

**AMNESTY INTERNATIONAL**

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**India: Open Letter calling on authorities not to approve the expansion of Vedanta's alumina refinery until existing human rights impact is addressed**

To  
Vijai Sharma  
Secretary,  
Ministry of Environment and Forests  
Government of India  
New Delhi, India

Dear Mr. Sharma,

Vedanta Aluminium Limited has applied for environmental clearance for a six-fold expansion of its alumina refinery at Lanjigarh in Kalahandi district in the state of Orissa.

The Ministry of Environment and Forest should not approve this request for expansion of the refinery until ongoing human rights concerns in relation to the current operations of the refinery are effectively addressed by the authorities and Vedanta. In line with India's obligations under international human rights law, the Government must take all necessary measures to safeguard persons within their jurisdiction from infringements of human rights, including by third parties. This also requires the Government to enforce laws against pollution and to prevent the pollution of water, air or soil by extractive industries.<sup>1</sup>

The Government must also undertake an independent and impartial human rights and environmental impact assessment of the proposal for expansion and genuine consultation with communities whose human rights may be affected by the proposed expansion. The communities must also be able to access information about the proposal for expansion of the refinery and clean information on the likely impacts on the community, their livelihoods, their health and their way of life. They should be fully engaged in decision making through fair and free processes, and should be given the opportunity to develop, with the relevant authorities, mitigation measures to ensure that risks and negative impacts are avoided as far as possible.

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<sup>1</sup> United Nations Committee on Economic, Social and Cultural Rights, General Comments No. 14 and 15.

The proposal for expansion envisages the construction of additional annual refining facilities for up to five million tonnes of bauxite, establishment of additional red mud and ash ponds, a dedicated railway corridor and additional township housing. The proposed expansion will necessitate the compulsory acquisition of an additional 1,340 hectares of land from 800 families, largely from *Majhi Khond* indigenous (*adivasi*) communities and other marginalized communities in the area. During 2002-2004, some 748 hectares of land had been acquired from 1,215 families (of whom 102 families were fully displaced) for the construction of the existing refinery, for which the Ministry of Forests and Environment had granted its approval in September 2004,<sup>2</sup> and subsequently for constructing additional facilities and an air strip.

In March 2009, Amnesty International undertook a mission to several villages including Chattarpur, Bandhaguda, Kappaguda, Basantpada, Belamba, Rengopali and Jagannathpur in Lanjigarh and the nearby Niyamagiri hills and met with local communities, various government officials and Vedanta representatives. The organization investigated a number of allegations in relation to the negative impact of the existing refinery on the human rights of the local communities, including the rights to health, to water and to a clean environment. Amnesty International raised these concerns with government officials and the Orissa State Pollution Control Board.

The Orissa State Pollution Control Board, in its regular inspections of the refinery, has documented numerous failures to adequately manage the disposal of waste from the refinery. The waste, which includes red mud (residues include iron oxide and other minerals left over from the bauxite refining process) as well as highly alkaline waste water from the refinery is stored in a red mud pond and another pond is being constructed for this purpose. The currently operational red mud pond is located near the river Vamsadhara, which is the main water source for many people in the area and other parts of south-western Orissa. One of the conditions for the consent to operate the refinery is that that there should be no seepage or overflow from the existing red mud pond to nearby areas or to any water body or on land.<sup>3</sup> In a number of inspection reports however the Pollution Control Board has highlighted the failure of the company to meet this condition. The Pollution Control Board began to highlight concerns arising from the improper lining of the existing red mud pond in 2006 when the refinery's commenced trial operations.<sup>4</sup> The Pollution Control Board has also documented the seepage of alkaline water from the red mud pond, impoundment of alkaline waste water, erosion of a portion (east cell) of the red mud pond, raising the risk of

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<sup>2</sup> Ministry of Environment and Forests, *Letter from Additional Director (IA) to Sterlite Industries (India)*, 22 September 2004.

