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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 Special Rapporteur on extreme poverty and human rights; 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; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Independent Expert on the promotion of a democratic and equitable international order; 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 right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the human right to safe drinking water and sanitation.

REFERENCE: AL Poverty (1998-11) Housing (2000-9) Business enterprises (2011) Food (2000-9) Assembly & Association (2010-1) Health (2002-7) G/SO 214 (107-9) Water (2008-1) IND 7/2013

11 June 2013

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extreme poverty and human rights; 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; Working Group on the issue of human rights and transnational corporations and other business enterprises; Independent Expert on the promotion of a democratic and equitable international order; Special Rapporteur on the right to food; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on the human right to safe drinking water and sanitation pursuant to Human Rights Council resolution 17/13, 15/8, 17/4, 18/6, 22/9, 15/21, 15/22, 16/5, and 16/2.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received regarding alleged **plans by the Government of India to forcibly evict as many as 20,000 people living in Jagatsinghpur District, Odisha, and surrounding areas, in violation of international human rights standards and domestic laws.** The land being acquired would reportedly be utilized for the construction of an integrated steel plant and a captive port by the steel corporation, Pohang Iron and Steel Corporation, commonly known as POSCO, based in the Republic of Korea. We also wish to call your attention to reports received concerning the alleged suppression of the activities of people who have expressed their opposition to the project, which have resulted in a series of human rights abuses. We also wish to bring to the

attention of your Excellency's Government reports that suggest that the construction of the steel plant will result in serious violations of human rights for over 20,000 affected people, including the right to an adequate standard of living, right to food, right to adequate housing, right to water and sanitation, right to health, right to education, and other human rights of people confronting extreme poverty.

According to the information received:

The Government of India has agreed to grant to the POSCO Corporation, which is based in the Republic of Korea, several important concessions following the Memorandum of Understanding (MOU) that was signed between POSCO and the state of Odisha on 22 June 2005. These allegedly include significant tax breaks and the facilitation of the necessary environmental and forest clearances. Representing the largest single foreign direct investment in India to date, the steel project will require over 6,000 acres of land for its various components, which include a mine, steel processing plant, captive port, and associated infrastructure. We understand that, according to the Memorandum of Understanding, POSCO seeks to acquire 4,000 acres of land for the steel plant and port components, plus another 2,000 acres for a company town and associated infrastructure, including a township site, with social developments. POSCO has also allegedly stated that it requires additional, unspecified amounts of land to facilitate transportation of millions of tons of raw materials and to divert from a local river the 120 billion litres of water required by the project.

We are informed that, in recent years, concerns have been expressed that the project does not comply with the procedures established by the Forest Rights Act of 2006 and by environmental authorities. We understand that the Indian Government adopted a Resettlement and Rehabilitation Policy in 2006 however we have not received information about the consultation and participation process for its adoption, nor about the level of implementation of this policy thereafter. We understand that on 30 March 2012, India's National Green Tribunal ordered a review of the 2011 environmental clearance for the project, and that India's National Human Rights Commission and the National Commission for Protection of Child Rights have raised concerns regarding human rights abuses associated with the project.

Situation of human rights defenders

According to information received, the Anti-POSCO People's Movement was established in 2006 representing a collective, non-violent effort to oppose the project and highlight concerns that the integrated steel plant will destroy the livelihoods, undermine the ability to live in dignity, and result in serious violations of a range of human rights of the residents living in several of the affected villages. Human rights defenders and project opponents have allegedly been subject to harassment and intimidation as well as having had force used against them, notably as a result of conducting peaceful protests at the planned construction site. Reports received allege that on 15 May 2010, project opponents

were fired upon with rubber bullets and metal pellets and beaten with batons, resulting in serious bodily injuries. According to reports, multiple project opponents have been faced with arbitrary detentions and multiple false charges against them, as a result of their activities defending and promoting their human rights. Many also allege that they have been denied protection by the authorities in India from attacks by individuals supportive of the project.

Reports suggest that the permanent police presence surrounding the villages of Govindpur and Dinkia, in Jagatsinghpur District, Odisha, and the outstanding warrants filed against several local residents, have allegedly resulted in restrictions on their freedom of movement and barriers to their ability to access essential services, including emergency and routine medical care.

