

Survival International

Vedanta Resources plc (UK)

**Complaint to the UK National Contact Point
under the Specific Instance Procedure of the
OECD Guidelines for Multinational Enterprises**

19 December 2008

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I. Introduction

1. The Dongria Kondh are one of the most isolated tribes in India. They live among the Niyamgiri Hills in Orissa, in the east of the country. They call themselves Jharnia, meaning “protectors of streams”, because they safeguard their sacred mountain, Niyam Dongar, and the rivers that rise within its forests. The culture, identity and livelihood of the Dongria Kondh are all dependent on the Niyamgiri Hills and they cannot live anywhere else.¹
2. British mining company Vedanta Resources has built a one million ton aluminium refinery in the nearby town, Lanjigarh, and plans to mine bauxite from the top of Niyam Dongar to feed the refinery. An estimated deposit of 80 million tonnes would be stripped out over a period of up to 30 years, laying waste to some 660 hectares of forest land. Mechanised extracting, blasting and crushing operations would cause round-the-clock disturbance to both people and wildlife. Swathes of forest would be cleared for access roads and conveyor belts to carry ore to the refinery. There are fears that local streams and cultivable land would be polluted by air-borne particulates from the mine, the road and the conveyor.²
3. The Kutia Kondh and Desia Kondh, in the foothills and on the plains around Lanjigarh, have already felt the impact of Vedanta’s presence. Some of them allege that they have been forcibly evicted to make way for the refinery. Others may still have to vacate their homes as the plant expands and feeder roads, air strips and toxic waste ponds are built. Many suffer the effects of the pollution brought about by Vedanta’s repeated failure – confirmed by the State Pollution Control Board – to comply with basic safeguards.³

1 “If one claims to be a Dongria Kondh, he must reside in the Niyamgiri hills and possess land of his own and pass [it] on. This procedure is being continued for centuries”: P.S. Daspatnaik, Ownership Pattern, Land Survey and Settlement and its Impact on the Dongria Kondhs of Orissa, Adibasi Journal vol. XXIII (1984) No. 4 p.26

² “The severest environmental problems related to bauxite mining usually arise from land degradation. Excavation, extraction and waste disposal can lead to substantial soil degradation, deforestation and destruction of wildlife habitats ... Water effluents from mine operations include drainage, waste water from bauxite washing and surface run-off, carrying suspended solids. Significant dust emissions arise from road transport, ore processing, and wind erosion from uncovered top soils unless appropriate measures are implemented.” P.N.Martens, M. Rohrlich, M. Ruhrbers & M. Mistry (2000) “Bauxite Mining and its Effects”, Sixth International Symposium on Environmental Issues and Management of Waste in Energy and Mineral Production. Calgary: May 30 - June 2, 2000

³See generally “Vedanta Cares? Busting the Myths about Vedantas’ operations in Lanjigarh, India (Action Aid 2007) at page B8 of the attached bundle.

4. This complaint ought perhaps to have been made on behalf these communities as well, but for a number of reasons has been confined to the Dongria. First, they are spiritually and culturally tied to their traditional lands in a way that their neighbours are not, and as a result are more vulnerable to the effects of any industrial development on those lands.⁴ Second, although some Kutia Kondh and Desia Kondh may have been consulted about the refinery no Dongria have ever been consulted about the mine. Their views have been simply ignored. Third, there is still hope that the mine can be stopped, or at least that its worst excesses can be avoided. The refinery, on the other hand, is already in operation.
5. Vedanta says that there are no Dongria villages within twelve kilometres of the site of the mine⁵ but this is not correct. At least thirteen villages lie within four kilometres of the site and another seven within five kilometres.⁶ Although Vedanta has denied that any Dongria will have to be moved, according to its own environmental impact assessment “the proposed mining project is expected to cause some persons (exact number will be available after enumeration) to lose their land fully or partially.”⁷ Whether or not they are evicted, experience in other parts of the world shows that the influx of heavy plant and a large workforce into the area would pose enormous challenges to the Dongria way of life.
6. Many predict that, at best, a self-reliant people would become unskilled, landless peasants, increasingly dependent on hand-outs for survival. Others go further. In 2004 an official fact-finding committee reported that the development of a mine at Niyam Dongar would be “likely to result in their extinction.”⁸ Survival’s own research shows that the introduction of large scale projects in the face of indigenous opposition is almost always accompanied by a high incidence of depression, suicide and substance abuse.⁹

⁴ “To a Dongria Kondh, Dongar land is considered as endowed with divine powers... This being the fact, land is highly revered”: supra note 1 at p27.

⁵Letter to Survival at page F7 of the bundle

⁶13 of the closest villages are Akurabali, Arhapanga, Batula, Dholi, Dongamati Khambesi, Kesharaparhu, Jarapa, Lakhpodar, Poribhata, Phuldumer, Serakapahi and Surdipai. An environmental impact assessment carried out for Vedanta in 2002 estimated that 6,046 members of scheduled tribes lived within 10 km of the proposed mine.

⁷Rapid EIA report for Lanjigarh bauxite mining project §2.7.2.1.1 at page E3 of the bundle. This “enumeration” does not appear to have been carried out.

⁸ Site Inspection Report of the Fact Finding Committee Regarding its Visit to Orissa from 18-23 December 2004 at page E58 of the bundle.

⁹ www.survivalinternational.org/campaigns/progresscankill

7. Vedanta takes a very different view. Far from posing a threat to the Dongria, it claims that its plans offer them an unrivalled opportunity:

“As enlightened and privileged human beings we should try not to keep the tribal and other backward people in a primitive, uncared-and-unprovided-for socio-economic environment. We have a strong obligation to provide them with education, health care and sustainable livelihood opportunities so that they may move forward with the rest of the world in an all inclusive growth path.”¹⁰

8. But the Dongria do not regard themselves as either “backward” or “primitive” or their environment as one in which they are not cared and provided for. On the contrary they have a robust, land-based economy and a strong sense of community. They believe that they should be allowed to follow their own path in their own time, and that they should not have a new one foisted upon them by Vedanta or anyone else.
9. International human rights law fully endorses this position, recognising as it does that the free, prior and informed consent (“FPIC”) of an indigenous people *must* be obtained for any project likely to affect its lands, territory or other resources. This requirement reflects the fact that

“For indigenous peoples consent as a right has special importance because of their unique, or culturally distinctive, relationship with their traditional lands and territories. Gaining consent from indigenous peoples for relevant projects at all stages of the project lifecycle can therefore be viewed as an essential aspect of respecting their human rights.”¹¹

10. The Government of India has signed up to most of the international conventions and declarations in which this principle is recognised, but in Orissa it has been honoured more in the breach than in the observance. Although Vedanta began to lay plans for a mine at least six years ago, no effort has yet been made to consult the Dongria Kondh about those plans, let alone to obtain their consent to them. The result, predictably, has been a wave of demonstrations, protests and violence that has increased in intensity as the prospect of a mine draws closer.¹²

¹⁰ Letter to Survival at page F7.

