

## THE DYNAMICS OF NIYAMGIRI MOVEMENT

**Ambuja Kumar Tripathy**

Associate Professor, University of Delhi

### **Abstract**

Niyamgiri movement in Odisha is a major example of collective action and oppositional political activism in recent times. Based on empirical research on Niyamgiri movement, this paper seeks to analyse the dynamics of the movement and thus contribute to movement studies. The Niyamgiri mining project in Kalahandi district of Odisha involving the endangered Dongria Kondh has brought into light the issues of displacement and rehabilitation along with cultural implications of development projects. Niyamgiri movement originated as a response to this bauxite mining project of Vedanta Alumina. It confronted the state and elites. Leadership emerged, mobilizing structures were made, collective identity was constructed, and arguments against mining were put forth. The movement also endured efforts at suppression. Finally, the Supreme Court Judgment in 2013, calling Niyamgiri villagers themselves to decide about the mining project, came as a landmark. The villagers unanimously voted against mining. Niyamgiri movement has lasting impacts. However, the movement is still navigating through turbulent waters.

**Keywords:** Development, Gram Sabha, Mining, Niyamgiri, Odisha, Rehabilitation

### **Introduction**

Niyamgiri movement is arguably one of the most important social movements in contemporary India. This movement is an instance of local resistance against the Vedanta mining project in contemporary Odisha. While the issues it throws up at a local level are closer to wider concern about the dangerous consequences of the neoliberal development project as followed vigorously across the world. The movement developed in the state of Odisha in eastern India where mining-led industrial development is the predominant strategy to exploit various mineral resources, especially bauxite. Odisha government is trying to lease out the bauxite mines to various companies to establish aluminium industries in the state. The agreement signed between the Odisha Mining Corporation (OMC) and Vedanta Alumina to start bauxite mining in Niyamgiri is one major case in point.

The major deposits of bauxite among other mineral resources are located in Odisha. The total production of Bauxite in India was 21666011 tonnes during the year 2013-14(P). The production of Bauxite in Odisha was 7635195 tonnes during the year 2013-14. It was 35.24% of the total production of Bauxite in India during the year.<sup>1</sup> More than 95 % of bauxite resources of the Odisha come under East Coast Bauxite (Eastern Ghats Mobile Belt) located in Southern and Western part

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<sup>1</sup> 'Production of Bauxite in Various States in 2013-14', March 22, 2016, available at <https://community.data.gov.in/production-of-bauxite-in-various-states-in-2013-14/>, last accessed on February 12, 2023.

of the state i.e. Koraput, Rayagada, Kalahandi, and Bolangir districts.<sup>2</sup> The site for bauxite mining, Niyamgiri mountain is spread over 250 sq km in Rayagada and Kalahandi districts.

Based on ethnographic research and analysis of primary and secondary sources, this paper takes up one the case of Niyamgiri movement in the state of Odisha and analyzes the implications of local resistance and intervention by the court for the development projects imposed from above. It is in this spirit that the discussion of this paper is presented. Through an analysis of the arguments against the Niyamgiri mining project and significance of the final court judgment, the paper aims to contribute to the ongoing debate on development and displacement. As stated above, this paper is ethnographically informed. I collected my data through a combination of methods such as study of secondary sources and interviews and discussions in the field. It involved documenting developments in the area of study (villages located at the top of Niyamgiri mountain as well as those at the foot of the mountain) through contemporaneous field notes and photographs of important events and places as well as audio and video recordings of meetings, interviews, and discussions. In some cases, I also collected data through semi-structured interviews.

The organization of the remaining part of this paper is as follows. The following section contains an overview of the Niyamgiri mining project and emergence of local resistance against mining. I then examine opposition to bauxite mining in Niyamgiri on the basis of two lines of arguments—an absolute no to mining in Niyamgiri and demand for fair compensation and resettlement related to refinery. I also discuss the importance of the Supreme Court judgment in this context. In the year 2013, the Supreme Court handed down a judgment on Niyamgiri mining with far-reaching with profound implications for mining-based development, particularly in the remote tribal areas. Finally, I provide concluding remarks with suggestions for further research.

