

Urbanization as “Development” Versus Constitutional Safeguards for the Tribal People

Report of a PUCL Fact Finding Team into unrest and repression in the Sundergarh scheduled district of Odisha.

The Team:

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Foreword:

The present Fact Finding was conducted over a period of 5 days. The fact finding process was initiated after the affected in the region and some local activists in the area sought an independent civil society investigation into the brutal suppression of the adivasis of Sundergarh District who have been protesting against the inclusion of their scheduled villages especially, Jagda and Jhartarang Panchayat into the Rourkela Municipal Corporation. This included information that huge numbers of villagers were getting arrested in the region and that on 20th January 2015, when the villagers organized an economic blockade as a sign of protest, several villagers including women and children were severely beaten up. On the initiative of the Chhattisgarh PUCL, this was deliberated in the National and various other state units of the PUCL and thus a fact finding team was formed including members from Odisha, Jharkhand and Chhattisgarh, particularly since these other states also have similar experiences of Scheduled rural areas being forcibly included in the urban areas.

The fact finding team reached Rourkela, Sundergarh on the 16th and over the next 5 days, met villagers from different villages who were arrested, beaten up or who are still running under fear of arrest owing to pending FIRs against them. On the first and second day of our visit, we met various local leaders and had detailed conversations where they gave a deeper historical context to the entire issue. Women of the villages, who were arrested on the day of the economic blockade, were released on bail during our visit and we were able to meet and interact with them. There were old and young men and women who were severely beaten up, they also spoke to the team and described the events of that day. Mr. Jablun Ekka, George Tirkey, Lily Kujur, Sunita Singh, Tej Kumari, Ramnath Toppo, gave detailed accounts of the circumstances in which they learnt of the notification regard to the inclusion and how the villagers

have been protesting against it right from the very beginning. Other than the villagers we met the Additional District Magistrate, Station House Officer Brahmanitarang, had telephonic conversation with the Superintendent of Police Sundergarh, and went to the Municipal Corporation to speak to the officers and obtain documents relating to the transformation of Rourkela Nagar Panchayat into a Municipal Corporation.

This report is based on our conversations with the villagers, Administration and also on the basis of various documents which we were able to obtain procured during our visit.

Background:

Sundergarh is a Schedule Five district in the north-western part of the state of Odisha. It has been a site of multiple movements for the right to self-determination historically, and also one of the regions that has made great sacrifices for the development of this country. As much as 67 per cent of the population lives in the rural areas. Sundergarh is the 2nd largest tribal district of Odisha having 51% of tribal population. The entire district is a Scheduled Area thus making the Fifth Schedule as well as Acts like PESA, OSATIP and special schemes meant for tribal communities under ITDAs applicable in the area.

The marginalization process of the tribal communities in Sundergarh started with the industrialization, mining and urbanisation of the district leading to large scale dispossession, as also deprivation resulting from the alienation from forest resources on which tribal communities were dependent for survival. Setting up of one of the first steel plants of the country, Rourkela Steel Plant, resulted in large scale displacement of adivasis who inhabited the Rourkela area, without any consideration for their resettlement and rehabilitation. Rules under Fifth schedule were violated while adivasis in the area were getting impoverished and their numbers reduced with every successive census after independence.

	Tribal population & its Percentage to total population – Odisha & Sundergarh					
	1961	1971	1981	1991	2001	2011
Odisha	24.07	21.11	22.43	22.21	22.13	22.84
Sundergarh	58.12	53.4	51.26	50.74	50.19	50.74

Source: Rann Singh Mann (ed.) (1996) *Tribes of India: Ongoing Challenges*, New Delhi: MD Publications Private Limited and Census of India 2001

The story of adivasis and the history of their dispossession by every agency in Sundergarh is not very different from other adivasi areas. In several Schedule V areas of the country similar instances of

acquisition of tribal land by the state and by corporate entities in the name of 'development' has become a worryingly common phenomenon. Often, areas around towns and cities in Schedule V areas are demarcated as Nazul land i.e. land that is earmarked for urban development. Eyewash schemes, like the notorious Singhdeo Yojana of Sarguja, Chhattisgarh, are made to accommodate the original settlers of such lands for a while and then they are displaced and all the land that they have been residing in for generations are taken by the state. In this context and standing at this juncture of history, the situation involving the expansion of the Rourkela Municipal Corporation and the resistance by Sundergarh Zila Adivasi Mulvasi Bachao Manch (SZAMBM) stands as a hope to all the adivasis in the Fifth Schedule areas.

Present Issue:

The issue in dispute concerns the expansion of Rourkela Municipality into Rourkela Municipal Corporation which is being undertaken by the Rourkela Development Authority (RDA) reportedly as part of the implementation of Odisha Development Authority Act, 1982 for the planned growth of cities. News of its inclusion started flashing in the newspapers much before the notification with government claiming that the same is being to fulfil the aspiration of the citizens of Rourkela, and that it would cater to the need of people of the city by not only providing effective basic service delivery but also a citizen friendly urban local body for developmental perspective and growth. ¹

But the present issue of forcible inclusion of adivasi panchayats into the proposed RMC without consulting the ST/SC (affected) populations is being perceived by the villagers as another strategy to deprive them of constitutional protections and convert them into a minority community of unskilled contract labourers. The primary reason for notifying Rourkela Municipality limits into a Corporation is to make the city eligible for up-gradation to a Smart City claims the villagers. It is to be noted that Rourkela is one of the proposed smart city. Additionally, Sundergarh administration is moving ahead with the Comprehensive Development Plan (CDP) for creation of Greater Rourkela. The CDP envisages inclusion of notified areas of RDA including Rourkela Municipal Corporation (RMC) limits, captive township of Rourkela Steel Plant (RSP) and adjacent rural pockets of Kuanrunda and Lathikata blocks. The CDP draft proposal, prepared by the Town and Country Planning Organisation (TCPO) of the Union Ministry of Urban Development and Rourkela Development Authority (RDA), is ready for approval of the State Government. Reportedly, the geographical area of CDP would be 258 sq kms spread over 52 urban and sub-urban pockets and 52 villages. The current notification might be the first step towards execution of this CDP.