¹¹ EIRS, “Indigenous Rights, Indigenous Wrongs: Risks for the Resource Sectors

¹² Recent press reports of the growing unrest in Orissa will be found in section C of the bundle. See also www.youtube.com/niyamgiri.

11. Survival believes that serious disturbances will be averted, and justice achieved for the Dongria Kondh, only if Vedanta engages with the communities most directly affected by its proposals. We have tried to persuade Vedanta of this in correspondence, with a conspicuous lack of success. Our hope is that the NCP will succeed where we have failed.
12. The NCP should take as its starting point the recent report of the Special Representative of the Secretary General on Human Rights and Transnational Corporations, and in particular his observation that:

“Many corporate human rights issues arise because companies fail to consider the potential implications of their activities before they begin. Companies must take proactive steps to understand how existing and proposed activities may affect human rights. The scale of human rights impact assessments will depend on the industry and national and local context. While these assessments can be linked with other processes like risk assessments or environmental and social impact assessments, they should include explicit references to internationally recognized human rights. Based on the information uncovered, companies should refine their plans to address and avoid potential negative human rights impacts on an ongoing basis.”¹³

13. Vedanta has failed to consider the “potential implications” of its activities for the Dongria Kondh because it refuses to accept that there are any. This view may be a convenient one but is unsupported by evidence. The NCP should urge the company even at this late stage to abide by the Akwe: Koh Guidelines¹⁴ and commission an indigenous rights impact assessment. Only by this means will it be possible to establish what the mine will mean for the Dongria, for their culture and for their religious practices. The NCP should agree with Vedanta how best to ensure that the Dongria are able to participate in the assessment, and are kept abreast of its findings in a language and a form that they can readily understand. This will allow the Dongria to weigh any benefits associated with the mine against its disadvantages, as they are quite unable to do at present.

¹³ Protect, Respect and Remedy: A Framework for Business and Human Rights [A/HRC/8/5] §61

¹⁴ Voluntary Guidelines for the Conduct of Cultural, Environmental and Social Impact Assessment regarding Developments Proposed to take place on, or which are Likely to Impact on, Sacred Sites and on Lands and Waters Traditionally Occupied or Used by Indigenous and Local Communities, adopted by the seventh meeting of the Conference of the Parties to the Convention on Biodiversity (2007). The Guidelines are named after a Mohawk term meaning “everything in creation.” See §87 below.

14. In the meantime Vedanta should agree to stop work on the mine and its infrastructure. It should also agree that if at the end of the consultative process it has not won the broad support of the Dongria Kondh, the company will respect their decision and look for its bauxite elsewhere.¹⁵
15. This approach accords not only with well-established principles of international law but with commercial good sense. Mining companies which ride roughshod over local rights run the risk of significant delays and reputational damage, as well as hugely increased security costs and the prospect of future litigation. This is why Anglo-American, for instance, has committed itself to “work with indigenous people around the world on the basis of consent, recognizing their historical disadvantages and specific cultural norms.” As a result the company has postponed plans to drill in the vicinity of Suggi Lake in Canada until it has secured the consent of the Indian community. Rio Tinto has agreed not to mine at Jabiluka in the Northern Territory, Australia, for the same reason, and has accepted that the need to obtain FPIC “may sometimes result in our not exploring land or developing operations, even if legally permitted to do so.”¹⁶
16. The bankers who advised Vedanta on its stock exchange listing, JP Morgan Chase, have made a similar commitment. They will finance projects only “if land claims of the indigenous community have been appropriately addressed and the community has expressed its support for the project after free, prior and informed consultation.”¹⁷
17. At one point we had hoped that Vedanta would follow suit. When Survival raised the issue at the company’s AGM on 31 July 2008 its chairman, Anil Agarwal, assured shareholders that “we will only start work [on the mine] if we have the complete permission of the [Supreme] Court [of India] and the people.”

¹⁵ In its evidence to the Central Empowered Committee appointed by the Supreme Court to investigate its plans (“the CEC”), Vedanta stated that the mine was not integral to the refinery. “In case the mineral from the Lanjigarh mines are not available we would obtain bauxite from other sources”: CEC Report in IA No 1324 regarding the Alumina Refinery Plant being set up by M/S Vedanta Alumina Ltd at Lanjigarh, at page E78 of the bundle.

¹⁶ www.eupolitix.com/NR/rdonlyres/3940BD43-2C2C-44AF-AE69-A71DE5FBC4E/0/sdreport.pdf

www.riotinto.com/documents/The_way_we_work.pdf (January 2008)

¹⁷ www.jpmorganchase.com/pages/jpmc/community/env/policy. ABN AMRO, Bank of America, Citigroup and HSBC have all adopted a similar principle. So have the World Bank and the IFC.

18. But the company has since claimed that this statement was “aimed to draw attention to the fact that the consultation process had already taken place under the framework of the applicable law.”¹⁸ This is not, of course, what Mr Agarwal actually said; and for the reasons we explain below it is demonstrably not the case that Vedanta has obtained, or even sought, the agreement of the Dongria Kondh to its proposals.

Summary of complaint

19. In breach of the OECD Guidelines for Multinational Corporations Vedanta Resources plc has failed:

- (1) to respect the human rights of those affected by its activities in a manner consistent with the host government’s international obligations and commitments (Part II, paragraph 2)
- (2) to develop and apply effective self-regulatory practices and management systems that foster a relationship of confidence and mutual trust between enterprises and the societies in which they operate (Part II, paragraph 7); and
- (3) to engage in adequate and timely communication and consultation with the communities directly affected by its environmental, health and safety policies (Part V paragraph 2(b))

20. Those “affected” by Vedanta’s activities are the 8,000 Dongria Kondh who live in the Niyamgiri Hills. The companies “activities” are the plans it has made and the measures it is taking to develop an open pit bauxite mine on the top of Niyam Dongar.

