

NORWEGIAN MEDICINE FOR VEDANTA

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On 19 November, the Norwegian Embassy in New Delhi received some unusual visitors. Even the police and security personnel stationed in the heavily-guarded Chanakyapuri area of Delhi where Norwegian and other embassies are located could not figure out the purpose of these visitors. Though they were Indian citizens, ethnically they belonged to a distinct tribal minority group called Dongria Kondh. Dressed in their traditional attire, these tribal representatives came all the way from the remote Niyamgiri hills of Orissa to express gratitude to the Norwegian government for removing UK-based Vedanta Resources Plc from its investment portfolio. What was even more perplexing was that instead of protesting with placards and banners, the tribal representatives quietly met officials at the Norwegian Embassy and handed over a letter of thanks besides gifting them two photographs depicting the natural beauty of their habitat. So, in many ways, their visit was *unusual*.

Officially considered "primitive," the Dongria Kondhs are the original inhabitants of Niyamgiri hilly region which extends to Rayagada, Koraput and Kalahandi districts of South Orissa. They largely rely on hunting, gathering and shifting cultivation in the Niyamgiri hills for survival. Given the lopsided nature of state-run developmental projects and schemes in Orissa, Dongria Kondhs have remained isolated and outcaste for decades.

As per Indian constitution, Niyamgiri is a Schedule V area which means that tribal lands cannot be taken over by non-tribal individuals and corporate houses. Further, *gram sabhas* have been empowered to manage natural resources including land, water and forest resources and their approval is required for all developmental projects in the area. Unfortunately, such legal protective measures have largely remained on paper as evident from large-scale forced eviction of tribal communities for big developmental projects.

After decades of seclusion, Dongria Kondhs came into public notice some four years back when they resisted the upcoming \$850 million aluminium refinery and bauxite mining project at Lanjigarh in Kalahandi district. The work on refinery has been completed and full commercial production is expected from early 2008. Whereas the bauxite mining project has not received environmental clearance from the Ministry of Environment and Forests.

The entire project belongs to Vedanta Alumina Limited, a subsidiary of Vedanta Resources Plc. Though the parent company is registered and listed in the UK, most of its business activities linked to mining and production of copper, aluminium and zinc are located in India. With revenues in excess of \$6.5 billion, the company owns a significant market share in several metals and minerals. The main promoter of Vedanta Resources is India-born business tycoon, Anil Agarwal, who nowadays proclaims to be the "brand ambassador of Rajasthan in the world." His is a rags-to-riches story with his starting business as a scrap metal dealer in the late 1970s. Mr Agarwal has always been in the centre of many controversies. The accusations against Mr Agarwal range from throwing a digital

diary at his senior employee in UK to buying state-owned mining company, BALCO, in India at throwaway prices. Of late, Mr Agarwal has also become visible in charity and corporate social responsibility circles. He recently announced an ambitious plan to set up Vedanta University in Orissa on the lines of Stanford and Harvard universities.

The tribal community is opposed to the project as they fear loss of their livelihoods and traditional culture due to displacement by the mining of bauxite in the Niyamgiri hills. The mining project would lead to displacement of thousands of tribal people and destroy biodiversity and water sources. Niyamgiri hills are the source of Vamshadhara River and major tributaries of Nagaveli rivers – sacred to the Khonds. A large number of wildlife species including tiger, leopards, elephant and mouse deer also abode in Niyamgiri hills. Many of these species are endangered. In the past, efforts have been made by various governmental and non-governmental bodies to declare Niyamgiri hills as sanctuary or reserve area to protect its pristine natural habitat.

The initial local resistance against the project started with the land acquisition process. But because of the poor economic and political clout of Dongria Kondhs, their voices and concerns were ignored by local and state authorities. This is hardly surprising given the Orissa government's thrust on 'accelerating economic development' by handing over rich natural resources to big private companies, both domestic and foreign, for a pittance.

However, the power dynamics changed when campaigners, NGOs, documentary filmmakers, human rights groups, advocacy and support groups from India joined hands with the local tribal community to oppose the project. As a result, greater awareness about the pitfalls of the project was generated in other parts of the country. Later on, several petitions were filed before the Central Empowered Committee (CEC) appointed by the Supreme Court. In these petitions, local people and their supporters had highlighted various violations of environmental laws by the company. After visiting the area, the CED informed the Supreme Court about the negative consequences of this project on the people and environment. In its September 2005 report, the CEC declared that the refinery was illegally constructed and should not be allowed to proceed.

At the international level, the protest action received momentum with the support of well-known mining critic and activist, Roger Moody, as well as *Actionaid* and others. In alliance with Indian activists and groups, Moody and his colleagues at Partizans, a UK-based campaign group, initiated the campaign against the project at the international level. They also released a report titled, "Ravages Through India", in August 2005. The Report highlighted evidence of serious violations of human rights and environment laws by the Indian subsidiaries of Vedanta Resources. They were instrumental in informing and activating the shareholders and lenders of Vedanta Resources about the disastrous consequences of the project on the tribal community and natural environment.

It is in this context that Norway's sovereign wealth fund, Government Pension Fund–Global, came into picture. The Fund had invested around \$14 million in Vedanta Resources Plc, amounting to an equity ownership of 0.16 per cent.

With \$370 billion under management, Government Pension Fund–Global is the second largest sovereign wealth fund in the world, next to Abu Dhabi Investment Authority. It has invested in nearly 7000 companies globally. Sovereign wealth funds are owned by state agencies such as central banks, state investment companies, state pension funds, and oil stabilization funds. These funds are usually long-term investors and invest in stocks, bonds, infrastructure and real estate.