Access to adequate housing and an adequate standard of living

According to reports received, the people who stand to be forcibly evicted in order to build the steel plant received no information about the proposed project prior to the signing of the MOU in June 2005. We understand that Indian authorities have not visited the affected communities in order to discuss the project or offer guarantees concerning the resettlement and compensation of those who would be evicted. Evidence is also reportedly lacking to demonstrate efforts made by the Government of India to exhaust all feasible alternatives to forced evictions or to enter into meaningful consultation with affected communities.

We are informed that the affected villagers have made repeated attempts to participate in decisions related to the project as they concern their lands, by means of several *Gram Sabhas*, which are local governance structures recognized under Indian law. We understand that the resolutions from the *Gram Sabhas* have expressed an overwhelming rejection of the diversion of forest lands for the POSCO project, and that the Government of India has failed to uphold these decisions, despite its obligations to do so under the Forest Rights Act of 2006. Reportedly, the Government of India has stated that it will proceed with the acquisition of land for the project, which will require the forced eviction of the area's residents.

Information received also suggests that people who have already been displaced for the POSCO project have experienced serious declines in their standard of living. Today, we understand that the 52 families that live in the Badagaupur transit camp after their lands were ceded for the project now live in inadequate housing which fails to guarantee their safety and wellbeing, including failing to protect them from weather conditions and other threats to their health. Reportedly, many of the houses retain humidity and pose a serious risk of mold and other environmental hazards.

We understand that the situation faced by more than 20,000 people, if the project proceeds according to the present plans, includes those who have already been resettled by the POSCO project as well as those who would allegedly be forcibly

evicted if the project proceeds according to present plans. These people have reportedly received no official guarantee that they will continue to enjoy access to essential services (health care, energy services, education), nor that they would be protected from serious declines in their living standards, loss of access to agricultural lands and livelihoods, as well as loss of economic independence and impoverishment.

Access to water and sanitation

According to reports received, the POSCO project will require the diversion of 120 billion litres of water that is currently used for domestic and agricultural purposes by residents in the affected communities. The loss of this source of water poses serious risks to the ability of families to access sufficient water for their household use and of farmers to irrigate their crops.

People already displaced by the POSCO project, including the residents in the transit camp mentioned in this communication, have reportedly experienced marked declines in the quality of water that they are able to access. We understand that residents of the camp have been compelled to use water that bears a bad taste and allegedly causes the irritation of the throat and skin, which suggests serious concerns regarding its quality and adequacy. Camp residents allegedly do not enjoy sufficient access to adequate sanitary facilities, and reports received suggest that only four toilets are functioning properly in the camp, which serve 52 families, and women and girls are unable to use these facilities with sufficient privacy.

Access to food and livelihood resources

For generations, communities living in the area identified for the POSCO project have been able to ensure their food security, work and sustain themselves by means of rural agriculture, fishing and animal husbandry, as well as, for some, gathering forest products and engaging in agricultural day labor. It is reported that the high water table and unique soils in the area have enabled a robust and high-quality production of betel, cashew, rice, fish and shrimp, as well as family gardens. Some also derive their subsistence from forest products, while others, including Dalits and landless people, have earned a living through day labor in the fields of other residents. The residents in the affected villages have reportedly regularly enjoyed access to nutritious food that is both economically and physically accessible. The area has also provided protection for coastal communities from natural disasters, such as cyclones and powerful storms. For these people, access to their land, with its unique agricultural potential and natural resources, has thus been instrumental in enabling them to realize a range of human rights.

Reports received suggest that, if these residents lose access to the lands upon which they have based their subsistence, they face serious risks to their food security and therefore their right to food. For the local people who produce their

food on their land, they would be deprived of their primary means of subsistence. For those who access food by means of income earned in local markets from the sale of their agricultural production, there is no guarantee that they would be able to access adequate food that is affordable and culturally acceptable.