### **Niyamgiri: Mining and Local Resistance**

Niyamgiri mining project began with the signing of a memorandum of understanding (MOU) in 1997 between the Government of Odisha and Sterlite Industries India Limited (SIIL), a subsidiary of Vedanta Resources for establishing a bauxite mine on the plateau atop Niyamgiri mountain as well as an associated alumina refinery plant at the foot of the mountain, near the town of Lanjigarh in Kalahandi district of Odisha. This was followed by an official agreement signed in 2004 between Odisha Mining Corporation (OMC) and Sterlite Industries for the purpose of mining of bauxite reserves in Niyamgiri. Vedanta Aluminium Limited (VAL) is a subsidiary of the British based and globally-diversified mining group, Vedanta Resources.

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<sup>2</sup> 'Bauxite Resources of Odisha', Directorate of Geology, Department of Steel and Mines, Government of Odisha, 2010 available at [http://www.orissaminerals.gov.in/Download/BauxiteResources\\_Orissa.pdf](http://www.orissaminerals.gov.in/Download/BauxiteResources_Orissa.pdf), last accessed on January 7, 2018.

VAL had plans to mine over 1 million tonnes of bauxite a year from reserves within Niyamgiri mountain. The Rapid Environmental Impact Assessment (REIA) report prepared by Mumbai based AIG Risk Management Services Limited for Sterlite industry mentions that the estimated bauxite reserve in the lease area is about 73 million tons and the estimated life span of the mining is 23 years. The proposed mining site is located on the top of Niyamgiri hills. According to the letter of Rayagada district forest officer, the total forest area required for mining is 672.018 hectares, out of which 660.749 hectares (98.32% of total mining area) will be diverted for mining and other ancillary activities of the project. The proposed mining area is situated in Niyamgiri reserve forest of Kalahandi (South) forest division and Khambesi and Nimagiri proposed reserve forest and protected forest of Rayagada forest division. In addition, Odisha Industrial Infrastructure Development Corporation Limited has already acquired 775.5 acres of land from 6 villages namely Kinari, Borbhata, Bandhaguda, Kothadwar, Bundle, and Sindhabhal to lease out to Vedanta Alumina Limited required for setting up the alumina refinery plant at Lanjigarh, which includes 64.55 acres of village forest.<sup>3</sup>

As already stated, VAL had plans to mine bauxite at the top of Niyamgiri mountain and establish an alumina refinery in Lanjigarh. While VAL could not start its captive mining operations in Niyamgiri mountain given the Union Environment Ministry's rejection of stage-II forest clearance to the mining project in 2010 and the Supreme Court ruling in 2013, its Lanjigarh refinery is operational since 2007. We will discuss the concerned judgment of the Supreme Court later. Vedanta's proposed expansion of 1 million tonne per annum (MTPA) alumina refinery to 6 MTPA was stalled by the Union Ministry of Environment and Forests (MoEF) in 2012 following a report from the Saxena Committee that criticized VAL for carrying out the expansion program without any environment clearance. Currently, VAL is completely dependent on externally-sourced bauxite to run its 2 MTPA capacity alumina refinery in Lanjigarh.

The Niyamgiri movement emerged as an expression of the Adivasi (*Dongria Kondh* who are hill dwellers<sup>4</sup>, *Jharnia Kondh* who live near the streams in the mountain, and *Kutia Kondh* who live in the plains at the foot of the mountain), Dalit, and other communities who have lived in and around Niyamgiri for generations in order to resist Vedanta's refinery at Lanjigarh and bauxite mining on Niyamgiri mountain. With a demand for immediate scrapping of mining permission and protecting people's rights to land, forests, culture, and livelihoods in Niyamgiri, the local communities have been resisting the destruction of their forests, the fragmentation of their community, the decimation of their culture and religious beliefs, the loss of their livelihoods. Niyamgiri movement acquires a

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<sup>3</sup> Technical details were given by the NGO (Non Governmental Organization) Vasundhara in Odisha. Vasundhara has done extensive studies on the technical aspects of Niyamgiri mining project. Their reports are available at <http://vasundharaodisha.org/Researchreports02.asp>, last accessed on December 27, 2021.

