

# POSCO-India's Open Letter on the Report 'The Price of Steel: Human Rights and Forced Evictions in the POSCO-India Project'

[published by IHRC at NYU School of Law and ESCR-Net]

We are deeply anguished that POSCO-India project in Odisha has once again been subjected to fallacious criticism, distorted facts and erroneous interpretation in the said Report.

In the past, similar allegations were levelled by certain other organizations which POSCO extensively replied and also repeatedly refuted with narration of actual facts and circumstances prevailing in the project site. The replies and refutations made through BHRRC are available on the webpage of BHRRC. In the same line, POSCO once again completely refutes all allegations made in the Report and rejects all the interpretations derived therein.

The opening line in the Foreword of the Report reads. "*The POSCO project in India is a story all too familiar*". The line is misleading to the readers as it hides more and reveals less. If at all, the line should be, "*The POSCO project in India is a story all too familiar thanks to the concerted and malicious propaganda of the vested interest people against the project*".

India is a sovereign country having independent governments at the Centre and the States. Further, the judiciary is independent in India. Indian judiciary is the custodian of the human rights of the citizens. Castigating all Indian authorities for being averse to and even violator of the human rights of their own citizens in POSCO-India project site and appointing themselves as the custodian of the human rights of the people in the Report are entirely absurd and also illegal. Also, India is a signatory to various international treaties and conventions related to human rights. POSCO respects this fact and has always acted as per the laws and regulations of the country even though it has resulted in significant delay of the project. The authors (some of them even Indians) of the Report do not seem to trust the Indian authorities at all. It is incredible!

POSCO's Odisha project originated in a Summit between India and Korea in 2004. The highest level functionaries (the Indian Prime Minister and the Korean President) often discuss and review the project in their meetings. In certain matters, the Supreme Court of India and the environmental tribunal have also reviewed the project. If there were any violation as alleged in the Report, it is not possible that these functionaries and authorities would ignore it.

We appreciate that the IHRC at NYU School of Law works in the area of human rights. In our case, we have, however, not violated any norms of human rights and also categorically state that there is, in fact, no violation of any national and international norms in our Odisha project site by any other legitimate agencies. It is, however, extremely sad that the IHRC at the reputed NYU School of Law and ESCR-Net have published such a voluminous Report suggesting that there is an extremely flagrant violation of all domestic laws, rules and regulations, and also international conventions, treaties, norms etc.

In 2012, certain people of vested interest made similar allegations to the National Contact Points (NCPs) of the reputed OECD for violation of the *OECD Guidelines for MNEs*. POSCO countered their allegations with actual facts exposing the falsehood of allegations. Finally, the Korean NCP has closed the matter, much to the chagrin and disappointment of the vested interest people.

This Report is nothing new but a new bundle of the same / similar false allegations. We guess that certain people of vested interest, who have failed to malign POSCO through the reputed OECD and elsewhere, are now misusing the name of highly reputed NYU School of Law to malign and spread propaganda against POSCO's project in Odisha. It creates doubts and prompts us to ask a natural question, "*Who is actually behind this Report*"?

The Report claims that its researchers and authors conducted so many interviews of the people in the project site but it is startling to know that they missed to interview POSCO and the govt officials. A report cannot be just and fair unless it takes all stakeholders in account. The Report is one-

sided and biased as it has failed to take into account the views of POSCO, the govt officials and an increasingly large chunk of local community supporting the project. The Report is coloured and lopsided fraught with grave distortions and overstatements.

The Report does not deserve a reply from POSCO. However, since it has been made under the brand name of reputed NYU School of Law, POSCO seeks to address the some of the major issues / allegations made in the Report. In order to settle it once and for all, POSCO once again takes pain to clarify below its stand on the issues / allegations levelled in the Report:

### **1. Human Rights Violation**

First of all, there is no human right violation in the project site. Whatever allegations have been levelled in the Report are false and one-sided. POSCO has always emphasized upon consensual and people-friendly approach to create a win-win situation for all. In 2006, POSCO had a socio-economic study conducted by the reputed NCAER and in 2008 a socio-economic survey conducted by reputed XIMB. The Odisha Govt created a representative body, namely RPDAC, under the *Odisha R&R Policy, 2006* to make R&R compensation package for the affected people. The R&R package of POSCO offers more than what prescribed in the *Odisha R&R Policy, 2006*. Further, POSCO has held more than 170 mass meetings and 1,360 individual meetings to know the aspirations and risks of the local community. Their aspirations and risks shall be the guiding force to plan suitable strategy for all its primary stakeholders, i.e, the local people. Certain miscreants have, however, always tried to vitiate the atmosphere in the project site by violently targeting those who support the project. POSCO has always appealed to the Odisha Govt to first protect the human rights of those supporting the project from the miscreants.