¹ <http://www.dailypioneer.com/state-editions/bhubaneswar/rkela-to-become-5th-municipal-corporation.html>

But in all this, the current habitation patterns and people's consent has not been factored in, said Mr George Tirkey, Present MLA, Birmitrapur and leader of Sundergarh Zila Adivasi Mulvasi Bachao Manch (SZAMBM). That is why adivasis from this area are protesting and resisting the inclusion which will result in the area losing the schedule area status and will affect their cultural identity, practices and traditions.

According to Census 2011, Rourkela Municipality limits excluding the captive township of Rourkela Steel Plant (RSP) has a population of 273,217, which is 26,783 short of the criteria required for Corporation status. It was this reason that the government decided to include various neighbouring villages in the municipality fold, especially villages like Jagda and Jhartarang with huge population and land.

“We are fighting for our rights; we will develop on our own, provided the sarkar allows our Constitutional rights on our (lands) resources.”, one of the villagers to the FF team.

Notification and objections by the villagers: ²

On 21st October 2013, State Election Commission of Odisha issued an Order not to conduct the election of Rourkela Municipality as the Government proposed a Corporation for Rourkela. On 15th November, 2013, a notification was published by the Govt. of Odisha³ (No: S.R.O.No.- 680/2013) inviting objections and suggestions from the people of the affected areas for the formation of a larger urban area in the district of Sundergarh within 30 days from the publication of the above notification.

Gazete notification 2222. S.R.O. No.-680/2013—specified the following areas to be under the Larger Urban Area and also asked for any objection or suggestion in respect of the said proposal to be submitted to the State Government through Collector and District Magistrate, Sundergarh within thirty days from the date of publication of this notification in the Odisha Gazette and the objection or suggestion as may be received in respect of the said proposal before expiry of the said period shall be duly considered by the State Government.

² Chronology and details of the events were told and narrated by the villagers during the visit.

³ orissa.gov.in/govtpress/pdf/2014/1718.pdf

Nov 14, 2014 - 514/2014— Whereas, in the notification of the Government of Odisha in the *Housing & Urban Development Department No. 32946/HUD.*

Sl. No.	Name of municipal Council and Gram Panchayats	No. of the Ward/ Name of Villages
1	Rourkela Municipality	Ward No. 1 to 33
2	Jagda Gram Panchayat	i. Jagda-RTU-29
3	Jhirpani Gram Panchayat	i. Jhirpani- RTU-28
4	Jhartarang Gram Panchayat	i. Gopapali ii. Brahmani Tarang iii. San Brahmani Tarang iv. Jhartarang
5	Kalunga Gram Panchayat	i. Lungei ii. Kalokudar iii. Beldihi iv. Goibhanga v. Jiabahal vi. Kalunga-ka vii. Kalunga-kha
6	Chiktamati Gram Panchayat	i. Mahaliapali ii. Malikpali iii. Sarla iv. Chikatmati v. Bhalupatra vi. Sannuagaon vii. Killinga
7	Jalda Gram Panchayat	Jalda

The said notification was out rightly rejected by adivasis of the area. The Respective Gram Panchayats responded back to the order through written memorandums and Gram Sabha Resolutions. Within a month they filed their objection against the proposed inclusion. Their claim was that as a result of inclusion they would lose their natural rights over land and would not be able to avail benefits under the Panchayats Extension to Scheduled Areas (PESA) Act, 1996.

Objections raised by them in their memorandums:

1. Sundergarh Princely State known as Gangpur & Bonai State was merged on the 1st of January 1948 with the State of Odisha.
2. Sundergarh District was declared a Scheduled District in the year 1950, since then its administrative setup should have been as per the Fifth Schedule with Administrative control through the Union as per Article 339 of the Constitution of India.
3. After the coming of the Orissa Estates Abolition Act 1951, all general laws were applied, including administrative governance, land governance, etc. Successive batches of outsiders were settled in this scheduled area, thus violating Art. 19(5) of the Constitution of India, and also the rights of the scheduled tribes.
4. After the 73rd constitutional amendment, the Panchayats (Extension to the Scheduled Areas) Act 1996, known as PESA ACT 1996 has been enacted by the Parliament to govern the rural areas of the scheduled areas. But till date the Government of Odisha has not implemented the PESA Act fully as Traditional Villages in the scheduled areas have not been recognized as per the provisions of Sec-4(b) of the PESA Act.
5. After the 74th constitutional amendment, the Municipalities (Extension to Scheduled Areas) Act was passed in the Rajya Sabha in the year 2001 but lapsed since it was not introduced in the Lok Sabha. The result has been the vacuum of governance in the Urban Areas of Scheduled Districts.
6. The State government of Odisha enacted Odisha Municipalities Act in the year 2003 , which was made applicable to the whole area of Odisha including the Scheduled Areas. This was a clear violation of Art. 243ZC(3) of the Constitution of India, because only the Parliament was empowered and competent to make the Act/Law relating to the governance of the Scheduled areas. Subsequently, when this issue was challenged in the High Court and Supreme Court, a notification by the governor came out extending the act to the Scheduled areas of Sundergarh. Supreme Court later held the act intra vires. It is to be noted that even though Governor has the power to pass a law with regards to a scheduled area, but the same can't be done without any consultation with the Tribes Advisory Council. It is to be noted that, in identical circumstances in the case of the Extension of Panchayats, it was held that a mere Notification by the Governor, even under the Fifth Schedule, could not overcome the unambiguous prohibition in the Constitution, in this case the prohibition in Article 243ZC.
7. The Gram Sabha's power has been violated in the whole process of RMC as there has been no consent taken from the Gam Sabhas.

The notification and subsequent hostility towards the demands of the people gave birth to “**Sundergarh Zila Adivasi Mulvasi Bachao Manch**”. Akhil Bharatiya Adivasi Vikash Manch, Sundergarh Zila Adivasi Advocates Sangh, Nari Suraksha Manch and Adivasi Suraksha Manch, Jhirpani came together and formed Sundergarh Zila Adivasi Bachao Manch. The manch initially started by local adivasi leaders was later joined by an independent adivasi MLA George Tirkey from Bimitrapur constituency. Adivasis from various



George Tirkey

villages are part of the manch namely, villages from Jagda and Jhartarang panchayats, Jalda, Dharamdhi, Tala Bali Jodi, Jhirpani, Chikatmati, Kalunga etc.

