

# Vedanta Resources PLC. A Case Study on Lack of Focus on Social Issues & its aftermath at Lanjigarh, Orissa

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## Abstract

*With the rapid pace of globalization, firms are increasingly buying and selling goods and services or investing funds across the globe. These multinational corporations are accountable for their actions that affect people, communities and environment where they operate. Any business that pursues its ends at the expense of the society in which it operates will find its success to be illusory and short-lived. This is a situation case wherein the firm Vedanta Resources Plc has had to contend with the tribal community's backlash owing to their lackadaisical approach towards fulfilling their social obligations. Vedanta's neglect of ethical and social concerns proved detrimental to their operations in the long run with the Apex Court's intervention which held the communities interest to be of prime importance.*

## INTRODUCTION

On August 13, 2013 two days before India celebrated its 67<sup>th</sup> Independence Day, a tiny village deep inside the forests of Orissa tasted the fruits of freedom. Hordes of social workers, government functionaries, research scholars and journalists thronged to the village Khambesi inaccessible by roads and rail networks to witness the proceedings of the gram sabha. The purpose of the meeting was to decide whether a joint venture of state run Orissa Mining Corporation (OMC) and Vedanta Aluminium Limited be allowed to extract bauxite from Niyamgiri hills. Khambesi is one of the dozen villages inhabited by Dongria Kondh and Kutia Kondh tribes in Rayagada and Kalahandi districts where the gram sabhas were held. In the meeting held under heavy security cover of State police and central paramilitary forces the tribals in Orissa's Niyamgiri hills out rightly rejected Vedanta's bauxite mining project in a landmark referendum. The gram sabhas unanimous rejection is not the last word, but it, will certainly influence the central governments final decision on granting Forest clearance for the mining lease.

Mr. Anil Aggarwal a London based billionaire spotted

an opportunity in mining bauxite in Niyamgiri and refining it in the vicinity with the aim of achieving one of the most economical operations in the global aluminium industry. He sought to make Vedanta a mining giant comparable with the world's largest, the Australian BHP Billiton. The plant was expected to coincide with the anticipated surge in demand for aluminium. Also though Odisha has substantial deposits of bauxite – due to local resistance it has never been commercially mined. Without acquiring the requisite clearances to mine Niyamgiri, Vedanta built its infrastructure with speed and aggression. A move which backfired, as the tribals had resisted the company's presence in the region for years and much of the land Vedanta Aluminium Limited (VAL) - the associate company set up for the project – required was forest land, and hence required clearances.

## CASE BODY

**Vedanta Resources plc** is a global diversified metals and mining company headquartered in London, United Kingdom. It is the largest mining and non-ferrous metals company in India and also has mining operations in Australia, Namibia, Ireland, Liberia, South Africa and Zambia. Its main products are copper, zinc, aluminium, lead and iron ore.

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The company invested Rs. 5,000 crore to set up an alumina refinery with a capacity of one million tonnes a year amidst the lush forests of Niyamgiri mountains in a small-town called Lanjigarh in Kalhandi district, Odhisa. The investment in the plant was rightly made on the basis of assured supply of bauxite, but owing to the failure in getting access to the much needed raw material the company shut down the refinery in December 2012 and resumed partial production only in July 2013. Getting mining access from Niyamgiri was also vital for the company's plans to expand the refinery to 5 million tonnes. Retrospectively Vedanta's troubles started with denial of forest clearance by the Environment Ministry in August 2010; subsequently Odisha Mining Corporation (OMC) with which the company had signed an MOU for bauxite supply challenged the decision in the Supreme Court. The apex court directed the tribal gram sabhas of Rayagada and Kalahandi districts to decide where they stood on the proposed mining project. The court also directed the Ministry of Environment and Forest (MoEF) to take a final decision on the expansion plans of the company after the report from the gram sabhas was received.