<sup>4</sup> 'The total Dongria Kondh population in Rayagada district is 7,722 (4,443 women and 3,279 men) living in 1, 892 families. They live in 98 villages with extremely minimal infrastructural facilities' (2016 baseline survey by Scheduled Castes and Scheduled Tribes Research Training Institute as cited in Nanda, D. K. and B. Jojo. 2023. 'Ten Years After SC's Landmark Judgment, Dongria Kondhs in Niyamgiri Still Suffer'. *The Wire*. October 24.

unique character in the sense that the movement is not only about the economic and ecological issues but also about the fundamental beliefs and issues central to the existence of the Dongria Kondh- officially known as primitive tribal group (PTG)<sup>5</sup> earlier and now renamed as particularly vulnerable tribal group (PVTG).

After the MoU was signed between Sterlite India and OMC to mine bauxite in Niyamgiri and start a refinery in Lanjigarh, survey work started. In the year 2002, land acquisition began for the Lanjigarh refinery. And protest against the mining project of Vedanta began in 2004. In this context, Siva (2010) argues:

*The objective was always to mine the Niyamgiri bauxite, but seeing the resistance, Sterlite, the earlier avatar of Vedanta, denied any link between the refinery and the mine, and applied to the ministry of forests and environment for an environmental clearance for the refinery. In its application the company provided wrong information to the effect that the refinery would not require forest land, and the refinery started in 2004. The Dongria Kondh and other tribes inhabiting the Niyamgiri forests have been resisting the threat of mining of bauxite and the aluminium refinery in their sacred mountain ever since.*

Niyamgiri movement found mounting support from residents of nearby areas and from local, national and international activists. Amnesty International came out with a report against the mining project. Community representatives and campaigners supporting the cause came together as *Sachetan Nagrik Manch*- Forum of Conscious Citizens. Also the movement created its organization- *Niyamgiri Surakhya Samiti* (Niyamgiri Protection Committee). Niyamgiri Surakhya Samiti and Sachetan Nagrik Manch appealed to the state government, Parliament, MoEF, and finally Supreme Court. The campaigning groups of the movement have made the following demands:

- Vedanta must halt all mining and refining activities in Lanjigarh and the Niyamgiri mountain area. This should include a halt to further construction work and deforestation and any transportation of bauxite.
- The government of India and the government of Odisha must recognize that the project represents a fundamental violation of Indian environmental and human rights laws.
- The government of India must ensure that all mining related activity, current and proposed, which involves displacement of indigenous communities, is brought in line with the International Labor Organization (ILO) Convention 169 which protects identity and land rights of indigenous people. The government of India must also ratify this convention.

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<sup>5</sup> This classification of the Government of India is based on the criteria as suggested by Dhebar Commission (1960-1961): a pre-agricultural system of existence, which is practice of hunting and gathering, zero or negative population growth, extremely low level of literacy in comparison with other tribal groups. In 2006, the Government of India renamed "Primitive Tribal Group (PTG)" as "Particularly Vulnerable Tribal Group (PVTG)".

- The state must effectively enforce the Forest Rights Act (FRA) of 2006. This Act recognizes that the rights of ‘scheduled tribes and other traditional forest dwellers’ over their habitat should be implemented.
- In order to protect communities everywhere facing abuses by corporations, global minimum human rights standards for companies must be developed within the United Nations (UN), backed by international complaints mechanisms for communities to seek justice at the United Nations Human Rights Council.

### **Opposition to Mining**

Against this background, we need to see opposition to mining in Niyamgiri. Opposition of the Niyamgiri movement to the Vedanta position needs to be examined in two important ways- some arguments pertaining to mining in Niyamgiri and another few arguments in connection with refinery in Lanjigarh- even though there are considerable overlaps between the two. In that order, the first set of arguments can be broadly put under the heading ‘unequivocal no to mining’ and the second set of arguments can be placed under the heading ‘fair compensation and rehabilitation argument’.

