



To:

Shri Narendra Modi, Prime Minister of India
Shri Naveen Patnaik, Chief Minister of Odisha

CC

Shri Sunil Kumar Bansal, Director General of Police, Odisha
Shri Justice Arun Kumar Mishra, Chairperson, National Human Rights Commission
Shri Justice Bijoy Krishna Patel, Chairperson, Odisha Human Rights Commission
Shri Srinivasa Kammath, Focal Point for Human Rights Defenders, National Human Rights Commission

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Ms. Elzbieta Karska, Chair, UN Working Group on business and human rights

25 January 2022

Your Excellency,

We write on behalf of ESCR-Net - International Network for Economic, Social and Cultural Rights. We are a global network consisting of over 280 organizations and advocates across 75 countries, devoted to achieving economic, social, cultural and environmental justice through human rights.

We write to express our profound concern regarding the ongoing repression against local communities in Dhinkia, Mahala, Patana, Govindpur, Nuagaon, Gada Kujanga, Nolia Sahi, Bayanala Kanda, Bhuinapala, Polanga and Jatadhar villages resisting the proposed construction of a steel plant by JSW Utkal Steel Ltd, a subsidiary of Jindal Steel Work, in the Jagatsinghpur district, Odisha.

According to credible reports, on the night of 4 December 2021, police entered Dhinkia village to arrest the Jindal Pratirodha Sangram Samiti (JPSS) leader Debendra Swain on what appears to be trumped up charges. Allegedly, police tried to force entry into Debendra Swain's residence and several villagers rushed to the scene in an attempt to stop the police from entering Mr. Swain's house. According to villagers, police brutally

beat the men and women that were trying to prevent the arrest of Debendra Swain.¹ Unable to arrest Debendra Swain, the police allegedly arrested his uncle and daughter.²

Since the incidents on 4 December 2021, police have occupied the areas surrounding Dhinkia village, and villagers have been required to show identification to enter and leave the village.³ Reportedly, up to 15 police platoons, comprising a total of 450 security officers, have been stationed in the area.⁴ The police claim that their presence is to ensure law and order, but rather it appears to be an attempt at intimidation.

The community, in response to the attacks on 4 December 2021 and the massive police presence, have erected bamboo barricades out of fear of another attack by police forces. The barricades have been built to keep police and officials from JSW Utkal Steel Ltd out of the village. As a result of the heavy police presence, many villagers are unable to tend to their crop of betel vine and cashew nuts as they are afraid of leaving the village, and allegedly, police have blocked entry into the fields. Similarly, police forces are illegally destroying crops that provide a livelihood for the communities in preparation for the steel plant construction.⁵

On 14 January 2022, a group of 500 villagers from Dhinkia went to survey their betel vines after the destruction carried out by police. However, they were met by police stationed in the area. Allegedly, police charged the villagers, which, according to villagers, resulted in 40 villagers being injured including children and elderly people. According to the police, 5 officers were injured in the incident. Allegedly, injured villagers were denied access to medical help after the incident. Similarly, at least 6 community members were arrested, including Debendra Swain.⁶ Fearing arrest after the crackdown, the men from

¹ People's Union for Civil Liberties (P.U.C.L), Odisha (11 December 2021): Brutal attacks by police on the villagers of Dhinkia in Odisha. Press statement published in GroundXero on 13 December 2021. Can be found here: <https://www.groundxero.in/2021/12/13/brutal-attacks-by-police-on-the-villagers-of-dhinkia-in-odisha/>

² Meena Menon (12 January 2022): Odisha: Déjà Vu in Dhinkia as People Renew Protests Against Jindal's Steel Project, The Wire. Can be found here: <https://thewire.in/environment/odisha-deja-vu-dhinkia-protest-jindal-steel-project-posco>

³ Prashant Paikray (1 January 2022): Land acquisition: Kashmir-type situation in Odisha to 'oblige' corporate house? Counterview. Can be found here: <https://www.counterview.net/2022/01/land-acquisition-kashmir-type-situation.html>

⁴ PTI (14 January 2022): Odisha: Protestors clash with police near proposed JSW plant site; many injured, The Print. Can be found here: <https://theprint.in/india/odisha-protestors-clash-with-police-near-proposed-jsw-plant-site-many-injured/803778/>

