

BRIEFING

THIS LAND IS OURS

VEDANTA PUTS COMMUNITIES AT RISK IN INDIA



Amnesty International



An Adivasi woman carrying a pot of water on her head in front of the Vedanta refinery in Lanjigarh.

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Cover photo: A villager stands on land he once owned, beneath an unfinished conveyor belt designed to carry bauxite ore from the Niyamgiri hills to the Vedanta Alumina plant in Lanjigarh.

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The operations of UK-based mining company Vedanta Resources threaten the human rights of Indigenous communities in the state of Orissa in eastern India. Despite serious concerns, Vedanta plans to mine for bauxite (from which aluminium is extracted) in the Niyamgiri Hills and expand its alumina (aluminium oxide) refinery in Lanjigarh at the foot of the Hills.

MARGINALISED COMMUNITIES

The people affected by Vedanta's plans belong to some of the most marginalised communities in India. For example, the Niyamgiri Hills, in remote south-western Orissa, are the traditional lands of the Dongria Kondh, an Indigenous (or 'adivasi') community. The proposed projects threaten to undermine their human rights, including their rights to water, food, health, work and traditional lands.

Furthermore, the planned refinery expansion and the mine will have disproportionate impacts on the rights of women and girls within the affected communities. For instance, women and girls are responsible for water and fuel collection. Due to pollution and environmental degradation from the mine and refinery they will have to travel further, risking their health and safety. Both Vedanta and the Indian government have failed to adequately assess these risks, let alone address them.

LAND, LIVELIHOODS, HEALTH AND WAY OF LIFE

'The hill is our God and the earth our Goddess. Between the two we have rains and water. Those wanting to mine here will slowly take over all this. Where will we go then?'

Dongria Kondh man from Lakpaddar village, Niyamgiri Hills.

The 700-hectare mining project will be located on top of the Niyamgiri Hills, which are considered sacred by the Dongria Kondh. This will adversely impact the sources of water the community depends on for drinking and farming. Community members live in fear of losing their way of life and their sacred hills, as well as having their rights to water, food, livelihoods and cultural identity undermined. In December 2008, India's Ministry of Environment and Forests (MoEF) cleared the project 'in principle'. The MoEF has since deferred granting forest clearance, a separate regulatory requirement, without which the mine cannot go ahead.

People living close to the refinery in Lanjigarh have already had their rights to water and health – including a healthy environment – violated, as a result of pollution and poor management of effluents produced by the refinery. Without adequately addressing these existing problems, Vedanta, through its subsidiary companies, is now proposing a six-fold expansion of the refinery. The MoEF is currently considering the proposal.



Vedanta's refinery has brought heavy traffic to the area

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POLLUTION AND ILL HEALTH

The Lanjigarh refinery, in a 750-hectare complex at the foot of the Hills, has been built beside one of southern Orissa's main rivers, the Vamsadhara. The river is the main source of water for local people, as well as many villages downstream; the communities use it for drinking, personal use, irrigation and their cattle. The MoEF granted clearance for the refinery on the basis of a commitment made by the company that the refinery would be designed to ensure 'zero discharge'. Vedanta has repeatedly failed to adhere to these requirements.

'The refinery has built its walls right here making our access to the river very difficult. The water we use now is contaminated with ash pond waste. Our children have blisters and skin problems.'

A resident of Kendugudha, Lanjigarh

Between 2006 and 2009, the Orissa State Pollution Control Board (OSPCB) documented numerous instances in which Vedanta failed to put in place

adequate pollution control measures or meet the requirements of the MoEF and the OSPCB. The OSPCB's findings indicate Vedanta began operations without the necessary systems to adequately manage waste and pollution, and that some processing and waste management systems were not built or operated in line with regulatory requirements.

This appears to have resulted in air pollution and recurring leakages of highly alkaline wastewater into the Vamsadhara River and outside the refinery walls. The company has failed on several occasions to implement directions given by the OSPCB to carry out repairs or undertake other actions in a timely manner, increasing the potential for ongoing water and air pollution.

This has created considerable uncertainty and fear amongst the local communities, a situation that has been exacerbated by cases of people suffering from skin problems or falling seriously ill, and cattle dying, after bathing in river water. Residents who previously relied on the river, no longer consider the water safe. Residents told Amnesty International that since mid-2007 – when the refinery began

operating – they have suffered from a range of health problems. These include skin conditions like blisters and boils after bathing in the river, and respiratory discomfort, including coughing and breathlessness, which they believe are linked to inhaling the dust and other emissions from the refinery.

'What happened to us is unimaginable. Having given up our lands, we live in the shadow of this gigantic refinery and its wastes.'

A resident of Chatrapur, Lanjigarh.

ACCESS TO INFORMATION

Processes to assess the impact on local communities have been wholly inadequate, and both the Orissa and the Indian governments have failed to respect and protect the human rights of local communities as required under international human rights law. Vedanta's subsidiary companies involved in the mine and refinery projects have ignored community concerns, breached state and national regulatory frameworks and failed to adhere to accepted international standards and principles in relation to the human rights impact of business.



