

**NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL**

Mandates of the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right to food; 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: UA G/SO 218/2 Food (2000-9) G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9)
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Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the right to food; 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 General Assembly resolution 60/251 and to Human Rights Council resolutions 15/18, 16/4, 13/4, 15/21, and 16/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding **alleged acts of violence and intimidation against the residents of the village of Govindpur, Sanhaipai Mathasahi, Polong and Nuagoan located on the Jagatsinghpur District in the State of Orissa**. Since 2009, the leaders of the villages have been frequently detained and then released, after protesting against plans by the authorities of the state of Orissa to forcibly enter the village in order to evict the local residents.

On 29 June 2011, a joint urgent appeal was sent by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context and the Special Rapporteur on the human right to safe drinking water and sanitation, concerning the alleged forced eviction of more than 200 farmers from Polong and Noliassahi villages in Jagatsinghpur district in Orissa State, in order to make way for a steel plant and a captive port. A response to this appeal is yet to be received from your Excellency's Government.

According to the new information received:

It is alleged that for several years, the local residents of the village of Govindpur have expressed opposition to the acquisition of their lands by a Korean-owned company called POSCO, which has plans to develop an integrated steel plant and a captive power station in the district of Jagatsinghpur. Reportedly, the plan will affect 11 villages, comprised of some 4,000 families and over 22,000 people, who depend on these lands, forests and natural resources for their livelihoods.

It is reported that on 16 July 2011, more than 200 people, members of Sanhaipai Mathasahi village and Polong village, gathered in the forest in order to prevent the area of being cleared by the police. The police allegedly responded to these protests with violence, and as a consequence eight people were injured. It is further reported that on 15 July 2011, hundreds of people protesting the land acquisitions for the construction of the integrated steel plant were arrested and then released, after marching towards the chief minister's residence in order to express their demands that the project be stopped and land claims be addressed.

It is alleged that the authorities of Orissa have processed hundreds of criminal charges against residents who have mobilized to resist the land acquisition efforts and advocate for the human rights of those who will be affected by this project. In fact, it is reported that since 2009 the following leaders have been arrested and then released on bail, after baseless charges: **Mr. Ashok Bardhan** (arrested on April 2011- released on May 2011); **Mr. Sura Dash** (arrested on March 2011- released on April 2011); **Mr. Dambarudhar Palai** (arrested on October 2010- released on October 2010); **Mr. Bhramarbar Sethy** (arrested on September 2010- released on October 2010); **Mr. Sachikanta Mahapatra** (arrested on September 2010- released on September 2010); **Mr. Kailash Biswal** (arrested on August 2010- released on September 2010); **Mr. Anirudha Nayak** (arrested on May 2010- released on September 2010); **Mr. Ramesh Das** (arrested on August 2010- released on August 2010); **Mr. Abhaya Sahoo** (arrested on April 2009- released on February 2010); and **Mr. Prakash Jena** (arrested on March 2009- released on January 2010). It is alleged that their detentions have been an apparent effort by the government of the State of Orissa to criminalize their peaceful protests.

It is further reported that recently, there are plans by the authorities of the State of Orissa to forcibly enter the village of Govindpur in order to evict the local residents. At least 20 police platoons and a number of members of the armed forces have surrounded the area, and are undertaking frequent marches and exercises in an apparent effort to intimidate the residents. The plan to forcibly enter the village and remove villagers has allegedly been postponed in the past weeks, apparently due to a combination of rains, national holidays and on-going protests activities.

On 9 June 2011, over 2,000 villagers formed a human barricade and were sitting in front of the Govindpur village border, during day and night, to try to prevent the police forces from seizing the land for the company. From 8 June 2011

onwards, over 400 school students have joined the protest meeting. It is alleged that during the peaceful protests, people were mainly sitting or lying down and forming a semi-circle around the entrance to the village. The outer ring is made up of children and inside there is a second ring which is comprised by women from the village.

It is alleged that as a result of the presence of the police platoons, the people of the village of Govindpur are not able to access the nearby market to sell their products for fear of being captured by the police. It is alleged that this fear is not unfounded given that recently many of the members of the community have been arrested without due cause. Reportedly, the police forces have also proceeded to destroy the betel vine which is a locally grown food crop, in an apparent effort to force villagers to leave their lands.

On 3 June 2011, it is reported that the Odisha police has brutally beaten villagers from the community of Nuagoan, who were expressing opposition to the forceful acquisition of their land for the project. Several people were injured in the attack, including Mr. X, the Panchayat Samiti member of Gadkujang Panchayat. 17 people were allegedly arrested, including women and children. It has also been alleged that members of the local government administration incited project supporters to burn down the betel vines of Mr. **Natha Samal**, a member of PPSS in the Nuagaon village.