Unlike other sovereign wealth funds, Norway's Fund follows the best disclosure and ethical standards related to its investment portfolio. In 2004, the Council on Ethics was established to regularly evaluate investment portfolio of the Fund to ensure that investments in specified companies are consistent with the established ethical guidelines adopted in 2005. The ethical guidelines bar the exclusion of companies if there are serious violations of human rights, labour exploitation, corruption or severe environmental damages. Though the Council can only make recommendations, the final decision to exclude companies from Fund's investment portfolio rests with Norway's Ministry of Finance. In the past, the Fund had sold its stake in several transnational corporations such as Wal-Mart Stores, Freeport McMoRan Copper & Gold Inc., DRD Gold Limited, BAE Systems, Lockheed Martin Corporation and many others because of their unethical business practices. What is interesting to note is that despite boycotting over 20 major transnational corporations from its investment portfolio, the financial performance of the Fund has not deteriorated.

In response to international campaign, the Council on Ethics decided to evaluate the investments in Vedanta Resources Plc in October 2006, particularly from the point of human rights violations and environmental damage. Since the parent company, Vedanta Resources Plc, holds a majority share in four Indian subsidiaries namely, Sterlite Industries (India) Limited, Madras Aluminium Company Limited, Bharat Aluminium Company Limited and Vedanta Alumina Limited, the Council investigated all of them. The Council commissioned studies and reports by experts and consultants and relied upon reports and documents from governmental and non-governmental sources. Once investigations were over, the Council invited Vedanta Resources for comments on its findings. But Vedanta Resources refused to comment despite extension of deadline by the Council.

On May 15, 2007, the Council recommended to the Ministry of Finance to sell off its stake in Vedanta Resources. In its scathing report, the Council severely criticized Vedanta Resources for its connivance in human rights violations and environmental damage in its four subsidiaries. In the words of Council's report, "The allegations leveled 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... the violations against the environment and human rights that have been revealed are recurrent at all the subsidiaries subject to investigation and have taken place over many years. In the Council's view, they indicate a pattern in the company's practices where such violations are accepted and make up an established part of its business activities.

Such a pattern of conduct constitutes an unacceptable risk that the company's unethical practices will continue in the future."

Even the critics had not expected such a sharp indictment of business practices of Vedanta Resources from the Council. On 28 August, the Finance Ministry ordered the Fund to sell off its stake by October 2007. On 6 November, the Ministry made the decision public on its website.

For Vedanta Resources, Norway's sell off decision came at a bad time. The sell off decision was cited in the ruling of the Supreme Court issued on 23 November, 2007. The Court denied permission to its subsidiary, Vedanta Alumina Limited (which is not listed in Indian stock markets) to mine bauxite at Niyamgiri Hills. But there is a catch. The Court allowed Vedanta's other subsidiary Sterlite Industries (which is listed in Indian stock markets) to submit a fresh proposal after setting up a joint special purpose vehicle with Orissa Mining Corporation. The Court also attached new terms and conditions on income sharing, rehabilitation of displaced people and environmental protection in order to enhance Vedanta's responsibility and accountability in India.

It remains to be seen how Vedanta Resources respond to these new developments. So far, it has maintained a complete silence.

Undoubtedly, the Norwegian decision has boosted the morale of the local communities and their supporters against the project. All their concerns and objections which were completely ignored by state authorities and company officials stand vindicated by the international community.

Should one welcome the decision by the Norwegian sovereign fund to sell off its stake in Vedanta Resources? The answer is an affirmative 'Yes'. If globalization can facilitate the movement of capital, goods and services across borders, the same instrument could also be used to build alliances and solidarity with like-minded groups across the borders to resist destructive projects and investment flows. This episode has shown the potential influence of shareholder activism in punishing bad corporations. It has opened up new avenues for grassroots activists and groups to influence corporate behaviour. The shareholder boycott strategy has been extensively used to put pressure on repressive regimes such as South Africa's apartheid regime in the past and Sudan and Burma nowadays. Perhaps this is the first time that such activism took place in a private investment project located in 'democratic' India and therefore is being watched closely.

Should such action by international community be the only way to fight destructive development projects? The answer is 'No' for three main reasons.

First, the real political battle remains with local and national authorities which invite such investment projects. The unequal power relations underlying such investment decisions needs to be altered by domestic political mobilization and democratization process. A formal 'democratic' regime where regular elections take place gives no guarantee that investment decisions are always taken in the interest of people at large. In the present times, establishing democratic accountability in decision-making processes may appear a difficult task but is not impossible. At the same time, another big battle has to be fought at the intellectual level where 'development' is narrowly construed in pure financial returns.

Second, on a pure financial basis, Norway's sale of equity (a miniscule 0.16 per cent of the total equity) had no major negative impact on the share price and market capitalization of Vedanta Resources. The shares sold by the Fund were subsequently bought by someone else (though the identity is unknown) in the financial markets. However, the bad publicity generated by this process may affect the future business prospects of Vedanta Resources.

It needs to be acknowledged here that Norway's sovereign fund is an exception in the global financial markets in terms of its higher governance and ethical standards. No other big international funds follow similar standards and mechanisms. So this boycott strategy has its own limitations.

Lastly, it is very likely that both state government and Vedanta Resources would pursue this project with new conditions and mechanisms as directed by the Supreme Court. So the local community's struggle against the project per se is far from over.

Nevertheless, it is a major moral victory which cannot be measured in financial or other terms. A moral victory, albeit a limited one, raises new hopes and aspirations for collective action in the future. □□□