With all of the 12 gram sabhas unanimously rejecting downright the proposal to mine bauxite at Niyamgiri, the company in all likelihood would have to scout elsewhere for bauxite. The rejection contradicts the claims made by the company that the vast majority of the local population including the indigenous people, the wider population of Orissa and other important stakeholders welcomed the setting up of the project.

#### **COUNTDOWN TO THE STALEMATE**

It all started with a memorandum of understanding (MOU) of a mining project between London-based billionaire Anil Aggarwal's Sterlite Industries of India Limited and the Odisha Government in October 1997. For the timeline of the project refer to Table No I.

#### **VIOLATION OF REGULATORY FRAMEWORK**

To start with, the companies involved (refer table no. II) had conceptualized alumina refinery and the bauxite mine as one project in 2003, Sterlite India had applied to the MoEF for environmental clearances for the refinery and mine. In March 2004, MoEF decided to consider the two clearances together since the functioning of the refinery would be dependent on the mining proposal. However, Sterlite India sought

environmental clearance for the refinery alone citing the reason that building the refinery would take three years whereas mine would be built in a year's time. Finally on 22 September 2004, the MoEF granted environmental clearance for the Lanjigarh refinery alone.

Initially Sterlite India's application had only sought environmental clearance and there was no mention of forest clearance for the refinery. However on 16 August 2004, Sterlite sought separate permission under the Forest Conservation Act, for the diversion of 30 hectares of protected forest land and 29 hectares of village common property resource land. The clearance was sought for setting up of a conveyor transportation system that would be used for transporting bauxite from the mines to the alumina refinery. Vedanta Aluminium started construction of the pillars for proposed conveyor belt from mine to the refinery prior to getting the approval. In November 2004, Odisha Government found out that the company had encroached upon the common village land without the regulatory clearances. On 23<sup>rd</sup> May 2005 MoEF ordered construction work at the refinery to stop. The company withdrew its application for diversion of protected forest land for the construction of the refinery and argued that refinery could be built without using the forest land.

By 2006, the construction of the refinery was complete and operations commenced with the bauxite brought from the states of Chhattisgarh, Gujarat and Tamil Nadu. In October 2007 Vedanta Aluminium approached MoFE for environmental clearance for a six fold expansion of the refinery's capacity but started work prior to receiving the clearances. On 12 January 2009, Orissa State Pollution Control Board (OSPCB) ordered Vedanata Aluminium to cease all the work related to expansion as the company did not have the required permissions. However OSPCB noted on 31 March 2009 that the construction work still continued.

A four member panel set up by the government of India in the MoEF submitted its report on 16 August 2010 stating that the company had consistently violated the Forest Conservation Act (FCA), Forest Rights Act (FRA), Environment Protection Act (EPA) and Orissa Forest Act. Subsequently in August 2010, MoEF decided to reject Vedanta's proposed mine and

also suspended the clearance process for the alumina refinery expansion. Orissa Mining Corporation a joint venture partner of Vedanta challenged the ministry's rejection in Supreme Court of India.

## **ODISHA: STATE PROFILE, HIGHLIGHTING THE NEED FOR SOCIO-ECONOMIC UPLIFTMENT**

### **The importance of Odisha in the aluminium industry**

Orissa is one of the most mineral-rich states in the country. Its geology means it is one of India's major sources of bauxite, estimated at 1,742 million metric tons or about 60% of all national reserves. It has 90 per cent of India's chromite and more than a third of iron ore reserves. Not surprisingly, the state earns massive revenue from minerals. Its non-tax revenue from mines surged to Rs5, 695 crore in 2012/13 from Rs3, 300 crore two years before. Map 1 below shows the location of the Kalahandi district in Odisha.

### **Economic and social conditions in Odisha**

The Kalahandi District where the Lanjigarh Project is located is one of the poorest in the State. About 37% of the land mass of Odisha is forests and they are vital for many tribal people as they are often their main source of livelihood. In the 1990s, about 23.5% of the state's population was classified as tribal peoples, of which the Kondh are the most populous, numbering about one million people.