<sup>3</sup> Orissa State Pollution Control Board, *Inspection Report on Vedanta Alumina Limited, Lanjigarh*, 19 August 2006, p. 6

<sup>4</sup> Orissa State Pollution Control Board, *Inspection Report on Vedanta Alumina Limited*, 2-4 November 2007, p. 9, 11 and 12; Orissa State Pollution Control Board, *Letter No. 522 to Vedanta Alumina Limited, Lanjigarh*, 12 January 2009, Observations 12 & 13.

contamination of the river water.<sup>5</sup> A 2009 letter from the Pollution Control Board to Vedanta stipulates that the sustainability of the impervious lining of the red mud pond should be studied by an expert agency.

The Pollution Control Board has also documented in its inspection reports, in 2007 and 2008, an increase in the PH value of the river to above 8.0 at several places downstream of the plant.<sup>6</sup> It has also documented leakages from the ash pond to a natural water body located near the ash pond.<sup>7</sup> The seepage of filtered water from the ash pond is taking place, thus raising the risk of contamination of nearby natural pond and ultimately river water.

Amnesty International interviewed several people from villages near Lanjigarh who expressed their concerns about discharge of waste water into the river. They explained that though they had previously relied on the river for drinking water, they no longer felt comfortable in doing so. They were also concerned about using the water for bathing, other personal use and for their cattle but were forced to do so because of a lack of alternate water sources. Amnesty International recorded specific complaints from villagers, who spoke about getting skin problems and conditions after bathing in the river. They also described other negative health affects, which have not yet been investigated or monitored by any public medical authority.

The communities living in the vicinity of the refinery, interviewed by Amnesty International, also described how uncomfortable their living conditions are because of dust and noise pollution from the refinery.<sup>8</sup> They also described respiratory discomfort, coughing and other health conditions which they believe are linked to inhaling dust and other emissions from the refinery. The Pollution Control Board's investigations have found air and noise levels above the stipulated limits.<sup>9</sup> Amnesty International however found that no systematic health monitoring has been carried out on the possible health effects of the documented pollution on communities living in the vicinity of the refinery.

The Pollution Control Board's last inspection report dated 12 January 2009 [highlighted continuing pollution and lack of compliance with its previous directions.<sup>10</sup> The failure of the company to comply with OSPCB directions is a serious concern; all the more so because this failure would appear to be linked to potentially serious human rights consequences, including harm to human health.

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<sup>5</sup> Orissa State Pollution Control Board, *Inspection Report on Vedanta Alumina Limited, Lanjigarh*, 29-30 January 2008, Observations 1 to 4..

<sup>6</sup> For more details see Orissa State Pollution Control Board, *Inspection Reports on Vedanta Alumina Limited, Lanjigarh*, 4 February, 17 March 2008, 9 and 26 April, 6 and 27 May, 27 October, 6 November and 3-5 December 2008.

<sup>7</sup> Orissa State Pollution Control Board, *Inspection Report on Vedanta Alumina Limited, Lanjigarh*, 29-30 January 2008, Observation 8.

<sup>8</sup> During visits to these villages, Amnesty International's researchers underwent the same uncomfortable experience, even if for a few hours.

<sup>9</sup> For more details see OSPCB, *Inspection Reports on VAL*, 4 February and 6 November 2008.

<sup>10</sup> Orissa State Pollution Control Board, Letter No. 522 to VAL, 12 January 2009.

The above unresolved issues become all the more important since the Pollution Control Board's last inspection report and directions issued subsequently highlighted a series of outstanding violations in relation to continuing pollution and lack of compliance with its directions.

Amnesty International findings point to violations of the local communities' human right to water and right to health including the right to a healthy environment. The Government of India has to enforce laws against pollution and to prevent any pollution of water, air or soil by Vedanta. It must take all necessary measures to follow up on the Pollution Control Board's investigations and recommendations and to urgently assess and address the impact of the pollution on the communities' rights to water and to health. It should also ensure that Vedanta cleans up any pollution that has occurred, immediately stops any discharge or seepage of alkaline wastewater from the red mud pond or other sources. The Government of India must also ensure that any persons whose human rights have been violated have access to justice and to an effective remedy and reparations.