Lanjigarh village in the shadow of the Vedanta alumina refinery

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At the public consultation for the environmental clearance for the project, local communities were not provided with any information on pollution or on the waste management structures that would be set up next to their villages. Nor were they informed of the associated risks for the environment.

‘The officials did not share in the ‘gram sabha’ [village or town council] meeting or elsewhere that there would be so much dust, chimney smoke, noise [and] that our river would become dirty.’

Two women who attended the village council meetings in June 2002.

The Dongria Kondh have not been given adequate and timely information on the proposed mining project. Contrary to international human rights standards, the Indian authorities did not obtain the free, prior and informed consent of the Dongria Kondh before approving the mine. At no point during 2002-2009, did the government or the companies involved consult with or make any attempt to seek the consent of the Dongria Kondh over the lease

of the lands or any other aspect of the Niyamgiri Hills mining project. In February and March 2003, the Indian authorities held public hearings on the proposed mine, but the Dongria Kondh communities living in and around the hills were not told about them, let alone invited to participate.

‘We have been living here for generations, how can the government now just say that it is their land and decide to allow mining without talking to us?’

Dongria Kondh resident of Lakpaddar, Niyamgiri Hills.

LOSS OF LAND

In 2003, the Orissa government ordered the compulsory acquisition of farmlands in Lanjigarh to enable the construction of the refinery. As a result, 118 families lost their homes and 1,220 families lost their farmlands and therefore their source of livelihood. During the land acquisition process, government officials misinformed the communities about the possible benefits of the project, promising that the company would provide jobs to every family who sold their lands. They also claimed the

area would be transformed, through the provision of electricity and water, into a ‘Bombay’, ‘Delhi’ or ‘Dubai’. In reality, only people from families that were fully displaced were guaranteed jobs. Others were only entitled to priority in employment and a few other benefits under the project’s relief and rehabilitation policy.

‘The company will provide jobs to every family who sells land.’

Kalahandi District Administration officials at village council meetings prior to land acquisition in 2002.

An area of 59 hectares of communal and forest land was purchased during the land acquisition. This has undermined livelihoods and disrupted traditional community practices. It has had a particularly negative impact on people who used the communal land to graze their cattle and gather food.

A 29-year-old woman resident of Lanjigarh, said: ‘It’s really getting tougher and tougher. I had four cows but have sold them, as I have no access to common grazing land. Previously, my cows used to graze where the factory stands. We had some amount of milk



Daka Majhi stands outside his house in Lanjigarh. Vedanta has been involved in controversial negotiations to buy land in the area.

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that was used for consumption and sometimes sold. Now, if we have money [we can] buy milk; otherwise milk is no longer a regular part of my family's diet.'

REFINERY EXPANSION: WHAT'S AT STAKE?

Despite the significant pollution problems associated with the refinery at present, in October 2007 Vedanta sought environmental clearance for a six-fold expansion of the facility's capacity. This would require the compulsory acquisition of an additional 1,340 hectares of land from about 800 families, largely from Majhi Kondh (an Indigenous community) and Dalit (people traditionally considered to belong to the so-called 'untouchable' castes) communities in the area. In light of the OSPCB findings on pollution and the negative impacts already experienced by the surrounding communities, such a massive expansion could greatly increase the risks to local communities and the environment.

The environmental impact assessment commissioned by Vedanta for the proposed expansion, however, completely fails to evaluate or even refer to the OSPCB reports documenting instances of pollution and the concerns of local communities. Fears about the

proposed expansion have also been heightened by the lack of information and a wholly inadequate consultation process, which have left many people in the dark about the project's impacts.

In April 2009, the Orissa government held a public hearing on the expansion plans. However, official documents detailing the findings of the OSPCB in relation to the current operations of the refinery were not shared with the affected communities. Video footage of the meeting, obtained by Amnesty International, also showed that the OSPCB staff present did not answer questions about pollution raised by local people during the meeting. Regulatory clearance for the refinery expansion is pending with the MoEF.

STATE OBLIGATIONS TO PROTECT HUMAN RIGHTS

The Indian government has breached its obligations to respect and protect the human rights of the Dongria Kondh and other communities affected by the mining and refinery projects.

The Orissa government has made no attempt to seek the free, prior and informed consent of the Dongria Kondh before granting a lease to mine in the lands they have traditionally

occupied and consider sacred. This contravenes India's obligations under the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the International Convention on the Elimination of all forms of Racial Discrimination, as well as standards expressed in the UN Declaration on the Rights of Indigenous Peoples. The Indian government has also failed to ensure that such a process has been set up before granting regulatory clearances to the mining project.

With the very existence of the Dongria Kondh as a distinct Indigenous people hanging in the balance, it is vital that the Indian authorities meet their responsibility to protect their human rights and way of life.