### **Refer to Figure Number I highlighting the geographical location of the district of Kalahandi, where Lanjigarh is located, in relation to other districts within Orissa.**

This background of extreme poverty has meant that from the early days of independence, local community and political leaders have been pressing for investment in industrial development, to reduce the chronic impoverishment of the area. On 28 November 1996 the MP for the Kalahandi Lok Sabha Constituency, Bhakta Charan Das, delivered a speech in the Lower House of the Indian Parliament pointing out the devastation caused by drought in the district and the lack of infrastructure development saying that:

*"The Government of India and the Orissa Government should take a keen interest to set up at least a large alumina plant*

*because we have got a heavy deposit of bauxite in Niyamgiri and Sijimalli of Kalahandi district. Several discussions have been held at the State and Central level. But there has not been any alumina plant. If there is an alumina plant, then a minimum of 40,000 people can be sustained out of the different kinds of earnings. From that, sir, I am suggesting some permanent measures. This is a chronic problem."*

*Source: Lok Sabha Debates Session III (winter) Thursday, November 1996*

Orissa has been encouraging steel, aluminium and power companies to set up factories, promising them mines to extract iron ore, bauxite and coal. Critics say the state government signed pacts with various companies promising them thousands of acres of land without taking into account the concerns of locals.

### **VEDANTA MINING PROJECT: A THREAT TO THE SURVIVAL OF INDIGENOUS COMMUNITY**

Niyamgiri hills are home to several primitive tribes that have special status in the Indian Constitution as among the most vulnerable indigenous communities with distinct culture and customs. To this tribe, Niyam Dongar hill is the seat of their God Niyam Raja, and the group's sense of identity and community is intrinsically linked to residing on the hills. Vedanta Resources wants to mine the bauxite from the top of the same mountain, for this the company plans to construct an open pit mine on the hill whereas the Dongria Kondh do not even cut trees or cultivate the top of the hill as they believe that their deity Niyam Raja Penu lives there. They also believe that this male deity provides water which sustains all plant, animal, human life in the hills and reaches the earth. Residents say that a mine blast on the mountain would be like an attack on their deity.

Central Empowered Committee (CEC), a body set up by the Supreme Court of India to monitor and ensure compliance with forest conservation orders, investigated three separate petitions that were filed against Vedanta. Petitioners allege that the tribal populations of Niyamgiri have a deep spiritual, emotional and cultural attachment to their ancestral land. Summarising the allegations, the CEC report says: "A highly endangered primitive tribe – the Dongria Kondhs – whose population is less than 6000 reside in the Niyamgiri hills. They are dependent on farming

/ agro forestry and have no other source of livelihood. Niyamgiri Hill is a sacred hill for the Dongari Kandha tribe. They do not cultivate on hilltop out of respect and the hill is worshiped..”

### **ENVIRONMENTAL DAMAGE**

The river Vamsadhara, which originates in the nearby Niyamgiri hills, runs at a stone's throw from the plant. The river and the streams flowing from Niyamgiri are the main sources of water for local people; they use it for drinking water, personal use, and irrigation and for their cattle. Two red mud ponds and the ash pond are situated at a distance of 1 km and 300 metres respectively from the river streams and the dirty water pond is just adjacent to the river. Red mud, toxic slurry, is the refinery's main waste product. It dries in the sun to become a fine dust that villagers say engulfs and suffocates their crops. Sterlite India obtained clearances to operate the refinery in Lanjigarh on the basis that the refinery would be designed to ensure “zero discharge.” However the alkalinity of the Vamsadhara River downstream of the refinery had increased primarily due to the seepage, leakage or discharge of highly alkaline water from the plants waste storage facilities. Water with a high pH value can cause irritation of the skin and the water pollution caused by the plant is proving to be a serious health concern for the residents of the area. Also Suspended Particulate Matter (SPM) concentration in the ambient air at the villages surrounding the refinery was found to be more than the standard prescribed for residential areas. Such high concentration in the areas is due to emissions from the combustion sources which were not getting properly discharged in the atmosphere.

