

Over the last decade communities around the world have become more vociferous in their opposition to large mining projects that destroy their way of life, damage biodiversity and exacerbate the climate crisis. In this special feature, activists from India and Ecuador describe their struggles.

# Saying “NO” to mining

## INDIA



Photo: Survival International

*The British mining company Vedanta is pushing ahead with plans for an open-cast mine in the Indian state of Orissa to extract bauxite from the Niyamgiri Hills, a forested mountain range inhabited for centuries by the Dongria Kondh tribal people. The move is being fiercely resisted by the Dongria Kondh, who regard the mountain peak as sacred. They are receiving widespread support, at home and abroad, for their struggle.*



Photo: Survival International



Vedanta's alumina factory at Lanjigarh, south-west Orissa

## Endangered tribals up against the terror of Vedanta

LIVING FARMS\*

\* **Living Farms** is an organisation working with landless, small and marginal farmers and consumers in Orissa, India, to improve food and nutrition security and food safety, and to uphold food sovereignty. Sustainable agriculture and natural resource management form their key strategy.

[www.living-farms.org](http://www.living-farms.org)

Living Farms works with the Dongaria Kondh so that they can grow their food on their own land for the entire year. This is being done by re-establishing their local farming system through biodiversity-based integrated farming, increasing farms' resilience and self-sufficiency in energy, and by securing land rights. They network with other groups, in and beyond Orissa, who work with indigenous communities.

1 The group is also known as the Dongria Kondh.

The Niyamgiri Hills, which range over 250 kilometres across the districts of Rayagada, Kalahandi and Koraput in Orissa, are home to more than 8,000 Dongaria Kondhs<sup>1</sup> and other tribals who are now wholeheartedly engaged in what they have been doing for centuries: defending their hills, forests and streams. This time, however, they face a more formidable enemy than ever – a mining giant that calls itself “Vedanta”, a term that in Hindu philosophy embodies centuries of spiritual knowledge and traditional wisdom.

In the first week of March 2009 the Dongaria and other tribes marched through dense forest to create a 17-km human wall along the base of Niyamgiri Hills to blockade the roads and thus to defend their sacred mountain and its biodiversity. This is a part of their sustained struggle to protect their life source. They are preparing to confront the terror of the modern-day Vedanta. Even though they are managing to hinder construction work, the new road has already reached the Dongaria village of Phuldumer, very close to the mine site.

Krushna Wadaka, aged 64, from the village of Katraguma in the Kurli Panchayat in the area, asks: “How can we survive if our lands are taken away from us?” He finds it difficult to understand how

the source of their life can be mined for profit. He continues: “We won't leave our land, come what may, and we will continue to resist any attempt to evict us.”

Vedanta – a British company owned by London-based Indian billionaire Anil Agarwal – was launched on the London stock exchange as Vedanta Resources plc (VRP) in December 2003. Vedanta signed a Memorandum of Understanding with the Orissa government on 7 June 2003 to set up a 1-million-tonne alumina refinery, along with a 100-MW coal-fired power plant, at an investment of Rs 4,000 crore (just over US\$800 million).

The major investors in Vedanta include Barclays Bank (UK), Deutsche Bank (Germany) and ABN Amro (a consortium that includes the Dutch government). The company plans to dig a vast open-cast bauxite mine in the Niyamgiri Hills to feed an alumina refinery that it has already built in the area, at Lanjigarh in south-west Orissa.

### The Dongaria Kondh

The Dongaria – literally “hill people” – are a dwindling sub-section of the Kondh community, who have inhabited the forests of eastern India for several thousand years. They believe that



their surroundings have been provided by their benevolent supreme God King, Niyam Raja, their chief mythological figure, and that they are the direct or indirect progeny of Niyam Raja.

The Dongaria get almost everything they need from the forest and the “swiddens” (small patches of forest that they slash and burn in order to grow crops). The forest also plays a dominant role in their culture, domestic well-being and spirituality, as they believe it to be the home of many of their deities. Before they fell a large tree, for instance, the Dongaria Kondh entreat the gods for permission to do so.

The perception that forests are sacred lies at the root of the Dongarias’ profound respect for them. Indeed, they have long considered forest maintenance a virtue and regarded trees as “friends in need”. As children, the Dongaria are taught not only the guiding principles of conservation but also how to accomplish routine tasks with care. For instance, they will fell a tree only if it is necessary for building a house, and they collect fruit and roots judiciously, leaving room for regeneration. Their concept of Niyam – rule or law – is very strong, as are their communal values of sharing and equality.