In October 2014, again a memorandum was filed by the villagers. Paying no heed to the demands of the people, administration passed a final notification on 14th November 2014.⁴ In this final notification, the administration did lay off a few gram panchayats but at the same time for some unknown reasons kept a few other gram panchayats though they had as well objected to their inclusion in the corporation. The notification read as:⁵

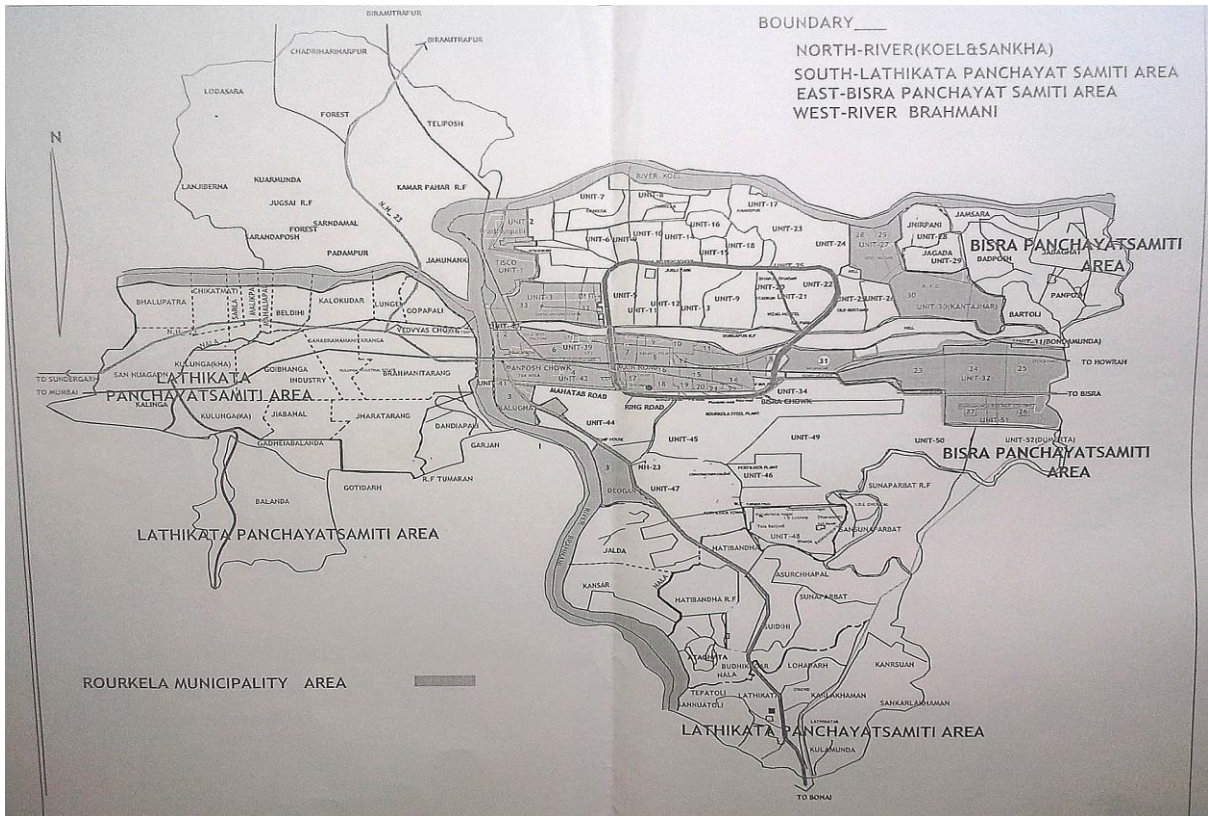
S.R.O. No. 514/2014: *Second Notification of the final inclusion of the area under the ULB (urban local body) to be included in the municipal corporation area. It said that all the objections and the suggestions for the said proposed larger urban area were duly considered by the state government before deciding the areas to be included.*

Sl. No.	Name of Municipal Council and the Gram Panchayat	Name of Ward/Name of Villages
1	Rourkela Municipality	Ward No. 1 to 33
2	Jagda Gram Panchayat	Jagda
3	Jhartarang Gram Panchayat	1 Jhartarang 2 Brahmani Tarang 3 Sana Brahmani Tarang 4 Gopa Palli
4	Rourkela Town Unit	Nabakrushna Nagar, Tala Balijodi, IDL Colony, Gopabandhu Nagar, Bhanja Colony, Bada Sona Parbat and Dharamdhihi