⁵ Express News Service (5 January 2022): 'Betel vines in Dhinkia forcefully demolished': Odisha's steel plant protestors, The New Indian Express. Can be found here: <https://www.newindianexpress.com/states/odisha/2022/jan/05/betel-vines-in-dhinkia-forcefully-demolished-odishas-steel-plant-protestors-2403286.html>

⁶ PTI (14 January 2022): Odisha: Protestors clash with police near proposed JSW plant site; many injured, The Print. Can be found here: <https://theprint.in/india/odisha-protestors-clash-with-police-near-proposed-jsw-plant-site-many-injured/803778/>

Dhinkia village are in hiding, leaving the village in the care of women and children, which has led to a heightened sense of vulnerability among those remaining in the village.⁷

According to recent reports, at least 19 people have been arrested in the process, and worrying reports of torture of Debendra Swain while in police custody have surfaced.⁸ Local activists have called for an inquiry into the police actions against the villagers on 14 January 2022.⁹

On 15 January 2022, a delegation of allies to the villagers attempted to enter the village in a show of solidarity but were turned away by the police.¹⁰

There were similar incidents during the month of December 2021, where community members protested the demarcation of a so-called revenue village by the authorities. The villagers see this as an attempt to fracture the movement and lessen the resistance to the proposed steel plant. Allegedly, several community members were injured in the clash, and hundreds are facing fabricated criminal cases.¹¹

The repression is taking place in the context of community resistance to the proposed construction of an integrated steel plant with a captive thermal power plant, cement grinding unit and jetty by Indian corporation, JSW Utkal Steel Ltd, which was approved by the Odisha government in 2017. The project requires around 4,000 acres of land of which 3,000 acres are forest land, which currently sustain the livelihoods of the surrounding communities. According to villagers, if the proposed project goes ahead, it will destroy the livelihood of 40,000 farmers, agricultural workers and fisher folk as well as having devastating environmental impacts through the accumulative effects of the integrated steel plant, cement plant and coal-based thermal power plant.¹²

⁷ Ashis Senapati (20 January 2022): Jagatsinghpur, Odisha: Men escape the village fearing arrest; the fight is far from over, say women, Gaon Connection. Can be found here: <https://en.gaonconnection.com/jagatsinghpur-odisha-steel-plant-protest-police-batoncharge-inquiry-demand-women-children-injured-land-acquisition/>

⁸ Sumedha Pal (20 January 2022): As Anti-Jindal Protests Continue in Odisha's Dhinkia, Villagers Face Police Violence, Arrests, The Wire. Can be found here: <https://thewire.in/rights/as-anti-jindal-protests-continue-in-odishas-dhinkia-villagers-face-police-violence-arrests>

⁹ Ashis Senapati (20 January 2022): Jagatsinghpur, Odisha: Men escape the village fearing arrest; the fight is far from over, say women, Gaon Connection. Can be found here: <https://en.gaonconnection.com/jagatsinghpur-odisha-steel-plant-protest-police-batoncharge-inquiry-demand-women-children-injured-land-acquisition/>

¹⁰ Ashis Senapati (15 January 2022): Dhinkia on the boil: Opposition, rights workers stopped by cops, Down to Earth. Can be found here: <https://www.downtoearth.org.in/news/governance/dhinkia-on-the-boil-opposition-rights-workers-stopped-by-cops-81139>

¹¹ Aritra Bhattacharya (28 December 2021): Why villagers in Odisha's Jagatsinghpur are against JSW Utkal project, Money Control. Can be found here: <https://www.moneycontrol.com/news/business/economy/why-villagers-in-odishas-jagatsinghpur-are-against-jsw-utkal-project-7874761.html>

¹² Sumedha Pal (20 January 2022): As Anti-Jindal Protests Continue in Odisha's Dhinkia, Villagers Face Police Violence, Arrests, The Wire. Can be found here: <https://thewire.in/rights/as-anti-jindal-protests-continue-in-odishas-dhinkia-villagers-face-police-violence-arrests>