The Dongaria worship the mountain as a living God, and are determined to save Niyamgiri from becoming an industrial wasteland. The very act of breaking up the earth for mining and construction contradicts their traditional reverence for Dharani Penu, the earth deity.

Unfortunately, however, rich deposits of bauxite (aluminum ore) have been discovered in the hills, and the mining lobby is keen to exploit them, seriously disrupting the lives of the Dongaria, perhaps to the point where they feel compelled to move to another region. According to anthropologist Felix Padel, “The Dongaria are hill people; resettling them on the plains is a form of ethnocide. They live in the hills, they worship the hills, and they survive off the hills. The Niyamgiri Hills are not simply where the Dongaria live, but the very essence of who they are. To resettle them is to destroy them.”

## What mining will do to the hills

The Dongaria have mounted a strong campaign against the mining project. In early November 2007, the world’s second-largest sovereign pension fund, operated by the Norwegian government, sold all its shares in Vedanta, saying that investing in the company presented “an unacceptable risk of contributing to grossly unethical activities”. Later in the same month, to the delight of the Dongarias, India’s supreme court forbade Vedanta from mining the mountain. But it proved only a temporary reprieve: in August 2008 Sterlite, Vedanta’s Indian subsidiary, came back with a somewhat modified proposal and was given the green light (see Box).

But the Dongaria are still fighting back. If mining goes ahead, two of India’s strongest constitutional guarantees will be overturned: the right of a “primitive tribal group” to their territorial integrity

## Yours today, “mine” tomorrow!

**Kanchi Kohli\***

The story of mining in Niyamgiri is one of people’s truth, bureaucratic lies and judicial failure. It is deeply enmeshed in India’s growth agenda and is symbolic of a world view which puts industrial expansion first, even if it will ravage lives, cultures, livelihoods and natural spaces.

On 22 September 2004, Vedanta Alumina Ltd (VAL) obtained environmental clearance (mandatory under India’s Environment Impact Assessment Notification, 2006) to construct an alumina refinery at Lanjigarh in Kalahandi district, Orissa state. This came after a Memorandum of Agreement had been signed between the state government of Orissa and Vedanta’s subsidiary, Sterlite Industries India Ltd (SIIL). The operations of this refinery were closely linked to the mining of bauxite sourced from the nearby Niyamgiri Hills, and the mining was originally considered part of Vedanta’s operations in the area. Before starting work on the refinery, VAL needed to secure more official clearances. These included a forest clearance for both the refinery and the mining areas, mandatory under the Forest Conservation Act, 1980, for the diversion of any forest land for non-forest use. In September 2004, when environmental clearance was granted, a proposal for the diversion of 58,943 hectares (ha) of the forest land for the alumina refinery was pending with the Ministry of the Environment and Forests, and was subsequently approved.

The total forest land sought, to be diverted for mining, in Niyamgiri Hills was 672,018 ha (660,749 ha for mining and 11,269 ha for a safety zone). However, VAL began to build the refinery before completing these procedures. This was

(continued on page 8)



(continued from page 7)

exposed by three petitioners, R.Sreedhar, Biswajit Mohanty and Prafulla Samantara, in a complaint to the Central Empowered Committee (CEC: a monitoring body set up by the Environment Ministry under directions by the supreme court’s Godavaraman forest case bench; see [www.forestcaseindia.org](http://www.forestcaseindia.org)). The petitioners pointed out that the mining proposed in the Niyamgiri Hills was likely to have a devastating impact on forest, wildlife, and the Dongria Kondh tribal community, who had deep spiritual and livelihood associations with their sacred hill.

As the case was being heard before the CEC, the project’s proponent came forward and denied that the mining component was an integral part of the project, saying that it was a separate project, for which clearances indeed had to be sought. If he had not done this, the construction of the refinery would have been rendered illegal, as the necessary permissions for mining had not been secured. If the projects were separate, however, as stated, then both environment and forest clearances would be needed for the mining operations.

After the presentation of facts before the committee, and a series of discussions, the CEC gave its recommendations to the supreme court’s forest bench on 21 September 2005. It came out clearly against granting a forest clearance for the mining operations, saying that it would have a detrimental impact on the environment of the area and the lives of the Dongria Kondh community. Its report also pointed out that the area came under Schedule V of the Indian Constitution, which prohibits the transfer of tribal land to a non-tribal group.

Arguments continued in the supreme court, however. In a complete volte-face, the company lawyers and the Government of Orissa argued that the mining component was essential for the refinery, and without speedy clearances the company would suffer major losses. Faced with these arguments, the court asked the CEC to reconsider its first set of recommendations. But the CEC stood by its refusal to issue the grant of clearance.