Access to health care and education

According to the information received, a large number of residents are allegedly unable to access health care outside of their villages due to a substantial police presence in the area. Local residents are reportedly fearful of leaving their villages because of the use by local police of outstanding warrants to arrest community members on false charges. This has reportedly presented substantial obstacles to the ability of parents to send their children to school and access hospital care for their children. Further, members of the Indian police force have allegedly occupied local schools on several occasions. We have also been informed that several women in the affected communities have experienced serious medical problems due to their inability to travel to healthcare facilities, and obtain sexual and reproductive health services. Concerns have also been expressed that, if residents are displaced for the POSCO project, they will receive no guarantee that their new homes will be located within a reasonable distance from adequate and affordable health care or educational facilities.

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 applicable international human rights norms and standards.

Article 25 of the Universal Declaration of Human Rights (UDHR) recognizes the right of everyone "to a standard of living adequate for the health and well-being of himself and of his family, including food." Furthermore article 11.1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) – which India acceded to on 10 April 1979 – stipulates that States "recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions", and requires them to "take appropriate steps to ensure the realization of this right." The ICESCR also recognizes in article 12 "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health," including "improvement of all aspects of environmental and industrial hygiene" and the "creation of conditions which would assure to all medical service and medical attention in the event of sickness". The Covenant also recognizes the right to education (article 13).

The right to an adequate standard of living is also included in several other human rights treaties. Under article 27 of the Convention on the Rights of the Child, which India acceded to on 11 December 1992, "States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development". Under article 14 of the Convention on the Elimination of All Forms of Discrimination against Women, which India acceded to on 9 July 1993, "States Parties shall take all appropriate measures to eliminate discrimination against women in rural

areas (...) to ensure (...) the right (...) to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications”.

Article 17 of the International Covenant on Civil and Political Rights (ICCPR), which India acceded to on 10 April 1979, establishes that no one “shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence” or subjected to arbitrary arrest or detention. The ICCPR also guarantees the right to take part in the conduct of public affairs (article 25) and the right to freedom of movement (article 12). Both the ICESCR (article 1.2) and the ICCPR (article 1.2) have established that “in no case may a people be deprived of its own means of subsistence.” In addition, article 2.1 of the ICESCR imposes a prohibition on taking deliberately retrogressive measures. As stated by the Committee on Economic, Social and Cultural Rights, “any deliberately retrogressive measures, which result in a decline in the current enjoyment of rights, require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the ICESCR and in the context of the full use of the maximum available resources.” (General Comment No.3 para. 9.)

The Committee on Economic, Social and Cultural Rights has defined the core content of the right to food in its General Comment No. 12, along with the corresponding obligations of States to respect, protect and fulfil the right to food. The Committee considers that the core content of the right to adequate food implies, *inter alia*, the availability of food, acceptable within a given culture, in a sufficient quantity and quality; and accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights (para. 8). The right to adequate food refers to the possibilities either for feeding oneself directly from productive land or other natural resources, or for well-functioning distribution, processing and market systems (para. 12). It entails both economic and physical accessibility of food, as well as the sustainability of food access for both present and future generations (para. 7).

According to the Committee, the obligation to respect existing access to adequate food requires States parties to refrain from taking any measures that result in preventing such access. The obligation to protect requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food. The obligation to fulfil (facilitate) means the State must pro-actively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including their access to land in order to ensure their food security. (CESCR General Comment No. 12 para. 15.)

It follows from this authoritative interpretation of the right to adequate food that this right may be under threat when land on which people depend for their subsistence is traded away, for instance for the purposes of large-scale development projects. The responsibility to protect would include ensuring that enterprises do not engage in activities that endanger the ability of individuals to grow or purchase their own food.

With regard to the right to adequate housing, as stated in resolutions 1993/77 and 2004/28 of the Commission on Human Rights, forced evictions constitute gross

violations of a wide range of internationally recognized human rights and large-scale evictions may only be carried out under exceptional circumstances and in full accordance with international human rights law. The Committee on Economic, Social and Cultural Rights stressed in its General Comments No. 4 and No. 7, that all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction from their homes and lands, harassment and other threats and concluded that forced evictions are “*prima facie* incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law” (CESCR General Comment No. 4, para. 18).