Given the Pollution Control Board's finding, the testimony of the communities on the negative effects that they have already experienced, a six-fold expansion of the refinery is very likely to lead to further violations of human rights.

Amnesty International urged the Government of Orissa to make the Pollution Control Board's reports publicly available to the communities and to civil society prior to the 25 April public hearing.<sup>11</sup> The organization also urged the Government of Orissa to scrutinise the above data and ensure an independent assessment of the proposed expansion on the their human rights impact on the communities who may be further affected by the refinery's expansion plans.

On 25 April 2009, officials of the Government of Orissa held a public hearing with the local communities at Belamba near Lanjigarh. Amnesty International understands that, prior to the public hearing, the Ministry of Environment asked Vedanta to comply with a set of terms of reference for the proposed expansion, stipulating standards for environmental monitoring.<sup>12</sup> Amnesty International, however, learned that no arrangements were made to provide this information to the communities at the public hearing. No process has also been set up to discuss with the local communities their concerns about the refinery's existing operations.

The only documents made available to the local communities prior at the public hearing were the Rapid Environmental Impact Assessment (in English and Oriya languages) and the Environmental Impact Assessment (in English) for the proposed expansion, both commissioned and paid for by VAL. These

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<sup>11</sup> Amnesty International, *India: Open letter to Orissa authorities on providing adequate information and ensuring effective consultation with local communities on the human rights impact of Vedanta's proposed alumina refinery expansion*, ASA 20/002/2009, 24 April 2008.

<sup>12</sup> Letter from Director (IA), MoEF, to VAL, 12 March 2008.

assessments do not address the existing concerns; nor do they describe steps taken to redress these and ensure that they will not occur again. They also do not evaluate the possible impact of proposed expansion on the health or livelihoods of the local communities. The Pollution Control Board's reactions to these assessments were not shared with the local communities. The communities and representatives of civil society organisations also requested information of this nature at the public hearing but were not provided it.

The communities have a right to full and adequate disclosure of information on how any proposed expansion of the refinery will affect their human rights. This information must be provided to them in a timely and appropriate manner. Moreover, the process to identify risks to the population should be done in consultation with the communities and take their views and their knowledge into account. The time given to this process should be adequate to enable an effective assessment of the potential human rights impacts, and the development of plans to address any risks identified.

Amnesty International therefore calls on the Government of India and Government of Orissa

- To refuse environmental clearance for the proposal by Vedanta to expand its Lanjigarh refinery until ongoing human rights concerns in relation to the current operations of the refinery are effectively addressed by the authorities and Vedanta, including through Vedanta cleaning up any pollution that has occurred and immediately stopping any pollution of air, water and soil.
- To take all necessary measures to follow up on the Orissa State Pollution Control Board's investigations and recommendations and to assess and address the impact of the pollution on the communities' rights to water and to health. Ensure that any persons whose human rights have been violated have access to justice and to an effective remedy and reparations;
- Undertake an independent and impartial human rights and environmental impact assessment of the proposal for expansion and ensure genuine consultation with communities whose human rights may be affected by the proposed expansion;
- Provided the communities with accessible and adequate information, including to those who are not formally literate, about the proposal for expansion of the refinery and its risks. They should be fully engaged in decision-making through fair and free processes, and should be given the opportunity to develop, with the relevant authorities, mitigation measures to ensure that risks and negative impacts are avoided as far as possible.

Thank you for your consideration for the above recommendations, and we look forward to your response at the earliest.

Sincerely,  
Madhu Malhotra  
Deputy Program Director  
Asia-Pacific Program

Copies to:

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Mr. Justice S. Rajendra Babu  
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Mr. G. B. Mukherji  
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