In October–November 2007, there was an interesting parallel development. The Norwegian Council of Ethics withdrew its funding to Vedanta on the grounds of Vedanta’s irregular practices and misdeeds. This was not only in response to events in Niyamgiri, but also took into account the operations of their subsidiaries in other parts of India. This news spread like wildfire in the international and Indian media, and was not something that the court could ignore.

On 23 November 2007, the Supreme Court of India pronounced its judgement. On the one hand it stated that the Court could not risk handing over the mining operations to Vedanta, but on the other it explicitly recognised that there was “no dispute in this case that mining of bauxite deposits is required to take place on the top of Niyamgiri hills”. The judgement completely ignored the CEC report and the illegalities in the clearance procedures, and found, instead, a legal loophole for the company. The judgment allowed SAIL, along with Orissa Mining Corporation (OMC), to appeal for clearance to go ahead with the project by assuring the court of a “rehabilitation package”. This package would require, among other things:

- The State of Orissa to float a Special Purposes Vehicle (SPV) for scheduled area development of Lanjigarh Project, with State of Orissa, OMC Ltd and SAIL as stakeholders.
- SAIL to deposit with the SPV 5% of its annual profits before tax and interest from Lanjigarh mining project, or Rs10 crores (US\$2 million), whichever is the higher, for Scheduled Area Development.
- SAIL to pay the net present value (the economic value of the forest being diverted) of Rs55 crores (US\$11 million), Rs50.53 crores (US\$10.12 million) towards Wildlife Management Plan around Lanjigarh mine, and Rs12.20 crores (US\$2.44 million) towards tribal development.
- The Orissa state government to carry out 16 specific measures, including the demarcation of the lease area; the identification of an area for compensatory afforestation; rehabilitation; the phased reclamation of the mined area; specific and comprehensive plans for wildlife management, and for the development of tribals.

Not surprisingly, SAIL, the State of Orissa and OMC Ltd unconditionally accepted this rehabilitation package. Meanwhile, the CEC filed another report on 24 April 2008 with alternative suggestions to those prescribed in the court’s judgement. In an order dated 8 August 2008, the supreme court rejected most of CEC’s recommendations, saying that it did not consider them viable. It confirmed the suggestions made in November 2007, and approved the clearance of 660,749 ha of forest for bauxite mining in the Niyamgiri Hills.

A public hearing for the expansion of refinery capacity in Lanjigarh took place on 25 April 2009, amid vociferous protest. Then, in mid-May, the environmental clearance for mining operations in the name of SAIL was granted, though mining has yet to take place in Niyamgiri.

**\* Kanchi Kohli is a member of the Kalpavriksh Environmental Action Group and is based in New Delhi, India. She has worked for the last 11 years in campaigns and advocacy related to environmental and forest clearance of development projects.**



and to decide on their own path of development (Schedule V of the Indian Constitution); and the right to religious practices and beliefs (Article 25 of the Constitution), since the summit of this mountain is a sacred place of worship to the Dongaria Kondh’s supreme deity, Niyam Raja.

According to activists, the open-cast mine would also wreck the rich biodiversity of the hills and disrupt key water sources that supply springs and streams in the area and feed two rivers that irrigate extensive farmland. It is well established that when a mountain has a bauxite cap it retains monsoon water, releasing it slowly throughout the year. But when the bauxite is mined, the mountain loses this water-retaining capacity. The surrounding area hardens and the fertility-promoting qualities go into reverse. Water from the mountains feeds 36 streams and two rivers – Vanshadhara and Nagabali – that thousands of people depend upon for their water needs and to irrigate their crops.

### Agricultural practices

For many years the tribals were largely hunter-gatherers. They collected edible plants, leaves, fruits, tubers, roots, honey and mushrooms to meet their non-meat food needs. Eventually they began also to adopt the swidden method of slash-and-burn agriculture, cultivating different varieties of millet on hill slopes. Even while slashing, however, they took care not to cut down fruit-bearing and other trees that provide shelter for their crops.

They preferred this method of farming as it required no ploughing, no irrigation and practically no maintenance. The fertility of the slopes was due to the decomposition of forest litter. A plot was usually cultivated for 2–3 years and then left fallow to regain fertility. It was a continuous process: after a fallow period of 5–6 years cultivation resumed.

The Dongarias took various factors into consideration when deciding which crop to grow: family needs, land type, space available per family, time and extent of rainfall, sunshine hours, variety characteristics, location of embankments, taste, ecological and cultural value, labour, resource requirement and pest problems. They also thought about crop combination and how long each crop would take to grow. This is a far cry from the present reductionist principles of agriculture that have brought the world to the brink of a massive food crisis.

