

**India: Orissa, Kshipur**

**“Utkal Bauxite &  
Alumina Project:  
Human Rights and  
Environmental  
Impacts”**

**Robert Goodland**

This draft last revised: March 19, 2007

Comments and corrections to: [RbtGoodland@aol.com](mailto:RbtGoodland@aol.com)

Copyright © 2007 by R. J. A. Goodland

ISBN: 978-0-9792179-0-6

Library of Congress Cataloging-in-Publication Data

**Author:** Goodland, Robert J. A.

**Title:** India: Orissa, Kashipur: "Utkal Bauxite & Alumina Project: Human Rights and Environmental Impacts".

Date of Publication: Spring 2007

**Washington D.C.**, 138 pp.; 23 cm by 16 cm.

## Executive Summary

---

This publication reviews environmental and social aspects of plans by Utkal Alumina Industries Ltd to mine bauxite and refine it to more than 8 million tons of alumina annually, by means of a \$1 billion joint venture between Canada's Alcan and Hindalco. It is designed to inform – or at least feed into — Alcan's decision-making about their relationships with this project, to be announced on 31st March 2007. Utkal's partners are respectively the world's second biggest aluminum producer, and India's biggest producer, a subsidiary of the Aditya Birla Group. The mine, near Kashipur, contains 200M tons of bauxite.

Over the last 13 years the Government of Orissa (GoO) has been trying to clear all the people out of the areas needed for Utkal. Most impacted people in this case are the Adivasis, extremely poor Indigenous People, who are below and outside the caste system. The purpose of this publication is to help bring some social justice to the impacted Adivasis.

A similar forced displacement of people happened from 1981 onwards at Nalco, India's biggest bauxite mine and refinery, which is so near Utkal that its people are familiar with the results: unacceptably low compensation rates, exclusion of many impacted communities, and substantially under-estimated assets, resulting in conversion of independent and self-reliant small-farmers into paupers now living in slums.

The people impacted by Utkal learned from Nalco and many similar projects in the region that displacement has always led to poverty, hence most reject compensation. Police forcing the Adivasis into accepting compensation have resorted to lathi-charges, tear-gassing, imprisonment, torture and the shooting deaths of three Adivasis near Maikanch village on 16th. December 2000. This Maikanch Massacre was repeated and amplified on January 2nd. 2006, where twelve Adivasis were shot dead by police in the Kalinga Nagar Massacre to make way for Tata Steel Corporation, also in Orissa, and in other places nearby. Partly for the human rights reasons — tightened security, criminalizing of dissent, intensifying surveillance and imprisoning of the poor — Utkal's erstwhile partners, the Tata conglomerate and NorskHydro, have withdrawn from Utkal.

Hence there is an impasse and a fierce human rights controversy. The use of violence has polarized positions; the impacted Adivasis are more determined than ever to resist eviction, to insist on application of the law, and to seek reparations. Work on the Utkal site is racing ahead; at the time of my late February 2007 visit, there were dozens of heavy machines leveling the refinery site, the ore-rail spur

was almost complete, quarries and borrow pits were active, and a high boundary wall surrounded most of the site.

This publication outlines the historic events culminating in today's controversy by means of a detailed chronology or time-line. The main part of this report is an Action Plan for the three most powerful stakeholders, Utkal Co., and the Governments of Orissa and India, suggesting ways to prevent further human rights atrocities, restore peace, and seek to repair relationships with the abused Adivasis. The main finding is surprising, namely: "obey existing laws." That alone would be a major step forward.

Utkal Co. needs to adopt standard industry practice, together with reasonable corporate norms of social responsibility. Widely accepted industry standards for environmental and social assessment, standard precautions for relations with Indigenous Peoples, Human Rights norms, transparency, free, prior and informed consent should be adopted, as Alcan is doing in its Australian bauxite project, thus avoiding double standards.

The Government of Orissa should protect its citizens from human rights abuses, especially Orissa's poor and indigenous minorities. GoO should prevent the police from enforcing the wishes of the mining proponents, and certainly should not engage in criminality as has been judged by a series of independent judicial and similar commissions.

The Government of India similarly should enforce its own laws to protect its citizens, especially the poor and vulnerable. GoI needs to foster compliance with its laws against buying and selling of Adivasi lands to the private sector. GoI needs to urge GoO to comply with national legislation, and immediately halt police brutality and further massacres.

