solution was developed. The Prime Minister gave word to change the route of the transmission lines and an Expert Commission was formed under the Energy Ministry but no report was made public. With regard to these minutes were prepared in the presence of a delegation team in the Ministry of Energy on March, 5th 2012 although the minutes were not given to members of the delegation team. The Prime Minister has since stated that the project should be carried out at any cost. According to national newspapers², Chief District Administrative Officer Keshav Raj Acharya has directed police forces to open gun-fire on anyone creating problems for the Project.

Safety is an issue in the region, particularly for those who are resisting the Project. Initially, the government deployed the Nepal Army in Project areas to ensure safety for construction activities, but after the community strongly lobbied the Army officials, the Army did not take any action. However, at the current time, the Prime Minister has deployed Armed Police Force, who have engaged in the abuse of women. On 12 November 2012, 10 women were brutally attacked by Armed Police Forces under the Command of Inspector Kailash Katuwal while protesting to divert the high voltage line from its present route to safer alternative proposed. Some of the women are under treatment in Kathmandu but no action was taken against the perpetrators even though it was reported to the National Human Rights Commission and other relevant government authorities. Other community members are under threat from Chief District Officer Mr. Keshav Raj Acharya and other security officers.

Request

We request that the funding for this Project be suspended until the World Bank has ensured that the NEA and Government of Nepal are complying with the World Bank's safeguard policies, as well as domestic and international laws relating to the rights of indigenous and affected peoples in the Project design and implementation.

We further request that the World Bank facilitate dialogues with local peoples and relevant government officials in order to seek a safe alternate route for the Khimti-Dhalkebar transmission lines. . We call for the creation of a commission of independent experts to study and properly identify the Project's expected impact under the current proposed route, as well as under various alternative routes.

² Sindhuli Saugat(Year 2, Vol.106 Thursday 8 Nov. 2012), Janaboli Sandesh (Year 2, Vol.103 Monday 12 November 2012), Nagarik National Daily Saturday 25 August 2012 etc.

Signed

Surya Pakhrin

District Council Nepal Adivasi Janajati Mahasang (NEFIN)

Representative Organization

Signed

Shankar Limbu

Secretary

Lawyers' Association for Human Rights of

Nepalese Indigenous Peoples (LAHURNIP)

Signed

Surendra Swar Moktan

Chairperson

Victim of Khimti-Dhalkevar 220 KV Transmission Line

Struggle Committee

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ⁱ Consultation carried out with affected people by LAHURNIP