### **INFORMATION AND CONSULTATION PROCESSES UNDER ENVIRONMENTAL LAW**

India's environmental and forest laws make it mandatory for companies to obtain prior clearances for new industrial projects involving major changes in land use patterns. The MoEF evaluates applications and grants clearances. The Forest Conservation Act, 1980, regulates forest clearances, while regulation under the 1986 Environment (Protection) Act governs environmental clearances. Under Indian environmental laws state-level pollution control authorities are required to set up public consultations with the local communities likely to be affected by projects that will affect the environment. The

authorities, after giving due notice, hold public hearings at a location close to the proposed project site and seek written responses from other concerned persons having a “plausible stake” in the project's environmental aspect. These public hearings are the only official opportunity for affected communities to obtain information about the project's potential risks and likely negative impact and make their views known.

There has however been no meaningful effort by the government of India, the state government of Orissa and the companies involved (Vedanta Aluminium and Sterlite India, the Orissa Mining Corporation and the South-west Orissa Bauxite Mining Corporation) to provide information to or consult with the Dongria Kondh, let alone attempt to seek their consent for the mining project. Although authorities in Orissa had signed an agreement with Sterlite India for the Lanjigarh alumina refinery-Niyamgiri bauxite mining project in April 1997, neither the state or national governments nor the companies involved in the mining project took any steps to specifically notify or meet with the Dongria Kondh communities. Considering the remoteness of the locations where they live and the fact that most of them are illiterate, general notices published in bigger towns of Kalahandi and Rayagada districts and newspapers were inaccessible to these communities.

### **LACK OF ADHERENCE TO INTERNATIONAL STANDARDS AND PRINCIPALS OF HUMAN RIGHTS**

“Water is a limited natural resource and a public good fundamental for life and health ...Water is required ... to realize many of the Covenant rights. For instance, water is necessary to produce food (right to adequate food) and ensure environmental hygiene (right to health). Water is essential for securing livelihoods (right to gain a living by work)” *UN Committee on Economic, Social and Cultural Right*

**Right to water:** As a party to the International Covenant on Economic, Social and Cultural rights, India is under an obligation to ensure the availability of sufficient, safe, acceptable water for personal and domestic uses. The failure to enact or enforce laws to prevent the contamination of water would constitute a violation of the right to water.

**Right to Health:** Right to health embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life and extends to the determinants of health such as access to safe and potable water and a healthy environment.

**Rights of indigenous people:** India is under an obligation to protect the rights of indigenous people over the lands and territories they traditionally occupy. The proposed bauxite mining project, threatens the survival of a protected Indigenous community. In particular, the proposed mine could have grave repercussions for the Dongria Kondh communities' human rights to water, food, health, work and other rights as an Indigenous community in respect of their traditional lands.

Pollution associated with Vedanta Aluminium's refinery has seriously undermined human rights, including the right to health, a healthy environment, and the right to water. Without addressing the existing problems, any move to expand the refinery could result in serious human rights abuses.

For Vedanta, the ambitious project in Odisha has thrown one challenge after another. Vedanta's lack of focus on social issues has contributed to make Anil Agarwal's Rupees 50,000-crore blueprint a case study in how not to go about executing a mega project in India.

## QUESTIONS

1. In the light of the above case discuss the implications of lack of social responsibility of Multinational Corporation like Vedanta Resources Plc. towards the community and the country where their facility is located?
2. Since Industrial development is the need of the hour in Odisha, what role should the policy making bodies play to ensure a smooth setting up and running of industrial establishments in the state?
3. Suggest measures that should have been adopted by Vedanta to possibly avoid the backlash of the community.
4. In your viewpoint in the light of the above judgment by the apex court what options are left with Vedanta to ensure adequate availability of bauxite?

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### Table number: I - Timeline of the Project

**June 2002:** Land acquisition for the refinery was initiated that affected land owners in 12 villages in Lanjigarh area. Two public meetings were convened by the Kalahandi district administration at Lanjigarh and Baterlima on 26<sup>th</sup> June 2002. The compulsory land acquisition was complete within two weeks of these meetings.