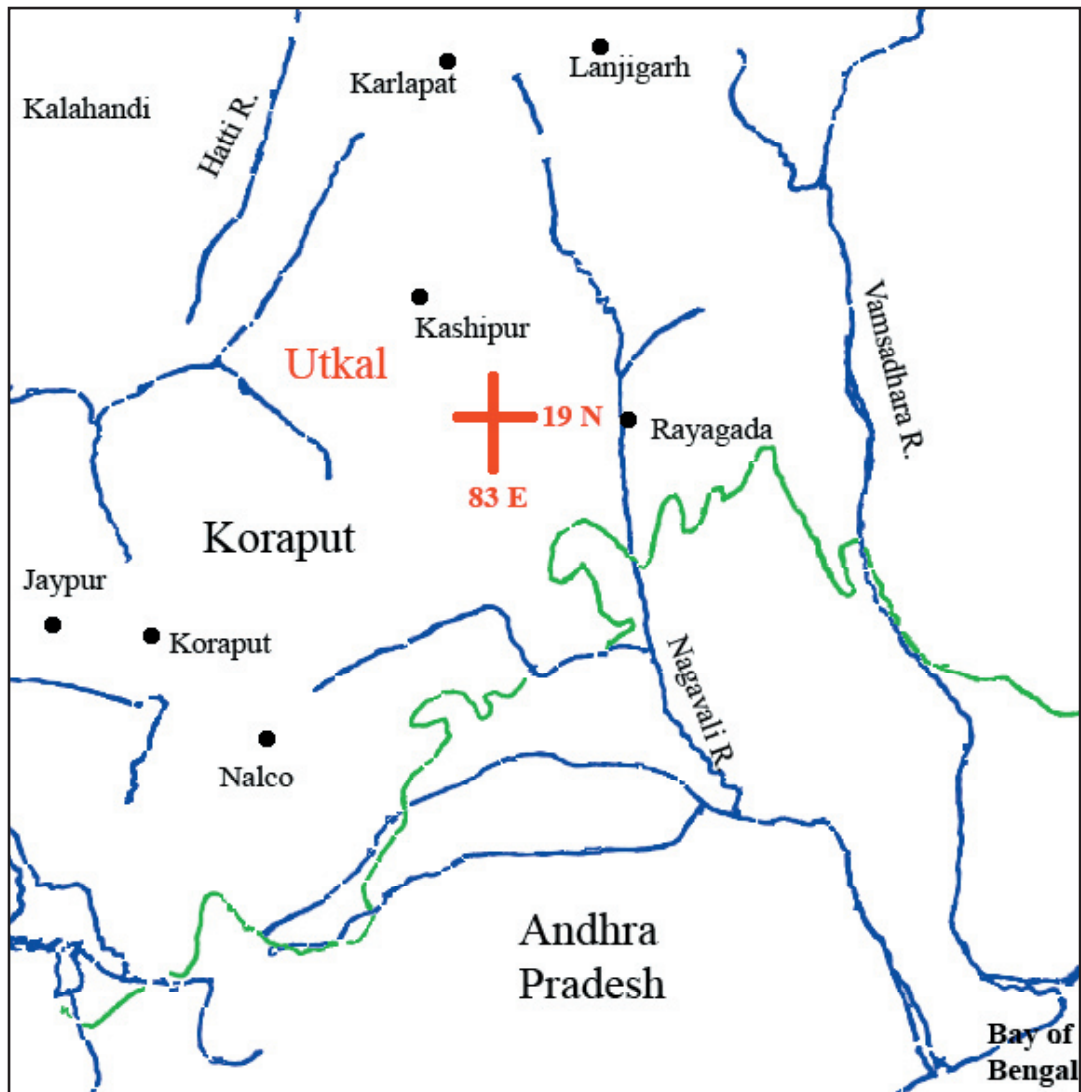
**India: Orissa, Kshipur**

**“Utkal Bauxite & Alumina  
Project: Human Rights and  
Environmental Impacts”**

**Robert Goodland**

## Map of Extreme Southern Orissa: Location of the Utkal Bauxite Project in Kashipur

---



# Table of Contents

---

Executive Summary.....	i
Map of Extreme Southern Orissa: Location of the Utkal Bauxite Project in Kashipur.....	iv
1. Introduction: .....	1
2. What is the Utkal Controversy? .....	2
3. Plan of Action .....	10
3.1 Recommendations for the Project Proponents .....	11
3.2 Recommendations for the Government of Orissa .....	13
3.3 Recommendations for the Central Government .....	15
4. Conclusions .....	18
Annex 1: Chronology of Events.....	20
Annex 2: The Kalinga Nagar Massacre: .....	51
Annex 3: General Recommendations for the Mining Proponent .....	55
Annex 4: The Simplest and Most Effective Remedy for Utkal.....	61
Annex 5: NALCO's Social and Environmental Status.....	64
Annex 6: Alcan's Better Practice: Australia's Gove Project .....	66
Annex 7: The UN Global Compact .....	68
Annex 8: Alcan's New Indigenous People's Policy .....	69
Annex 9: The World Bank's Indigenous Peoples Policy .....	71
Annex 10: India's Indigenous People's Support Groups .....	83
Annex 11: Definitions of 'No-Go' and Other Sensitive Areas .....	87
Annex 12: Characteristics of FPIC .....	89
Annex 13: Greenhouse Gas Emissions.....	92
Annex 14: Sustainability in the Aluminum Industry .....	94
Annex 15: Glossary.....	97
Annex 16: Shifting from Violence to Willing Economics .....	101
Annex 17: Literature Cited and Sources of Further Information .....	104
Annex 18: Abbreviations & Acronyms .....	122
Endnotes .....	124





# **1. Introduction:**

---

## **What is Utkal's Bauxite/Alumina Project?**

Utkal Alumina Industries Ltd (UAIL) plans to mine bauxite and refine it to alumina through a \$1 billion joint venture between Alcan and Hindalco<sup>1</sup>, in Orissa, near the east coast of India. Orissa contains 71% of India's bauxite. The high quality (low silica) bauxite concession is expected to last 50 years. The bauxite mine will be located in the Baphlimali hills in Kashipur, where an estimated 200 m.t. of bauxite ore is located. Utkal has acquired 2000 ha of land for this mine. Eight million tons of ore will be carried annually, via a 22-km-long conveyor belt to a 1-1.5 (or 3Mt/yr) million tonne-per-year alumina refinery.

In 2005, Alcan's annual report<sup>2</sup> recorded smelter-grade alumina production at 5.2Mt/y. Thus, in 2006, Utkal would have produced 1/5<sup>th</sup> of Alcan's corporate alumina production. If Utkal nearly triples its production from 3.0 MTPA to 8.5 MTPA, as proposed by the consortium late in 2006, it will eventually produce more than half of Alcan's current total alumina.

In addition, a 50-90MW co-generation electric power plant is planned for Doragurha, near Kucheipadar village, in Rayagada district. A 12 Km rail siding to Tikiri also is planned. The 325,000 tonne bauxite smelter near Kucheipadar has been approved for SEZ status. The necessary 45 cusecs of water per year will be extracted from the Gopad River. The concept and the prefeasibility studies were completed in 2006. The next step is the 12-18 month definitive feasibility study, followed by the 3-year construction period. Alcan's Backgrounder (12 Dec '06) announced that Utkal is now in the Definitive Feasibility Study Phase.

## **2. What is the Utkal Controversy?**

---

The Utkal project has been delayed by more than a decade because of protests by communities, social groups and about 147 families unwilling to make way for its development<sup>3</sup>. In fact, many more families will lose agricultural and household land. Unarmed ethnic minorities protesting the project on 16<sup>th</sup> of December 2001 were shot and killed by Orissa police; an undocumented number wounded, incarcerated, maimed or tortured in prison (See Chronology). Similar bloodshed has been repeated at other mines nearby, and continues up to the present. Priests and missionaries also are murdered. Most people killed are vulnerable ethnic minorities, namely the Adivasis (see Glossary). Most Adivasis are small farmers, barely above subsistence. There was and still may be some subsistence hunters whom are otherwise unarmed, they use bows and arrows to hunt in the vicinity of the proposed bauxite mine. Adivasi literacy is 6.5 per cent; barely one per cent of the women are literate. Presumably, because of these and similar atrocities, Hindalco and Alcan's partners have withdrawn from the project and sold their shares. India's Tata conglomerate sold out in January 1999, and NorskHydro in March 2000<sup>4</sup> (see Chronology).

Because unacceptable violence persists to this day, combined with many violations of Indian and Orissan laws, Alcan presumably asks itself if it should also withdraw, as its two major partners have already done. Utkal considers its Utkal project still in the feasibility stage and may not have to commit to the project until March 2007. This report informs Utkal and others as they decide whether and how to move forward with the project, or if they should withdraw. It specifically explores the following questions. If Hindalco and Alcan decide to stay in, is there some way of rectifying the situation? Under what conditions should Hindalco and Alcan remain in? Has Utkal the political will to raise its corporate standards? Is it in Utkal's interest to improve their practices, given the history of repression in the region? Has Utkal the political will to improve their practices and those of GoO and GoI? Has Utkal the power to persuade GoO and GoI to improve their policies and implement their laws towards best practice? Has Utkal the power to persuade Orissa's government to adopt civilized behavior with regard to vulnerable ethnic minorities, the environment on which they depend, reasonable human rights policies

and some measure of social responsibility? Apart from documenting the facts (See: Chronology), this report focuses heavily in Plans of Action to remedy the damage already caused, and to suggest ways about how the three most powerful stakeholders (Utkal, GoO, GoI) could proceed.

Some stakeholders believe that the project would degenerate further should Hindalco or Alcan withdraw, and a less scrupulous partner would enter. Other stakeholders openly call for Alcan's and Hindalco's withdrawal. Alcan has been drawn into this international controversy which could cast doubt on Alcan's corporate social responsibility and its commitments to sustainability. In addition, the conflict could intensify financial risks, prolong the twelve year delay, tarnish Alcan's reputation, decrease revenues, raise security costs, and could spark legal claims. Presumably Alcan has to weigh the costs of sticking with the project versus the costs of withdrawing.

It is difficult for outsiders to learn the facts surrounding the potential impacts, as the results of the 1995 Environmental and Social Assessment have not been made public. This assessment should identify potential social and environmental impacts and analyses potential measures for prevention, mitigation, and compensation. Above all, it should provide baseline data against which the project can be monitored. Without this information, potentially impacted people cannot learn what precautions were proposed in to prevent the pervasive damage to Adivasis and their environment. Major impacts, such as displacement and intimidation, especially on the Adivasis, are occurring before construction begins.

Violence is one of the biggest impacts of the Utkal project. The literature shows that violence by government officials against Adivasis is widely used as a tool in the name of development in Orissa, and Utkal is no exception. Practically none of the displacement for development projects was voluntary. Four examples of the official use of violence are cited below.

## **Official Violence Used for Economic Development: Four Examples:**

**1. The Hirakud Example:** The 26-Km-long Hirakud Dam, built across the Mahanadi River about 15 Km upstream from Sambalpur in 1956, created the biggest reservoir in Asia at 743 km<sup>2</sup> for irrigation, flood control, and power generation. Consequently, up to 1.8 million people, mainly Adivasis and Dalits, were uprooted and displaced with no provisions for their livelihood.<sup>5</sup> Soon thereafter, the oustees were displaced yet again when the lands to which they had fled were found to be coal-rich.

**2. The Nalco Example:** The Nalco bauxite mine and smelter project called “the Pride of Orissa” by the government of Orissa, was incorporated in 1981 and is similar to the proposed Utkal project (See Annex: Nalco). Nalco displaced thousands of Adivasi families during construction and then polluted downstream and downwind for great distances. Nalco has been described as a mega industrial complex that has turned the area’s Adivasis from a self-reliant and proud community to menial wage-earners and landless ecological refugees within a period of 10 years. As Nalco is only 100 kilometers from the Utkal’s proposed site, the Adivasis around Baphlimali reasonably assume Utkal will be similar to Nalco’s destruction.