Villagers have repeatedly refused to grant the consent of the *Gram Sabha* (village assembly) to allow the project to proceed. Allegedly, local officials and JSW company officials have attempted to manipulate the consultation process. On 21 November 2021, during a public hearing, activists Goutam Das and Bikram Das along with fellow human rights defenders objected to the presence of company officials at a public hearing to discuss the project. Later that day, local police registered complaints against Goutam Das, Bikram Das, Manas Bardhan, Prabhat Biswal, Kuni Mallick, Shanti Sethy, Shanti Das, Latika Parida and nine other human rights defenders for criminal intimidation.¹³ Villagers fear that attempts at fracturing the movement will enable public and company officials to bribe and intimidate community members into granting consent for the project.¹⁴

In part, as a result of the community opposition to the project, JSW Utkal Steel Ltd have not been granted environmental clearance for the proposed project.¹⁵ Similarly, the corporation appears to attempt to manipulate the environmental clearance process, by, in its environmental impact assessment, covering the different elements of the project as separate parts.¹⁶

Dhinkia village is currently the epicenter of resistance to the proposed project, and villagers have expressed their determination to not give up their land or crops.¹⁷

The land designated for the JSW Utkal Steel Ltd. project had previously been designated for a similar project, namely, the construction of a massive steel plant by the Korean corporation, POSCO, in what was at the time the largest foreign direct investment in Indian history. The affected communities engaged in a decade-long struggle for their land rights with broad international support from human rights and corporate accountability organizations.

In the report, *The Price of Steel*, ESCR-Net and the International Human Rights Clinic (IHRC) at NYU School of Law documented grave human rights violations, many of which are repeated in the current situation, including massive levels of criminalization of community members on false charges,

¹³Sabrang India (29 December 2021): Dhinkia: A Story of Perseverance Against Administrative Oppression, News Click. Can be found here: <https://www.newsclick.in/dhinkia-story-perseverance-administrative-oppression>

¹⁴ Aritra Bhattacharya (28 December 2021): Why villagers in Odisha's Jagatsinghpur are against JSW Utkal project, Money Control. Can be found here: <https://www.moneycontrol.com/news/business/economy/why-villagers-in-odishas-jagatsinghpur-are-against-jsw-utkal-project-7874761.html>

¹⁵ Sabrang India (29 December 2021): Dhinkia: A Story of Perseverance Against Administrative Oppression, News Click. Can be found here: <https://www.newsclick.in/dhinkia-story-perseverance-administrative-oppression>

¹⁶ Aritra Bhattacharya (28 December 2021): Why villagers in Odisha's Jagatsinghpur are against JSW Utkal project, Money Control. Can be found here: <https://www.moneycontrol.com/news/business/economy/why-villagers-in-odishas-jagatsinghpur-are-against-jsw-utkal-project-7874761.html>

¹⁷ Ashis Senapati (14 January 2022): Dhinkia on the boil: Odisha Police turn violent against protestors, Down to Earth. Can be found here: <https://www.downtoearth.org.in/news/governance/dhinkia-on-boil-odisha-police-turn-violent-against-protestors-81136>

inadequate community consultation, destruction of livelihood and police repression of resistance apparently at the behest of corporate interests.¹⁸

Similarly, eight UN mandate holders sent a joint communication to the Indian and Korean governments, as well as the POSCO corporation, calling on them to immediately halt the construction of the steel plant on community land due to serious human rights and environmental impacts.¹⁹

In 2017, POSCO eventually withdrew from the project.²⁰ However, rather than returning the land to the villagers, the government of Odisha granted it to JSW Utkal Steel Ltd.²¹

We wish to recall that the Government of India has a responsibility to promote, respect, protect and fulfill human rights in accordance with international legal standards and national laws.

Specifically, as a State Party to the International Covenant on Civil and Political Rights (ICCPR), India is obligated to uphold the following human rights, among others: the right to life, freedom from torture and other cruel and inhumane treatments, right to liberty and security of person, freedom from arbitrary arrest, liberty of movement, right to equality before the law and due process, and the right to freedom of assembly.