21. The human rights to which the host government has made international commitments but which Vedanta has failed to respect are the rights of the Dongria Kondh:

- (1) to enjoy their own culture and to profess and practise their own religion [Articles 18 and 27 of the Civil and Political Rights Covenant; Article 12 of the UN Declaration of Indigenous Rights]

¹⁸ Letter to Survival at page F31

- (2) to equality before the law [Article 5(d) of the Convention on the Elimination of All Forms of Racial Discrimination]
- (3) not to be deprived of their means of subsistence [Article 2(1) of the CPRC]
- (4) to be consulted about any project affecting their lands or other resources and to give or refuse their free, prior and informed consent to the project before it is permitted to proceed [Article 8j of the Convention on Biological Diversity; Article 5(e) of the Race Convention; Articles 19 and 32 of the Declaration]

II. The Parties

The Dongria Kondh

- 22. The Dongria are a distinct tribe of the larger Kondh group. About 8,000 of them live in up to 100 small villages in the Niyamgiri hills.¹⁹ They are self-sufficient and have limited interactions with the outside world. They have a deep respect for *zamin*, *jal*, and *jungle* (land, water, and forest) and regard their link with the natural resources around them as a sacred one.
- 23. The Dongria depend entirely on the land for their livelihoods. They gather many types of fruit, leaves and flowers, and grow crops in small gardens on the mountain slopes. In the forest itself they have orchards with orange, mango and jackfruit trees. They cultivate pineapples, turmeric and ginger and collect the bamboo and medicinal plants that grow under the canopy. They sell their crops and forest produce at weekly markets in the towns on the plains.
- 24. Vedanta has made much of the fact that no Dongria live on the hill top where the bauxite is found. This is only because they believe that Niyam Dongar belongs to a deity named Niyam Raja Penu, from whom they are descended, and that the site is therefore sacred. The Dongria call it the “Mountain of Law” and have preserved it for centuries.²⁰ This is why the virgin forest on the hill remains intact and is still rich in wildlife.²¹

¹⁹Higher figures are quoted by some sources but the 2001 census gave a figure of 7952.

²⁰: “The Dongaria regard Niyamraja as their first king and consider him to be their eternal spiritual sovereign. The entire territory inhabited by the Dongria Kondh is thought to be the kingdom belonging to Niyamraja. His

Survival International

25. Survival International (Charitable Trust) Ltd was formed in 1972. It is a registered charity and has consultative status at the UN Department of Economic and Social Affairs. One of its objects is to promote for the public benefit the human rights of indigenous peoples established by UN covenants and declarations. In 1989 it was awarded the Right Livelihood Award for its work in this field.
26. The Dongria have asked us to assist them in any way we can in their struggle to be heard. We also have the support of a number of activists in India who have been unable to lodge their own complaint because India is a non-adhering country.
27. This complaint is based upon field research in Niyamgiri in August and November 2008 and upon extensive discussions with, among others, Dr Felix Padel, a British anthropologist with close connections to the area, and Ritwick Dutta, a lawyer in Delhi who represented two of the three petitioners to whom we refer below.

Vedanta Resources plc

28. The Vedanta group was founded by Anil Agarwal in 1976. Vedanta Resources plc is registered under the Companies Act and was listed on the London Exchange in December 2003. It is a FTSE 100 company with a workforce of 29,000, and in the year to 31 March 2008 reported net assets of \$9.2 billion. The company has offices in London but its headquarters are in Mumbai.

abode, Niyamgiri Hill, is covered by a dense forest, in which several wildlife species exist ... The Niyamgiri hill holds the highest rank owing not only to its physical characteristics but also on account of the religious lore associated with it: " 'Forest Tribes of Orissa. Volume 1: The Dongaria Kondh'. Man and Forest Series 2. New Delhi (Jena, MK et al, 2002) at pp 191, 319.

²¹ Niyamgiri is also home to several endangered species, including the giant squirrel, tiger, leopard and golden gecko. These are all protected under Schedule I of the Indian Wildlife Protection Act 1972. The area was made an Elephant Reserve in 2004, and the Ministry of the Environment and Forest has since proposed that it should be declared a Wildlife Sanctuary.

29. Among its Indian subsidiaries are Sterlite Industries (India) Ltd (“Sterlite”) and Vedanta Alumina Ltd (“VAL”), of which Vedanta currently owns 57% and 70.5% respectively. Sterlite, which was also founded by Mr Agarwal, owns the other 29.5% of VAL.²² The Norwegian Council of Ethics, which investigated Vedanta’s group structure in 2007, was “satisfied that Vedanta Resources, in its capacity of majority shareholder, exercises considerable influence over its subsidiaries.”²³
30. Mr Agarwal is the executive chairman of both Vedanta and Sterlite and holds over 50% of Vedanta’s shares. Navin Agarwal is the deputy executive chairman of both companies and has overseen the group’s operations in India for many years. Both men are also directors of VAL. The managing director of Sterlite sits on the boards of both Vedanta and VAL.²⁴
31. Although a mine at Niyam Dongar would be operated through a “special purpose vehicle”, funding for the project would come from Vedanta Resources plc. The mine is almost certainly an item of “major capital expenditure” on which decisions have been expressly reserved to the main Board.²⁵ This is why, when the mine was discussed at the 2008 AGM, there was a clear acceptance that it will be for the Board to decide whether to proceed with the mine or abandon it.
32. Vedanta has no human rights policy. It is not a member of the International Council of Metal and Mines, whose Position Statement on Mining and Indigenous Peoples would have required it to accept that special arrangements may be required to protect sites of religious significance for indigenous peoples, and to “respect the rights and interests of Indigenous Peoples as defined within applicable national and international laws.” Nor is Vedanta one of the 5,000 corporations that have now signed up to the UN Global Compact to mark their commitment to human rights generally.