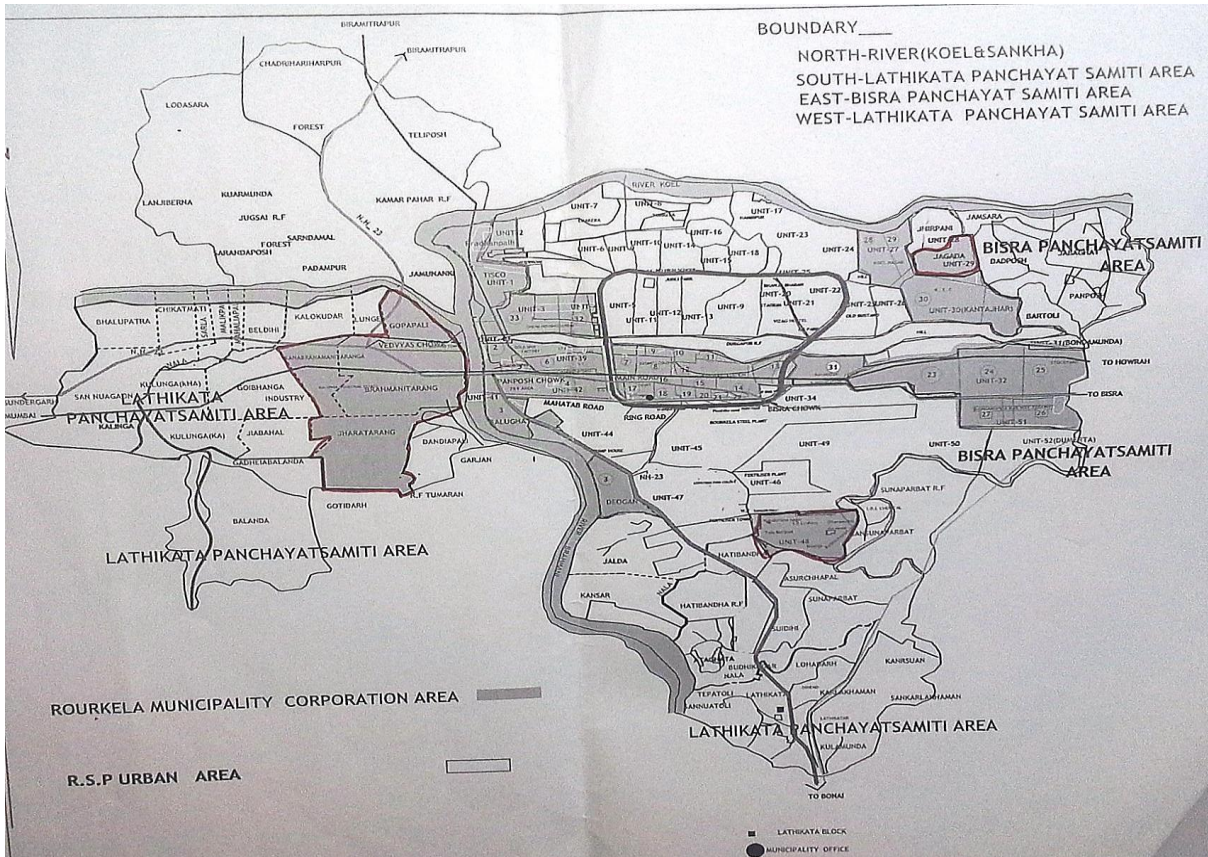
⁴ <http://odishasuntimes.com/99807/odishas-steel-city-rourkela-gets-corporation-status/>

⁵ orissa.gov.in/govtpress/pdf/2013/2222.pdf [Translate this page](#)

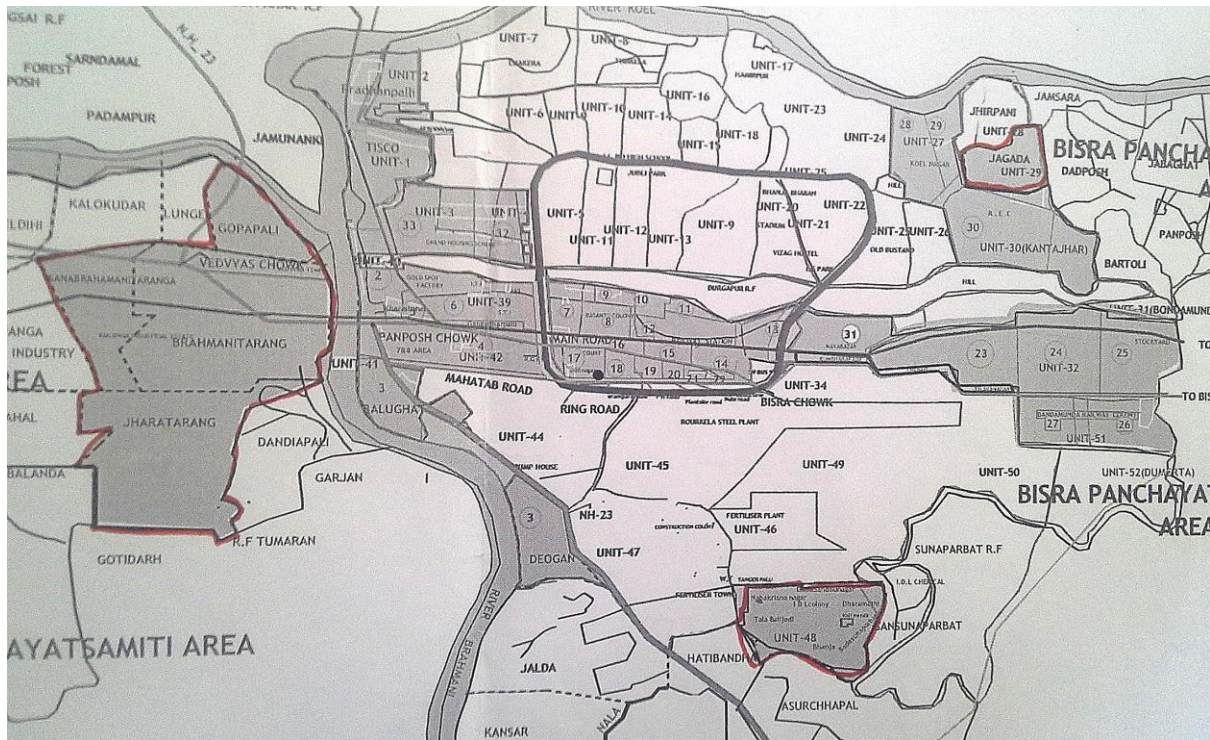
Nov 16, 2013 - HOUSING & URBAN DEVELOPMENT DEPARTMENT. NOTIFICATION. The 15th ... [No. 32946-Elec-207/2013/HUD.] By Order of the Governor.