#### **A. Unequivocal No to Mining**

Unequivocal no to mining is premised on certain arguments that touch upon cultural concerns of the local communities and ecological sustainability. From the cultural viewpoint the Niyamgiri mountain, which is going to be adversely affected by the proposed bauxite-mining project, happens to be home to the Dongria Kondh- one of the country’s most distinctive and traditional Adivasi communities. The mountain is the ancestral domain of the Dongria, Jharnia, and Kutia Kondh and the social, economic and cultural life of these communities is closely linked with the Niyamgiri hills. Their life and livelihoods and most importantly their beliefs and identity are associated with the mountain. Thus the Niyamgiri mountain is central to the existence of the Kondh, especially the Dongria Kondh. The proposed mining area that falls on the top of the Niyamgiri hills is one of the most sacred places of the Dongria Kondh. They believe that their chief god ‘*Niyam Raja Penu*’ and other gods and goddess live there. And from this elevated location, it is easy for their highest god ‘*Niyam Penu*’ to observe their activities and protect them from all the difficulties. The Dongria are deeply convinced that the principles of forest management originated from Niyamgiri Penu. It was Penu who originally formulated specific restrictions on hunting of wildlife, cutting and felling of large trees, excessive slashing, and destruction of forest vegetation. Hence any activity leading to destruction of forest in the mountain is considered as a taboo as that would go against Niyam Raja’s sovereignty and omnipresence. Jagger (2011) observes:

*If Vedanta's bauxite mining project is allowed to go ahead 'it will endanger the very survival of the Kondh, a unique and already vulnerable tribe who have lived there for generations. They rely on the forest and streams to graze livestock and gather food, medicines and vital drinking water. The lush forests of Niyamgiri mountain are a pristine ecosystem of great conservation significance. So important is the local*

*environment to the Kondh that they consider the mountain to be a living God and claim that their spiritual, cultural and economic well-being are embedded deep within it.*

In addition to the sacred aspect, the cultural viewpoint has another very critical aspect, i.e. the law aspect. Etymologically Niyamgiri means the mountain (*Giri*) that upholds the Earth and the law of the Universe (*Niyam*). Hence the hill is also considered sacred by the Kondh as Niyam Raja being 'the king of law'. The Dongria Kondh and other forest communities in the mountain live under the law of Niyam: "*Niyam made the fruit and grains and said- 'Now live on what I gave you. Not a single tree shall be cut, not a single animal killed'.*" Thus the movement leaders argue that if the proposed project is implemented, local communities shall lose their precious home, culture and heritage and ultimately would be left without identity. 'Since ages Niyamgiri has not only been the source of livelihood for the Adivasi communities;, Lada Sikaka (president of Niyamgiri Surakhya Samiti) said, 'but also the backbone of their life and culture. The Niyamgiri mountain is our life and we can sacrifice our lives for its protection.'<sup>6</sup>

Then several key environmental issues are involved in the Niyamgiri mining project. First, a total of 660.749 hectares of forest land would be diverted for mining bauxite. The Niyamgiri mountain is one of the most ecologically biodiverse areas of the country with its wide range of flora, fauna, rivers, and streams. The proposed mining area is located on a plateau at the top of the Niyamgiri hill, which includes some reserved and protected forest blocks such as Niyamgiri, Nimagiri, Khambesi, and others. And the alumina refinery plant is situated at the footstep of the Niyamgiri hill near Lanjigarh. The approach road to the proposed mining site and conveyor belts for transporting of ore from the mining site to refinery plant pass through very dense and rich forests.

Moreover, since proposed mining is open cast mining it will generate high noise during excavation, drilling, transportation, blasting, and crushing operations. It will also pollute the air through emissions from various sources like drilling, blasting, transportation, and crushing operations. The constant traffic on the road by the heavy machinery and trucks, continuous operation of machines, blasting, and run-off water from the mining site during the monsoon season would destroy the rich ecosystem of the Niyamgiri hills and lead to the destruction of wildlife natural habitat.

Bauxite deposits are situated on the upper portion of hills as 'caps'. They are by nature porous and permeable, which makes them good retainers of ground water. This water manifests itself in the form of perennial streams where the bauxite layers meet the underlying impermeable layers of laterite. Located at great heights, they effectively act as overhead aquifers, feeding the rivers with water during the lean season. Thus perennial streams owe their origin either directly or indirectly to the bauxite caps. Mining of bauxite will destroy the aquifers. This will result in the drying up of about 36 streams, underground water resources and major rivers such as *Vamsadhara* and

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<sup>6</sup> Interview with Lada Sikaka in Patsala village on February 25, 2012.

*Nagabali*. The rivulets coming across these hills are source of water for the local communities. Any mining in this area is bound to destroy the biodiversity and affect the availability of water for local people.