More specifically, the Committee on Economic, Social and Cultural Rights, General Comment No. 7 addressing the issue of forced evictions has underlined that:

“15. Appropriate procedural protection and due process are essential aspects of all human rights but are especially pertinent in relation to a matter such as forced evictions which directly invokes a large number of the rights recognized in both the International Covenants on Human Rights. The Committee considers that the procedural protections which should be applied in relation to forced evictions include: (a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction; (e) all persons carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.”

“16. Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.”

With respect to specific standards to guarantee the right to housing, including in relation to resettlement, the Committee also established that the right to housing should not be interpreted in a narrow or restrictive sense such as merely having a roof over one’s head; rather, it should be seen as the right to live somewhere in security, peace and dignity. With “due priority to those social groups living in unfavorable conditions,” the right to housing includes guaranteeing (a) legal security of tenure; (b) availability of services, materials, facilities and infrastructure; (c) affordability; (d) habitability; (e) accessibility; (f) location; and (g) cultural adequacy. The Committee also added that “the right to housing should be ensured to all persons irrespective of income or access to economic resources.”

In view of this, we wish to recall the existence of the Basic principles and guidelines on development-based evictions and displacement (contained in document A/HRC/4/18) that aim at assisting States in developing policies and legislations to prevent forced evictions at the domestic level. Your Excellency's Government may find useful in the current circumstances the sections of the guidelines that focus on State obligations prior to, during and after evictions. Paragraph 60 notes in particular that "Cash compensation should under no circumstances replace real compensation in the form of land and common property resources. Where land has been taken, the evicted should be compensated with land commensurate in quality, size and value, or better."

With respect to the human right to safe drinking water and sanitation, we would like to remind your Excellency's Government that the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child entail human rights obligations attached to access to safe drinking water and sanitation. Furthermore, on 28 July 2010 the UN General Assembly explicitly recognized water and sanitation as a fundamental human right. In 2010 the Human Rights Council (resolution 15/9) explicitly reaffirmed that safe and clean drinking water and sanitation are a fundamental human right, derived from the right to an adequate standard of living and inextricably related to the right to the highest attainable of physical and mental health, as well as the right to life and human dignity. Your Excellency's Government co-sponsored this resolution, which was adopted by consensus. Furthermore, your Excellency's Government has also recognized that water and sanitation is a human right at the regional level when it signed the Message from Beppu of the first Asia-Pacific Summit on Water. The human right to water means that everyone is entitled to sufficient, safe acceptable, physically accessible and affordable water for personal and domestic uses, which includes sanitation. The human right to sanitation means that everyone, without discrimination, has physical and affordable access to sanitation, in all spheres of life, which is safe, hygienic, secure, socially and culturally acceptable, provides privacy and ensures dignity.

Furthermore, in its General Comment No. 15 (2002), the CESCR has clarified that "water required for each personal or domestic use must be safe, therefore free from microorganisms, chemical substances and radiological hazards that constitute a threat to a person's health" and "environmental hygiene (...) encompasses taking steps on a non-discriminatory basis to prevent threats to health from unsafe and toxic water conditions".

The Committee states that the "obligation to protect requires State parties to prevent third parties from interfering in any way with the enjoyment of the right to water. Third parties include individuals groups, corporations and other entities as well as agents acting under their authority. The obligation includes, inter alia, adopting the necessary and effective legislative and other measures to restrain, for example, third parties from denying equal access to adequate water, and polluting and inequitably extracting from water resources, including natural resources, wells and other water distribution systems".

With regard to the right to the highest attainable standard of health of the affected communities, this right is enshrined, inter alia, in article 12 of the ICESCR, which

specifically provides that all States have an obligation to ensure that health facilities, goods, and services are accessible to everyone without discrimination, especially the most vulnerable or marginalized sections of the population. We also wish to refer your Excellency's Government to General Comment No. 14 of the Committee on Economic, Social and Cultural Rights, which notes that health facilities, goods and services have to be accessible to everyone without discrimination, further elaborating that accessibility has four overlapping dimensions, such as non-discrimination, physical accessibility, economic accessibility and information accessibility (para. 12(b)). Furthermore, the Committee holds that the right to health imposes three types of obligations on States parties (para. 33): the obligations to respect (refrain from interfering directly or indirectly with the enjoyment of the right), protect (prevent third parties from interfering with them) and fulfil (facilitate, provide and promote those rights). Finally, General Comment No. 14 also holds that the right to health also extends to the underlying determinants of health, such as food and nutrition, housing, access to safe and potable water and adequate sanitation, safe and healthy working conditions, and a healthy environment (para. 4). States have an obligation to ensure equal access for all to the underlying determinants of health (para. 36).