Rourkela Municipality Area (Before inclusion)



Rourkela Municipality Corporation Area (After inclusion of Jagda, Jhartarang and Industrial Town Area RTU-48P- Marked with Red Ink Boundaries)



According to the villagers, the said notification was neither announced in the newspaper, nor was the respective Panchayats informed. Villager's claims that even the 2013 notification was not informed to any of the villages. In both the instances, the leaders of the movement got to know of this through the internet. After the above notification, the aggrieved people of Sundergarh demonstrated in various different democratic ways for the cancellation of the said Notification. The representatives of the aggrieved people also knocked on every door of the state machinery from the President to the Prime Minister to the Governor to all the Ministries concerned but with no response to their plight and prayers. On 25th November, 2014, under the banner of **Sundergarh Zila Adivasi Moolvasi Bachao Manch**, a Rasta Roko agitation was conducted in the ved vyas highway area where thousands of villagers undertook the programme successfully from 11:00 am to 6:00 pm.⁶ The Tehsildar came to the spot at 6:00 pm and gave in writing that he would forward the demands of the people to the government to reconsider the issue of formation of (and inclusion into) the Rourkela Municipal Corporation. After a wait of more than 15 days, on 20th December 2014 villagers again went to the ADM, Rourkela to voice their objections but no assurance was given to them. This led to a decision by the manch to conduct an economic blockade, if the notification is not withdrawn. It was thus, manch called for a press meet on 7/01/2015 and declared that they would go for an indefinite economic blockade from 20/01/2015 onwards till the realization of their demands. On the 5th of January, Jual Oram, Minister for tribal Affair

⁶ http://www.orissabarta.com/index.php?option=com_content&view=article&id=17832:mass-agitation-against-decision-of-rourkela-municipal-corporation&catid=35:top-stories

minister also wrote to the Ministry of Housing and Urban Development urging them to look into the grievances of the people and to follow the PESA act.⁷

On 15th January 2015, another press conference was called by SZAMBM where Prafull Majhi MLA Talsara, George Minz (ex MLA Rajgangpur), Halu Mundari, ex MLA, Raghunathpur, George Tirkey, MLA, Birmitrapur came out in support of the economic blockade.

Subsequent actions by the state to stop the protest:

On the same day i.e. 15th January 2015, seven people were arrested and taken to Thana Raghunathpalli. Four of them were from Brahmanitarang and three were from Barsona village, Suidihi Gram Panchayat. Seven arrested were: Jablun Ekka, Ramnath Toppo, Santosh Kr. Barik, Charan Bhumij, Pancha Oraon, Jagdish Singh, Etwa Oraon. They were all arrested under an FIR which was filed on 25th November 2014 the day when the villagers held a Rasta Roko agitation. The case against them was for rioting, threatening to kill etc. Ramnath Toppo and Jablun Ekka, leaders of the manch, from Brahmanitarang, told the FF team that police came around 12 in the night and asked him and other people from his village to come to thana with them. They were all arrested and sent to jail the next day, after which on the 22nd January they were released on bail. The same FIR also names George Tirkey and “34 others”. After this, a spate of arrests and detentions began on and from the 15th of January, so as to break the resistance of the people and foil the proposed economic blockade. A total of 72 people were arrested between the 15th and the 19th. None of them were granted bail before the 22nd.



Ramnath Toppo (above) and Jablun Ekka(below) narrating the events of the night when they were picked up.



⁷ <http://odishasamaya.com/news/odisha-govt-to-resolve-deadlock-over-proposed-rourkela-municipal-corporation>

The day of the economic blockade⁸:

Nevertheless, the economic blockade was organized on the 20th January 2015. Initially, the plan was to protest at 7 points in the area – Kukra gate, Vedvyas Chowk, Rangeela Chowk, Kalaiposh (on National Highway), Karamdih (also on National Highway), Ujjwalpur (near the mines) and Hemgir. However, because many of the leaders and SZAMBM people were behind bars, the blockade could happen only at around two points – Kukra gate and Vedvyas Chowk. On 20th morning at 8am villagers gathered in their respective villages for the march. The procession began at 8.30 from basti Bijaptola of the village. Police arrived in large numbers, blocked people and chased them - men, women and children – into the fields. An old man called Johann fell unconscious. Boleros full of armed police surrounded the village from three sides. There were hardly 2-3 female personnel in the forces comprising of 12 battalions. The side of the Thana was left open. So the gathering started running along the fields towards the thana. Then the police started pouring in hordes from the thana side. The police tried to break the crowd into 4 parts and make them run to the four sides but the villagers stuck together. Forces started abusing and assaulting the crowd. One young woman recalled a male police officer first pushed her on the ground,



Women who were beaten up and arrested on the morning of 20th, talking to the fact finding team on the 17th February 2015, when 12 arrested women were released on bail

started beating her with sticks and threatened her with rape. She further told that police officers were uttering terribly obscene words to the women of the gathering, They further told that the police also used racist abuses against the tribal people. There were more than 500 people in the gathering and the police beat them mercilessly. Many of the women and men sustained injuries while they were

⁸ <http://www.downtoearth.org.in/content/tribals-seize-steel-city-rourkela-day>

manhandled. 11 women were later arrested for rioting and attacking the police officers on the 20th morning. FFT checked the medical documents of the injured women, and few of them clearly showed injuries to head etc. Few of the women we met were still in pain and unable to move.



Few of the villagers who were beaten up on the morning of 20th January 2015

On the one hand was brutal oppression by the police, and on the other hand was a persistent protest by adivasis from other villages. Even after all this, more than 10000 people participated in the blockade that day. The blockade at Kukra gate was led by George Tirkey and it lasted for 30 hours. After which, ADM went to the spot and met all the leaders and gave them an assurance that there will be a ministry level meeting where representatives of the villagers will be called. The blockade was called off thereafter.⁹

⁹ <http://www.downtoearth.org.in/content/tribals-seize-steel-city-rourkela-day>

Pictures from the day of the economic blockade. Date: 20.1.15.



Post Economic Blockade:

Following up with the assurance given to them, a meeting was held on 29th January, in Bhubaneswar with the Urban and Housing Development Minister, Mr. Pratap Singh Deo, State Secretary, Deputy Secretary, Executive officer of Rourkela Municipal Corporation. Some 15 representatives of the villagers went for the meeting including 3 present MLA's , 2 Ex MLA's from congress, JMM , Lok Krantikari Dal and BJP and other members of the manch. In the meeting representatives voiced their objections again. They reminded that the act of inclusion is in clear violation of their constitutional rights under 5th Schedule and PESA. To which, the administration argued that this inclusion is for their benefit only. Transformation into a corporation will lead to high land prices, more employment avenues, Mayor will be an adivasi and different wards will be reserved in the wards for ST/SC population. Villagers further argued that this all will lead to them losing their culture and heritage. After a 2 hour long meeting, they were again given vague assurances of some further action and contemplation in future.