Even the Dongaria were vulnerable, however, to the seductive charms of “modern civilisation”. Attracted by the promise of higher yields, some



*Peaceful but determined resistance to Vedanta’s project*

began to grow 40–45 different kinds of crops in a single farm. These included varieties of millet, sorghum, pulses, oilseeds, vegetables, and roots and tubers. Even so, they continued to hunt, gather and practise shifting agriculture.

### Destructive mining for “prosperity”

The idea being promoted by Vedanta and a few political parties is that the mining project will contribute to Orissa’s economy and make the Dongaria prosperous. For the mainstream, non-cultivating, town- and city-based population, it promises an era of prosperity, where those with initiative and business acumen can make a quick fortune.

The convention in company and government discourse is to assume that industrialisation increases people’s standard of living as measured by a handful of indices, such as cash income and education, which are disconnected from real life situations. But statistics are easy to manipulate and, even if they could be collected in a perfectly neutral way, they tell a very one-sided story.

In fact, few basic statistics were kept with regard to the big population displacements in Orissa, not even the number of displaced and where they were resettled. The indices that were recorded are highly flawed: a higher income does not mean a higher standard of living. For the Dongaria the most important change was moving from a situation in which they owned their own land and grew their own food to one in which they were dependent on the company for their livelihoods – a complete break from their traditional, largely self-sufficient economy. Moreover, the loss of the connection



with the land, divisions in the community, and the penetration of money into relationships are being promoted as the indicators of growth!

The Dongaria have been growing their own food on the Niyamgiri hills for generations. Dongaria culture is sustainable in the true sense of the word, in that it is a way of living in which people have been interacting with nature for hundreds of years without damaging the ecosystem.

### Conservation vs large-scale destruction

It is a little known fact that the most significant and strategic use of aluminium is in the manufacture of arms, missiles and other destructive weapons. A stark and brutal irony thus infuses the whole episode: people who have co-existed peacefully with nature for centuries are now being hounded out and their habitation squandered to feed an industry the chief purpose of which is to profit from war and large-scale destruction.

It is not only the tribals who are threatened. Made up of hills, peaks, valleys and gorges, the entire Niyamgiri range is picturesque, and the dense forests stretch for miles connecting four districts. Elephants and Bengal tigers cross this range. Other animals found here are leopard, sloth bear, pangolin, palm civet, giant squirrel, mouse deer, langur, rabbit, four-horned antelope, sambhar and numerous types of snake and lizard. New species of birds, amphibians and plants continue to be discovered in the area. Because of its ecological importance a proposal has been made to declare it a wildlife sanctuary. An entire ecosystem will be destroyed if mining activity is allowed in this richly diverse eco-bowl.

### Struggles in the past

In Orissa there have been numerous large-scale movements, in which tribals and dalits have played a central role, to stop the establishment of bauxite mines and aluminium factories. Protesters have been frequently arrested and beaten by the police and company employees. The first of these movements arose to prevent Bharat Aluminium Company (Balco), at that time owned by the Indian government, from mining the top of Gandhamardan, an exceptionally well-forested range in west Orissa.

Local people made great sacrifices to oppose Balco's plans. When their husbands were jailed, women stopped the police and company vehicles by putting their babies in the vehicles' path, to show that they had no future if the mountain

was mined. In the end the company had to admit defeat. This movement has been an inspiration to those struggling to protect their own life sources. Indeed, it is evoked by the Dongaria in their resolve to protect the Niyamgiri.

### David vs Goliath

In this epic struggle for survival, on one side is pitted the immense political clout and financial muscle of a powerful business house, Vedanta, which is pushing for the immediate commencement of bauxite mining, and on the other thousands of local tribals (and non-tribals), who have resolved to protect their mother and God.

According to Salpu Jakesika, aged 34, a Dongaria from Mundabali village, “The Vedanta company will try to use force once again after the general election is over [in May 2009], but we will continue to resist.” Niyamgiri, he said, cannot be handed over to Vedanta. “The hills belong to the Dongarias and we are not going to let go.”

Prafulla Samantra, from *Lok Shakti Abhiyan*,<sup>2</sup> says that the mining will displace at least ten Dongaria villages, apart from causing widespread deforestation and pollution and devastating the perennial streams. “The Dongaria fear that, along with their livelihoods, their cultural identity will be lost too”, he says. “Vedanta has already built a refinery in the foothills to process the raw material it will extract from Niyamgiri. To do this they forcibly displaced several villages. These were tribal agrarian villages that now live without land or livelihood, and next door to a factory that, just two years after opening, has already been served notice at least twice by the state pollution control board for creating pollution that is affecting more than 20 villages. The company is also dumping toxic waste into the River Bansadhara.”