## 2. Forced Eviction

POSCO's project area is 4,004 acres and out of which 90% is the land owned by the govt and only 10% is the land privately owned by the villagers. As directed by the Odisha High Court, there is no acquisition of private land. The govt-owned land has been encroached upon by the illegal encroachers and the govt is now clearing the encroached land and giving due compensation for removal of encroachments such as betel vineyards, prawn pond etc. It should be clearly noted that so far there has been no residential displacement of a single person in the process of the govt land clearance and so there is no question of any forced eviction.

The Report says that, "*the Project threatens to displace over 22,000 people in the plant and port area alone, and thousands more face destruction of their livelihood*". POSCO strongly refutes such baseless and exaggerated figures. According to the XIMB socio-economic study, if the entire 4,004 Ac of land is taken, 466 families will be displaced for whom there is adequate R&R package from POSCO. Furthermore, for the 1st stage of 8-MTPA steel plant, which requires 2,700 acres of land (excluding any private land), there will be no displacement as the required land is govt-owned land. Clearing govt's own land after disbursing due compensation to the encroachers is certainly not forced eviction. People have willingly come forward to offer their betel vineyards and accepted the compensation. The police are present in the site only to protect the working officials from being attacked by the miscreants and to ensure smooth encroachment removal process. POSCO is in favour of minimal displacement.

In addition, the Report also projects erroneous figures regarding the income earned by betel vine farmers. The compensation amount of Rs. 11,50,000 per acre has been approved by the RPDAC and is inclusive to the extent that it does not only include the private land owners but also the landless encroachers on govt land. It offers much more than what is prescribed in the *Odisha R&R Policy, 2006*. Also, it should be noted that betel vine farming is not considered as a

profitable business anymore, even by the local residents of that area, due to continuous decline of the ground water level. If their business were so profitable, one wonders why the farmers would voluntarily come forward to dismantle their betel vine and receive the compensation in lieu thereof from district administration. This fact has also been acknowledged by the local leaders and MLAs on several occasions.

### **3. Illegal Detention**

The Police have detained some anti-social elements who use violence and illegal means to vitiate the atmosphere in the site area. The Police have a duty to maintain law and order situation in the site area. If the Police do not act, who will protect the human rights of the local people? Their rights cannot be protected by someone seated in the UK and the USA and writing thesis on them. POSCO has no role in maintaining the law and order. It is the duty and discretion of the govt.

### **4. Environment Clearance (EC)**

The MOEF accorded the EC for setting up 4-mtpa steel plant on 19.07.2007 valid for five years, i.e, up to 18.07.2012. The MOEF attached additional conditions to the EC on 31.01.2011. On 30.03.2013, the NGT suspended the additional conditions but kept the EC dated 19.07.2007 intact and valid. It directed review of the additional conditions by an expert committee constituted by the MOEF. On 24.05.2012, POSCO applied for revalidation of the EC in accordance with the *EIA Notification, 2006*. On 14.06.2012, the EAC recommended revalidation of the EC. On 22.10.2012, the *K.Roy Paul Committee* constituted under the NGT order submitted review report to the MOEF. The EAC re-considered revalidation on 06.03.2013 and then again on 16.05.2013, when it finally recommended revalidation of the EC with certain additional conditions. It is incredible that POSCO's EC has been considered and reviewed by various committees and authorities ten times (*EAC – 2 times in 2007; Meena Gupta Committee – 1 time in 2010; NGT – 1 time in 2011~2012; EAC –*

1 time in 2012; K. Roy Paul Committee – 1 time in 2012; EAC – 2 times in 2013) in past six years. POSCO's port EC is under revalidation process. After so many checks and balances, where is the violation of the environmental laws?

## **5. Forest Rights**

Securing rights of the beneficiaries under the *FRA, 2006* is the duty and responsibility of various statutory authorities of the Odisha Govt and Central Govt. The MOEF granted the Stage-I Forest Clearance to POSCO on 19.09.2008. In Stage-II Forest Clearance dated 29.12.2009, the settlement of forest rights was made mandatory. The Jagatsinghpur Collector and District Magistrate found that no tribal people or Other Traditional Forest Dwellers (OTFDs) are residing in that area. The Odisha Govt time and again confirmed to the Central Government about the non-existence of tribals and OTFDs. Finally, having been satisfied with the same, the MoEF granted the final Forest Clearance on 04.05.2011.

## **6. NCAER & XIMB Reports**

The studies were conducted by the institutes of high repute which are known to be expert, fair, unbiased and transparent. It is grossly unfair to undermine these studies and call them incomplete. It is much more grossly unfair to distort the facts and interpretations of these reports.