In the midst of all the dialogue and negotiations, the state continued to harass the villagers with the intention to break their spirit. In the coming days more women leaders of the manch were arrested.

“Madam, while the police can do anything with us (beating, abuse, filing false cases to frighten and oppress us, inflict injuries and humiliation, etc.) but why our protest movements and demonstrations are termed as criminal activities?”, asked one of the villagers while talking to the FF team.

16th February, when the Fact Finding team reached Sundergarh, all the members went to the court as on the very day 12 women who were arrested were granted bail and to be released. But since they were unable to procure the bail amount in time, the release was further postponed by a day. On the 17th, finally all the 12 women were released on bail. As a result of the release, the villagers had organised a huge celebration in Jhartarang village where all the adivasis from neighbouring villages and Jagda Panchayat got together and congratulated the 12 women who remained strong throughout the time of their incarceration. This is when all the villagers narrated the events leading to the present day situation to the team.



12 women who were released on bail on the 17th February

At one end was the celebration of their struggle and on the other hand was a situation of panic. At the very moment when these women were released, the police started searching for Lily Kujur, a firebrand leader of the manch and George Tirkey. Both had to go under hiding for some time to avoid arrest as there are 4 pending FIR against them, just like against all the other villagers. Both of them had to skip this meeting/ celebration.

It is to be noted that a day after the FFT left, Lily Kujur was arrested. She was released on bail on 7th March 2015.

On March 7th 2015, villagers have again sat on a dharna in front of the Rourkela Municipal Corporation office in Sundergarh.¹⁰ At the same time, Municipal Commissioner has started the process of formation of newer wards for the Rourkela Municipal Corporation. And villagers informed that 15 wards out of 40 wards (previously there were total 33 wards in the Rourkela Municipal) has been reserved for ST and mayor position for ST woman. And after completion of this process, the list is soon going to be sent to the Election Commission for elections in the newly formed Rourkela Municipal Corporation.

¹⁰ <http://timesofindia.indiatimes.com/city/bhubaneswar/Rourkela-tribals-oppose-municipal-corporation-status/articleshow/46490145.cms> , <http://odishasuntimes.com/116823/odisha-tribals-protest-corporation-status-rourkela/> , <http://www.newindianexpress.com/states/odisha/Tribals-Hit-Streets-over-RMC-Merger/2015/03/08/article2703529.ece>

Official Stand on the issue:

During the visit, FFT also met Additional District Magistrate, SP, TI- Brahmanitarang to understand the state's point of view on the issue of Municipal Corporation and the state's response to the people's agitation against it.

1. **First meeting was with the ADM in Rourkela on the 19th February.** ADM is the administrative head of the Rourkela. He made the following arguments justifying administration's act.

- **Agitation is being incited by the outsiders:** The ADM stated that the opposition to the Corporation notification was coming only from Jagda and Brahmanitarang Panchayats. He reiterated time and again during our conversation that the protestors who are creating a law and order situation were not people from these two Panchayats but were outsiders. Locals are being threatened and that is why they are participating in the agitations. On being asked whether the annexation of these two Panchayats would lead to acquisition of land for urban infrastructure and residential colonies, the ADM claimed that urbanisation does not mean that the Government would acquire any lands. The purpose of annexation of Panchayats was to make available basic amenities and infrastructure like drinking water, roads, electricity, waste management, etc. and so the fear of losing land was baseless and according to him the protestors were misinformed.
- **Gram Sabha not required for clearance of Central Government Projects:** On the question of conducting Gram Sabhas for taking consent of the people for annexation, since Sundargarh was a Scheduled Area, he was of the opinion that the Government had given the people time to file their objections which they had, and the Government had considered such objections and modified their CDP accordingly. The ADM clarified that he had himself compiled all the objections the people had. But when it was pointed out that seeking written objections cannot be the same as, or equivalent to, holding a Gram Sabha for taking the consent of people, the ADM reiterated that seeking written objections was the only space people had and that holding Gram Sabhas was not mandatory for taking consent for any Central Government projects and that it was applicable only for Panchayat level works.
- **These villages are any ways not rural enough and has not much cultural practices:** When it was shared that one of the major reasons for people's objection was that in a Corporation there would be no space for the growth of tribal political leadership and that tribal cultural practices and social organisations would be adversely influenced due to city culture, the ADM refuted these as untrue. He clarified that there would continue to be reservation for tribal people in urban local body elections and as for the culture, he further claimed that if one visit these

panchayats one can clearly see that these are already enough urbanised and is not “rural enough” anymore and thus there is no question of the adivasis losing their culture to the urban culture. [It is to be noted that the state is using this entire baseless argument that these two panchayats i.e. Jagda and Jhartarang already have urban lifestyles to justify its act. On the next day, i.e. 19th we got one document from the Municipal Corporation office, which showed the area which were going to be included and showed figures for population, area, villagers dependent on agriculture etc. The table shows almost negligible number of villagers dependent on agriculture for living.]

POPULATION OF PROPOSED ROURKELA MUNICIPAL CORPORATION									Annexure-II		
SL.NO	Block	Police station	Name of ULB/G.P	Revenue village	Area in sqm	No of Households	Total Population		total worker	Total Agricultural worker	Total Non-Agricultural worker
						Total	Persons	density per sqm			
1	2	3	4	5	6	7	8	9	10	11	12
1	Rourkela Municipal Area	R.N.Pali/Udit nagar/Chhend/Plant Site/Bandamunda/Jhirpani	Rourkela	ULB	32.70	61717	272721	8340.1	90666	409	90257
2	Bisra	Jhirpani	Jagda	Jagda-RTU-29 ✓	1.38	2464	11313	8197.83	2722	9	2713
4	Lathikata	Bramhanitarang	Jhartarang	Gopapali ✓	1.3	365	1622	1247.6923	601	1	600
5	Lathikata	Bramhanitarang	Jhartarang	Bramhni Tarang ✓	5.84	2473	11320	1938.36	3146	14	3132
6	Lathikata	Bramhanitarang	Jhartarang	San Bramhni Tarang ✓	1.68	644	2496	1485.71	801	6	795
7	Lathikata	Bramhanitarang	Jhartarang	Jhar Tarang ✓	6.99	821	3784	541.34	921	66	855
11	Lathikata	Bramhanitarang	Kalunga	Goibhanga	3.43	362	1491	434.69	363	6	357

When we showed the document to villagers, they claimed that these are wrong figures. They showed a document with Information on Land Particulars of villages of Jhartarang Panchayat, in that around 2062 ha of the land was either cultivated or irrigated land. They said that the land in their village is multi crop land and majority of the adivasis were dependent on the agriculture either directly or indirectly.]