**3. The Balco Example:** Nalco’s example was repeated by BALCO (Bharat Aluminum Corporation) nearby in Chattisgarh, which wanted to mine the sacred and forested Gandhamardan Mountain Range. Despite the use of violence, potentially impacted stakeholders (Adivasis, Dalits, Hindu activists) allied to prevent the planned bauxite mine which GoI declared illegal on environmental grounds in 1987. Sterlite bought the concession in 2001, but the Supreme Court uttered strong reservations.

**4. The Tata Steel Example:** On 1st. January 2006, thirteen Adivasis were killed by Orissa police and 35 Adivasis were injured at the site of Tata Steel’s project, now called the Kalinga Nagar massacre. Justice Naidu’s Commission was convened and empowered to look into the allegations.

These four examples show that the violence used in the Utkal case is not unique. Violence seems to commonly be resorted to in Orissa, especially against poor people ‘in the way’ of development projects.

### **How Many People will be Impacted by Utkal?**

Utkal’s sharpest controversy is that the people threatened with displacement reject the Utkal project. They are terrified at being displaced. These people have repeatedly seen proof that displacement swiftly changes independent self-sufficient communities into paupers or slum-dwellers.<sup>6</sup> As that is an undisputed fact, the controversy hinges on who may be displaced or how many people will be displaced. Mining proponents commonly err in understating the numbers of people to be displaced. That there are such huge and seemingly irreconcilable differences of opinion about the numbers of people likely to be impacted or displaced suggests that the proponents are not being realistic in jointly agreeing on the precise numbers involved.

The main difference of opinion between the project sponsors (Hindalco & Alcan) and the impacted people and their advocates concerns how many people may be impacted. Most of the people are vulnerable ethnic minorities, Adivasis or other indigenous peoples.<sup>7</sup> Estimates of the people negatively affected by the Utkal project range from 750 (NorskHydro’s estimate), to 3500 (Utkal’s estimate) to 60,000 (Norwatch, 199<sup>8</sup>). The variation in these numbers may be derived from differing interpretations of how broadly to cast the net in terms of being ‘affected’ by the project, whether, for instance the figure should be limited to those whom will be physically displaced or adversely affected in an indirect manner (such as decreased access to public land, for example).

Utkal states that there are 1750 “property holding” families, and 1900 “affected” families. But many potentially impacted people may not hold property. Few Adivasis own paper titles to the lands they have used for centuries. The 1750 families estimate neglects key categories of people, however, such as:

1. Families working as traditional laborers or sharecroppers on land that they do not own;
2. Families without paper titles for land they have peacefully used for years (usucapion rights<sup>8</sup>);



3. Families who depend on public land and who have 'use rights' under the Fifth Schedule of the constitution of India, and under Orissa Law.

Utkal says that land acquisition, and the rehabilitation and resettlement program are 'progressing well' for 148 families (R & R package). Ramibeda village was bulldozed and the people told to move into what may be a rail construction camp. The displaced people have not been given title-deeds, and they suspect they will soon be uprooted yet again and evicted elsewhere. On the other hand, police shooting, lathi-charging and tear-gassing groups of Adivasis suggest opposition started some time ago, and may be intensifying.

Utkal states that they have documents showing support from elected representatives from all but one of the "official project-affected" villages. Impacted groups have not been provided with any evidence of this statement. Alcan recently admitted that these documents hold no legal weight, since they are the result of "spontaneous meetings".<sup>9</sup>

While the Baphlimali Hills area is to be allocated to mining, assessments by various groups reveal that the requirements of 2,610 hectares of land, including 1,000 hectares of cultivable land for the factory/wastage dump alone, will cripple the livelihoods of most settlements in the area. In fact, many villages stand to lose 75% of cultivable land and will not even be considered displaced, rendering the people virtually landless. Adivasis have been warned that few jobs will be open to them, mainly as construction laborers or menials. One member of the "fully displaced" family category may receive one permanent job.

### *The Missing Social and Environmental Assessment*

As mentioned, the 1995 Environment Impact Assessment (EIA)<sup>10</sup> has not yet been disseminated, although mandatory under Orissa state law and under standard industry practice. As the 1995 EIA is confidential, one cannot ascertain which impacts have been identified, prevented, mitigated, or compensated, so this section is brief. Secrecy is relative however, as the following three notes suggest. Although the official EIA is unavailable, there is an independent EIA published by TARU in 1996 for Agragamee: "Assessment of Environmental, Economic and Social Impacts of Bauxite Mining & Alumina Processing in Kashipur and Kalahandi, Orissa".

First, it is not clear if Taru 1996 (q.v.) received EIL's 1995 assessment on which to base their own 1996 professional and independent assessment. Second, in 2000, Alcan released the 1995 EIL assessment to SNC/Lavalin, which produced another secret report: "Review of the Environmental Impact Assessment of a 1 mtpa Alumina Plant in India." The resulting report apparently listed the legal violations, major flaws and significant omissions in the 1995 EIL assessment. Third, on 22<sup>nd</sup> April 2004, Alcan promised to release the 1995 EIL environmental assessment to two journalists (see Chronology). This was not honored. The day before the AGM, Alcan claimed the report could not be released because its Hindalco refused to agree.

Although the EIA remains confidential, the government's environmental permits issued in September 1995 have since expired, following their five-year validity. Thus, work undertaken since 2000 has not been permitted. The government and Utkal have been communicating almost annually since permission lapsed in 2000, but no new EIR has been prepared. In addition, the 1995 environmental permits were for a different, much smaller scheme. In 2006, a review by Dr. Chernaik was conducted of the proposed expansion of bauxite production and the Utkal Refinery. A separate analysis of Utkal's EIA reports by the Center for Science and the Environment (CSE c.2006) found them unreliable, deficient and far from normal standards of quality. Judging from the reports of Chernaik (2006) and CSE (c.2006) Utkal's EIA work is of little or no use for today's very different proposals. Utkal's mining lease granted in 1992 and confirmed in 1994 by the Orissa State's Mining Corporation (OMC) expired two years later. Utkal thus violates the 1985 Environmental Protection Act.

**Consultation and Consent:** Consultation is mandated by the Panchayat (Extension to Scheduled Areas) Act (PESA) of 1995 in such cases of land acquisition, compensation, resettlement and rehabilitation programs (See Annex: "Free, Prior and Informed Consent"). Utkal claims three villages 'consented' in December 2004. As this was shortly after the police killings of Adivasis in Maikanch, one cannot be certain if such consent was freely-given. In contrast, at least twenty-five affected villages are against the project, five of whom passed resolutions opposing Utkal (PSSP 2006).

Orissa's State Pollution Control Board (OPCB) tried to hold a public hearing in Tikiri on 17<sup>th</sup> October 2006 about Utkal's proposed expansions, including the following: (a) Expansion of bauxite mining from 3Mtpa to 8.5Mtpa (b) Expansion of the alumina refinery from 1 Mt/yr to 3Mt/yr, and (c) Expansion of the coal-fired power plant from 50 MW to 90 MW. Another EIR may have been submitted by Utkal to the OPCB, according to PSSP (2006). The 2006 EIR by Vimta analyses the impacts of expansion of the project from 3Mt/y to 8Mt/y. However, as the original smaller plans do not have the required clearances and permits, OPCB cannot legally hold hearings on any expansion.

**Market Liberalization vs. Peoples Livelihoods:** The pervasive economic force in Orissa influencing the Utkal project is market liberalization. India is attracting foreign industries and is promoting domestic investment. Industry friendliness is accomplished partly by not enforcing the constitution and other legislation, especially laws on human rights and vulnerable ethnic minorities. With India's economic policies leaning towards market forces and liberalization ideologies, the rights of people over their resources, livelihoods and democratic ways of life will continue to be threatened. The balance between governments wanting to attract industry and become "industry-friendly" vs. protecting democracy, human rights and livelihoods is a delicate one and a balance needing to be recalibrated continually. The clearest example is the 16 December 2001 finding of the Commission of Enquiry looking into the shooting deaths of Adivasis in the Utkal Project. The commission found the Police guilty of the use of excessive force, but then abandoned their professional experience of jurisprudence and the law, and entered the arena of environment and development by pronouncing that the Adivasis could not stand in the way of 'development'.