²² 2008 Annual Report

²³ Council of Ethics Recommendation of 15 May 2007 to the Ministry of Finance at page A12

²⁴ <http://www.vedantasources.com/board seniormanagement.htm>

²⁵ 2008 Annual Report

33. Vedanta's human rights record in Orissa has been consistently condemned – among others by Amnesty International, War on Want and Action Aid.²⁶ In November 2007, the Norwegian government announced that its global pension fund would immediately dispose of a \$13 million stake in the company to avoid “the unacceptable risk of contributing to severe environmental damage and serious or systematic violations of human rights by continuing to invest in the company.” The decision followed a thorough-going investigation of Vedanta's operations in India by Norway's Council of Ethics which concluded that

“The allegations levelled at the company regarding environmental damage and complicity in human rights violations, including abuse and forced eviction of tribal peoples, are well founded. In the Council's view the company seems to be lacking the interest and will to do anything about the severe and lasting damage that its activities inflict on people and the environment ... Vedanta's violations against the environment and human rights ... are recurrent at all the subsidiaries subject to investigation and have taken place over many years, indicating a pattern in the company's practices where they are accepted and make up an established part of its business activities.”²⁷

Edinburgh-based investment managers Martin Currie and the BP Pension Fund have since followed Norway's example.²⁸

²⁶ Public Statement 14 August 2008: “Indigenous Communities at risk of forced eviction in Orissa” [Amnesty International, page B20]; “Fanning the Flames: The role of British mining companies in conflict and the violation of human rights” [War on Want, 2007 page B47] at pp 18-20; “Vedanta Cares? Busting the Myths about Vedantas' operations in Lanjigarh, India [Action Aid, 2007 page B8]

²⁷ Supra, note 23, at page A28

²⁸ Personal communications from the Director of Corporate Responsibility at BP expressing “concerns about the way the company operates”; and from the Director of Communications at Martin Currie, referring to “doubts over the issues with the bauxite project ... [which] led to exiting the stock”.

III. Chronology

34. In June 2002 the Government of Orissa gave notice that it intended to acquire land for the refinery which would involve the removal and “rehabilitation” of twelve communities around Lanjigarh. A public meeting was held later in the same month, ostensibly to allow those affected by the notice to express their views. The Dongria were not told about the meeting and did not attend it.
35. During a subsequent enquiry into mining and human rights abuses in Orissa, chaired by a former chief justice of the Sikkim High Court, the Indian People’s Tribunal on Environment and Human Rights was told that:

“... all twelve of the affected habitations boycotted the meeting. Yet the Gram Sabha was still held and people from outside the area were brought in and prevailed upon the Gram Sarpanch to provide consent. As a result, homesteads were razed with bull-dozed in the three villages of Kinari, Borbatta and Sindbahli, and the land was handed over to Vedanta/Sterlite after residents refused to vacate their homes.

The Dongria Kondhas ... were not even provided with a mock consultation: they are so cut off from the world that they do not even know of the fate that awaits them.”²⁹

36. In February 2003 the Orissa State Pollution Control Board convened another public meeting to solicit views before it issued “No Objection Certificates” for both the refinery and the mine. Since they were not told about this hearing either, the Dongria once again were absent. Notices were apparently published in two newspapers, but most Dongria are illiterate and could not have read the papers even if they had had access to them - which they did not. The situation of the Dongria was not even discussed at the hearing.³⁰ Three months later the Board issued the necessary certificates.

²⁹ Kashipur: An Enquiry into Mining and Human Rights Violations in Kashipur, Orissa, Report of the Indian People’s Tribunal on Environment and Human Rights (October 2006). Similar misgivings about this Gram Sabha were expressed in the report of the Norwegian Council of Ethics op cit note 28 at page A24 of bundle.

³⁰ The official minutes indicate that only six people expressed any views at all, about either the mine or the refinery: page E5 of bundle

37. Sterlite's next step was to apply for environmental clearance for the refinery under the Environment (Protection) Act 1986. It supported its application with a "rapid" environmental impact assessment (or "REIA") for the refinery which made no reference to the Dongria Kondh or to the impact of a mine on their way of life. Nor did a separate REIA prepared for the mine itself.
38. In September 2004 the Ministry of Environment and Forests ("MoEF") granted environmental clearance for the refinery. A month later VAL, which Vedanta had now substituted for Sterlite, entered an agreement with the Orissa Mining Corporation and the State of Orissa to establish a joint venture company, managerial control of which was to vest in VAL. In March 2005 the MoEF also granted Sterlite forest clearance under the Forest (Conservation) Act 1980 to divert 59 hectares of reserved forest for the use of the refinery.
39. In the meantime, in December 2004 the Wildlife Society of Orissa, the Academy of Mountain Environics and an activist named Prafulla Samantra each petitioned the Supreme Court to quash the environmental clearance, on the grounds that there had been several breaches of both the 1980 and 1986 Acts, as well as of the Wildlife (Protection) Act 1972.
40. The petitioners alleged that VAL had started work on the refinery before it had received the environmental clearance; that its application for clearance had deliberately concealed the fact that it included the 59 hectares of forest; and that it had cleared this area of trees before it had even applied for, let alone obtained, forest clearance.
41. The petitioners also complained that tribal Kondhs at Lanjigarh had been forcibly evicted from their homes, that some had been assaulted in the process and that others had been denied compensation. An "atmosphere of fear" was said to prevail around the refinery. A rehabilitation package for those displaced had failed to provide them with land for their crops or livestock, and a "rehabilitation colony" had been constructed without regard for forest conservation.³¹

³¹ It was also alleged that in breach of MoEF guidelines Vedanta had treated the refinery and the mine as separate projects in the expectation that once the refinery had been built the state authorities would have no alternative but to agree to a mine as well.