It is once again ironic that the Dongaria's resolve to safeguard the very essence of their identity is being depicted as “anti-development” and the tribal people themselves as “primitive” and “backward”. The fact is that the only really sustainable lifestyles are those of indigenous communities and others who live according to the principles of self-sufficiency that are characteristic of tribal societies, and whose values and religion are based upon respect for nature. For them, to sell their mountains for large-scale mining is an act of pure greed – eating into the flesh of the earth.

But for Vedanta such a philosophy holds no meaning. The living earth is for them a resource to be exploited for profit. Greed is an essential part of

<sup>2</sup> Lok Shakti Abhiyan is a national peoples' forum that campaigns for alternative politics for alternative development. Based on Gandhian socialism and working with intellectuals and social activists, it is creating a mass movement against the exploitation of natural resources in the name of “development”.





Photo: Survival International

A young Dongaria woman


their policies and the flesh of the earth the perfect menu for gorging their balance sheets. The unselfish motives of the “primitive” tribe of Dongaria are a puzzle for them, an obstacle to be overcome. Unfortunately for them, the tribals of the area are not “civilised” and refuse to listen to “reason”.

### The world waits as the struggle continues.

Playing on a traditional instrument made from a gourd, Dambu Praska, a Dongaria Kondh bard, tells the story of Niyam Raja:<sup>3</sup>

*“He created fruit in the hills, grains in the plains,  
He is the first of the Dongaria Kondh.  
After making pineapple, mango, jackfruit and grains,  
Niyam Raja said to us ‘Live on what I have given you.’”*

But with the arrival of the mining project, the story turns into a lament, with an impending sense of loss:

*“Niyam Raja is crying today; the hills will turn into mud,  
The rocks will crumble and everyone will die.  
Will there be any rivers left if there are no streams?  
Will there be any streams left if there are no hills?  
What will we do without the fruits, grains and buffaloes?  
What will we do without Niyam Raja?  
What will the animals do without the big forests?  
What will we do without the plants that save lives?”* 

<sup>3</sup> Footage of Dambu Praska singing “The Lament of Niyam Raja” is available on Facebook, at <http://tinyurl.com/ly94zy>



### GOING FURTHER

Living Farms gives regular updates on the Dongaria Kondh. Visit their website at: [www.living-farms.org](http://www.living-farms.org)

Survival International, the international organisation that supports tribal people worldwide, is running a campaign in support of the Dongaria Kondh. For details, go to their website:

[www.survival-international.org/tribes/dongria](http://www.survival-international.org/tribes/dongria)

or write to them at:

6 Charterhouse Buildings, London EC1M 7ET, UK

## ECUADOR

Ecuador has based its economy on the extraction of natural resources. This process has arbitrarily used, abused and polluted the environment, and established an economic model characterised by external dependence, growth in internal and external debt, and the destruction of ecosystems. The recent introduction of the Ecuadorian Mining Law inaugurated a new episode in this story, which has characterised Ecuador since the country was founded: namely, basing economic development on a single commodity and degrading its natural resources.

# Mining law in Ecuador is anti-constitutional

GLORIA CHICAIZA \*



\* Gloria Chicaiza is from the Ecuadorian NGO Acción Ecológica.

Ecuador's new Constitution of 2009 reflects many gains made by the country's peoples. The Mining Law, also passed in 2009, promptly neutralises many of these gains. Examples of constitutional provisions violated by the new law include: rights of Nature (Article 72); the country's pluri-national character and its well-being – that is, *sumak kawsay*, which implies living in harmony with oneself, society, and nature (Article 275); collective rights (Article 57); the government's duty to ensure food sovereignty (Article 281); the state's responsibilities concerning non-renewable natural resources (Article 313); the human right to water (Article 12); the priority of water (Article 318); the precautionary principle (Articles 73, 397); the obligation to give precedence to environmental protection in cases of doubt (Article 395); people's right to participate and be consulted (Article 400); the right to resist (Article 98). There are many others.

