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Mrs Jayanthi Natarajan  
Minister of Environment and Forests  
Paryavaran Bhavan  
Lodhi Road  
New Delhi 110003  
India

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**AMNESTY  
INTERNATIONAL**



**AMNESTY INTERNATIONAL INTERNATIONAL SECRETARIAT**

Peter Benenson House, 1 Easton Street  
London WC1X 0DW, United Kingdom

T: +44 (0)20 7413 5500

F: +44 (0)20 7956 1157

E: [amnestyis@amnesty.org](mailto:amnestyis@amnesty.org)

W: [www.amnesty.org](http://www.amnesty.org)

**OPEN LETTER TO INDIA'S MINISTER OF ENVIRONMENT AND FORESTS NOT TO ALLOW EXPANSION OF VEDANTA ALUMINIUM REFINERY UNTIL HUMAN RIGHTS ABUSES FACED BY LOCAL COMMUNITIES ARE FULLY ADDRESSED**

Dear Minister,

Amnesty International has received information that a public hearing on plans by the company, Vedanta Aluminium, for the six-fold expansion of its one million tonne annual capacity alumina refinery at Lanjigarh will take place on 2 May at Rengopalli village. Amnesty International has previously expressed serious concern with respect to: the negative impact of the existing refinery operations; human rights risks associated with the proposed expansion; and the deeply flawed process so far, for informing and consulting with potentially affected communities. We therefore urge you to ensure that the hearing is postponed until existing concerns are addressed.

The proposed expansion of the refinery envisages the construction of several additional waste storage areas, including a red mud pond and an ash pond, as well as housing facilities for employees. The proposal requires some 888 hectares of land around the existing refinery and where Majhi Kondh Adivasi (indigenous), Dalit and other marginalized communities are living. While the Orissa authorities have reportedly not yet demarcated or identified the exact land required for this expansion; nor specified how many people would be displaced or lose their farm or grazing lands, the latest Environmental Impact Assessment (EIA) undertaken by Vedanta Aluminium states that land shall be acquired from nearby areas where the villages of Rengopalli, Kothodwar and Bandhaguda will be displaced.

Amnesty International has consistently highlighted the failure of the existing refinery at Lanjigarh to meet accepted national and international standards in relation to its environmental, social and human rights impact. The refinery, located in a predominantly rural area and beside one of the main rivers in Orissa, the Vamsadhara, began operations in 2007. Since then there have been numerous credible reports of human rights violations and environmental pollution associated with the refinery's construction and operation. Between 4,000 and 5,000 people, including Majhi Kondh Adivasi (indigenous), Dalit and other marginalized communities, live in the 12 villages that surround the refinery, some of them barely 150-300 metres from its boundary walls. These communities have had to live with water and air pollution which has compromised their access to water for drinking and domestic use, and placed their health at serious risk. Dust and noise pollution has significantly undermined their quality of life and added to the health risks.

Amongst the most serious concerns with regard to pollution from the refinery has been its 28 hectare red mud pond, which stores hazardous waste material. Amnesty International has documented evidence of leakages of hazardous material from this pond.<sup>1</sup>

Amnesty International has repeatedly called for urgent action to end the pollution caused by the refinery, to clean-up existing damage and to monitor the health impact of the refinery's operations on local communities. International human rights law requires national authorities to take all necessary measures to safeguard persons within their jurisdiction from infringements of their human rights, including by third parties such as companies, an obligation which requires the Indian authorities to ensure that adequate human rights protections are in place, enforce laws against pollution and to prevent the contamination of water, air or soil. Given the evidence of serious problems associated with the existing refinery operations, Amnesty International has also urged your Ministry not to approve any expansion until the human rights and environmental concerns are effectively addressed.

In addition to investigating and documenting the pollution and human rights impacts of the refinery's operation, Amnesty International also commissioned an expert analysis of the EIAs undertaken by Vedanta Aluminium for the refinery and its proposed expansion. This assessment, published in July 2011, found that the EIAs fell short of India's regulatory requirements and had several serious limitations.<sup>2</sup> These are major concerns, given the central importance of EIAs in the identification and management of risks, to both the environment and local communities.

In August 2011, your Ministry stipulated that plans for expansion of the refinery should go through a fresh EIA process and that the company fulfil specific pre-conditions (70 in this case) before being able to proceed with the expansion plans.

Amnesty International has reviewed the new EIA for the refinery's expansion and its annexure reports, all commissioned by Vedanta Aluminium (The Orissa State Pollution Control Board's assessments of the proposed expansion plans and the EIA have not been made public). Based on this review, Vedanta Aluminium has failed to fulfil, in particular, two major conditions stipulated by your Ministry which would seriously impact the lives of the local communities. Specifically:

Condition 5 requires the company to furnish a copy of the agreement with people whose land would be acquired for the expansion. However, neither in the EIA, nor elsewhere, does the company identify the 888 hectares of land required for the expansion. The EIA states that no direct agreement could be signed with the villagers from whom this land is to be acquired – as governance of this land falls under Schedule 6 of India's Constitution, only the state authorities could lease this land to the company.

Condition 10 requires Vedanta Aluminium to disclose the source of the bauxite for the Lanjigarh refinery operations and the status of the environmental clearance for bauxite mining. The company states that the nearby Niyamgiri hills mine could not be commissioned and that bauxite is being procured from other sources in the country which have regulatory clearances. However, the EIA report, at several places, mentions Niyamgiri hills as the major potential source of bauxite on which it bases its assessments. The proposal to mine bauxite at Niyamgiri hills involves an agreement between the state owned–Orissa Mining Corporation and Sterlite Industries, a Vedanta Resources subsidiary. In August 2010, your Ministry suspended the clearance to mine at Niyamgiri hills following protests, by the 8,000-strong Dongria Kondh community who inhabit the hills, and several national and international non-governmental organizations. This has been challenged by the Orissa Mining Corporation in the Supreme Court.

