

## REPORT OF A VISIT TO ORISSA: 2-10 DECEMBER 2009

### *Summary*

1. Our main purpose was to investigate what Vedanta has done to implement the recommendations contained in the Final Statement dated 25 September 2009. Since we were not able to meet with Vedanta or to persuade it to respond to our enquires, we do not know whether it will claim to have taken any steps in this respect. We found not the slightest evidence, however, that it has done anything at all. On the contrary, the company appears to have ignored the NCP's recommendations in their entirety.

### *Itinerary*

2. We attempted to enter Niyamgiri from Muniguda on 3 December. Our plan was to walk from Sakata to the Dongria village of Gorta, from which we intended to visit other Dongria villages and hamlets in the same area. This plan had to be aborted when our vehicle was surrounded by a gang of youths in Balliapadar, on the road to Sakata.
3. The youths were not interested in the purpose of our trip. Nor were they willing to tell us who they were or why they objected to our visiting the Dongria. All that they would say was that we must go back to where we had come from. Tempers became frayed and there were threats to break the windscreen of our vehicle.
4. Even if we had ourselves been prepared to carry on, our driver and guides made very clear that they were not. We had no choice but to withdraw, and to try to enter Niyamgiri by another route. With some difficulty, we persuaded our driver to take us to Bwanipatna while we considered our position.

5. Our guides remained in Balliapadar but later came to see us in Bwanipatna. They told us that the youths who had stopped us in Balliapadar were paid by Vedanta, and that their job was to prevent “outsiders” from meeting with Dongria. The same view was expressed by a respected lawyer named [REDACTED] whom we met in Bwanipatna. Mr [REDACTED] has had extensive dealings with the company over the years.
6. With Mr [REDACTED]’s help we entered Niyamgiri from Trilochanapur on 5 December, and visited the Dongria villages of Phuladumer and Palaberi. We spent the night at another Dongria village called Lakhapadar. We had planned but were not able to visit Konakadu as well, but met its headman in his fields close to the village.
7. We focussed on these four villages because they are closest to the site of the mine, and because Mr [REDACTED] had told us that he had personally responded to show cause notices served on residents of Phuladumer, Palaberi and Konakadu under the Land Acquisition Act. These notices are served by state authorities when they want to acquire land for “public purposes”. No formal notice had been served on Lakhapadar, but villagers there have been warned that they too will have to move.
8. We returned to Trilochanapur on 6 December to discover that the motorcycle that one of our guides had left there had been vandalised in our absence. Its tyres had been slashed, he was told, because he had helped us to enter Niyamgiri. A heated exchange took place between our guides and villagers who objected or claimed to object to our presence in the area. Once again we were told that these people were in the pay of Vedanta.
9. These and other problems made it impossible to make any further trips into Niyamgiri, but we were able to speak to a number of Dongria at the Muniguda market on 9 December. Two of our team left Orissa on 10 December and the third left on 11 December.

### *Interviews*

10. At Phuladumer we met members of a women’s co-operative to which Vedanta has supplied several sewing machines. We were not able to conduct a formal interview, but it was apparent from our discussions that the women knew little or

nothing about the mine or what it might mean for them. There had been no recent visits from Vedanta.

11. The headman of Palaberi is [REDACTED]. He told us that the village had received visits from Vedanta in the past, but had heard nothing from the company for a long time.
12. The headman of Lakhpadar is [REDACTED]. He had spoken at a public hearing in April 2009 about the proposed expansion of the refinery, and appears to keep abreast of developments that might affect the interests of his village or of the Dongria generally. He was quite unaware of any attempt by either state officials or Vedanta, whether over the last three months or at all, to inform the Dongria of the basic facts about the mine or its impact upon their way of life, or to solicit their views on Vedanta's plans.
13. [REDACTED] told us that about two months ago two men had visited Lakhpadar whom he believed to have been sent by Vedanta. He and other villagers had been given their business cards, but had destroyed them. Since they are illiterate, they were not able to tell us what the cards had said.
14. The men had asked [REDACTED] to come to the District Headquarters to meet the Collector. He was promised that if the village supported the mine Vedanta would sink wells, build roads and buildings and carry out other useful work. [REDACTED] himself was promised "five or ten years of labour work".
15. The visitors said nothing, however, about the mining operations that are to take place on Nyam Dongar, or about how these operations will affect their village. They had not asked whether villagers use or occupy land close to the mine site (as they do), or discussed with them how their use of this land may have to change.
16. [REDACTED] told us that his village had not received no other visitors over the last few months, and that he was not aware that any other Dongria village in the vicinity had received a visit.