These constitutional violations have created a law that systemically favours mining companies in the following ways:

- **National treatment** The Mining Law grants foreign individuals and companies “the same treatment as that granted to any other national individual or company”. This is what transnational companies demand in all free trade treaties. Any advantages granted to national companies must also be granted to foreign companies.
- **Public utility** Fundamental human rights, such as the right to food and water, and existing activities may be overruled if the government declares land to be of public utility. This allows the expropriation of land without the consent of its owners, however long they have lived there.
- **Servidumbres<sup>1</sup>** These violate the collective rights of nationalities, peoples, and communities

<sup>1</sup> This is a legal term for the rights held over another person or thing, such as the right to pass through a house or garden; right of way.



recognised by the Constitution. The law ignores the ancestral rights of owners and occupants of land, territories and buildings, which can be expropriated without their consent, so as to guarantee rights and access to the mining companies. The law even makes it optional for mining companies to seek the agreement of the owners of land and territory; they are not obliged to do so, and can expel the owners as and when they judge convenient.

- **Participation and consultation** This will take place only after concessions have already been granted for mining projects. It cannot be a genuine consultation, for people will be dealing with a *fait accompli*. The law says that a community's demands will be taken into account by the sustainable mining projects, but there will be no room for dissent. This does not accord with the provisions of the Constitution, which while not binding companies

## Ecuador's indigenous movements campaign against new mining law

### GRAIN

The Confederation of Indigenous Nationalities of Ecuador (CONAIE), which represents 90 per cent of Ecuador's indigenous peoples, is strongly opposed to the new mining law. It says that it is based on a model of large-scale extraction and will benefit only foreign mining companies, while damaging the environment, polluting water resources and plundering the natural wealth of the country. "From the point of view of the social movements, and the indigenous movement in particular", says Marlon Santi, President of CONAIE, "Correa's socialism is not socialism at all.... He waves the flag of socialism, but he does other things."

In January 2009 the indigenous movements organised nationwide protests against the new law. People from indigenous, environmental, human rights and peasant organisations took part in various actions in 11 provinces. Participation was particularly strong in the central highlands, where about 9,000 indigenous people closed down the PanAmerican Highway. Humberto Cholango, the head of Ecuarrunari, an association of Quechua peoples from the Andes highlands and the largest member organisation within CONAIE, said at the time that President Rafael Correa had raised hopes when he took office in 2006, but that he had been incapable of understanding the country's indigenous people. "We do not accept that a government that says it is in favour of marginalised people should not take their views into account when it makes laws. It's inconceivable that laws as important as those on mining or food sovereignty should be passed without public debate, or that they should contain articles that run counter to the constitution itself, which enshrines the rights of nature", he said. The mobilisation provoked an angry response from President Correa. "Where does the biggest danger to the citizen revolution lie? In the infantile left, the infantile pro-indigenous movement and the infantile ecological movement, which have become active again, holding meetings to push for an uprising against mining", he said.

Ivonne Ramos, the president of one of the country's leading NGOs, Acción Ecológica, which Correa tried unsuccessfully to close down earlier this year, believes that a new wave of criminalisation is affecting environmental and human rights defenders across the country. She says that many of those now facing charges were granted amnesty by the National Constituent Assembly in March 2008. In particular, community leaders linked to organisations opposed to large-scale mining have been targeted, she says. Various members are charged with organising terrorism. Overall, Ramos foresees a much more "restrictive" environment for groups like hers over the next few years.

Ramos referred to the new food sovereignty law as evidence of how Correa's policies concentrate economic power. She says that the legislation, approved in April 2009 after a presidential veto, promotes agro-industry and favours powerful economic groups. It also opens the door to Terminator seeds, agrofuels and the legalisation of shrimp farming in coastal mangrove forests. Even the solidarity vouchers provided to the poor, she says, will favour the monopolistic economic groups that control nearly the entire national food chain. "When the people receive their vouchers", she explained, "they will be able to buy products in the big supermarkets at a reduced price. So the benefit is ultimately channelled to these powerful economic groups."



to accept the results of a consultation, does at least make it obligatory to hold one before the project is implemented.

- **Special treatment for indigenous peoples** The new law violates not only the Constitution but also international treaties and conventions on collective rights signed and ratified by Ecuador. The “special treatment” refers to the rights of communities, peoples and nations to be consulted, in accordance with article 398 of the Constitution, but it ignores article 57 of the Constitution, which guarantees the collective rights of communities, peoples and nations.

- **Criminalisation** The law establishes protection for mining companies and introduces various sanctions against “any disruption that prevents mining activities”. The mining companies can define what “disruption” is. This permits the criminalisation of individuals, communities and even authorities who oppose, criticise or denounce the mining companies or take any other initiative that could be construed by the companies as “disruption”.

- **Freedom to prospect** The law gives mining companies the right to prospect on land belonging to individuals or communities without their permission. This article takes away protection given to rural populations and attacks the right to property and collective rights guaranteed by the Constitution.