Information on Land Particulars of Villages of Jhartarang Panchayat

Sr No	Name of the Village	Cultivated Land (ha)	Irrigated Land (ha)
1	Jhartarang	570.00	382.00
2	Bramhanitarang	495.00	317.00
3	San B Tarang	40.00	2.08
4	Gopapali	136.00	120.00
	Total	1241.00	821.42

B. S. S. S.
Village Agricultural Worker
JHARTARANG
Block : LATHIKATA

D. S. S. S.
Assistant Agriculture Officer
Kalunga
Distt. Sundergan

- **Police response to agitation was justified as villagers broke the law:** According to him, despite giving the target Panchayats adequate opportunity for submitting objections and holding several discussions with the SZAMBM leaders to address their grievances, the protestors had taken law into their hands and created serious law and order situations by blocking the national highway and obstructing the movement of ambulances, school buses, etc. and therefore the police had to file cases against them and make several arrests in relation to 25th November 2014 road blockade. It became very clear to the team that in the opinion of the administration, people's consent was not considered mandatory and that they considered the protests to be illegal and hence to be dealt with using only the law and order machinery. Using the similar argument, he also justified the act of the policemen on the morning of the economic blockade though he claimed no one was beaten up or injured. He asked us what would have been our response if we had to deal with such law and order situation.

2. **Second meeting was on the 20th February with the Thanedar of the Brahmanitarang Thana** to inquire about the cases filed against the people and also regarding the beatings of the men, women and children on the morning of the economic blockade.

- The Officer in charge of Brahmanitarang Thana said that the villagers were agitating and had blocked school buses and ambulances. He mentioned that the buses of St Arnold's school were blocked during the rasta roko on the 20th of January when the economic blockade begun. The Principal of St. Arnold's School said that actually the school buses were blocked during the demonstrations on the 25th of November 2014. Thus, the pretext of blocking school buses used by the OC to justify the violence on the tribal villagers does not hold much water. According to the OC Upendra Pradhan, the villagers had become violent and were using 'weapons' during their demonstration. He also showed a stash of 'weapons' consisting of one old bow (the arrow was missing), a few lathis and one sickle. He showed videos collected by the police during those demonstrations. The police-videographer angled the camera such that only the demonstrating villagers are shown, 'armed' with brooms and sticks. The huge cavalry of armed forces have not been shown in the videos.
- The OC also gave certain specifics of the criminal cases. He said that the case slapped on the 25th November 2014 numbered 193/2014 and read "700 others" because more than seven hundred people were a part of the demonstration.

- Case no. 9/15 had been slapped after the 20th January 2015 demonstration of economic blockade. 11 people were arrested on that date. Charges of rioting have been framed. According to the OC, the Kukra Gate railway crossing was blocked for two days. He claimed that since Section 144 was active during that time, which prohibits gathering of more than 5 people, these protests automatically becomes illegal.
- **USE AND MISUSE OF Section 144:** When we inquired as to why and how was section 144 declared, he claimed that the same was done to prevent people from rioting. Notice of the same was given to the villagers on the night of the 19th. When asked, villagers claimed that no notice was ever given to them. Police claimed that on the night it was announced in all the villages through mikes. It is to be noted that it is a general practice of the villagers here to sleep by 8 and the administration is well aware of that, still the notice was given in this manner. Not just that, Section 144 was in place from 19th January to 16th February, almost a month to prevent any kind of village level meetings of the manch, according to the villagers.
- He denied that any police officer ever went to village to stop them from participating in the protest.
- Cases have also been filed at Arampali and Jalda police stations. In fact, 200 people were arrested at the Arampalli thana. GRP/Railway Police have also filed cases at TCI Chowk and Kukra Road. Mr. Pradhan claims very confidently that according to Supreme Court Guidelines, rasta-roko demonstrations can't be done. It is to be noted that in all these charge sheets, filed at different thanas several km from each other, have one name in common – that of George Turkey, making him omnipresent! One of the cases also includes a murder charge! The OC said they are collecting evidence against him and are arresting his aides. According to him, the state has incurred a loss of Rs. 30 crores because of the agitation.

3. Telephonic Conversation with SP, Rourkela on 20th February 2015 : He gave a similar response. According to him the blockade was illegal and thus police was just doing its duty. He denied that the police had conducted any lathicharge. On being asked about why Section 144 had not been declared earlier to warn the alleged violators of 'peace and tranquility' he claimed that it was duly announced at night. The SP was heavily opinionated on what was right and wrong in democratic dissent or how people should raise their voices on being dispossessed of their rights, but when reminded about the due process and how the administration and government were simply refusing to listen to the voices of objection, he was silent and offered no explanation. On being asked if he knew any police personnel who have been injured in the agitation, he said that none of

them were hurt, but there was murderous intent among the protestors. It is relevant here, that 11 women were arrested on 20th January and most of them were above fifty years of age. The SP also stated that he was determined to quell any form of unrest in the future and would also be very strict about maintaining peace and order in the region.

Rourkela steel plant and past betrayal

During the entire, interaction with the villagers, one reason for the present opposition kept recurring was their past experience when the Rourkela Steel Plant was set up. George Tirkey, present MLA , Birmitrapur, and one of the foremost leader of the Manch protesting against the inclusion added that one needs to understand the people's current outrage over this Corporation notification in the context of the earlier land acquisition done for RSP.