17. The headman of Konakadu is [REDACTED]. His village is closest to the proposed mine, but he too had heard nothing from Vedanta or any state officials. He said no one had ever tried to explain to the village what the mine was, where it would be situated or how it was likely to affect local people. It was clear that he still did not know the exact location of the mine, or how long mining operations were expected to continue.
18. We were told much the same by the headman of Gorta, [REDACTED], whom we were able to interview in Muniguda when he recognised one of us from a previous trip. Gorta had received no recent visits from state officials or Vedanta, whether to discuss the mine with villagers or for any other purpose.
19. Thirteen Dongria villages lie within four kilometres or less of the mine site. Another eight are situated no more than five kilometres away. Both [REDACTED] and [REDACTED] said that they are in regular contact with the other headmen of these villages, and that they pass on to each other any information of common interest.
20. Both were adamant that if Vedanta or anyone on its behalf had recently attempted to discuss the mine in other Dongria villages they would have known about it. They had heard nothing. The headman of Gorta is especially well respected by other Dongria, and we find it difficult to believe that he would not have become aware of any Vedanta activity in the region.
21. We were also able to interview [REDACTED] of Golagola, which is a Dongria village situated about four kilometres west of the mine site. His village had received no recent visit from Vedanta or state officials either. Once again no one had ever tried to explain to the residents of Golagola how the mine might affect them, or asked whether they supported or opposed it. [REDACTED] did not know the location of the proposed mine.
22. We also spoke to several of the NGOs which are active in the area. None of them were aware of any initiative on the part of Vedanta over the last few months (or at all) to discuss their plans for the mine with the Dongria.

### *Conclusion*

23. Vedanta has declined to alter its conduct in any way as a result of the Final Statement. It has not commissioned a human and indigenous rights impact assessment in accordance with the recommendation made in §75 of the Final Statement. It has made no attempt whatever to “engage” with the Dongria under §74, let alone to respect their views about the mine. We have no reason to suppose that it has even looked at the Akwe: Kon Guidelines.
24. The company has preferred to focus instead on the implementation of its plans for the mine, regardless of the impact of those plans on the Dongria Kondh. It appears to have embarked on a collision course with the Dongria which may well result in violent confrontation.

### *Vedanta press release*

25. Vedanta’s attitude to the OECD is perhaps illustrated by an incident that occurred towards the end of our visit.
26. We had tried to set up a meeting with Vedanta before we left England but had received no reply to our letter. On 9 December 2009 we telephoned the Lanjigarh refinery several times to request an appointment with its Chief Operating Officer, Dr. Mukesh Kumar. We were eventually told to identify our organisation. We were then told that a meeting would not be possible and to ask any questions by email. We did so, but have received no response to our questions.
27. More importantly for present purposes, within a few hours of this exchange Vedanta’s Head of Corporate Communications, Pavan Kaushik, had distributed to journalists in India and elsewhere the email letter and statement that we have enclosed with our report.
28. These documents are largely self-explanatory, but in summary they alleged that amongst other things we:

- (a) tried deliberately to create misunderstanding and unrest in the area of the proposed mine, and to provoke hostility towards both the company and the State Government;
  - (b) sought to do this because a team from the Ministry of Forests and the Environment was shortly due to visit the area;
  - (c) circulated false information not only about the proposed mine but about mining activity in Orissa generally;
  - (d) in particular told the Dongria Kondh or others that the mine would completely destroy Nyam Dongar;
  - (e) also told the Dongria to erect dwellings on the top of Nyam Dongar, presumably in an attempt to stop or obstruct the mine or to provoke a violent confrontation; and
  - (e) imposed ourselves on the Dongria against their will.
29. The email went on to claim that the “unrest” that we had created had “got reported to local police authorities who are now looking into the matter of this sudden movement of foreign NGOs including Survival International.” Journalists were given the telephone number on which they could contact the Superintendent of Police in Kalahandi, who was supposedly in charge of the investigation.
30. Vedanta was well aware, of course, that there was nothing “sudden” about our movements in Orissa. It had known of our visit and its purpose for almost a month. It also knew that our visit had nothing to do with that of a team from the Ministry of Environment and Forests, which had only been announced on 27 November.
31. If Vedanta had been remotely interested in establishing the truth of the allegations that it has made against us, it is difficult to understand why Dr. Kumar refused to meet with us. This would have allowed him to put the allegations to us and to invite our response.
32. Dr Kumar and Mr Kaushik apparently did not think it necessary to identify the source or sources of their allegations, or any evidence that they might

have to support them. This is unsurprising, because there is not a word of truth in any of the allegations. They have been fabricated, from start to finish.

33. The charge that we have circulated false information about the mine is especially ironic. In fact, we went out of our way to ensure that the information that we gave to the Dongria was culled exclusively from Vedanta's own mining plan. We had been lent a copy of the plan by a Delhi lawyer who had obtained it pursuant to a request under the Right to Information Act.
34. It was clear to us that the Dongria were not even aware of the plan's existence. We took the view that if anyone had a right to the information that it contained, it was the Dongria Kondh.
35. We believe that Vedanta did not make these allegations because they thought that they were or might be true, but because they hoped that news of a supposed police investigation into our activities would induce us to leave the area as a matter of urgency. As it happened two of us were due to return to Delhi on 10 December in any event, but our remaining member had intended to spend a few more days in Orissa. When the police paid a late night visit to her hotel on 10 December, however, we decided that she too should leave the State without delay.

Dr Jo Woodman: Survival International

██████████: Survival International

Gordon Bennett: New Square Chambers

23 December 2009