- **A step backwards on environmental matters** The law ignores the progress made on

environmental matters in Ecuadorian legislation. The Mining Law requires only an Environmental Impact Study (EIS) to be carried out, while the Environmental Management Law stipulated that environmental licences should be granted only to projects with an Environmental Management System, of which the EIS forms just one part.

All of this, in addition to the provisions for granting concessions, the unrestricted nature of the concessions, and the lack of independence of the regulatory bodies, means that the Ecuadorian mining law is riddled with unconstitutional provisions.

The well-known Chilean economist and jurist Julian Alcayaga had this to say about the Ecuadorian mining law:

*“The law’s accommodating attitude towards mining activities and the scope given to foreign investors leads me to think that this law was drawn up by the same people that gave us the Chilean Mining Law, which we inherited from Pinochet and his Minister of Mines, José Piñera: that is, the transnational mining companies.”*

**“We were given all the riches of the world, but all they bothered about was the gold”**

from *The Country of Cinnamon* by William Ospina 



## INTERVIEW

**Roger Moody is an expert on mining and mining transnationals. He has spent years uncovering the facts about how mining companies operate. He edits the Mines and Communities website, which exposes the social, economic and environmental impacts of mining, particularly as they affect indigenous and traditional communities.**

**I**n Ecuador and India, we see indigenous communities mobilising powerfully to try and stop mining projects that they see as damaging to their way of life and belief systems. Is this part of a global trend? Have local communities become more active in recent years in the struggle to defend their territories?

**RM:** No question. When I started working with a global network of mining-affected communities with Minewatch back in 1990, we were working on around 30 major struggles a year. Part of the reason for this was that we didn’t know about isolated communities who hadn’t yet “internationalised” their experiences. That began to change between 1990 and 1995, as not only Minewatch but larger

organisations (Amnesty, WWF, Human Rights Watch, and others) belatedly came to appreciate that mining was the big remaining global issue that they hadn't yet effectively tackled. In 1996 the World Council of Churches held a conference on Indigenous Peoples and Mining, which 50 delegates attended. At a follow-up conference embracing the same aims, held in Manila in March 2009, 85 delegates attended – and there could have been many more. As editor of the Mines and Communities website, established in 2001, I now receive every day as many complaints from mining-affected communities as were being circulated every week a decade ago.

*Vedanta is the company the Dongaria are fighting against. What do you know about Vedanta's track record in other parts of the world?*

Having examined the operations of numerous mining companies on a professional basis since the early 1990s, I'm often asked to name the “world's worst”. Until 2007 I refused to do so. It is often the case that in some respects the big multinational miners are better than their smaller counterparts – especially in their relationships with some (I stress only some) local communities. They've finally learned how to win some of these on board, by banging the “sustainable development” drum and offering relatively generous impact benefit packages and access to infrastructure. On the other hand, the bigger the company, the worse the environmental damage they can do or threaten to do. For example, in a survey of tailings (mine waste) dam collapses included in my book *Rocks and Hard Places*,<sup>1</sup> the majority of the worst disasters were at mines operated by big US and European companies.

However, after Vedanta was listed on the London Stock Exchange in late 2003, I felt bound to examine this specific enterprise in more detail. Now I have no hesitation in describing it as the world's most damaging mining company. It's not just physical damage we're talking about, but the entire armoury of deception – lies, breaches of faith and, above all, violations of regulations – to which the company has resorted over the past five years. While its conflict with the Dongaria Kondhs around its Nyamgiri bauxite project has seized the headlines (rightly so), I find that many people still aren't aware of Vedanta's egregious activities in other parts of India (in Tamil Nadu and Chhattisgarh, in particular) or its sullied record in Zambia and Armenia. In 2007, Anil Agarwal, the executive chair of Vedanta – who, with his family, holds some 54% of the company's share capital – set about making it a “global force”.

And that is what he's been doing, acquiring control of Sesa Goa, India's biggest iron ore exporter in 2007; and more recently buying into another iron ore producer in Brazil, taking a significant stake in Canada's largest (and most polluting) zinc-lead miner, and just now, in May, announcing a new copper plant for the United Arab Emirates. Potentially the most threatening of its current plans is to take over Asarco, the USA's third biggest copper-mining company, with the worst record for the country in this particular sector. Agarwal is a malevolent genius: Vedanta identifies run-down enterprises that can be acquired on the cheap and bring in quick profits, whatever corners have to be cut and regulations overridden. It's this one aspect of Vedanta's game plan which was exposed by the Norwegian government's Council on Ethics last year, when, after concluding an intensive two-year investigation, it concluded that the company was intrinsically incapable of observing even basic rules of good practice, and that the government's pension fund should disinvest from the company (which it did).