In addition, the state government helps industry in two powerful ways. First GoO offers handsome subsidies to investors in the form of guarantees, tax concessions and investment subsidies. Second, GoO acquires Adivasi lands on behalf of the company. The fact that buying or selling Adivasi land is illegal under the constitution seems to be overlooked by GoO. The rates paid by GoO also are far from replacement cost, further impoverishing the Adivasis.



Last but not least, the abundance of cheap labor makes Orissa a haven for investors. In 1998, Alcan's president reportedly claimed the Utkal project promises to be the world's lowest cost alumina plant. In 1999, the price of producing one ton of alumina in India was about USD 90, compared to the international average of USD 135. Orissa's labor is cheap because it is excluded from normal social provisions, such as social security, weak or absent education, public health, occupational health and safety measures. Most social and environmental costs are externalized onto the poor and vulnerable.

### 3. Plan of Action

---

This section of the report, based on the preceding analysis, recommends possible ways to reduce the conflict and controversy. Taken together, the recommendations form a Plan of Action to meliorate the situation surrounding Utkal. The Plan of Action is divided into three parts addressed to Utkal's three most powerful stakeholders. First, to the Utkal partners (Hindalco and Alcan), proponents of the project. Second, the government of Orissa which facilitates Utkal. Third, the government of India which controls the governments of its component states.

**Reconciling Polarized Views:** Views about the legality, advisability, and the social and environmental impacts of Orissa's bauxite mining and alumina refining have become polarized. The Government of Orissa vigorously supports industrialization, even at the cost of violating the law and failing to protect its own subjects. Utkal still is proceeding with the project as of the writing of this report (March 2007), despite the withdrawal of its two original partners, Tata and NorskHydro partly because of the official killing and other violence against Adivasis. Does this mean Tata & NorskHydro have higher standards than Hindalco & Alcan? Despite Utkal's claims that consent of the affected people has been obtained, that evidence has not been released. On the contrary, the evidence that Adivasis reject the project is transparent and incontrovertible. At the time of my inspection of Utkal (Feb/March 2007) there were dozens of heavy machines in action, levelers, front-loaders bulldozers, many active quarries and borrow-pits, many major and modest stone-crushing operations, active work on the nearly completed ore-rail spur and the access roads.

Into this polarization, about eight judicial commissions or tribunals (See Box below) of the highest reputation in India have scrupulously sifted the evidence, inspected the sites in question, and listened broadly. These judicial commissions are in consensus: the evidence of totally unnecessary governmental violence against Adivasis is overwhelming, as is the case against Utkal and GoO for violating the Constitution and other laws. GoO has tried to suppress some of these findings. GoO has not used these tribunals to spark debate and reconciliation. On the contrary, GoO seems rather to reject their main conclusions. I have been unable to find any rebuttal by Utkal or GoO of these judicial tribunals. The num-

ber of such judicial commissions, three in 2006 alone, suggests that the situation in Orissa may be deteriorating. The United Nations March 2007 report on racial discrimination in India corroborates that police violence against Adivasis and others is internationally unacceptable.

<b>Judicial Commissions, Tribunals or Similar Independent Reports on Violence Against Adivasis Violating the Law in Orissa [Examples only]</b>	
1999	Former Foreign Secretary Muchkind Dubey's independent commission from CSD examining claims of violence against Adivasis
2001	Chief Justice D.S. Tewatia and Swami Agnivesh's independent report on police killing Adivasis on 16 <sup>th</sup> December 2000
2003	High Court Justice Prafulla K. Misra Commission also on the 16 <sup>th</sup> December killings (suppressed by GoO, later leaked and released)
2005	Lawyers Field Mission, India's Peoples Union for Civil Liberties, and independent civil society body
2006	Chief Justice Bhargava's Tribunal, Published October 2006 (see chronology)
2006	Justice Naidu's Commission on Kalinga Nagar (complete but not released)
2006	Justice Usha's Commission on Communalism in Orissa (see Chatterji & Desai)
2006	Chief Justice of India Yogesh K. Subharwal for the Supreme Court on Vedanta bauxite, violating the law and illegalities against Adivasis (pending)
2007	The United Nations Committee on the Elimination of Racial Discrimination (CERD): Seventieth session (February–March 2007); Concluding observations of CERD on India (CERD/C/IND/CO/19; ... March 2007). See Chronology for excerpts.

### **3.1 Recommendations for the Project Proponents**

Because mining usually causes so much damage to people and to their environment,<sup>11</sup> the industry itself and international institutions have, over the years, agreed on a substantial number of codes-of-conduct, standards,

treaties, protocols, initiatives, rules and so on to prevent such damage. Most of these mechanisms are voluntary, few are mandatory. Some are self-reported by the industry. Some use independent third-parties to monitor compliance; others are policed. Most reputable corporations abide by most of these norms, which are called industry standard practice. Better corporations and those seeking to improve corporate social responsibility try to follow most of these norms and have professional in-house staff to achieve such compliance. Corporations unconcerned about their reputations do not subscribe to many of these norms.

Project proponents, specifically the Utkal partners Hindalco and Alcan, should follow standard ESIA practice, a proven tool for evaluating the potential environmental and social impacts of a proposed project. The proponents should have collected baseline data (e.g., monthly local groundwater and surface water samples) for at least a year before site activity, and long before the start of any mining, in order to detect trends. With no reliable baseline data, there is no yardstick against which to detect or prove environmental changes. The fact that the proponents have not followed standard ESIA practice has vexed this project. As the proponents have angered the vulnerable ethnic minorities, this complicates what should have been a more straightforward project. In addition to resolving the Adivasi issue, the proponents need to upgrade their ESIA to official standards, which include transparency of the assessment's outcomes and participation of potentially affected people.

Utkal presumably seeks to follow the Principles of the International Council on Mining & Metals (ICMM). Note especially that Principle 10 of the ICMM calls for members to implement effective and transparent engagement, communication, and independently verified reporting arrangements with stakeholders.<sup>12</sup>

Similarly, Utkal seeks to follow the Mining and Metals Supplement of the Global Reporting Initiative<sup>13</sup>. This calls for companies to report on the basis for identifying stakeholders, approaches to stakeholder consultation, types of information generated at consultations, and how mining companies use this information to help inform decisions.

As Alcan is a signatory of the Global Compact (see Annex), best practice requires that they report to shareholders and other stakeholders in

their Sustainability Report using the GRI criteria for the mining sector on the policies, commitments and systems the company intend to put in place in order to implement the Global Compact principles in its Kashi-pur operations, especially principles 1, 2, 7, 8 and 9.

UTKAL is associated with several operational, legal and reputational risks as outlined in this report. Standard business practice requires the company to report to its stakeholders on these risks in the management's discussion and analysis of financial condition and results of operations (MD&A) section of the company's annual report. If the project is approved, environmental liabilities, such as the future costs of neutralizing red mud lagoons<sup>14</sup> and acid mine drainage, mine closure and decommissioning costs all need to be disclosed. In disclosing such liabilities, firms must show a probable range of costs even if no single figure can be determined.

### **3.2 Recommendations for the Government of Orissa**

**Respect for the Rule of Law:** The Government of Orissa should uphold the rule of law, specifically to enforce the Samatha Judgement, cancel any unconstitutional mining leases, and refrain from granting any further unconstitutional leases on Adivasi lands in the future.

In spite of the large-scale displacement of tribal peoples and Dalits, Orissa does not have a comprehensive resettlement and rehabilitation policy. The State Revenue Department has assigned the job to the United Nations Development Programme (UNDP) with financial help from the United Kingdom's Department for International Development (DFID). The UNDP prepared the draft policy after holding detailed consultations with the various stakeholders, and submitted it to the GoO government in July 2001. However, the industry lobby and a section of bureaucracy are said to be against the proposed policy.

Orissa Governmental security forces have been responsible for a 'reign of terror' against the Adivasis by means of arbitrary arrest, torture, custodial death, custodial maiming, rape and extrajudicial killings.<sup>15</sup>

GoO should respect and enforce surface and subsurface rights of Adivasis and indigenous peoples and all mining-affected communities. GoO must emphasize that Adivasis own sub-soil mineral rights. Therefore, any group wanting to exploit such minerals must ensure that Adivasi

owners are full partners. Partnership agreements must include benefits allocation, rent of land to the mining groups, and social benefits in compensation for unmitigated impacts.