42. It was claimed that a mine would dramatically affect the rich biodiversity of the area and reduce the sources of water available to local people. There was a further risk that the red mud and ash ponds spawned by the refinery would pollute the Vamsdhara River on which villagers depend for both their drinking water and irrigation.
43. The petitions were initially considered by a court-appointed Central Empowered Committee which included a number of retired judges. Armed with a report from its own fact finding team, in September 2005 the CEC upheld the bulk of the complaints made against VAL.
44. The CEC found that work on the refinery had started and continued “in blatant disregard” of MoEF guidelines, that environmental clearance had been granted on a false premise, and that if a proper study had been conducted at the outset the project would probably never have been approved. It recommended to the Supreme Court that it should revoke the environmental clearance issued in September 2004 and that VAL should be ordered to stop work on the refinery.
45. The Court gave its decision in November 2007. It did not dissent from any of the conclusions of fact reached by the CEC but declined to follow its recommendation. It was necessary, the Court reasoned, to balance environmental considerations against the need to develop the economy, and that it was the latter that should prevail.
46. The Court was clearly troubled by the finding of the Norwegian Council of Ethics that Vedanta Resources had violated the human rights of people within the sphere of its operations. This led it to propose the formation of a special purpose vehicle in which the stakeholders would be the State of Orissa, Orissa Mining Corporation and Sterlite, rather than VAL or Vedanta.
47. It is not clear what the Court expected to achieve by the substitution of Sterlite for VAL. The project will continue to look to Vedanta for its capital requirements, and Vedanta will continue to hold a controlling interest in Sterlite. Both Agarwals still sit on the board of Sterlite, whose managing director is himself still a director of both Vedanta Resources and VAL. The raw bauxite will still have to be sold exclusively to VAL, which will still operate the refinery.

48. Vedanta accepted the Court's proposals, however, and substituted Sterlite for VAL without difficulty. In August 2008 the Court issued a formal order.

49. A few weeks before the order was made a series of videos appeared on YouTube. They were posted by 'crazyjunjohn' and included several interviews with Dongria Kondh expressing their unqualified support for the mine.³² The videos were withdrawn after one of those interviewed, Sahadev Kadraka, gave a statement to Survival in which he explained that:

'It was raining when they came, by jeep. There were three people from Bissamcuttack [a town in Rayagada district], and three from Vedanta. They had a camera. They said we have brought some clothes for your village people, and we'll give them to you. Then they said 'we want to do some interviews with you. On behalf of our project, we want to help you again next time.'

They asked us 'do you support Vedanta?' and 'Do you want to mine bauxite?' We said no, we do not want to give our mountain.

Then they said everyone from Sakata [a Dongria village on the east side of the Niyamgiri hills] has agreed to mine bauxite. That's why they have a school, roads, and self-help groups are getting machines. If you complain to us, then we can't provide anything to you again. You have to say 'yes.'

When they gave these clothes to my village, I thought if I say no in my interview, the villagers would be upset because they got these clothes. If I refuse them, they will mind me. So my mind didn't work. Then I agreed.

I said my name is Sahadev, I said the name of my village, then that we want to mine bauxite from Niyamgiri.

They told us 'we'll make a committee house and schools.' And a grinding machine for turmeric. 'We'll give this, this and this, all these things we have given to Lanjigarh. If you don't support us, you'll not get anything.' Then I said yes!

I am really against Vedanta, I've even been to Delhi [on an anti-Vedanta demonstration], and I have met different advocates and activists. In my heart I have never supported Vedanta. They offered me these temptations, that's why I was tempted. But all our people in the area don't want this company and don't want to mine. We are actually totally against Vedanta.³³

50. During the same period VAL took steps to put in place the "comprehensive plan for the development of tribals in the project impact area" that the Court had said in November 2007 would be a term of the order. In the hope, apparently, that the Institute could help to

³² A DVD of the interviews accompanies this complaint.

³³ Oral statement recorded in Kadraka on 2nd August 2008. Survival's enquiries indicate that the villagers of Sakata have not in fact agreed to a mine.

prepare this plan, VAL approached the Xavier Institute of Management in Bhubaneswar. By June 2008 the Institute had completed its proposal, which read in part:

“The Dongria Kondh have continued to maintain their age old form of economy, social organization, rituals and beliefs. They have retained their uniqueness based on common culture and practices. They are dependent on its forests. They view the mountain as sacred, grow crops on the slopes, and gather wild fruits in the dense forests ... They work entirely on the steep slopes for their livelihood. The Niyamgiri Range provides a wealth of perennial springs and streams which greatly enrich the Dongria cultivation. ...The top of the mountain, which is worshiped by the Dongria Kondh as the seat of their god, has rich deposits of the aluminium ore bauxite.

The British mining company Vedanta is intent on strip-mining this resource, which according to many environmentalists, ecologist and sociologists will devastate the forests, the rivers that flow from the mountain and the culture and identity of the Dongria Kondh. Because of its proposed mining operations in Niyamgiri hill, the life and livelihood of this primitive tribe is likely to get affected.

Hence, Vedanta wishes to take all necessary measures to safeguard the cultural heritage as well as living condition of these people and ensure them better quality of life without hindering their socio-economic cultural milieu.”

51. The author of the proposal, Professor Sanjay Mohapatra, was soon contacted by VAL's Chief Operating Officer at Lanjigarh, Dr Mukesh Kumar. He was told that since no Dongria lived within the area of the mine they would not be affected in any way, and that Vedanta expected the Institute's proposal to reflect that fact. When Professor Mohapatra replied that he was not able to modify the document in this way, Dr Kumar told him that in that case the Institute's services would not be required.

IV. Current Position

52. These difficulties may explain why a “comprehensive plan” for the “development” of tribal peoples in the project area is still awaited. As and when it is produced, however, it will be funded by an annual set aside of 5% of the SPV’s pre-tax profits or Rs 10 crores (whichever is more). Although the precedents point in quite the opposite direction, at least in theory the plan *could* deliver benefits to the Dongria and other Kondh peoples. It is crucial in this context, however, to bear two things in mind:
53. First, the Dongria cannot be forced to “develop” against their will, however much money is thrown in their direction. Not only would this reduce their human rights to a marketable commodity, to be extinguished if the price is right, but it would be quite unworkable in practice. Survival’s experience over forty years tells us that a development plan foisted on the Dongria against their will would destroy them as a people, if the mine had not destroyed them first.
54. Second, although the creation of a development fund was a term of the Supreme Court’s order, neither that court nor any other in India has considered whether the construction of a mine at Niyam Dongar would violate Dongria rights. The sole object of the various petitions presented to the Supreme Court was to persuade it to stop the project because it had allegedly involved serious breaches of environmental law and/or of the relevant guidelines. None of the petitions alleged any violation of the rights of the Dongria Kondh, who have not been and will not be a party to any legal proceedings in India.
55. There are two reasons for this. One is that they lack the financial resources.³⁴ The other is that they cannot enforce in the national courts the rights that form the basis of this complaint. The Government of India has recognised these rights as a matter of international law but has not given them legal force within India itself. It is not possible for the Dongria Kondh to petition the Supreme Court or any other national tribunal on the ground that their international human rights have been violated. Their one hope of recourse is through the OECD complaint mechanism.

