**Introduction**

When it comes to India’s land-related conflicts, forests are most contested spaces in the country. Forest lands have experienced immense pressure from the increasing demand for the diversion of land and resources for commercial purposes such as agriculture and extractive industries. At the same time, continuous efforts have been made to restore the forest ecosystems, wildlife conservation and to safeguard the tenurial rights of forest-dwelling indigenous communities. Given this historical background of commercialization of forest land and subsequent dispossession of indigenous communities from their traditional lands; the verdict in favor of Dongria Kondh was indeed a historic moment from a legal perspective for the indigenous communities of India (Bijoy 2001, 2008). The violation of economic, political, social, and cultural rights of the indigenous communities makes the case study of Niyamgiri Hills a significant example of injustice done to tribal communities of India. Hence, the legal battle fought by the Dongria Kondh community against UK based Vedanta company contributes significantly to the discourse of participation as an example of the community reasserting the rights to re-establish local self-governance (Sahu 2008).

In a landmark case of Niyamgiri, in 2013, the community took a determent stand to defend their land and resources rights. Subsequently, the Supreme Court of India ordered to vest powers on the Gram Sabhas (*palli* or village councils) to determine the land rights of the communities. The Gram Sabhas were recognised to be the final arbiters in the proposed bauxite mining project (BMP) of Vedanta Aluminium Ltd (VAL) in the Niyamgiri hills in Odisha, India. All 12 selected Gram Sabhas rejected the BMP proposal, stating the salience of their religious and cultural sentiments over prospects of benefits from the ‘developmental’ promises of the BMP (Chandra 2016). The sporadic mining attempts are still made in some parts of Niyamgiri. The community continues to protest, nonetheless, the community has successfully drawn the attention of civil society organizations, human rights activists and academia (Sahu 2008).

**Problem**

In 2003, State Government of Orissa has signed an MoU with Vedanta Resources to construct an aluminium refinery, a power plant and development of mining at Lanjigarh in Kalhandi district. M/s Sterlite Industries (India) Limited (SIIL), fully owned and controlled by Vedanta Resources, proposed to set up a refinery with a capacity of 1.0 million tonnes per annum for processing aluminium for export. It also proposed to extract bauxite from the area adjoining the refinery, which is estimated to have approximately 73 million tonnes of mineable ore. The mining is proposed to be undertaken on the top of the Niyamgiri hills in Kalahandi and Rayagada districts in Orissa (committee report). The Niyamgiri hills are sacred for the Dongria Kondhs and therefore the problem was of land rights being taken away from the Dongria Kondhs and their sacred hills being a site of mining activity.

**Background and Context**

The history of forest governance in India goes back to colonial times when the resource-rich forest was brought under British colonial administration for trade and commerce. Post-independence, forest governance in India still carries a legacy of the British colonial policy of commercialization, which devastated the rich forests for railways and shipyards and cleared them for plantations of cash crops such as of tea, coffee, indigo and sugarcane (Gadgil and Guha 1994; Temper and Martinez-Alier 2013). Unfortunately, the colonial forest laws and policies continued to determine the forest governance and fate of forest dwelling communities.

Dongria Kondh Community of Orissa state of India is regarded as ‘Particularly Vulnerable Tribal Group’ (PVTG). PVTG is a category within the constitutional category of Schedule Tribes (ST). Such communities are regarded as PVTGs due to their world views and livelihood practices which go back to pre-agriculture times. Use of simple technology, shifting cultivation, hunting and gathering, absence of modern schooling, geographical isolation, lack of basic amenities, etc. characteristics render them the status of PVTG (Kothari n.d.). The community is also recognised as endangered tribe due to decreasing population. Dongria Kondhs are ancient occupants of Niyamgiri hills spread across Kalahandi and Rayagada districts of Orissa. In the polytheistic animist worldview of the Kondh, the hilltops and their associated forests are regarded as supreme deities. The highest hill peak, which is under the proposed mining lease area, is the home of their most revered god, Niyam Raja, ‘the giver of law’ (Borde and Bluemling 2021).

The Dongria Kondhs trace their ancestry to Niyam Raja, a mythical god-king, who they believe is a creator of the Niyamgiri hills and whose stewardship has been left to them. The Niyamgiri range of hills is viewed as the mythical kingdom of Niyam Raja that extends across 115 square kilometres (Borde and Bluemling 2021). The forest slopes of Niyamgiri hills and streams that flow from the hilltop are the means of survival for the Dongria Kondh community. The villages in the area worship Niyam Raja and Dharani Penu. Dharani Penu or Earth Goddess is considered as the wife of Niyam Raja and has a shrine dedicated to her in almost every hamlet of Dongriya Kodh (committee report) (Borde and Bluemling 2021).

