



International Network for Economic, Social & Cultural Rights
Red Internacional para los Derechos Económicos, Sociales y Culturales
Réseau international pour les droits économiques, sociaux et culturels
الشبكة العالمية للحقوق الاقتصادية و الاجتماعية و الثقافية

Board Mr. Lex Fenwick,

Cathy Albisa
National Economic and
Social Rights Initiative,
USA

Chief Executive Officer
Dow Jones & Co

Ximena Andión-Ibañez
Equis: Justicia para las
Mujeres, Mexico

Mr. Michael Baldinger
Chief Executive Officer
RobecoSAM AG

Hossam Bahgat
Egyptian Initiative for
Personal Rights, Egypt

July 9th, 2013

Dear Messrs. Fenwick and Baldinger,

Saeed Baloch
Pakistan Fisherfolk Forum,
Pakistan

We write to urge Dow Jones & Co. and RobecoSAM to remove POSCO from the Dow Jones Sustainability Index due to POSCO not taking appropriate action to address serious human rights violations connected to their project in India. This issue casts strong doubts on POSCO management's commitment to corporate sustainability and the company's ability to address critical economic and social issues.

Minerva Gonzales
ESCR-Asia, the Philippines

Legborsi Saro Pyagbara
Movement for the
Survival of the Ogoni
People, Nigeria

POSCO is working with the Government of Odisha in India to construct an integrated steel plant, which will include iron ore mines, roads and railways, a captive port, a captive power plant, and an integrated township. The project is expected to produce 12 million tons of steel per year, and with a proposed investment of USD \$12 billion, it will be India's largest foreign direct investment venture. We recently co-authored a detailed report on the many human rights concerns that are connected to POSCO-India's operations in Odisha, which can be viewed [here](#).

Sandra Ratjen
International Commission
of Jurists, Switzerland

Chris Grove
Director

info@escr-net.org
www.escr-net.org

In the 2005 [Memorandum of Understanding](#) (MoU) between POSCO and the Government of Orissa (before becoming the Government of Odisha in 2011) the Government agreed to acquire and transfer over 4,000 acres of land "free from all encumbrances" to the company for the construction of the steel plant and port. The required land acquisitions would facilitate the illegal forced eviction and displacement of approximately 22,000 people from their land and destroy the livelihoods of many thousands more. Those affected include farmers and forest dwellers who rely on access to their land to sustain their livelihoods. Contrary to international human rights standards on forced evictions, project-affected communities have not been adequately consulted and were not informed of this project previous to the signing of the MoU, ultimately learning about it through the television and newspaper.

ESCR-Net is a project of
the Tides Center

Since learning of the project, villagers have attempted to utilize recognized political and legal processes to raise their concerns. However, these domestic legal procedures have been disregarded by the Government of India and POSCO, and the determined efforts of villagers to resist eviction and land confiscation have been met with excessive use of force, arbitrary arrests and detentions, extended blockades of villages, and police occupations of schools. Villagers struggling to preserve their land and homes have also faced repeated and even lethal attacks by private actors, whom villagers consistently refer to as "pro-POSCO goons."

According to India's [Forest Rights Act of 2006](#) (FRA), those who have primarily resided in and who depend on the forest or forest land for their livelihood needs for three generations (or 75 years prior to December 2005) are given the legal right to "regulate access to community forest resources and stop any activity that adversely affects the wild animals, forest and the biodiversity." Claiming status under this Act, the project-affected

villages must give their consent through a *Gram Sabha* (village-level council) resolution before any utilization of forest resources or any action that would endanger their cultural or natural heritage. No such resolution has been given by the villagers, therefore rendering any project related activities involving their land, including tree felling, to be illegal. This assertion is supported by a recent [Order](#) (building on an [earlier ruling](#)) of the National Green Tribunal, as well as a 2010 India government agency [report](#) from a team that visited the area, made up of officials from the ‘Ministry of Environment / Ministry of Tribal Affairs Committee on the Forest Rights Act’. The initial ruling of the National Green Tribunal (NGT) called for “a fresh review of the Project” due to multiple concerns with the original environmental impact assessment.

Rather than approve the use of their land for the POSCO-India project, affected villages have explicitly and repeatedly denied their consent through resolutions in 2008, 2010 and 2012. In a [letter sent to ESCR-Net](#) POSCO has disputed the claim that the 2012 resolution can be considered valid. However, even if these claims from the company can be supported, this does not alter the fact that any project activity that disturbs the land in question is illegal before these affected people pass a Gram Sabha resolution in favour of diverting their land for project use.

POSCO’s Code of Conduct has committed the company to “abide by all national laws and regulations as a socially responsible citizen,” and “comply with international conventions on human rights...as well as local laws...in every country [it] operate[s] in” and “respect the traditions and culture of local communities.” Similarly, POSCO has also committed itself to the United Nations Global Compact. Principles 1 and 2 of the Global Compact require businesses to “support and respect the protection of internationally proclaimed human rights” and “make sure they are not complicit in human rights abuses.” In a public letter of commitment to the Global Compact, sent to the UN Secretary General on 25 May 2012, POSCO committed to “making the Global Compact and its principles part of the strategy, culture and day-to-day operations of our company.”

As a South Korean corporation, POSCO is also required to follow the Guidelines for Multi-National Enterprises of the Organisation for Economic Cooperation and Development (OECD), which the Government of the Republic of Korea is required to uphold, as a member of the OECD. Chapter IV of the Guidelines requires that enterprises such as POSCO should: “Respect human rights, which means they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.”

These commitments are broadly in line with the requirement that businesses respect human rights standards, articulated in Principle 11 of the United Nations Guiding Principles on Business and Human Rights. Guiding Principle 13 adds specifically that the corporate responsibility to respect human rights requires POSCO to “prevent or mitigate adverse human rights impacts that are directly linked to their operations ... by their business relationships even if they haven’t contributed to those impacts.” Furthermore, Guiding Principle 13 also makes clear that “for the purpose of [the] Guiding Principles a business enterprise’s ‘activities’ are understood to include both actions and omissions; and its ‘business relationships’ are understood to include relationships with...any [] State entity directly linked to its business operations, products or services.” In this case, POSCO falls short of these human rights principles by not using all possible leverage it has in this situation to take appropriate action that seeks to prevent or mitigate ongoing human rights violations associated with the evictions and land confiscation that is begin done to facilitate their own project.

Conduct of the government officials that are violating human rights, with whom POSCO has a business relationship with through their original MoU, implicates POSCO in these activities. In response to the situation, instead of ensuring compliance with its own Code of Conduct and human rights commitments, POSCO has disregarded established legal processes in India and continued actively pursuing the project, while failing to address the related adverse human rights impacts.

Therefore, given that POSCO’s actions and omissions in Odisha do not align with their responsibilities to respect international human rights standards, we respectfully ask

that you initiate a Media & Stakeholder Analysis of POSCO, which includes consultation with representatives from ESCR-Net, as the first step toward removing POSCO from the Index. Please respond by July 23rd so we can plan accordingly and begin disseminating information to the investment community.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Grove', is centered on the page. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Chris Grove,
ESCR-Net Executive Director

Cc: David Blitzler, Managing Director, S&P Dow Jones Indices
Sandro Conte, Manager Index Operations, S&P Dow Jones Indices
Guido Giese, Head of Indexes, RobecoSAM AG
Christopher Greenwald, Head of Sustainability Application and Operations,
RobecoSAM AG