The UN Declaration on Human Rights Defenders (adopted in Resolution A/RES/53/144) recognizes the right of each person to promote the realization of human rights and calls for the protection “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” their rights as human rights defenders (article 12.2). The Declaration also guarantees the right of everyone to participate in the conduct of public affairs, and that “This includes, inter alia, the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms” (article 8.2).

In this context, we would like to refer your Excellency's Government to article 21 of the ICCPR which provides that “[t]he 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 interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others”. Similarly, we would like to refer to article 22 of the same Covenant, which provides that “[e]veryone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests”.

In this connection, we would like to refer to Human Rights Council resolution 21/16, and in particular operative paragraph 1 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.”

In addition, paragraph 8 of General Comment 25 of the Human Rights Committee on the right to participate in public affairs, voting rights and the right of equal access to public service, states that “Citizens also take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves. This participation is supported by ensuring freedom of expression, assembly and association.”

Resolution 18/6 of the Human Rights Council further “recognize[d] that democracy, respect for all human rights, including the right to development, transparent and accountable governance and administration in all sectors of society, and effective participation by civil society are an essential part of the necessary foundations for the realization of social and people-centred sustainable development” (PP14). Operative paragraph 6 (h) of the aforementioned resolution also states that a “democratic and equitable international order requires, inter alia, the realization of... the right to equitable participation of all, without any discrimination, in domestic and global decision-making”.

The obligation to protect economic, social and cultural rights also requires States to prevent third parties, including corporations, from violating these rights, as established by the Committee on Economic, Social and Culture Rights in its General Comment 19.

The Guiding Principles on Business and Human Rights (A/HRC/17/31), unanimously adopted by the Human Rights Council in June 2011, are relevant to the impact of business activities on all human rights, including the rights to adequate housing, health and food, as well as on human rights defenders and persons living in extreme poverty. The Guiding Principles clarify and outline the State duty to protect human rights against adverse impacts by business; the corporate responsibility to respect human rights; and the need to ensure access to remedy for victims of business-related human rights abuse.

We would particularly like to draw the attention of your Excellency’s Government to the fact that the Guiding Principles affirm that States must protect against human rights abuse by third parties, including business enterprises, as provided for by States’ international human rights law obligations. According to the Operational Principles of the Guiding Principles (para. 3) in meeting their duty to protect, States should:

- (a) Enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights, and periodically to assess the adequacy of such laws and address any gaps;
- (b) Ensure that other laws and policies governing the creation and ongoing operation of business enterprises, do not constrain but enable business respect for human rights;

- (c) Provide effective guidance to business enterprises on how to respect human rights throughout their operations.

In addition, in order to ensure access to remedy, “States must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy.” (para. 25)

The Guiding Principles should be implemented in a non-discriminatory manner, with particular attention to be paid to the rights and needs of, as well as the challenges faced by, individuals from groups or populations that may be at heightened risk of becoming vulnerable or marginalized, including children, and with due regard to the different risks that may be faced by women and men (Annex, General Principles, p.6).

In the context of granting licenses, concessions and land titles for a mine, steel plant, fulfilling this duty might entail, inter alia, requiring that meaningful consultations with potentially affected communities take place prior to the approval of such licences, requiring that due regard be paid to issues of marginalization and vulnerability of potentially affected communities, and impacts on the rights to adequate housing, health and food as well as on human rights defenders and on persons living in extreme poverty. In addition, specific United Nations human rights instruments such as those relating to indigenous peoples, including the United Nations Declaration on the Rights of Indigenous Peoples, require assessment of the human rights impacts of proposed activities and the creation of plans to mitigate any potential negative impacts, and that the State takes the results of such assessments and mitigation plans into account in the consideration of whether to grant licenses/concessions. Fulfilling this duty might further entail, ensuring that potentially affected populations have access to effective remedy in instances where adverse human rights impacts do occur, that are caused by or linked to business activities.