**Organization**

In 2004, three petitions were filed in State’s High Court and Supreme Court of India. The petitions were filed by the local communities, environmentalists and pro-tribal activists. The petition challenged the mining proposal on the grounds that it has violated provisions made under Schedule V of Indian Constitution. The court issued stay order on the project and the case was heard in Supreme Court until 2008. However, in 2008, court grated clearance to Vedanta Resources with certain terms and conditions pertaining to the sustainable development of local communities, wildlife conservation and environment protection.

Despite the environmental clearance, the Dongria Kodhs continued to protest in the area to protect their sacred mountains. As a reaction to the clearance by the court, the movement by the indigenous community became fierce. It is interesting to note that the petitions opposing the mining project on mere ecological grounds by environmentalists were disregarded by the Indian Supreme Court. On the other hand, the petition by Dongria Kondh opposing the mining project to protect the sacredness of mountain was considered by the court.

**What Went On: Process, Interaction, Participation**

There were various activists and environmentalists who were protesting alongside the local community. The Dongria Kondh community was the closest to the geographical site of protest. The opposition by the Dongria Kondh community was to protect the Niyamgiri as a sacred ecological place rather than for its economic value. The community began to organise mass ceremonies to worship the Niyam Raja to re-assert their socio-cultural relationship with the mountain. These ceremonies were organised by Dongrias in such way that they resonated with popular culture so that the activists and non-indigenous people were able to relate to it and could derive meaning from those rituals. As a result, the religious practices of Dongria Kondh was also translated into terms that mainstream Hindu society could identify with and perhaps even aspire to (Borde and Bluemling 2021).

In was, in fact, the sacredness of Niyamgiri as understood and re-asserted by the Dongria Kondhs, became an important element considered by the Indian Supreme Court. The court hence issued an order stating that the village councils consisting of all adult members of the community to determine democratically whether Niyamgiri was sacred to them and whether they were against the mining project (Borde and Bluemling 2021; JENA 2013).

The Supreme Court of India then asked the Odisha government to seek the consent on the legal grounds under FRA, from Gram Sabha of Dongria Kondh villages. Under FRA, the PVTGs have customary rights to worship and protect their sacred places (Government of India 2006) . The apex court further said that the FRA has been enacted conferring powers on the Gram Sabha constituted under the Act to protect community resources, individual rights, cultural and religious rights. Underscoring the legal imperative for the recent Gram Sabha referendums, the court cited that the religious freedom is guaranteed to the scheduled tribes and the OTFDs under 25th and 26th Article of Indian constitution. Hence, the villagers were to decide if the mining project would lead to violation of their rights under FRA to worship their sacred places such as Niyamgiri mountain. Upon which 12 villages under the ambit of Kalahandi and Rayagada district administration, submitted the common property rights claim under Forest Rights Act to secure their land tenure. The Forest Rights Act (FRA) established in 2006, prevents the usurping of forest dwelling communities from their rightful lands and ensures the well-being and protection of tribals from wrongful land acquisition. It also gives traditional communities the rights to protect, manage and conserve their forests.

The claims submitted by the villages covered array of common resources rights including forest land, resources, livelihood, traditional boundaries. Additionally, these claims also included cultural, habitat and habitation rights. The cultural rights were mostly overlooked by the quasi-judiciary body earlier. The Dongaria Kondhs emphatically voiced their opposition to Vedanta Resources’ mining project on Niyamgiri in twelve village-level referendums. This entire process by which local stakeholders were empowered to make decisions regarding the kind of development they would allow on lands they depended upon was termed India’s first “green referendum”.

While the Dongria Kondhs started participating in the Niyamgiri Movement in 2004 and were active participants in rallies against Vedanta Resources, their voice was strongest at the end of the Niyamgiri Movement. During the village-level referendums, the Dongrias attempted to assert that they claimed community rights over the entire Niyamgiri range of hills of which the Niyamgiri Mountain is only a part. The Dongria villagers who participated in the referendums all voted against the mining project, in a demonstration of what has been described as “a stunning example of grassroots democracy at work” (Survival International report). This collective decision was ratified by the Indian Ministry of Environment and Forest in January 2014, with the conclusion that Vedanta Resources was denied the continuation of its mining project on Niyamgiri. In legal terms, the Dongrias claimed habitat rights to the Niyamgiri hill range under the Indian Forest Rights Act which was enacted in 2006. Under the Forest Rights Act, habitat rights are a form of community tenure over traditional territory that are granted to groups such as the Dongria Kondhs who are categorised as PVTGs (Particularly Vulnerable Tribal Groups).

**Lessons Learnt**

The case of Niyamgiri, where the tribals won over the mining giants, revealed the glaring inadequacies of the system in implementing the cultural, traditional and religious rights of tribals in India. It presented the need for an improvement in the present laws and guidelines, with a striking necessity to include tribals’ rights. The Dongria Kondhs, who had peacefully existed in the forests of Niyamgiri until the arrival of Vedanta, have now presented a streak of hope to other tribals in the country claiming their rights over their land and their ability self-govern themselves and their land within the provisions of the Indian Constitution.

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