³⁴ Conditional fee agreements are not permitted in India; and “while legal aid exists in principle, the abysmal rates paid to lawyers mean that the work is all but shunned by the majority of competent lawyers”: “India, the Challenge Ahead”, Satnam Singh Bains, Counsel, October 2008

V. India's international obligations and commitments

56. In September 2007 India and 142 other countries (including the United Kingdom) adopted the UN Declaration on Indigenous Rights and thereby acknowledged that

- (1) Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; [and] the right to maintain, protect, and have access in privacy to their religious and cultural sites [Article 12]
- (2) Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions [Article 18]
- (3) States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.” [Article 19]; and
- (4) Peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources. States shall consult and cooperate in good faith with the indigenous peoples to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources [Article 32].³⁵

57. By its ratification of the UN Civil and Political Rights Covenant India has agreed that

- (1) In no case may a people be deprived of its means of subsistence [Article 2(1)];
- (2) Everyone has the right to manifest his religion or belief in worship, observance and practice, and no one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice [Article 18]
- (3) Persons belonging to ethnic minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language [Article 27].

³⁵ It has been said that the Declaration “sends a clear signal that as international standards evolve companies will increasingly be brought into the spotlight and their actions scrutinised. Companies which are committed to achieving free, prior and informed consent for all their projects are not only best placed to mitigate risk but also able to benefit from indigenous knowledge and expertise”: EIRIS press release 11 October 2007.

58. In General Comment No. 22 the UN Human Rights Committee has confirmed that

“Article 18 protects theistic, non-theistic and atheistic beliefs. The terms belief and religion are to be widely construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions.”

59. In General Comment No. 23 the Committee has observed of Article 27 that

“The enjoyment of [the rights protected by the Article] may require positive legal measures of protection and measures to ensure the effective participation of members of minority communities in decisions which affect them ... The protection of these rights is directed to ensure the survival and continued development of the cultural, religious and social identity of the minorities concerned, thus enriching the fabric of society as a whole ... States parties, therefore, have an obligation to ensure that the exercise of these rights is fully protected”

60. In *Ilmari Länman et al v Finland*³⁶ Sami herdsmen argued that quarrying on Mount Riutusvaara had denied them their right to enjoy their culture under Article 27. The Committee rejected the claim, but only because the claimants had been fully consulted and their views taken into account before the quarry permit had been issued. The importance of prior consultation has also been emphasised in *Apirana Mahuika et al v New Zealand* and a number of other decisions.

61. By its ratification of the Convention on the Elimination of All Forms of Racial Discrimination India has guaranteed

the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights...

(c) Political rights, in particular the right... to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;

(d) Other civil rights, in particular: (i) The right to freedom of movement and residence within the border of the State; (v) The right to own property alone as well as in association with others [Article 5]

³⁶ *Ilmari Länsmann et al. v. Finland*, Comm. No. 511/1992; *Jouni E. Länsmann v. Finland*, Comm. No.671/1995

62. In General Recommendation XXIII the Committee on the Elimination of Racial Discrimination has warned state parties that they risk a breach of Article 5(c) of the Convention if they fail to

“ recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources [and] ensure that members of indigenous peoples have equal rights in respect of effective participation in public life, and that no decisions directly relating to their rights and interests are taken without their informed consent.”

63. Finally, in 1994 India became one of the first countries to ratify the Convention on Biodiversity, by Article 8(j) of which it has undertaken

subject to its national legislation to respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices.

VI. Specific violations of human rights

Religious freedom

64. The excavation of an open pit mine will not merely deny the Dongria “access in privacy to a religious site” contrary to Article 12 of the UN Declaration and the right to practice their own religion under Articles 18 and 27 of the CPR Covenant, but will obliterate the site itself. In this country, the nearest equivalent might be the demolition of Durham Cathedral to allow access to the rich seam of coal that lies beneath it. The only difference, perhaps, is that England has other places of worship³⁷; for the Dongria Kondh, there is only one Niyam Dongar.

³⁷ Including, of course, St Pauls, which Action Aid applied to demolish in July 2008 to mark its opposition to a mine in Niyamgiri.

65. Although the Dongria to whom we have spoken have expressed more anxiety about this issue than any other, neither Vedanta nor the state authorities appear to have made any attempt to address it. Vedanta has been asked directly how it proposes to reconcile the operation of an open pit bauxite mine with the right of the Dongria to worship on the same site but has been unable or unwilling to respond.³⁸

Equality before the law

66. The rights of forest dwellers in India were denied them for decades, under laws first introduced by the British but continued in an independent India. The purpose of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 was to do away with this historic injustice and at last to afford forest dwellers the equal protection of the law.

67. Section 3(1) of the Act defines forest rights in the broadest terms so as to include in particular “any traditional right customarily enjoyed by a forest dwelling Scheduled Tribe.” The Dongria Kondh are a forest dwelling Scheduled Tribe, and among the traditional rights that they have customarily enjoyed are a right of unrestricted access to Niyam Dongar and to use the hill top for their religious observances. These rights will be lost irretrievably if the mine is built.

68. This will constitute a clear violation not only of the 2006 Act but of the right of the Dongria Kondh under Article 5(d)(v) of the Race Convention to equality before the law in their enjoyment of their right to own property “alone as well as in association with others”. The term “property” is not defined in the Race Convention but is broadly construed. In India itself the word is regarded as “indicative and descriptive of every possible interest which a party can have, and must receive the widest interpretation and must be held to refer to property of every kind.”³⁹

³⁸ Letter from Survival at page F12. A subsequent statement by Vedanta is reproduced at page F19a

³⁹ *Madan Mohan Pathak v Union of India* A.I.R., 1978 S.C. 803 at 820 per Bhagwait J. See also *Zimbabwe Township Developers v Lou's Shoes* [1983] 2 ZLR 376.