Although the OSPCB pollution control board has undertaken regular monitoring of the current refinery, it has failed to prevent the contamination or pollution of water and air, leading to violations of the right to water and health. Neither state nor national authorities have undertaken any kind of health monitoring of the communities, despite significant concerns being raised by local people. The Indian government has therefore



Pusika lives in Salpojola village in the Niyamgiri hills, Orissa, India, June 2008. She is one of the many people who will be adversely affected if Vedanta Resources gains permission to mine bauxite in the Niyamgiri Hills.

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failed to protect the rights to water and health of the affected communities, in breach of its obligations under the International Covenant on Economic, Social and Cultural Rights.

In relation to the refinery expansion project, the Orissa government has failed to provide adequate information to communities, assess human rights impacts and set up a process of genuine consultation with affected communities.

CORPORATE RESPONSIBILITY FOR HUMAN RIGHTS

Governments are responsible for protecting human rights, including when these rights are threatened by business operations. But governmental failure to protect human rights does not absolve companies of responsibility for the impact of their operations. Professor John Ruggie, UN Special Representative of the Secretary-General on business and human rights, said the emerging consensus on corporate responsibility for human rights is that companies should – at a minimum – respect all human rights.

Pollution associated with the refinery has seriously undermined human rights, including those to health, a healthy environment and water. Vedanta has

not taken adequate steps, in the words of Prof. Ruggie, ‘to become aware of, prevent and address adverse human rights impacts’ of its operations. The refinery fails to meet accepted national and international standards in relation to its environmental, social and human rights impact. Without addressing the existing problems, any move to expand the refinery could result in serious human rights abuses.

The proposed mining project in the Niyamgiri Hills, involving a Vedanta subsidiary company and the state-owned Orissa Mining Corporation, threatens the survival of a protected Indigenous community. However, these risks have been largely ignored and consultation with and disclosure of information to affected communities have been almost non-existent.

■ More information and latest developments:
www.amnesty.org.uk/vedanta

■ **TAKE ACTION**
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CONSENT REQUIRED

Article 32 of the UN Declaration on the Rights of Indigenous Peoples calls on countries to obtain the free and informed consent of Indigenous peoples before the approval of any project affecting their lands, territories and other resources, particularly in connection with the development, use or exploitation of mineral, water or other resources.

In relation to both the mine and the refinery expansion, both the state and national authorities have failed to provide appropriate information to communities, adequately assess the potential human rights impacts and set up a genuine process of consultation with the affected communities. The Indian government has granted clearance to the projects without taking all necessary measures to ensure the company’s activities do not infringe on the rights of the communities affected.

TAKE ACTION

Vedanta Resources, a UK-based mining firm, is threatening the human rights of Indigenous communities in the Indian state of Orissa. Let the company know that people in the UK are deeply concerned about its actions and urge the Indian government to protect the human rights of its citizens.

WRITE TO THE INDIAN GOVERNMENT

Write to India's Ministry of Environment and Forests urging them to uphold their duty to respect, protect and fulfil the human rights. Point out that both the mining and refinery-expansion plans have ignored community concerns, flouted state and national regulatory frameworks and failed to adhere to accepted international standards and principles in relation to the human rights impact of business.

- Express your deep concern regarding Vedanta's failure to consult with affected people thus riding rough-shod on their human rights
- Call on the Minister to ensure the free, prior and informed consent of the Dongria Kondh is obtained before granting clearance to mining in the Niyamgiri Hills; and ensure that clearance for the expansion of the refinery is given only after existing human rights and environmental concerns with the refinery are adequately addressed.

Mr. Jairam Ramesh – Minister of State for Environment and Forests
Paryavaran Bhavan, CGO Complex
Lodhi Road,
New Delhi 110 003, INDIA
Fax: + 91 11 2436 2222
Email: mosef@nic.in

Salutation: Dear Minister

WRITE TO VEDANTA RESOURCES

Make sure that Vedanta's management knows that people here are outraged by the company's refusal to adequately consult Indigenous and other traditionally marginalised communities in Niyamgiri and Lanjigarh about projects that directly impact their lives.

- Express your concerns about the threat to the Dongria Kondh's lives and livelihoods as well as their cultural identity resulting from Vedanta's proposed mining project.
- Express your concerns about the environmental and health impacts of the refinery on communities in Lanjigarh.
- Call on Vedanta to address existing human rights abuses linked to the Lanjigarh refinery; halt refinery expansion until full, impartial and adequate assessments of the human rights implications of the proposed projects are carried out in genuine consultation with the affected communities; and halt mining plans and related activities in the Niyamgiri Hills until the Dongria Kondh provide free prior and informed consent to the project.
- Mr Agarwal is known as a philanthropist and yet a subsidiary of his company is adversely impacting the rights of some of the poorest and most marginalised.

Anil Agarwal
Executive Chairman
Vedanta Resources UK
16 Berkeley Street
London
W1J 8DZ

Salutation: Mr Agarwal

'Our message to the company and Sarkar [the government] is simple. We will sit together, us Dongria people, and decide directly.'

SM, Dongria Kondh woman

Amnesty International UK
The Human Rights Action Centre
17-25 New Inn Yard
London EC2A 3EA

020 7033 1500

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