**Benefits Allocation:** Industry practice is to allocate a fraction of royalties or profits or sales to the affected people. Instead of outright purchase of Adivasi lands, as is the current practice in Orissa, affected people should preferably receive “royalty in perpetuity”. In other words, the Adivasis should receive rent from the industry which exploits their land. Alternatively, industry practice is to allocate a constant fraction of their sales or profits to the affected people. Thus royalties provide a permanent stake in the industrial projects using Adivasi and Dalit lands. The affected groups become partners and stakeholders in such projects. (See ‘Benefits Allocation’ in EIR 2003).

Even the extremely low compensation that was agreed to was paid to the Rayagada (Official Tax) Collector, and not to the affected people. History worldwide shows that cash compensation normally doesn’t work, hence is not recommended<sup>16</sup>. Standard practice in involuntary displacement abandoned cash compensation decades ago because it didn’t work. Standard practice is now land-for-land exchange, voluntary resettlement by whole communities, royalties, rents, employment security, protection of livelihood needs, customary or traditional use rights, usucapion and entitlement to common resources. If it is widely agreed by the affected people and their advocates and social scientists that some of the compensation should be paid in cash, then it should be by escrow accounts for expenditures approved by the leaders of the affected people.

GoO should adopt and require voluntary, free, prior and informed consent (FPIC, see Annex), the right of a community consensus to veto unacceptable projects. Consent cannot be coerced. If it is coerced, it is not consent (see Annex on violence and willing economics.) GoO should promulgate a law prohibiting the use of police violence and coercion; all police stations should be withdrawn from Schedule 5 Tribal Areas, unless mandated by the Gram Sabha, the elected decision-making body of the Panchayats in the Scheduled Areas. GoO and GoI have to protect their citizens above all, especially the poor and vulnerable. Police must never be used to grab land from the poor for corporate use.



FPIC does not mean that a single family could hold up the project; eminent domain comes into force in that case. Orissa should be based on free-will, consensus and agreement. This means GoO should stop using police or any other force to coerce the people into accepting projects that are unacceptable to the impacted people. GoO is responsible for protecting its citizens from violence, especially vulnerable groups. GoO should adopt and promote the use of FPIC from now on in all such ventures. Officials or mining personnel found guilty of criminal activity should be penalized as provided for by the law. Setting compensation levels or reparations for the families of Adivasis killed by government police needs to be resolved.<sup>17</sup>

GoO should adopt a new and humane policy for oustees to ensure they are better off promptly after they have consensually agreed to make way for the project. All people affected by the project in any way must be eligible: deeded or deedless, losing all or part of their lands, dwellings, water or other natural resources, or suffering hindrance (e.g., reduction of accessibility, availability or quality of such resources), or nuisance (e.g., pollution of air, water, or land). If the affected communities reject the corporate proposal, GoO should ensure that the company withdraws.

GoO's development policies and strategies must always fully take into account the livelihoods and environmental support systems of the Adivasis. Adivasis are so vulnerable that small impacts can cause much harm. The UN and the World Bank, for example, have found that resettling Indigenous People is so difficult that it is preferable to move or redesign the project so that it does not rely on displacing Adivasis. In general, those projects should be taken up first which do not impact Adivasis or their support systems, especially in the case of mining and irrigation.

GoO should develop politically and legally enforceable measures to hold mining industry accountable for adequate quality in their social and environmental work. Participation of the mining affected communities should become standard parts of the permitting process.

### **3.3 Recommendations for the Central Government**

Readers may find it odd that a foreigner is gently reminding GoI that its priorities should be to protect its citizens, particularly the poorest and vulnerable. For this I apologize.

The Central Government of India (GoI) should ensure that state governments, in this case GoO, comply with relevant national legislation. GoI should uphold and safeguard communities' legally enforceable rights to and control of natural resources (land, water, forest, minerals). Community (Adi-vasi) or joint ownership (government, community, and industry) should be established in mining projects through workers and communities in mineral bearing areas. Readers may find it odd that a foreigner is gently reminding GoI that its priorities should be to protect its citizens, particularly the poorest and vulnerable. The Samatha Judgment (See Chronology) of GoI's Supreme Court ruled that all mining projects in Schedule 5 Tribal Areas are illegal, because tribal lands cannot be transferred to non-tribal entities. GoI and GoO should uphold the Samatha Judgment.<sup>18</sup>

In general, high-impact extractive projects should not take place on Schedule 5 areas, nor on any other internationally recognized "No-Go" area (see Annex). If due process finds this impossible, and if FPIC has been achieved, then very special precautions will be necessary if such projects are to take place in 5<sup>th</sup> Schedule Areas.

It is the government's duty to respect existing safeguards for indigenous people, namely the Samatha judgment (See Glossary), and the 73<sup>rd</sup> and 74<sup>th</sup> amendments to the Constitution. The government's duty is to guarantee civil rights such as right to freedom of expression, right to a fair trial, and to protect its citizens from violence and repression exercised by third parties. The government should ensure the effective participation of the people potentially to be affected by projects and programs. The Samatha Judgment means that the original environmental, forest, prospecting and mining permits were illegally granted. Although all such permits and clearances have now lapsed, they cannot legally be renewed until the Samatha Judgment has been reconciled.

**India's New Draft National Policy for Tribals**  
**[from] AILR 34 of 2005: Australian Indigenous Law Reporter**

This draft policy would be a major step in the right direction and will prevent conflicts and controversies in the future. The National Policy for Tribals seeks to tackle tribal land alienation by stipulating that:

- Tribals have access to village land records



- Land records be displayed at the panchayat
- Oral evidence to be considered in the absence of records in the disposition of tribals' land disputes
- States prohibit transfer of lands from tribals to non-tribals
- Tribals and their representatives to be associated with land surveys
- Forest tribal villagers to be assigned title deeds (or pattas) for the land under their traditional or customary use or tillage for ages; usucapion
- States launching development projects must take adequate care to keep tribal lands intact. Where all agree that this is not possible in specific cases as exceptions, equivalent or better land shall be allotted before a project commences

Central Government should promulgate mandatory Best Practice or higher social and environmental standards (Glossary) for all extractive industries in the country.

**Racial Discrimination:** If GoI wants external support in its struggle against racial discrimination, it may want to invite the United Nations Committee on the Elimination of Racial Discrimination (CERD) to look into the Utkal project, or at the allegations against GoO in general. CERD is the body of independent experts that monitors implementation of the Convention on the Elimination of All Forms of Racial Discrimination by its State parties. UN CERD's 2007 (qv) report on Racial Discrimination in India corroborates this report and provides prudent recommendations to prevent further bloodshed.

## 4. Conclusions

---

Björn Stigson, president of the World Business Council for Sustainable Development said: “Business simply cannot function if ecosystems and the services they deliver - like water, biodiversity, food, fiber and climate regulation – are degraded or out of balance. There must be a value attached to natural resources, and businesses need to start understanding this value.” In view of the fact that Alcan is a member, and former Alcan CEO was president of WBCSD (WBCSD, 2006), that position should be espoused for all of Alcan’s extractive projects. Only by so doing can Alcan enhance their corporate social responsibility, and progress towards environmental sustainability.

Signers of the UN’s Global Compact link development with conditions of good governance, sustainability and social justice. Corporations want to ensure that their investments first do no harm to the poor and vulnerable, and that they benefit people in the host communities. Alcan seems to have adopted good practice in the case of its Gove project in Australia, and seems to be proud of its ratings on sustainability and social responsibility worldwide.

It is unclear how Hindalco and Alcan permitted the Utkal controversy to intensify over the last decade or more. Hindalco and Alcan’s decisions on whether or how to continue with Utkal will be based on many factors, such as the demand and estimated price of bauxite, alumina and aluminum worldwide and especially the costs and quantities of materials available in Alcan’s own projects.<sup>19</sup> In addition to such economic and technical factors, the social and environmental consequences should also play a key role.