*Mining companies always claim that they can mine without damaging diversity or local farming practices. Do they ever actually achieve this?*

I'm not going to generalise. It took some years before those of us working to try to limit the industry's depredations got some positive response from some individual mining companies. And we haven't been entirely disappointed. For example, the world's largest “natural resource” company, BHP Billiton, promised a few years ago never again to dump its waste into rivers or on the sea bottom – and so far it has kept to that promise. Rio Tinto, on the other hand – BHP Billiton's major global rival – hasn't undertaken to follow that lead. Arguably, however, Rio Tinto is more aware of the consequences of mining in primary forest areas, and has done a few deals with communities of which the latter approve. At root, we're confronting an industry whose *raison d'être* is to go where the minerals are, whatever the consequences to current land and water usage, and to extract profit from irreplaceable resources. Nor do they actively promote recycling and reuse of mined metals, for that would threaten their fundamental mission. Judging from the unceasing flow of justifiable complaints that pass over my desk each day, it's impossible to conclude that mining practices have substantially improved over the past two decades. Indeed some – such as those used in the expansion of open-pit mining for copper, nickel and gold – have demonstrably got worse.

<sup>1</sup> Roger Moody, *Rocks and Hard Places – the Globalisation of Mining*, Zed Books, London, 2007.



*It is too early to tell whether the communities in Ecuador and India will be successful. But are other communities managing to stop mining projects or to close them down? Can you give us some examples?*


Yes they are, though it's difficult at the present time to distinguish between projects put on hold because of the current lack of debt finance and those which have been abandoned, possibly indefinitely, because the companies know they'll face continuing, possibly accelerating, resistance. In 2002, PriceWaterhouseCooper surveyed around 30 large mining companies, asking them if they'd been forced to abandon proposed projects because of external opposition – and if so, what type of opposition. The results were surprising: more than 20 had shelved proposals, and the most important factor was, indeed, community opposition. In the past year, BHP Billiton have abandoned some projects; Rio Tinto has sold off others. In most cases, we can't claim that such proposals have definitely been ditched because the company has recognised the legitimacy of the criticisms; almost always they will cite “economic constraints” instead. We can be sure, however, and increasingly so, that the corporate risks posed by critics, and active resistance at ground level, are factored into company assessments of a project's viability. We know this because the companies are telling us that it is the case.

*Awareness is growing worldwide about the gravity of the climate crisis. Is this beginning to change public perceptions? Maybe the ‘development agenda’, where economic progress is valued before all else, is beginning to be challenged? Are people becoming more aware of the huge environmental and social cost of destructive development projects?*

We've several steps to go before the contribution of mining to greenhouse gas emissions is widely recognised. It's only been in the past couple of years that UK climate change activists seem to have finally recognised that coal burning is the single biggest culprit. Steel manufacturing

comprises perhaps the second biggest contributor to adverse global warming (between 3% and 7%, depending on which figures you believe), with cement production running a close third. If you calculate (few have) the greenhouse gas emissions consequent on burning uranium (ridiculously touted as a “clean” fuel), then the use of mined minerals constitutes, collectively, the biggest climate villain (and that's without adding in the contribution – which is certainly not negligible – of constructing new mines and power plants to run them). There is also as yet little recognition – certainly at a policy level – that the hopes invested in carbon capture and storage from existing and future coal-fired power plants are false.

*The world is in the grip of contradictory trends. On the one hand, we have ever bigger corporations laying claim to larger and larger tracts of land for the industrial production of food and biofuels and for mining, and, on the other, we have increasing community resistance over local projects. What is needed to make resistance more effective?*

For a start, largely northern-based NGOs should stop laying down prescriptions; both the analysis and implementation of self-chosen strategies by communities resisting “development” have shot well ahead of many of those offered by desk-bound pontiffs elsewhere. In fact, by challenging specific projects (whether it be a coal mine, a biofuels plantation or a wildlife reserve) these communities are transforming the way the rest of us ought to think about “development”. In my opinion we should leave them to their own devices, while always being ready to offer support when asked (such as trying to cut off investment in companies like Vedanta, which mostly derives from European and US banks). The problem in determining the best strategy is not one, in my experience, that besets communities “at the rock face”. The retrievable, experiential, history of resisting bad mines goes back several hundred years (especially in Latin America). Increasingly I feel that it's those of us outside the field of battle who don't know what to do. 

#### GOING FURTHER

The Mines and Communities website can be found at:  
<http://www.minesandcommunities.org>