Furthermore, it needs to be seen what real benefits could be there from such mining. The mined bauxite is supposed to feed the nearby Vedanta alumina refinery in Lanjigarh. The company has plans to expand the capacity of the refinery from 1 million tonne per annum (mtpa) to 6 mtpa. Baviskar (2012) points out:

*It takes 3 tonnes of bauxite to make 1 tonne of alumina. Using 18 million tonnes of bauxite every year, Vedanta's 6 mtpa refinery would exhaust the ore in less than four years. The profits would be repatriated abroad and the area devastated forever. If that's investing in India's prosperity, we can do without it.*

Then there is the major issue of water consumption in the mining process. Each tonne of alumina generates one tonne of waste and needs 250 kilowatt hours of electricity. And smelting one tonne of aluminium consumes 13,500 kilowatt hours of electricity, emitting an average of 13.1 tonnes of carbon dioxide and other greenhouse gases. To produce 1 tonne of aluminium, 1,300 tonnes of water is consumed (Padel and Das 2010). Siva (2010) argues:

Kalahandi district, where Niyamgiri is located, is one of the worst-hit districts in the country in terms of hunger and starvation deaths. The 30 km-long Upper Indravati Dam has diverted water from the Indravati river to the *Hati Tel* river through a four km tunnel at *Mukhiguda*. Vedanta's *Burkhamunda* smelter in *Jharsuguda* is getting water from Hirakud Dam on the Mahanadi. Two-hundred kilometres of Indravati have been killed by the Upper Indravati Dam, and the diversion of water from agriculture to industry has already led to major farmers' protests. Groundwater level is falling. And double crop land is being converted to single crop land due to decline in availability of irrigation water. The water released by the refinery and smelter is toxic, destroying what remains of the rivers and groundwater. If the destruction of water and biodiversity are internalized, Vedanta is creating a negative economy of death and destruction. This is not development.

Also, there are certain adverse side effects of bauxite mining. Bauxite mining probably destroys more surface area than mines of other materials. It is not only land extensive, but also noisy and dusty.<sup>7</sup> The disposal of alkaline mud or 'red mud' is a controversial issue associated with bauxite mining. The huge red mud pond near Lanjigarh is a major health hazard for the local communities in surrounding areas. Escape of caustic soda, used to extract alumina from raw bauxite, into the ground water would increase sodium concentration in the water bodies. High sodium is undesirable in drinking water since it is associated with hypertension.

<sup>7</sup> <http://www.american.edu/TED/bauxite.htm>, last accessed on January 10, 2013.

## B. Fair Compensation and Rehabilitation

Fair compensation and rehabilitation argument applies to Lanjigarh and the nearby areas where we find Kutia Kondh and Dalit in large majority. Huge displacement has already taken place because of the setting up of Niyamgiri refinery in Lanjigarh. Two major contentious issues are involved in this process of displacement- forcible eviction and lack of proper compensation and rehabilitation- need to be examined. They demand a critical re-examination of the claims made by the company regarding compensation and rehabilitation package.

Local villagers say representatives of Vedanta approached them in 2002 and informed them about the construction of a factory and gave assurance that only one village would be displaced. And the company promised employment for everyone. However, the Vedanta refinery in Lanjigarh stands in a 750 hectare complex next to the Vamsadhara river. In March 2005, residents of two villages- *Borbhata* and *Kinari*- were displaced to make way for the refinery construction. As the refinery area expanded with feeder roads, air strip and toxic waste ponds, families in other villages including *Bandhagunda* were asked to vacate their homes and land. In contravention of the 5th and 6th Schedules of the Indian Constitution, hundreds of people have been displaced so far. Amnesty International (2010: 64) observes:

*118 families were fully displaced and a further 1,220 families sold their farmlands to Vedanta. It is believed that Vedanta now owns over 3000 acres of land, including forest land. Vedanta is currently seeking clearance for the compulsory acquisition of an additional 1,340 hectares of land, for expanding the refinery.*