In summary, Utkal will transparently and unambiguously have to achieve five overlapping conditions. **First**, Utkal will have to persuade and convince both GoI and GoO to implement an action plan such as the outline suggested above, to guarantee that impacted people will not continue to be killed by police, nor intimidated, that their livelihoods and environment will be promptly better off, and that peace returns promptly. **Second**, Utkal will have to undo and rectify the harm already caused to the Adivasis, partly by requesting the removal of police from Kashipur’s Tribal Areas. **Third**, Utkal will have to prove unequivocally that the fu-

ture will be different from the past, different from Nalco, and different from Tata Steel's Kalinga Nagar massacre. **Fourth**, Utkal must prove in advance to Adivasis that if there is a future Utkal, acceptable to Adivasis through FPIC, that it will be fully in line with best practice. Fifth and most important, Utkal must be able convincingly to prove in advance that the Adivasis will be promptly better off from now on. These conditions may take years. It seems reasonable that their fulfillment would be no shorter than the 13 years of violence that created the current impasse. If the answers to these five conditions are demonstrably positive, then from the social and environmental points of view Hindalco and Alcan may be able to go ahead and propose a totally revamped project with a clearer conscience.

There is hope. In India's last elections by its 1 billion citizens, a Catholic political leader (Sonia Gandhi) made way for a Sikh (Manmohan Singh) to be sworn in as Prime Minister by a Muslim (President Abdul Kalam) in a nation that is 81% Hindu.

### *Acknowledgements*

I<sup>20</sup> offer warm appreciation to Lise Parent, William Stanley, Vivekananda Dash, Vidhya and Achyut Das and Agramee, Prafulla Samantara, Badal Anduran, Tyson Roberts, Tamara Scurr, and Jennifer Graham for their help with this report. For their valuable information and patience, I am grateful to the people of the following places: Maikanch, Kucheipadar, Rayagada, Tikiri, Dorasgurha, Karlapat, Kashipur, Koraput, Semiliguda/Nalco, Ambegadia/Kalinga Nagar. My dear wife, Jonmin, tolerates my absences and the solitude of writing; our son Arthur kindly computerized the map I scrawled.

## Annex 1: Chronology of Events

---

*Note: Internet sources are provided for most of these dates. If not, consult the "Literature cited" person mentioned. The earlier dates are taken from Jervé & Grieg, 1998. Ravi Pragada's (q.v.) paper on "The People's Struggle" has a good chronology from 1993 through 2000. Many of the 1993-2004 dates are taken verbatim from Achyut and Vidhya Das' excellent "Time Line" (Das & Das, 2006).*

- 1967 Orissa's Freedom of Religion Act passed. Repealed in 1973; reinstated in 1977. In 1989 religious conversions were permitted only if police and a magistrate approved.
- 1991 Engineers India Ltd: Utkal's pre-feasibility study completed.
- 1992 Utkal Alumina International Limited (Utkal) formed a joint venture between Alcan (45%) and Hindalco (55%). Hindalco is part of the larger Aditya Birla group, based in India. The Utkal Project involves the proposed development of a new bauxite mine as well as a 1.0 to 1.5 million tonne-per-year alumina refinery in Doragurha in the Rayagada district of Orissa. Hindalco is the managing partner; however, the Project would benefit from Alcan's best-in-class technology. [www.alcan.com](http://www.alcan.com) (FAQ). By 2006, the project had almost tripled in scope.
- 1992 Utkal Alumina entered Kashipur to start survey work.
- 1992 December 6: Hindutva mobs destroyed the 16<sup>th</sup> Century Mosque at Ayodha.
- 1993 UAIL joint venture (Tata, NorskHydro, Alcan) begins land surveys in Kashipur.
- 1993 November 11th: Chief Minister (then Biju Patnaik) met a delegation of 18 people from Kashipur asking about the implications of mining on local communities. The people were informed that a small amount of land would be taken from Kucheipadar & Doraguda. The people registered their strong objections, Chief Minister then ordered Utkal to switch to another site for the alumina plant. The Tehsilder/District Collector/ Administrator later visited Kocheipadar, but the villagers refused to negotiate with him.
- 1993 November 27th: District Collector convened the Gramsabha but potentially affected people were excluded, so the meeting was cancelled.

- 1994 Absent any response to the above, Kucheipadar village restricts entry of any UAIL vehicles into the area.
- 1994 Utkal started ground testing and construction of roads, rail, tube wells and buildings on croplands. Police called in to protect corporate tools.
- 1994 Rehabilitation and rural development plan prepared for the people to be displaced (fide Jervé).
- 1994 April: 23<sup>rd</sup>. Police arrest Kucheipadar leaders Maharaj Majhi and Gurunatha Majhi.
- 1994 April: Socio-economic study of households in Kashipur Tehsil, prepared by NIRD.
- 1994 Report on socio-economic, cultural and environmental impact assessment, prepared by IDEA.
- 1994 Utkal's detailed feasibility study (c.10 vols.) presented.
- 1995 Utkal filed criminal cases against 12 persons. The people named were not informed of these actions.
- 1995 Utkal's (draft) Environmental Impact Assessment prepared Engineers India Ltd. [Remains secret.]
- 1995 Rehabilitation Action Plan (RAP) prepared for Project Affected People (PAP) at Rayagada.
- 1995 March 24<sup>th</sup>: Orissa Alumina Risk Assessment prepared.
- 1995 April 23<sup>rd</sup>: Tikiri police arrested Maharaj Mahji and Gurunath Mahji from the Kucheipadar area. 1000 Adivasis protested in front of the Tikiri police station leading to the released of Maharaj Mahji.
- 1995 Contractual jobs guidelines prepared for Utkal.
- 1995 August 17<sup>th</sup>: 600 Kucheipadar villagers met with civil society and discussed their problems; Janata party lost elections; Biju Patnaik's Congress party restored.
- 1995 September 12: Orissa state government convenes a Rehabilitation Committee.
- 1995 October 20<sup>th</sup>: Teacher Laxman Mahji from Thurat Ghati school (but born in Kucheipadar) arrested by Tikiri police; Villagers protested

and two more villagers were arrested, Maharaj Mahji and Judhister Mahji. Laxman was arraigned in court.

- 1995 November 6: Rehabilitation Committee: first meeting.
- 1995 December 20th: Rehabilitation Committee: Second meeting: Approves UAIL's Rehabilitation Package.
- 1995 December 20th: District Collector and other officials called a meeting for the same day in Kocheipadar, but the people were not informed, so could not attend.
- 1996 January 21st. UAIL organizes informational meeting near Kucheipadar. 6000 villagers from three Panchayats attend and presented a memorandum to the DC, to the MLA and to Utkal.
- 1996 February 14th. 5,000 or 10,000 people around Kucheipadar launch PSSP (see Glossary). Medha Patkar discusses Kucheipadar problems.
- 1996 March: the Orissa State Pollution Control Board chair R.C. Das report: "Further addition (expansion) of alumina plants in this belt (Rayagada and Kashipur) will add to environmental problems besides resource constraints".
- 1996 June: UAIL's land acquisition begins. Official use of violence to obtain signatures and to force acceptance of compensation.
- 1996 September 9th. 10,000-20,000 Indigenous Peoples meet in front of UAIL's Tikiri office protesting against the mining project. No response from Utkal.
- 1996 Villagers erected road block and gate against any corporate vehicle.
- 1997 January 30th. Two representatives from the Strømme Foundation, Norway, visited Kocheipodar village. See the Strømme Foundation report.
- 1997 January 31st: R & R Task Force met in Bhubabeshwar.
- 1997 February 9th: Bergen College and Norwatch representatives went to attend a company meeting to see the Baphlimali mine and refinery sites near Kucheipadar, but were stopped by the road block; police intervened.



