

mines of Niyamgiri belong to the Orissa Mining Corporation (OMC), with which the company has signed a memorandum of understanding for the procurement of bauxite on a long-term basis - 150 million tonnes from the Lanjigarh bauxite deposits and other nearby mines of the OMC. An MoU was signed by the OMC and Sterlite Industries (India) Ltd, also a subsidiary of Vedanta Resources Plc., in 1997. However, in October 2004, the OMC signed another MoU with VAL for mining bauxite in Lanjigarh and Karlapat. For this mining, the OMC entered into a joint venture with VAL, in which it would hold 26 per cent equity and VAL the rest.

Around 8,000 Dongria Kondh Adivasis, who are a Primitive Tribal Group (PTG) notified by the Union government and who revere the Niyamgiri mountain as their king and god, fear displacement and total disruption of their centuries-old culture once the company gets the clearance to mine the hills. However, the company dismisses all such concerns.

"It has already been clarified by the State's Minister of Steel and Mines in the Assembly that there is no habitation in the mining lease area and as such no displacement is involved there," VAL's chief operations officer Mukesh Kumar told *Frontline*.

THREE-MEMBER TEAM'S REPORT

The MoEF, in December last year, constituted a team comprising Usha Ramanathan, a law researcher from the Delhi-based Centre for the Study of Developing Societies; Vinod Rishi, former Additional Director General of the Wildlife Institute of India; and J.K. Tewari, Chief Conservator of Forests (Central), Bhubaneswar, in view of the allegations regarding the violation of the Forest (Conservation) Act, 1980, and to address concerns regarding tribal rights and wildlife. The team submitted its report to the Ministry on February 25, highlighting, among other things, the gross violations of the Forest (Conservation) Act and the Forest Rights Act (FRA) by the "user agen-

cy", VAL. According to Usha Ramanathan's observations in the report, which has the most scathing indictment of irregularities and violations committed by the company, the Dongria Kondh people feel that although there is no habitation in the mining area, over 200 villages on a hillside will get affected by the road, vehicles, mining activities and the drying up of perennial streams and that the *dongar* (hill), which they worship as their king and god, will be dug up and blasted.

Concern is also expressed over the disregard for the forest rights of the Adivasis under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. According to section 5(c) of the Act, it is to be ensured that "the habitat of forest-dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage".

There is a lot of ambiguity about who the core representative for the mining activity is.

"Until these [forest rights] and allied rights are recognised, recorded and settled under the FRA, it would be unconstitutional and in breach of the FRA to disturb their [the Dongria Kondh] habitat," Usha Ramanathan notes in her report. The report also observes that "disruption of the habitat and the way of life of this PTG cannot be remediated nor compensated, and may lead to the destruction of the Dongria Kondh".

The report also expresses concern over the receipt of material assistance

and benefits by the district administration from VAL. It says that "two rooms have been added to the BDO office [Block Development Office] in Vishwanathpur and furnished by VAL as a resting place for the Collector when he travels on duty".

J.K. Tewari's observations point towards violations of the Forest (Conservation) Act by the company in the construction of 47 pillars for its conveyor belt. Tewari has observed that the area calculated by the State government (45.6 square metres) over which the pillars are constructed is faulty and that the actual area of construction and operation would be much larger. He has also observed violations of MoEF guidelines in the construction of an incomplete mine access road. Apart from environmentalists, human rights activists, the CEC and the MoEF's three-member team, Vedanta has also faced ire from its own shareholders. In February this year, the Church of England withdrew its £3.8-million share from the company citing no "level of respect for human rights and local communities" on the part of the company. Earlier, in 2007, the Norwegian pension fund, the world's second largest sovereign wealth fund, sold off its shares worth \$13.2 million owing to alleged environmental and human rights violations by the company's Indian subsidiaries.

LEGAL AMBIGUITY

There is also a lot of ambiguity regarding whether VAL or Sterlite Industries is the core representative for the mining activity. The Supreme Court order of August 8, 2008, which allowed the diversion of 660.749 ha of forest land for mining, was "in matter of M/s Sterlite Industries (India) Ltd (SIIL)".

In an earlier order dated November 23, 2007, the court had expressed doubts over the credibility of VAL and noted that "keeping in mind the totality of the above factors (a series of facts and circumstances in relation to M/s VAL having caused environmental damage and human rights violations),