Means of subsistence

69. The construction of the mine will also deprive the Dongria Kondh of their current means of subsistence, contrary to Article 2(1) of the CPR Covenant. Experience shows that it is not practicable to gather forest produce or cultivate crops in close proximity to a mine of this size, or near the access roads or conveyer belts that will service it. The new roads will provide ready access to outsiders, and there are reports that they have already attracted “timber mafia” to the area. Over the last four months Survival researchers have noticed a marked deforestation of some adjacent hill slopes.
70. Thirty six streams rise within in the area covered by the mining lease, most of them from just below the bauxite escarpment. The Dongria depend on these springs to irrigate their crops and for drinking water. There is a significant risk that they will dry up and disappear as water-retaining bauxite is mined out, and that they will be polluted by mineral overburden. The MoEF has testified on oath that “the extensive land degradation at the plateau will in all probability alter the direction of rainwater flow as well as the water system, and its discharge downhill may further disrupt the natural water system and trigger soil erosion.”⁴⁰
71. The Orissa Government has accepted that the development of a mine will result in the “displacement and destruction of the livelihood sources of the tribals who have been residing in this area,” but says that this will be “taken care of” in its rehabilitation plans.⁴¹ Whatever the practical effect of these plans (which is often more imagined than real), they do not affect the legal principle: the Dongria cannot be compelled to substitute one way of life for another if they have not consented to do so.

Right to be consulted and to give or refuse their FPIC

72. Vedanta does not dispute that the Dongria Kondh have the right to be consulted. Remarkably, its case is that they *have* been consulted, and that most of them have accepted the company’s proposals. The protest meetings, demonstrations and road blocks are all the work, apparently, of a dissident minority.

⁴⁰ Affidavit on behalf of the Ministry of Environment and Forests submitted in evidence to the CEC: page E40

⁴¹ Counter submission on behalf of the State of Orissa before the CEC: page E53.

73. The basis of this claim remains a mystery. Vedanta has said that when the Supreme Court considered the various petitions presented to it, “we were required to provide evidence that the local community in the area of the project had been consulted and the majority were supportive.”⁴² We have asked Vedanta what this evidence is and where it can be found, but have yet to receive a reply.
74. We do not expect to get one, for several reasons. First, the only issue before the Supreme Court was whether it should set aside the environmental clearance issued for the refinery. The question whether there had been any or sufficient public consultation about the mine was therefore irrelevant. This is why the Court record, which we carefully re-examined in the light of Vedanta’s claim, contains no indication that the Court either asked for or was given any evidence that the Dongria Kondh had been consulted about the mine - still less that they had expressed their support for it.
75. Second, we do not believe that Vedanta can seriously dispute that the Dongria were not told about, and therefore did not participate in, any of the public meetings described in section II.
76. Third, although we have made every effort to identify any other public meetings about the mine in which the Dongria Kondh might have participated, we have not been able to do so. The Dongria to whom Survival has spoken have invariably said that they have never been invited to attend any meeting to do with the mine. Jitu Jakesika, a Dongria activist who moves constantly between Dongria villages and is extremely well informed of local events, is adamant that no such meeting has taken place. Dr Padel has said the same, and is confident that if there had been a meeting he would have known about it. Other Kondh tribals who attended one or other of the meetings held in 2002 and 2003 have told us that they saw no Dongria at any of them.
77. Finally, it is difficult to understand why, if Vedanta had really believed that the Dongria had already expressed their support for the project, Mr Agarwal should have told shareholders at the AGM that the company would only start work “*if*” it obtained the “complete permission” of the people.

⁴² Letter to Survival at page F31, rejecting our proposal that the company should commission an indigenous rights impact assessment.

78. It remains to be seen whether Vedanta will now produce any “evidence” that “the local community in the area of the project had been consulted and the majority were supportive.” Even if it does, that evidence will have little value unless it is also shown that the Dongria were supplied with sufficient information about the mine and its likely impact to allow them to come to an informed view. In the absence of credible evidence to this effect, there will have been plain breaches not only of Articles 19 and 32 of the Declaration, but of Article 27 of the CPR Covenant and of Article 5(c) of the Race Convention.

VII. Complicity

79. If it is to comply with the OECD Guidelines Vedanta must “respect” the human rights of the Dongria Kondh consistent with the international obligations and commitments listed in section VI. Whatever else that term may connote, the duty to respect human rights must at least mean that it will not be open to Vedanta to say that it has complied with the domestic laws of India (even if it has, which many observers would challenge). If that were the case, the Guidelines would have been drafted in very different language.

80. To put it another way, and as the UN Special Representative has succinctly observed, “corporate responsibility to respect human rights includes avoiding complicity in their abuse.”⁴³

81. There is overwhelming evidence of Vedanta’s complicity in the breaches we have identified: the company has known from the outset that its proposals will desecrate a site of immense religious significance to the Dongria Kondh, that it will deprive them of their rights of access to the site and deny them the use of the forest and cultivated plots on which they depend. Vedanta knows that none of its proposals can be implemented without its financial support, and it will expect to enjoy a significant return on that investment. Finally, whatever the position may be in relation to the tribal peoples at Lanjigarh and the refinery, the company must know full well or have chosen to turn a

⁴³ Protect, Respect and Remedy: A Framework for Business and Human Rights [A/HRC/8/5] §73

blind eye to the fact that the Dongria Kondh have never been consulted about its proposals for the mine.

VIII. Self-regulatory practices

82. It has already been noted that Vedanta has no human rights policy and no indigenous peoples policy. It does not appear to have any code of conduct either. Its 2008 Annual Report states only that:

The communities around our plants are our key stakeholders. They are a key element of how we conduct business and the development of our medium and long-term plans and strategies at local, divisional and group level...

Our CSR and site management teams assess local needs and prioritise them. We then design and roll out comprehensive and extensive development plans in partnership with the government, NGOs and the community into an integrated village development plan. Ongoing internal reviews and social audits every 2–3 years facilitate transferring autonomy to the villages and expanding our reach.

Our community policy, which is applied across all of our Group companies, is to: be a significant contributor to addressing social needs within the communities in which we operate; create partnerships for sustainability; strive to actively enter into dialogue and engagement with our stakeholders; strive to achieve and drive forward industry best practice in our social stewardship; comply with all applicable legislative and statutory requirements; be a responsible and good local neighbour.”