- 1997 February 25th: PSSP and other civil society groups met and discussed the mining project.
- 1997 March 13th: UAIL's free medical eye camp at Kucheipadar to persuade people in favor of the mine project.
- 1997 March: Rayagada workshop of affected people and NGOs discussed Koraput mining proposals and the fears of displacement.
- 1997 June 13: Bauxite extraction license obtained by NorskHydro, Indian Aluminum & Tata Industries.
- 1997 July 11th: Supreme Court decision in the Samatha case: The majority decision disposed of Civil Appeal No. 4601/97 & 4602/97 filed by Samatha, a non-government organization (NGO, working in the East Godavari district of Andhra Pradesh) [Reported in 1997 (4) SCALE Page 746]. Regulations framed under the Fifth Schedule to the Constitution, essentially to prevent the exploitation of tribals by non-tribals, and to prevent alienation of agricultural land of tribals being passed on to non-tribals. Substantial questions of law on the interpretation of the Constitution were raised by the Samatha Judgment, so a request was made to the Attorney General through the Legal Affairs Department to refer the matter to a Constitutional bench of Supreme Court under article 145 of the Constitution. The alternate advice as to whether the Fifth Schedule to the Constitution of India can be amended to counter the adverse effects of the Samatha Judgment. The Attorney General ruled that: "The fact of the matter is that the majority judgment of the Supreme Court in the Samatha case is the law of the land and holds the field; Mining is prohibited by private corporations in Adivasi areas. In September 1997 the Supreme Court (SC) passed a landmark judgment in the Samatha case that established that government lands, tribal lands, and forestlands in the Scheduled Areas cannot be leased to non-tribals or to private companies for mining or industrial operations. Consequently, all mining leases granted by the State governments in V Schedule Areas therefore became illegal, null and void and the State Government was asked to stop all industries from mining operations. Mining should be taken up only by State Mineral Development Corporations or by a tribal co-operative if they are in compliance with the Forest Conservation Act and the Environment

Protection Act. At least 20% of the net profits should be set aside as a permanent fund as part of business activity for the establishment and provision of basic facilities in areas of health, education, roads and other public amenities after the 73<sup>rd</sup> Amendment and the Panchayat (Extension to Scheduled Areas) Act, under which the Gram Sabhas are competent to preserve and safeguard community resources. The SC reiterated the right of self-governance of Adivasis.

- 1997 July: UAIL starts construction of a resettlement colony near Dama Karola.
- 1997 August 10th. Tribal demonstrations against construction of the Dama Karola resettlement colony. Some of the colony torn down. Sixteen false cases filed against Kucheipadar villagers, including 3 boys, 1 girl and 2 women.
- 1997 August 31st: PSSP shared problems with PILSARC in New Delhi.
- 1997 August: TATASS Health Status Survey released.
- 1997 November 22<sup>nd</sup>. Kashipur people submit memorandum to GoO's Chief Minister, through the Rayagada Collector.
- 1997 November 23<sup>rd</sup>. Five thousand strong protest march by PSSP in Tikiri demanding that UAIL withdraw.
- 1997 December 24: Economic Times [of India] reports that land acquisition and rehabilitation of the Utkal project site is complete, financial closure is expected shortly, and that Alcan is now expected to join the partnership.
- 1997 Mercenaries, either anarchists, goondas, mafia or thugs, hired by the company attacked the staff and premises of a local NGO. No protest from the villagers.
- 1998 January: UTKAL's Socio-Economic Report published.
- 1998 January: URDS draft Memorandum of Understanding.
- 1998 January 5th. Police help mining vehicles to push through PSSP's blockade. Police lathi charge and teargas the crowd injuring 12 women and 34 men.
- 1998 March 29th: Villagers meeting attacked by company mercenaries.



- 1998 April 20th. Local newspapers (e.g., Prajatantra) report on UAIL's review meeting organized by the District Administration, but potentially affected people boycott the meeting.
- 1998 June 16th. Police raid Agramee campuses in Mallijharan and Kashiipur, arresting workers on false charges. Kocheipodar villagers intimidated by police who built a police station near the village.
- 1998 October 23<sup>rd</sup>. Local newspapers report the boycott of the public hearings of the Pollution Control Board on UAIL.
- 1998 October & November: PSSP organized a poll in 40 villages; 96% reject the project.
- 1998 November 16th: Adivasis armed with clubs, bows and arrows way-laid NorskHydro employees Ivar Oellingrath, Dag Syltevik and Bernt Malme, and an Indian official. The four were forcibly taken to Kucheipadar, to a public hearing where local people complained about the impact of the project. The Norwegian executives signed a protest letter against their own company, stating that NorskHydro would withdraw from Utkal. Utkal reacted by postponing work on the bauxite mine until 2000. [Drillbits & Tailings 3(23) December 7] GoO officials indict 60 villagers for attempted murder and kidnapping (of the NorskHydro reps). Only one of the 60 indictments was completed.
- 1998 December: Three GoO employees suspended and one dismissed.
- 1998 December 31st. GoO issues a notice against four voluntary organizations (Agramee, Ankuran, Lakhan Nayak Society for Rural Development and WIDA) in Koraput and Rayagada districts, instructing all government departments not to have any dealings with them. PSSP leader Kushno Saunta arrested. PSSP meet local press. NGOs appeal to GoO Chief Minister.
- 1999 January 1st: Biju Patnaik replaced by Giridhar Gomango. Two super cyclones severely damaged vast areas of Orissa, Australian Priest murdered, and a notorious rape case in Anjana per-occupied GoO.
- 1999 January 6-18th: A high-level team of former government officials led by Prof. Muchkund Dubey, Former Foreign Secretary and President of the Centre for Social Development (CSD), New Delhi, with B. N.

Yugandhar, B. S. Nagi and D. Bandyopadhyay arrived to study the situation. Intent on defusing tension and creating an understanding for the mineral exploitation and industrial development of an underdeveloped tribal region, the group was aghast at the often-violent police action that had been taken against a tribal community and the courage and conviction of members of the community (Das & Das, 1999. SanctuaryAsia.com; Ecologist Asia 12(2) Mining: Digging our own graves?). GoO officials bluntly told members of Prof. Dubey's team, that nothing would be allowed to come in the way of the bauxite companies, not even Constitutional provisions prohibiting the alienation of tribal lands (Ranjit Dev Raj, Asia Times). The Dubey report (published 3<sup>rd</sup> week of February 1999) highlighted the brave action of the women and the needless intimidation of the police during general meetings in the area. Dubey's team found in Bhubaneswar that there was overwhelming support for the three alumina projects of UAIL, Larsen & Toubro and Hindalco (Aditya Birla Group) from the general population, but that there were "a few recalcitrant elements", incited and provoked by the four NGOs opposing land acquisition and industrialization of this backward region. However, after field visits, the team was convinced that the impression given at Bhubaneswar that the affected people largely supported this move for industrialization was totally erroneous. It appeared that there was a deliberate attempt to spread disinformation. All the villages were deeply attached to their land and they were not prepared to give up their land for a totally uncertain future. The Dubey team was told by the highest level officers of GoO in Bhubaneswar that the government would not countenance any opposition to the industrialization of Rayagada by anybody or any group, that an anti-industry movement would be tantamount to anti-state activity, and that the government was determined to "teach a lesson" to the NGOs which were indulging in acts of incitement by organizing tribals against land acquisition. [From: "Where Assertion Is Insurrection". D Bandyopadhyay, March 1999. saa.net/kashipur/epw]. Dubey's team advises GoO to withdraw the cases against leaders of the movement and to begin a constructive dialog with the tribal community.

- 1999? The foundation Utkal Rural Development Society (URDS) has been commissioned by Utkal mining company to work with developmental issues in the company's project area.
- 1999 January: Tata withdrew from the Utkal Project. Just before Christmas 1998, Tata announced that it wished to withdraw from the whole project, as it did not fit into the company's future strategy, and as the project had become a sore thumb due to all the resistance the project was experiencing from the local population.
- 1999 January 22<sup>nd</sup>: Australian missionary Graham Stuart Staines, and his two sons Philip Staines (11) and Timothy Staines (7) were burnt alive in the tribal village of Manoharpur, 10 km from the small town of Tharmunda in the Mayurbhanj district, Orissa, when their jeep was torched (Keonjhar district?) The Church also was torched. Dara Singh was sentenced to death and 12 others were sentenced to life imprisonment. [Dasverma@aol.com according to Anant Kumar Giri, Madras Institute of Development Studies, currently visiting fellow at the International Institute of Asian Studies, Amsterdam].
- 1999 February: Jacqueline Mary, Catholic nun, was gang raped in the Mayurbhanj district.
- 1999 September 2<sup>nd</sup>: Catholic priest the Rev. Fr. Arul Das was murdered by the same Hindu fanatic (Dara Singh) who killed the Staines family, according to the Vatican's News Agency 'Zenit'.
- 1999 GoO police fired on Tribal fishermen in Chilika Lake: five people were killed.
- 1999 December: Mandrabaju Massacre in Gajapati: Eleven Adivasis killed by police for refusing to vacate their lands.
- 1999 December 16: Norsk Hydro started to withdraw from the Utkal bauxite project; definitively exits in 2003.
- 2000 Civil Society meets Norwegian Foreign Minister Knut Voolebeck to inform him about the extreme human rights violations surrounding NorskHydro's project, and requested his support.
- 2000 February 12th: Mass rally marched from Kocheipadar to Tikiri against Utkal.