The residents of these villages say people working in the company's interest approached the larger land owners with offers of cash to vacate. The company coerced farmers into selling their land for a price far below the market value. A few people, who had titles to their land or records from the revenue department, were promised Rs. 100,000 per acre. Those without titles were promised one time settlement of Rs. 50,000 for giving all their rights away. Worse still, those willing to give up their homes were promised up to Rs. 1,000 (Jagger 2011). Those who refused were threatened while those with little or no land were offered nothing. Forcible eviction in the region has been described by Amnesty International (2010: 68):

*On one side there were bulldozers, on the other side trucks. It happened in the evening time. They had been cooking. The trucks started loading their belongings and the bulldozers started breaking their houses. Those people were all crying, they didn't want to go but they had no choice. By force they were put in the trucks with their belongings. The police were also there but they did nothing. Those putting people in trucks were the same people who were coming before to ask them to leave. For one month those people were crying constantly in that rehabilitation camp. The children were crying even more. They kept asking when are we going back to our home.*



Petitioners to the Supreme Court of India concur that: ‘the displacement was opposed vehemently by them (mainly Kondh tribal people living on the plant site) despite being offered large cash compensation by M/s Vedanta.’ Local residents say that some had received notices from the Kalahandi district administration telling them that their land was to be compulsorily acquired for the refinery (ActionAid 2009:9) : ‘An atmosphere of fear was created through the hired goons, the police and the administration. (There is no hard evidence of company knowledge/involvement in such intimidation).’ Furthermore, they add that, as per Central Empowered Committee (CEC) Report, ‘after being forcibly removed they were kept under watch and ward by the armed guards of M/s Vedanta and no outsider was allowed to meet them. They were effectively being kept as prisoners’ (ActionAid 2009: 9).

The CEC Report to the Supreme Court makes following observations on how the project affected communities were forcibly evicted and inadequately ‘rehabilitated’:

- i. *The people have been displaced from their houses through physical eviction by the district administration. Many were beaten up by the employees of M/s Vedanta. The National R&R policy requires that land for land should be given after due process of consultation, particularly in the case of the tribals. Contrary to the above cash compensation was offered to them and which was not acceptable to many. The tribal people living on the plant site are mainly Kondhs who are illiterate and depend completely on their agricultural lands and forest for their subsistence. They have deep spiritual and cultural attachment to their ancestral lands and settlements. The displacement was opposed vehemently by them despite being offered large cash compensation by M/s Vedanta. In the face of resistance, the District Collector and the company officials collaborated to coerce and threaten them. An atmosphere of fear was created through the hired goons, the police and the administration. Many of the tribals were badly beaten up by the police and the goons. After being forcibly removed they were kept under watch and ward by the armed guards of M/s Vedanta and no outsider was allowed to meet them. They were effectively being kept as prisoners;*
- ii. *Apart from the land acquired by the district administration from the large number of tribals and the harijans of Bandhagunda and Rengopali villages, land was also illegally taken over by M/s Vedanta for which neither acquisition notice was served nor compensation was paid;*
- iii. *About 64 households of Jaganathpur Village, most of whom are Kandha tribals have been cultivating for generations Khasra No. 186 – a revenue land. Encroachment cases have been filed against many of them. These tribal families were evicted by force from the land being cultivated by them for generations without any compensation or any shelter thereby taking away their main source of livelihood. This has taken place even though these cultivators have been officially shown to be in possession of this land and cultivating. The eviction has taken place*

*without any process of verification and is in violation of the special protection provided to the scheduled tribes. Though they approached the District Collector against the forcible eviction, no action was taken by him.*<sup>8</sup>

The rehabilitation colony constructed by the company is a compound of concrete two room houses surrounded by a barbed wire fence. Displaced people were moved to this colony after their land was acquired for the initial building work at the plant site. In fact, no outsider was allowed to visit the colony and talk to the displaced people before the CEC team visited in June 2005. After the CEC visit, guards from the colony were removed and replaced by an ‘in-charge’. The CEC notes that ‘the rehabilitation colony has been located too close to the reserve forest which may have serious adverse effect on the forest.’ The ActionAid notes, ‘women are forced to cook in open, under the scorching heat;... none of the residents were given any papers proving ownership; the whole colony is fenced and guarded; residents are not allowed to go to the forests on Niyamgiri;... visitors need to have written permission from Vedanta’ (2009: 12). Similarly, Jagger (2012) observes:

*... the Kondh have been coerced into giving up their homes, their land, and their means of survival, in the name of “public purpose”. They were promised employment and prosperity. Instead, they got the Lanjigarh refinery. Vedanta claims that the refinery employs 200 local people; in fact, I was told that the mine is run by 57 foreign nationals. The refinery has brought nothing but disease, impoverishment, and environmental degradation to the local communities.’*

When ActionAid team visited with a journalist from the Sunday Times in May 2006, less than half of the houses were inhabited (2009: 9). Most homes have been abandoned as the displaced felt completely alienated. British journalist S. Freedman states, ‘it is clear that the occupants have simply left, unable to cope with their loss of land and traditional way of life’ (ActionAid 2009: 11). Reasons for leaving the colony include- concrete structures become too hot when the temperature rises and too cold when it falls, and there is no shaded outside space around the homes for domestic activities and for children to play. They contrast this with their traditional homes of mud and sticks which were built to meet their needs and the environment (ActionAid 2009: 10).

In various ways, it could be argued that there is a major violation of the he UN Guidelines on Evictions. The UN Guidelines define the practice of forced evictions and set down stringent criteria under which displacement can occur in ‘exceptional circumstances’, with ‘full justification’ and procedural guarantees. If eviction is unavoidable, states are supposed to protect human rights prior to, during, and after evictions. Prior to displacement, they call for comprehensive ‘eviction-impact assessments’. After displacement, they call for provision of fair and just compensation, restitution and adequate rehabilitation consistent with human rights standards. The Guidelines make it clear

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<sup>8</sup> The CEC Report available at [www.indiaenvironmentportal.org.in](http://www.indiaenvironmentportal.org.in), last accessed on March 24, 2021.

that cash compensation should, under no circumstances, replace real compensation in the form of land and common property resources. Where land has been taken, those evicted should be compensated with land commensurate in quality, size and value, or better. Further, identified relocation sites must fulfil the criteria for adequate housing according to international human rights law.<sup>9</sup>

### Supreme Court's Landmark Judgment

Looking at people's vigorous resistance, various organizations of the state instituted a number of committees. The Supreme Court also sent the CEC to see the reality and report. In 2007, the Supreme Court stayed the mining. But in 2008, the Supreme Court allowed mining on certain conditions being fulfilled. The MoEF did not allow the expansion of Vedanta's refinery on the basis of the Saxena Committee findings. The Ministry had issued stop work order and later, the High Court also rejected the plea of the Vedanta upholding the MoEF decision to stay the expansion of the alumina refinery in Lanjigarh. The judgment of the Supreme Court that came in April 2013 needs to be seen in the light of these dynamics. The verdict said it is up to the *Gram Sabha* to decide whether to allow mining in Niyamgiri hills by the Vedanta Group.

The forest clearance for the Vedanta project was rejected following a directive of the MoEF in August 2010. The OMC then challenged this in the Supreme Court. Following this, the Supreme Court judgment came in 2013. The Vedanta judgment is historic, after the *Samata* judgment in 1997, in the sense that the apex court of the country instructed the state government to organize Gram Sabhas under the Forest Rights Act of 2006 in order to take a final decision on the mining issue based on the people's opinion. This amounts to the voices of local communities being heard in a very direct and positive way. Thus it can be argued that the Vedanta judgment is a significant contribution to the long struggle of civil society to have an impact on policy and consequently to deepening of democracy in the country. Sharma (2023) observes:

*This norm of obtaining free, prior and informed consent (FPIC) from the indigenous communities before introducing a project on their territories is a major shift from the earlier requirement of of consultation or mere participation in decision-making.*

In the *Samata* judgment delivered in 1997, the Supreme Court in the case filed against calcite mining project of *Birla Periclase* in *Nimmalapadu* area held the view that only the State, its instrumentalities or the tribal people themselves forming into a cooperative have the right over mineral wealth in the forests. In the Vedanta judgment, the Supreme Court was guided by the fact that it was both a Fifth Schedule area (an area inhabited by tribes) attracting PESA (Panchayats Extension to Scheduled Areas Act) provisions. The Supreme Court endorsed (Kothari 2013):

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<sup>9</sup> For details, see Kothar, M. and P. Vasquez. 'The UN Guidelines on Forced Evictions : A Useful Soft-Law Instrument?' available at <https://poldev.revues.org/2188>, last accessed on September 1, 2020.