83. These statements verge on the platitudinous. They manifestly do not describe “effective self-regulatory practices and management systems that foster a relationship of confidence and mutual trust between enterprises and the societies in which they operate.” The absence of such practices and systems goes some way towards explaining, perhaps, why “confidence and mutual trust” are so conspicuously lacking in current relations between Vedanta and the Dongria Kondh.
84. Still less does Vedanta’s policy oblige company personnel “to engage in adequate and timely communication and consultation with the communities directly affected by its environmental, health and safety policies.” Consultations with directly affected communities will usually be “timely” only if they are conducted before the decision is made whether to proceed with the project. It is implicit in Vedanta’s policy that

consultations are to take place – to the extent that they take place at all – only after the company has committed itself. The latter decision, apparently, is to be driven by financial considerations only.

IX. Remedy

85. No one pretends that relations between Vedanta and the Dongria Kondh are ever likely to be easy. Where the company sees a bauxite deposit which might significantly improve its balance sheet in difficult times, the Dongria see a hill which is integral to their spirituality, history and social organisation and on which they depend for food and water.
86. If these conflicting views are ever to be reconciled it can probably be done only through the Akwe: Kon Guidelines. These are designed to assist the contracting parties to the Convention on Biological Diversity to comply with their obligations under Article 8(j), and emphasise the need to assess the impact of a proposed development not only on biodiversity but on the cultures, “sacred sites” and livelihoods of affected indigenous communities.⁴⁴
87. The Guidelines attach central importance to the “full participation” of these communities “in the decision making process of any development proposal.” It follows that they are to be consulted from an early stage, and are to be notified of meetings in a manner “which takes account of the situation of remote or isolated and largely non-literate communities.” The nature of the information with which they are to be provided is carefully defined, as are the means by which the views and concerns of community members are to be recorded. The possible impacts of the development “on all aspects of culture, including sacred sites, should be taken into consideration while developing cultural impact assessments.”
88. Equally important, in order to protect the interests of the indigenous community the Guidelines propose that an agreement be negotiated between the community and the proponent of the development. The terms of this agreement should “cover the procedural

⁴⁴ www.cbd.int/doc/publications/akwe-brochure-en.pdf.

aspects of the impact assessments, including the option of a no-action alternative, setting out the rights and duties and responsibilities of all parties and also address measures to prevent or mitigate any negative impacts of the proposed development.”

89. In its Third National Report to the CBD in 2006 the Government of India stated that it had used the Akwe: Kon Guidelines “to a significant extent” in “projects proposed to take place on sacred sites and/or land and waters traditionally occupied by indigenous communities.” This will come as news to the Dongria Kondh, to whom, as far as we have been able to establish, not a single clause of the Guidelines has yet been applied.
90. Survival believes that the Guidelines offer the only way forward, and that the NCP should urge Vedanta to apply them without further delay. To the extent that it requires the co-operation of the authorities in Orissa to do so – which it should not – this should be readily available, given the support that the Indian Government has given to the Guidelines in principle.
91. If Vedanta genuinely believes that an open pit mine in Niyamgiri will confer benefits on the Dongria Kondh which outweigh the disadvantages, it will welcome the opportunity afforded by the Guidelines to persuade them of that fact. Correspondingly, if at the end of the process a substantial majority of Dongria Kondh conclude that any advantages are not commensurate with the risks and that they do not want a mine, Vedanta should accept their decision.

X. Timetable

92. According to its interim report for the six months to 30 September 2008, Vedanta now “expects to start feeding the refinery with our own Niyamgiri bauxite production by mid CY 2009. It will be transported by road until the end CY 2009, when our dedicated conveyor belt transportation system will become operational.” Although its workforce is frequently disrupted by local protests, work has already begun on this road. If the NCP is to achieve anything it will have to act quickly.⁴⁵
93. We appreciate that the NCP has a clear procedure in place but would respectfully ask it to complete an initial assessment within two months. If Vedanta really has evidence that the Dongria Kondh have been consulted and that the majority support the project, this will give the company more than enough time to produce it. Vedanta is unlikely to have to make any special enquires to respond to the factual allegations we have made, which will already be familiar to it.
94. As soon as any factual mistakes in the assessment have been corrected, if and to the extent that NCP considers that the complaint is admissible it should offer to mediate between the parties. Survival will be ready to participate in a mediation on very short notice.
95. If Vedanta seriously intends to co-operate with the NCP, it will be in the company’s own interests to do everything it can to expedite this process: It will want to know as soon as possible how, if at all, it should adjust its plans to take account of the views of the NCP and of any mediation that may take place. Conversely, if Vedanta’s true intention is to press on regardless of anything that the NCP may ultimately say, it is likely to procrastinate as long as it can, to continue in the meantime with the works already in hand, and in due course to present both the NCP - and more importantly the Dongria Kondh - with a fait accompli.

⁴⁵ The timing will become even more critical if Vedanta successfully applies for the six-fold expansion of the refinery that is currently under discussion.

96. The one course that Vedanta will not adopt, we hope, is to present the NCP with a list of the benefits that will supposedly accrue to a “primitive” and “backward” people if the mine goes ahead. This will not assist anyone, at any rate at this stage of the exercise. It will be for the Dongria themselves to take a view on the supposed benefits of the company’s proposals in due course, and not for the NCP or anyone else.

XI. Conclusion

97. Vedanta claims that that it “takes human rights, the environment and its relationship with the communities in which it operates very seriously, and considers them part of its licence to operate.”⁴⁶ If this is true, the company should now recognise that its policy has come badly adrift in Niyamgiri, and that it must focus its efforts first on seeking an independent assessment of the true impact of its plans on the Dongria Kondh, and second on a realistic programme to secure if it can their free, prior and informed consent.
98. If the NCP cannot persuade Vedanta to do this, the Dongria will have no other means of securing their right to be heard. Denied that right, they may feel driven to use every means available to them to resist and disrupt Vedanta’s operations. This cannot be in the long term interests of anyone.

19 December 2008

⁴⁶ Letter from Vedanta’s public relations consultants, Finsbury, at page F11.