**September 2004:** Ministry of Environment and Forest (MoEF) granted environmental clearance for the refinery. Even as MoEF was processing Sterlite India's application for environmental clearance for the refinery the company initiated another application for further diversion of forest land. Protests started commencing against the bauxite mining project.

**October 2004:** Further compulsory land acquisition by Vedanta for the airstrip and railway corridor started, construction also began on the refinery.

**December 2004- February 2007:** Supreme Court-appointed Central Empowered Committee (CEC) to investigate violations of environmental and forest laws and concluded that the refinery project was given environmental and forest clearances based on "inaccurate information". It also recommended that bauxite mining should not be allowed in the Niyamgiri Hills, an ecologically-sensitive territory.

**May 2005:** MoEF ordered Vedanta Aluminium to stop construction work of the refinery as it violated forest laws. Vedanta Aluminium withdrew application for diversion of forest land for the refinery.

**Mid 2006-early 2008:** Vedanta Aluminium completed refinery construction and, after trials, commenced alumina production, gradually increasing to full capacity.

**Mid 2006-late 2008:** OSPCB, in 16 reports, documented periodic air and water pollution and environmental damage caused by the refinery; protests started from communities around the refinery.

**October 2007:** Vedanta Aluminium sought environmental clearance for six-fold expansion of the refinery.

**November 2007:** Supreme Court stayed the mining project.

**August 2008:** Supreme Court cleared the mining project by Sterlite India-Orissa Mining Corporation with certain conditions on sustainable development of local communities, protection of environment and conservation of wildlife.

**December 2008-April 2009:** MoEF granted "in principle" environmental clearance for the mining project.

**January 2009:** OSPCB ordered Vedanta Aluminium to stop construction linked to the expansion of the refinery without proper clearance.

**April 2009:** OSPCB conducted public hearing on the refinery expansion and reported to the MoEF that local communities favoured the project, despite significant opposition, questioning and protests.

**May 2009:** Local communities filed petition in the National Environmental Appellate Authority (NEAA) against the MoEF decision to grant environmental clearance for the mining project. Clearance by the MoEF to the mining project of Vedanta on April 28, 2009 despite widespread protests.

**August 2010:** Temporary withdrawal of clearance rights by the MoEF on the recommendations of FAC

**2011:** OMC moved Supreme Court challenges MoEF 2010 order rejecting the Stage-II forest clearance for diversion of 660 ha of forest land for mining bauxite

**April 18, 2013:** Landmark Supreme Court order which asked the Orissa Government to place the issue before tribal gram panchayats

**August 2013:** All of the 12 panchayats unanimously voted against the Vedanta's mine which dealt a death blow to the company's mining plans in Odisha state.

**Table number: II The companies involved in the Project**

**THE COMPANIES INVOLVED**

**Vedanta Resources Plc.** a global diversified metals and mining company headquartered in London, United Kingdom. It is the largest mining and non-ferrous metals company in India and also has mining operations worldwide.

**Sterlite Industries India Limited** headquartered in Mumbai, has been a public listed company in India since 1988. Vedanta Resources owns 59.9 per cent of Sterlite India and has management control of the company.

**Vedanta Aluminium Limited** headquartered in Lanjigarh, Orissa. Vedanta Resources owns 70.5 per cent of the share capital of Vedanta Aluminium and Sterlite India owns the remaining 29.5 per cent share capital.

**Orissa Mining Corporation:** Wholly owned by the State of Orissa, this company mines chrome, iron and manganese, and has joint ventures with major mining companies to mine iron ore and bauxite.

**South-west Orissa Bauxite Mining Corporation:** A new joint venture formed in early 2009, of which Sterlite India would hold 74 per cent shares and Orissa Mining Corporation 26 per cent, to mine bauxite in Niyamgiri for the next 25 years.

**Figure Number I**