We would also like to draw the attention of your Excellency’s Government to the existence of the Guiding Principles on extreme poverty and human rights (contained in document A/HRC/21/39), adopted by the Human Rights Council by consensus at its 21st session (resolution 21/11). Your Excellency’s Government may find paras. 79-80 (dealing with the right to adequate housing, security of tenure and prohibition of forced eviction), and paras. 99-102 (on the role of non-State actors, including business enterprises) particularly relevant in this case.

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:

1. Are the facts summarized accurate?

2. Have investigations been conducted regarding: (a) the alleged use of force against project opponents by Indian authorities and third party individuals; and (b) the reported false charges against, and arbitrary detentions of, project opponents?

3. Has a human rights impact assessment been carried out regarding the potential effects of the POSCO project on the more than 20,000 people living on the lands that will be acquired? If so, who was responsible for undertaking the assessment and could you please provide us with its conclusions? What steps have been taken to reduce and mitigate any potential impacts on human rights detected in the human rights impact assessment?

4. What steps have been taken to identify viable alternatives to the forced eviction of the forementioned population?

5. Has there been any consultation regarding the POSCO project with the local population that has already been affected as well as those who will be affected in the future? If so, has this happened once, or in an ongoing manner, and at what stages of the process? What have been the outcomes of any consultation process/es?

6. What efforts have been made to ensure that people who may be evicted for the POSCO project enjoy access to information about the project and any plans for their adequate alternative housing, resettlement or access to productive land, as the case may be?

7. To what extent the 2006 Resettlement and Rehabilitation policy and its human rights compliance were assessed prior to its adoption? What procedures for consultation and participation of the population were put in place prior to its adoption? To what extent has this policy already been applied or is envisaged to serve as a basis for resettlement in relation to this project?

8. What has been foreseen in terms of possible relocation of the people displaced by the project? If locations have been designated for the relocation, please provide details on the exact location, including details on the area and quality of land, access to public services and transportation; provision of safe and affordable drinking water and sanitation, livelihood sources, and work;

9. Have official eviction notices been provided to the residents, including information on the date and process of the eviction?

10. What mechanisms, infrastructure and programmes have been put in place to ensure that people displaced by the POSCO project are able to enjoy access to adequate food, water and sanitation and essential services, including health care and education?

11. What measures have been foreseen to ensure that the persons affected by the POSCO project will not lose their right to work and sustain their livelihoods?

12. What efforts have been made to protect women, children, Dalits and other specific population groups from suffering disproportionate impacts and discrimination caused by the POSCO project?

13. What efforts have been made to ensure that the processes carried out in the context of the POSCO project adhere with the norms established by Indian laws, including the Forest Rights Act and the laws governing environmental clearances?

14. What efforts have been made to ensure that the actions and processes carried out in the context of the POSCO project adhere with the obligations enshrined in international human rights law?

15. What efforts have been made to ensure people who have had their rights violated, or may in the future, can enjoy their right to access an effective remedy?

We would be most grateful to receive an answer within 60 days. We undertake to ensure that the response of your Excellency's Government will be taken into account in our assessment of the situation and in developing any recommendations that we may make for your Excellency's Government's consideration pursuant to the terms of our respective mandates. Additionally, we undertake to ensure that the response of your Excellency's Government is accurately reflected in the reports we will submit to the Human Rights Council for its consideration.

Letters conveying concerns related to the alleged plans to acquire land for the utilization for the construction of an integrated steel plant and a captive port have also been sent to the Korean steel corporation, Pohang Iron and Steel Corporation, as well as to the Government of the Republic of Korea, where POSCO has its legal domicile.

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

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Olivier De Schutter
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Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and
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Anand Grover
Special Rapporteur on the right of everyone to the enjoyment of the
highest attainable standard of physical and mental health

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders

Catarina de Albuquerque
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sanitation