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<sup>1</sup> Amnesty International, *India: Open letter to Minister of Environment and Forests*, AI Index: ASA 20/032/2011, 24 June 2011, <http://www.amnesty.org/en/library/info/ASA20/032/2011/en>

<sup>2</sup> Amnesty International, *Generalisations, Omissions and Assumptions: the failings of Vedanta's Environmental Impact Assessments for its bauxite mine and alumina refinery in Orissa*, AI Index: ASA 20/037/2011, 24 July 2011, <http://www.amnesty.org/en/library/info/ASA20/036/2011/en>

Also, Condition 70 stipulated on Vedanta Aluminium to furnish details of litigation or court proceedings pending against the project. Vedanta Aluminium claims there are none. It does not refer to the above litigation currently before the Supreme Court in relation to clearances for Niyamgiri mine, despite the repeated reference to Niyamgiri as the major potential source for bauxite. In fact, the Lanjigarh refinery and the Niyamgiri hills mine have always been linked projects, and the refinery was constructed on the assumption that the mine would be a major source of bauxite. As Amnesty International and many other organizations have documented, the proposed mining operation would result in violations of both international human rights law and standards, as well as breaches of national protections for indigenous communities.<sup>3</sup>

In April 2012, Amnesty International again visited Lanjigarh and several surrounding villages - including Rengopalli, Bandaguda, Kothadwar, Kappaguda, Chhattarpur, Kenduguda, Harekrishnapur, Sindbaheli, Basantpada and Jagannathpur - as part of ongoing investigations into the human rights impact of the refinery. The communities repeatedly expressed concern about the environmental and health impacts of the refinery and none of the people we interviewed were aware of any concerted action on the part of the authorities to address the water pollution, the air pollution, or the dust and noise pollution. Although the company has submitted air and water monitoring results for the last three years, Amnesty International does not consider these measures a substitute for independent health monitoring that should have been undertaken for preventive and remedial purposes.

The majority of community members to whom we spoke in April were not aware of the public hearing set for 2 May 2012, despite the Orissa authorities having announced the plans in an English and an Oriya newspaper on 1 April 2012. As Amnesty International noted in its February 2010 report, *Don't Mine us out of Existence: Bauxite Mine and Refinery Devastate Lives in India*, such means of communication are wholly ineffective for local communities in Lanjigarh, few of whom have access to newspapers, and many of whom are not literate. There appears to have been little action by either the company or the Orissa authorities to ensure that people were informed about the hearing, or to provide them with the information necessary to understand the proposals for refinery expansion.

Moreover, residents of the three villages cited above – Rengopalli, Bandaguda and Kothadwar – informed Amnesty International that the local authorities had held village council meetings between 15 and 17 March, at which they informed the villagers that since the pollution problems could not be resolved, it would be better if they let the Orissa authorities acquire their villages and lease them to the company, to facilitate the refinery's expansion. The authorities also urged the people of the three villages not to protest against the move to acquire their lands, but accept the rehabilitation packages offered to them. This action by the local authorities is fundamentally incompatible with India's national legislations for protection of environment, and the rights of Adivasi communities, as well as its international human rights obligations. Indeed, such action appears to further exploit the vulnerability of the affected communities. People cannot be forced to leave their lands and homes because the Orissa government has failed to prevent or address pollution caused by industry. Any compulsory acquisition of land or homes of indigenous peoples must follow international standards. These include requirements to explore alternatives to displacement; to ensure that no forced evictions or forced displacement occurs; that people have full information on their options and are meaningfully consulted; that their free consent is ensured, that they are adequately compensated if they are relocated, and that they have access to legal redress.

Amnesty International is gravely concerned by the evidence that – far from addressing the negative human rights impact of the existing refinery – the government of Orissa and Vedanta Aluminium appear to be continuing with practices that breach international and national laws and standards.

Affected communities have the 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 knowledge and views into account.

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<sup>3</sup> Amnesty International, *Don't Mine us out of Existence: Refinery and Bauxite Mine Batters lives in India*, AI Index: ASA 20/001/2010, 9 February 2010, <http://www.amnesty.org/en/library/info/ASA20/001/2010/en>

The time given to this process should be adequate to enable an effective assessment of the potential human rights impact, and the development of plans to address any risks identified.

Amnesty International therefore urges your Ministry to:

- Order an independent audit of the existing refinery, ensure its clean up, and address all outstanding human rights concerns including impact of pollution on the communities, and
- Halt public hearings by the Orissa authorities until the above issues are resolved to the satisfaction of the communities
- Prohibit any expansion of Vedanta Aluminium refinery until human rights abuses faced by local communities are fully addressed.

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

Yours sincerely,

Pollyanna Truscott  
Deputy Programme Director  
Asia Pacific Program

Cc:

Naveen Patnaik  
Chief Minister  
Government of Orissa  
Naveen Nivas  
Aerodrome Gate  
Bhubaneswar 751001  
India

Rabi Narayan Senapati  
Chairperson, Orissa State Pollution Control Board  
Paribesh Bhavan, A 118, Nilkantha Nagar Unit VIII  
Bhubaneswar 751012  
India

Kishore Chandra S Deo  
Minister of Tribal Affairs, Government of India  
Krishi Bhavan A Wing  
Dr Rajendra Prasad Road  
New Delhi 110001  
India

Bhakta Charan Das,  
Member of Parliament (Kalahandi)  
5, Mahadev Road  
Connaught Place  
New Delhi 110001  
India