Similarly, the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which India is also a State party, obligates its parties to take necessary measures to the maximum extent of its resources to progressively realize the rights enshrined in the ICESCR, including the right of everyone to gain a living from work of one's own choosing, the right to an adequate standard of living including adequate food, clothing and housing and for these conditions to be continuously improved, and the right to education. Importantly, the ICESCR also obliges States parties to refrain from retrogressive measures regarding any of the rights the treaty guarantees; this *inter alia* prohibits unlawful land dispossessions and related acts of repression of the kind the community has been resisting.

Both International Covenants include the right to self-determination, including the right to freely pursue economic, social and cultural development.

Human Rights Committee General Comment 36 on article 6 of the International Covenant on Civil and Political Rights, on the right to life states that the state's obligation to protect the right to life, and

¹⁸ International Human Rights Clinic, ESCR-Net, *The Price of Steel: Human Rights and Forced Evictions in the POSCO-India Project* (New York, NYU School of Law, 2013) [https://www.escr-net.org/sites/default/files/11271400/The%20Price%20of%20Steel%20-%20Full%20\(English\).pdf](https://www.escr-net.org/sites/default/files/11271400/The%20Price%20of%20Steel%20-%20Full%20(English).pdf)

¹⁹ OHCHR (1 October 2013): *India: Urgent call to halt Odisha mega-steel project amid serious human rights concerns*. Can be found here: https://sr-watersanitation.ohchr.org/en/Pressrelease_India.html

²⁰ ESCR-Net (2017): *Victory over global steel giant by farmers' social movement in India*. Can be found here: <https://www.escr-net.org/news/2017/victory-over-global-steel-giant-farmers-social-movement-india>

²¹ ESCR-Net (2019): *Indian villagers continue resistance to corporate takeover of their lands*. Can be found here: <https://www.escr-net.org/news/2019/indian-villagers-continue-resistance-corporate-takeover-their-lands>

particularly a life in dignity, depends on measures taken to preserve the environment and protect it against harm from state and private actors.²²

We also recall the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, which establishes the obligations, among others, to take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, or any other arbitrary action as a consequence of his or her actions to defend and promote human rights. This includes prohibiting criminalization of human rights defenders, a well-known abuse of criminal justice systems aimed at suppressing dissent. Such criminalization has been condemned by international human rights bodies.²³

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, gives communities the right to live in the forest and the right to ownership, collect, use and dispose of forest produce, which has traditionally been collected by communities. Similarly, any relocations or projects are only allowed to proceed with the free, prior and informed consent of the *Gram Sabha*.²⁴

Given the gravity of the situation, we call on the government of India to:

1. Immediately put an end to the repression of communities resisting the JSW Utkal Steel Ltd project in Odisha. This should include withdrawing the massive police presence from the area and conducting independent investigations into all reports of police abuse. Those responsible must be held to account. Similarly, ensure that those in need of medical attention gain access without fear of arrest or reprisals.
2. Free human rights defenders incarcerated on fabricated cases. Drop all fabricated cases against human rights defenders.
3. Put an end to attempts at forcibly evicting villagers from their lands and provide adequate compensation for victims including for destruction of betel vine and other crops.
4. Terminate the pending agreement with JSW Utkal Steel Ltd given the failure to secure community consent for the project through the *Gram Sabha* as well as failure to obtain environmental clearance for the project.
5. Respect and implement the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, including the right of forest dwellers to live in the forest and dispose of natural resources as well as recognizing *Gram Sabha* decisions.
6. Independently investigate all accusations of torture, including accusations of torture of Debendra Swain, while in police custody. Those responsible must be held accountable. Ratify

²² UN Human Rights Committee (2018): General comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life*

https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_GC_36_8785_E.pdf

²³ See, for instance, Criminalization of Human Rights Defenders, Report, Inter-American Commission on Human Rights, 2015, available at: <http://www.oas.org/en/iachr/reports/pdfs/criminalization2016.pdf>

²⁴The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. Can be found here: <https://www.fra.org.in/document/FRA%20ACT-Eng.pdf>

the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which India signed in 1997.

7. Ensure an enabling environment for Human Rights Defenders in India, including through creation of national legislation, as called for in the UN 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 by supporting the ongoing negotiations of a legally binding instrument on business and human rights.

We look forward to learning of any developments on this matter.

Respectfully,

Chris Grove
Executive Director, ESCR-Net