*the role of the gram sabhas as democratic decision-making fora on issues of individual, community and cultural rights of tribals and traditional forest dwellers. Its recent ruling in the Niyamgiri bauxite mining case has far-reaching impact because environmental laws such as the Forest (Conservation) Act, the Forest Rights Act and the Environment (Protection) Act are given scant respect by industrial project proponents looking for natural resources. This trend has accelerated in recent years, with national development being measured by a single number, the Gross Domestic Product... The Supreme Court order in the case, endorsing the rights of tribals under the Forest Rights Act and the Panchayat (Extension to Scheduled Areas) Act to make fresh claims and designating the gram sabhas as the competent fora to decide them, should end strong arm measures against defenceless communities. It is beyond doubt that there is an organic connection between tribals and the land, and this has been accepted by the Supreme Court in another case in 1997. That bond must be respected... The Supreme Court order is a good precedent for all projects that have environmental and social consequences. Development is a natural aspiration, but it must be genuine and not result in the loss of even the existing quality of life.*

### **Concluding Remarks**

In sum, the Niyamgiri movement gained influence with the landmark ruling of the Supreme Court of India based on indigenous and ecological concerns. The movement became successful and prevented the mining project. After its historic victory in the legal battle in the court, Gram Sabhas were held in the Niyamgiri hills between July and August of 2013 under judicial supervision, to decide whether the joint venture of state-run OMC and VAL should be allowed to go ahead with their bauxite mining extraction project. The district administration chose 12 of the total 112 villages that officially constitute Niyamgiri hills for the Gram Sabhas, which were part of the first phase of the anticipated core mining area. The Gram Sabha resolutions unanimously rejected bauxite mining plan in the region for VAL and vowed to protect their land and forests from vested interests. This has been termed as India's first "green referendum" (Sharma 2013). In fact, this historic and exceptional referendum was cited in January of 2014 by the union government to refuse final forest clearance to the proposed mine, critical to Vedanta refinery at Lanjigarh. The process of participating in the referendums and voting against the mining project can be seen as, in the words of Survival International, 'a stunning example of grassroots democracy at work' (Borde and Bluemling 2021). Thus, it is observed:

*Environmentalists world over celebrated the victory of the Dongarias and Jharnia Kondh Particularly Vulnerable Tribal Groups (PTG) from one of least developed corners of the country, in the "David versus Goliath" battle against London-listed Vedanta.<sup>10</sup>*

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<sup>10</sup> 'OMC writes to environment ministry seeking guidance on Niyamgiri bauxite deposit', *The Economic Times*, September 22, 2015.

However, villagers allege that police surveillance has continued even after these momentous developments. In fact, Dongria leaders like Lada Sikaka state that regular harassment in everyday life of Adivasis is still a matter of fact. Kothari (2015) observes: ‘both Adivasi leaders and their supporters have been interrogated, framed with charges.’ For instance, several Dongria leaders were arrested to stop them from attending a protest on the World Indigenous Day (August 9) of this year. Meanwhile, there were reports of the state government having assured the company 150 million tonnes of bauxite. Undoubtedly, these developments have generated much uncertainty for the movement. It is thus worth emphasizing that the Niyamgiri movement is currently navigating such uncertainty. Hence, the movement organization remains active today although the movement has achieved its goals. In the light of constant social change, evolving norms, tactics and motivations in Niyamgiri movement can be one of the areas for further research.

Furthermore, in early 2016 the state government through Odisha Mining Corporation filed a petition in the Supreme Court seeking the reconvening of Gram Sabhas in Niyamgiri hills to consider the mining proposal that the Sabhas had rejected in 2013. However, on 6 May 2016 a three-judge bench of the Supreme Court rejected the petition and observed that the conclusion of the Gram Sabhas in 2013 was to reject the mining and hence if the petitioner wanted to challenge that then it would have to approach an appropriate forum. This recent decision of the Supreme Court along with its 2013 judgment could be seen as a major legalistic intervention towards making democracy in India more democratic by bringing the marginalized communities into the development decision-making. At the same time, this is especially crucial for the Niyamgiri movement to devise effective strategies to engage with the volatility of the evolving context as outlined above.

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