Villagers have expressed repeated concerns that the steel plant and power station will destroy rice paddies; fish-ponds; and betel-vine cultivation and cause water-logging on agricultural lands. The project will also reportedly utilize excessive amounts of water from the Mahanadi River which residents fear will create water scarcity for the purposes of domestic use and irrigation in the farming areas around Cuttack city. These impacts will affect thousands of villagers living in the project area, over one-third of whom are tribal groups and other disadvantaged castes, as well as poor farmers and fisherfolk.

Residents and human rights defenders working with them are fearful that the government may resume the forceful acquisition of their lands, and that an incident implying serious violence may occur.

Serious concern is expressed about the use of acts of intimidation and threats against the lives and livelihoods of the residents of the villages located on the Jagatsinghpur District. Further concern is expressed for the physical and psychological integrity of the human rights defenders, leaders and villagers who have been detained and then released as a consequence of their legitimate exercise of the right to peaceful assembly and protest as well as freedom of expression advocating for the protection of land rights and livelihoods of the local residents.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the abovementioned persons has been arbitrary or not, we would

like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR), and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

Given our serious concern that the above-mentioned human rights defenders, leaders and villagers have been detained and then released as a consequence of their legitimate exercise of the right to peaceful assembly and protest as well as their advocacy for better respect for human rights, we would also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the ICCPR, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

In addition, we also wish to reiterate the principle enunciated in Human Rights Council Resolution 12/16, which calls on States, while noting that the exercise of the right to freedom of opinion and expression carries with it special duties and responsibilities, to refrain from imposing restrictions which are not consistent with paragraph 3 of article 19, including on (i) discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; engaging in election campaigns, peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

Moreover, we would like to appeal to your Excellency's Government to take all necessary steps to ensure the right of peaceful assembly as recognized in article 21 of the ICCPR, which provides that "The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interest of national security of public safety, public order (ordre public), the protection of public health or morals of the protection of the rights and freedoms of others."

We also wish to draw your Excellency's Government's attention to article 25 of the UDHR and to article 11 of the International Covenant on Economic Social and Cultural Rights (ICESCR). Article 11 of the ICESCR recognizes the right to adequate food as part of the right to an adequate standard of living. As underlined by the Committee on Economic, Social and Cultural Rights in its General Comment No. 12 (1999), the right to food require that each individual, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement. It requires that States abstain from measure that may deprive individuals form the access to productive resources which they depend on when they produce food for themselves. Indeed, as noted in the report of the Special Rapporteur on the right to

food to the General Assembly (A/65/281), the Committee on Economic, Social and Cultural Rights recognizes the link between access to natural resources and the enjoyment of the right to food, as well as the special vulnerability of those who depend on natural resources, where it notes that “[s]ocially vulnerable groups *such as landless persons* and other particularly impoverished segments of the population may need attention through special programmes.”

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, and in particular articles 1 and 2 which state that “everyone has the right individually or in association with others, 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, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.”

Furthermore, we would like to bring to the attention of your Excellency’s Government the following provisions of the Declaration:

- article 5, point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully;

- article 6, points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters; and

- article 12, paras. 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, 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. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts

of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

In addition, we would like to refer to the 2006 report to the General Assembly (A/61/312) (of the Special Representative of the Secretary-General on the situation of human rights defenders) and in particular to paragraph 98 which states that “in conformity with article 15 of the Declaration [on Human Rights Defenders], the Special Representative urges States to ensure that law enforcement agencies and their members are trained in and aware of international human rights standards and international standards for the policing of peaceful assemblies, including the Declaration on Human Rights Defenders, the Code of Conduct for Law Enforcement Officials and other relevant treaties, declarations and guidelines. The Special Representative also advises all States that all allegations of indiscriminate and/or excessive use of force by law enforcement officials should be properly investigated and appropriate action taken against the responsible officials.”

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the residents of the villages located on the Jagatsinghpur District are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the residents of the villages on the district of Jagatsinghpur in compliance with the above international instruments.

Moreover, 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. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victims?
3. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide information of the legal basis of the arrests and criminal charges against residents who have mobilized to resist the land acquisition efforts and advocate for the rights of those who will be affected by the steel plant project.

5. Please provide information on measures taken to consult with the affected communities to assess the impact of the planned displacements and explore alternatives such as displacement and means to avoid or minimize negative impacts on human rights, including the right to food.
6. Please indicate what measures have been taken to ensure that the legitimate right to meet and assemble peacefully, as well as to freedom of opinion and expression, is respected and that the physical and psychological integrity of those exercising this right is guaranteed.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

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

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