## **7. Transit Camp**

It should be clearly noted that the transit camp is not the R&R Colony of POSCO and the 52 ousted families living in the transit camp should not be termed as displaced people of the project. The transit camp came into existence because these 52 families were forcibly driven out of their villages (due to their support to the project) by the same genre of people with whom the authors of the Report have enormous regard and sympathy. The transit camp was temporary in nature but has been going on since 2008. The fact that people are living in a transit camp in their own homeland is a shame to any civilized society.

Anyway, POSCO accepted them and provided them temporary shelter and basic facilities in the hope that soon they would return to their home. Since the anti-social elements are still threatening them against the return to their home, POSCO is still supporting and shall continue to do so till it is resolved. As far as the facilities in the transit camp are concerned, POSCO has got the transit camp repaired and renovated in 2012. Further, in spite of the resistance from the anti-social elements, the district administration is planning to relocate the 52 ousted families back to their original homes in their villages.

## **8. SEZ Rule Violation**

It is totally absurd. The Central Govt accorded SEZ *in-principle* approval to POSCO on 26.10.2006 valid for one year. The first extension was granted in 2007 and second in 2008 as per the SEZs Act, 2005 and SEZ Rules, 2006. Since there was no provision for more than two extensions, the Central Govt accorded *de novo* (fresh) approval in 2008 and two extensions in 2009 and 2010. The Central Govt again accorded *de novo* (fresh) approval in 2012 under which two more extensions are permitted. Other companies have also got similar extensions. It is not unique to POSCO. There is no violation of any SEZ rules in our SEZ approval.

## **9. Bomb Explosions**

It is quite strange that the Report does not castigate the anti-social elements for bomb explosions and seems to blame the project supporters. In 2011, one person was killed by a bomb hurled by the anti-social element belonging to PPSS. In 2013, the anti-social elements were making bombs to target the officials and the workers involved in the land clearance work but the bombs went off killing three persons and injuring one who were making it. In this regard, the police have completed the investigation and found that the three deceased and one injured were actually making bombs. Also, several police complaints (FIRs) were filed against them by the local villagers. Later, the PPSS leader, Abhay Sahoo was arrested on the basis of such charges. Here, it should also be noted that the families

of the deceased persons have also dismantled their betel vineyards and accepted due compensation from the district administration. The authors of the Report seem to intentionally overlook or avoid mentioning this fact.

## 10. Recommendations

POSCO strongly condemns the Report as it recommends the Indian govt to suspend the POSCO-India project. POSCO believes that the Indian govt is prudent enough to sense the vicious intention of the Report. It is also understood that India being a sovereign power does not need advice from people of dubious intention. For recommendations made to the Indian govt, Korean govt and the investors, they are better placed to answer. However, here POSCO wants to strongly counter the recommendations for it:

### Reply to the Recommendations for POSCO in the Report

- There is no adverse human rights impact in the project site caused or contributed by POSCO. POSCO is trying to improve the standard of living of the people by doing various CSR and peripheral development activities. POSCO shall be the first to point out to the authorities if there is knowingly or unknowingly any violation of the human rights of any person in the project site. Even though prevention and mitigation of the human rights violation are the statutory responsibilities of the govt and administration, POSCO as a responsible company has always appealed to the govt to protect the human rights of the local people and maintain law and order the area.
- POSCO has been complying with all applicable Indian laws and regulations and shall continue to do so in its operations in India. As far as respecting forest right claims and related procedures under the *FRA, 2006* is concerned, POSCO does not have any *locus standi* in the matter as per the provisions of the *FRA, 2006*. Recognition and settlement of forest rights are statutory duties of the State and the Central Govt. No

private company is permitted to interfere in it. However, wherever the authorities will invite POSCO to do something, POSCO shall abide by it. As far as implementing the NGT ruling of March, 2012 is concerned, the statutory onus of implementation of the ruling is on the MOEF and POSCO has fully cooperated in the process. As stated above, the MOEF constituted *K. Roy Paul Committee* to review the project. The Committee submitted its report. The EAC reviewed the report and finally recommended grant of the EC to POSCO with certain additional conditions. POSCO states that it shall comply with all the conditions of the EC.

- POSCO follows business ethics and norms which apply to both its own officials and its vendors or any other entity with which it has a business relationship. It is a normal practice.
- If there is any adverse impact of any kind in its project site, POSCO shall do its best to mitigate it to the extent permissible. There is nothing new in this recommendation.

In the consideration of above, POSCO wants to state that POSCO is committed to protect the human rights as far as permissible under the applicable Indian laws. POSCO welcomes good suggestions from any corner but strongly objects to malicious propaganda such as this Report.

Finally, POSCO urges the authors of the Report not to spread such kind of false information harming the business interest of POSCO and also besmirching the standard of reputed institution like NYU School of Law. If they have any grievance against POSCO-India project in Odisha, they are welcome to directly approach us and we will clarify them.

Thank You.

**POSCO-India**