He explained that RSP had already displaced people of 92 villages under 32 mouzas (revenue circles) using a 1948 land acquisition act. Of 20,000 acres land acquired, the steel plant and RSP township was built over 15,000 acres, and the unutilised 5000 acres was returned to the State Government under the relevant provision

of the Act. Reportedly the State Government, instead of returning the unutilised lands to the original owners, allegedly sold it at cheap rates to builders and real estate agents and also allowed illegal colonies like Gopabandhu Colony, Timber Colony, Chachend, Tarapur, etc. to come up on rest of the lands. These colonies are illegal, says Tirkey, because they have been built on lands that were supposed to go back to the original land owners since they were not used for RSP's plant or its township. And till today the original land owners have neither got fair rehabilitation and resettlement support nor their unutilised lands back. Majority of the land losers continue to be asset less and surviving on daily wage labour or cultivation over small patches of land.

Therefore now, when the people came to know about the annexation of their Panchayats for Rourkela Corporation, they feared that whatever lands and homesteads they have would be snatched away from them in the name of building more residential colonies and commercial complexes. And that is why the people have decided to reject annexation and save their lands and villages from urban land contractors.

George Tirkey and Lily Kujur in a recent protest against the 148 acres of land acquisition for expansion of NSPCL unit.(below)



Findings and Recommendations:-

- i. Clearly there is an absolute lack of understanding of the Constitutional scheme of the Scheduled areas and of PESA among the local administration, and there is insensitivity to the concrete threats the tribals are apprehending from urbanization. Thus a situation of alienation of the tribals has taken place which requires to be handled by administrators having such understanding and sensitivity.
- ii. Administration has clearly violated the procedures for taking consent of the concerned Gram Sabhas as the villagers came to know of the Notification of inclusion only belatedly through the internet. No Notification was ever sent to the Panchayats or published in local newspapers of wide circulation so that the villagers could access the information about the Notification. Thus the entire Notification process requires to be re conducted in a truly democratic spirit.
- iii. Despite the fact that the villagers had registered their objections and that they have organised themselves into a representative body, the administration did not consider it necessary to hold effective or serious discussions to resolve the issue, rather the attitude has been as if the objections are a mere formality and the representative body is a criminal entity. No ground work has been done to study the impact of the urbanization on the life and livelihoods of the affected tribals. It is shocking that even Sarpanches, and sitting and erstwhile MLAs are all being considered as “trouble makers” rather than representatives of the people who can participate in a dialogue. This resulting situation of turning a debate on what constitutes development into a law and order problem must lie squarely at the door of the administration and government.
- iv. All leaders and active members of the Sundergarh Zila Adivasi Moolvasi Bachao Manch conveyed that they fear for their lives. We heard that reportedly the senior officials were planning to use the National Security Act against George Tirkey, a sitting adivasi MLA as if he was a die-hard criminal or a terrorist. The criminal justice system is being abused to criminalize dissent.
- v. In these circumstances, a situation of panic exists among the villagers and continues due to the continuing surveillance and repression, arbitrary arrests and fabricated cases against most frontline leaders. Particularly the fear of persecution is accentuated because of the existing FIRs against unknown persons and particularly vague FIRs against “700 others”. The Government of

Odisha should review the criminal cases that have been registered and quash vague and politically motivated FIRs.

- vi. No FIR has yet been registered against the police officers who physically harassed the women and men on the day of the economic blockade. The State must register FIRs and investigate objectively into the complaints of the people against police high-handedness to instil confidence in the people regarding the impartiality of the criminal justice system.

- vii. The new PDS scheme is being used as a way of coercing the villagers to support the Corporation. , one of the strategies being used by the Government, apart from arbitrary arrests and slapping of false and fabricated cases on leaders of SZAMBM, is forceful registration of people in the targeted Panchayats for new PDS cards in the Wards of the Corporation under the Food Security Act. The new cards being distributed have 'Mahanagar palika' inscribed on it, though the new Rourkela Municipal Corporation (including these panchayats) has not been formed yet. The people opposing the RMC (Rourkela Municipal Corporation) feel this is ploy by the administration to show the acceptance of proposed RMC among people. And thus, entire villages have been protesting and have not been accepting any ration cards and preventing any distribution of the same. Villagers say, "What will we do with our ration cards when we lose our land and source of livelihood". The Government is now reportedly using security platoons to set up the registration camps and using force to get people to register their names for new PDS cards. The villagers also told us that the Government has been reportedly getting ward members and anganwadi workers to frighten the villagers that if they did not register for new PDS cards now they would never get any cards later on.

Thus, when the issue of inclusion/ annexation is still under dispute, the PDS scheme should be delinked from any decision in this regard.

- viii. From the study of other similar situations and also the land use pattern in the Rourkela Municipality, it appears that the apprehensions of the tribal people are well founded that the reason for annexing Jhartarang, Jagda and Balijodi is so that that land can be sold or leased to builders, real estate agents, etc. in the name of creating better infrastructure and basic amenities. The issue of urbanisation in the Scheduled Areas needs to be considered at the highest possible level keeping in mind the Second Bhuria Committee Report, the lapsed MESA Bill and the

concrete experiences of the tribal people in the urban centres of Scheduled areas. Adequate protection to the tribal communities requires to be provided in the urban areas.

- ix. We note with the concern the fact that the issues of the Sundergarh tribals have been totally ignored by.., the mainstream national media apart from the reports of delay of trains on the Howrah – Mumbai line for some 48 hours when the economic blockade was going on. The neglect of the other side of the development debate in the public domain does not augur well for our democracy.

- x. The People’s Union for Civil Liberties through its Odisha members has also raised the issues of police repression and false cases observed during this fact finding trip with the National Human Rights Commission. Since this case is indeed a test of how the tribal areas are going to face urbanization and industrialization in the coming days, we hope that the NHRC will intervene promptly and effectively to help establish peace and justice in this scheduled area.

(Sharanya Nayak)

(Isha Khandelwal)

(Dr. PM Antony)

(Atindriyo Chakrabarty)

(Ashish Beck)

(Pranab Doley)