- 2000 February 22<sup>nd</sup>: 5000 strong Maikanch Gram Panchayat held at Nuagoan against Utkal.
- 2000 March 6th. Norges Bank divulged the portfolio of Norway's Petroleum Fund, which showed that the fund increased its investment significantly in Alcan Inc. At the same time Norsk Hydro withdrew from Utkal after years of local resistance, the Petroleum Fund tripled their ownership in Alcan Inc. The fund has now invested 110 million NOK in Alcan. Portfolio managers also bought bonds valued at 83 million. NorWatch reported about Norway's Petroleum Fund's 35 million NOK investment in Utkal partner Alcan.
- 2000 March 23<sup>rd</sup>: Alcan to exit India, sells Indal to Hindalco. The Canadian-based Alcan Aluminum Ltd. has decided to exit India and will sell its 54.62 per cent stake in Indian Aluminum (Indal) to the Aditya V. Birla group firm Hindalco Industries in an all cash mega-deal worth Rs 738 crore. According to: [www.indianexpress.com](http://www.indianexpress.com) in March 23/2000. However, Alcan kept its concessions in the bauxite-rich Kashipur block.
- 2000 March 29th: Rally organized from Tolo Dhaska to Gorokpur against Utkal, URDS, BJD and BJP political parties.
- 2000 April 28th: About 4000 villagers halted work on the construction of the Kucheipadar bridge over the Ghodagad River.
- 2000 May 13th: 4000 villagers from Kashipur and Laxmipur halted the work on construction of a helipad at Haradpur. Police arrested two villagers and released them on bail. 18 others were indicted.
- 2000 May 26th: Utkal Manager and contractors visit Gorakpur and argue with the adivasis.
- 2000 May 28th: 8000 villagers marched from Maikanch to Paikhupakhal via Nuagoan; two bridges under construction were damaged; cement thrown into the river; one tree nursery damaged. The Sub-Collector and other officials led seven truckloads of police and 4 jeeps to intimidate the rally.
- 2000 May 31st: Police arrest six people from Kocheipadar and Maikanch villages accused of dacoity under Section 395, which usually refers to armed robbery.

- 2000 June 6th. An All-Party committee formed to promote mining in Kashipur, led by BJD supreme Bibishan Majhi.
- 2000 June 19th: Kocheipadar village: the District Collector and police superintendent enquire into the May 28<sup>th</sup> demonstration. Affected people request the withdrawal of all false cases against their colleagues, and request the police and GoO to protect their livelihoods.
- 2000 June 21st. The All-Party Committee urges GoO Chief Minister to take stern measures against Civil Society Organizations concerned with forced displacement.
- 2000 July 7th: A fact-finding committee (Messrs. Kisan Patnaik, Panigrahi, Baghaban Rath, & Prafulla Samantara) inspected the area and met the people in Siriguda (2000 people), Maikanch (3000 people) and Kucheipadar (2500 people). The committee submitted a memorandum to GoO requesting it to withdraw all false charges by the police.
- 2000 July 10th: Re: Supreme Court's Samatha Case: Given globalization and liberalization, private corporations and MNCs pressured GoI to issue a secret note from the Ministry of Mines of 10 July 2000 (No.16/48/97-M.VI). The note puts the interests of "foreign corporate bodies" superior to the interests of people and scheduled tribes, and suggests that the Samatha judgment can effectively be subverted by "the necessary amendments so as to overcome the said Supreme Court judgment by removing the legal basis of said judgment". This is now sought to be accomplished by amending Article 244, clause 5(2), removing the prohibition and restrictions on the transfer of and by Adivasis to non-Adivasis for undertaking any non-agricultural operations, including prospecting and mining.
- 2000 July 15th: The District Collector informed the impacted people that a tripartite meeting will be held on 24th. July between GoO, Utkal and the impacted people. They responded that there was no need for such a meeting and urged the DC to cancel the mining project.



- 2000 July 18th: All-Party meeting in Bhubaneswar concluded that most impacted adivasis reject displacement. Impacted people put this in a letter to the Chief Minister.
- 2000 July 25th: Kocheipadar village leader, Nilram Naik, was killed in a traffic accident so a re-election was called. The impacted people's candidate Baghaban Mahji was elected village leader (Sarpanch) on July 29th.
- 2000 September 3<sup>rd</sup>: Kashipur All-Party meeting with Utkal and officials discussed why their candidates had lost the election and an opponent of displacement had won. Utkal decided to carry out development, such as roads, drainage etc to win support of the threatened villagers.
- 2000 December 15th. All-Party Committee, including BJD President Bhaskar Rao, holds public hearing in Maikanch village, near UAILs site.
- 2000 December 15th: 4000 Adivasis discussed the road block in Maikanch village but were disrupted by violent company mercenaries, who threatened massive punishment.
- 2000 December 16th. The D.C. of Rayagada District, Shwasat Mishra, and other officials return to Maikanch village with three platoons of police. Their arrival had been warned, so all the men had disappeared into the hills. Mainly women and children remained. When the women were violated, abused and stripped naked by police, some men returned to the village. Police then shot 19 rounds killing three Adivasis: Abilhas Jhoda (25), Raghu Jodha (18) and Damodar/Jamudhar Jodha (43). The number of people wounded or permanently disabled is unclear; could be 16. One account claimed the police set fire to one of their own jeeps and alleged that that provoked them to shoot the people.
- 2000 December or January 2001? Maikanch village: Retired Chief Justice Debi Singh Tewatia along with the prominent social activist Swami Agnivesh went to the scene of the December 16th. Maikanch massacre shortly afterwards to find out what had happened. Their report to the President of India who later sent his own conclusions and directions to GoO. The Tewatia/Agnivesh report clearly says

that the police action must be regarded as “preplanned and premeditated”, cold-blooded murder. It also connects Utkal Alumina to the shootings. Judge Tewatia’s conclusion is that “the entire state’s administrative machinery, the police in particular, appeared to have worked at the behest of the powerful aluminum consortium, rather than under the rule of law. [countertcurrents.org: Mining to destruction and hijacking their rights to submission. Goldy M. George, 28 February, 2004; Nityanand Jayaraman, CorpWatch 18 Oct 2001].

- 2000 December 20th. Twenty thousand Adivasis show solidarity with the martyrs and maimed by means of a peaceful march in Rupkana junction, Kashipur.
- 2001 January: Protests and demonstrations by civil society against the Maikanch Massacre.
- 2001 January 20th. Orissa’s Chief Minister, Mr. Naveen Pattnaik, empowered the Justice Prafulla Kumar Misra Judicial Commission to probe the Maikanch killings. Justice Misra was the sitting Judge of Orissa High Court, and at the time he was appointed to lead the Commission was in Chennai High Court. See Chronology entry for 17<sup>th</sup> Jan 2003 for comments on the Misra Commission’s report, which was suppressed on completion three years later. The Commission concluded that the police and the district administration were guilty. The report may have exonerated the government by saying that the killings were justified ([www.minesandcommunities.org/ Action/press899.htm](http://www.minesandcommunities.org/Action/press899.htm)).
- 2001 January 29th: The Board of Utkal Alumina International has decided to reduce project activities in Orissa until acceptance from a majority of local stakeholders is manifested and a dialogue established with all organized groups that in a significant way represent these stakeholders. Strong local support in favor of the project has been manifested, but there is also a strong and uncompromising opposition. The lack of progress for the Utkal alumina production is also part of the decision. In all its activities, Utkal has focused attention on the need for environmental protection and social responsibility in accordance with widely accepted norms and international guidelines for Corporate Social Responsibility (CSR). A political debate

is currently in progress in the State of Orissa about which areas are to be developed industrially. Utkal will not take part in this debate, but will fully support any efforts initiated by the Government of Orissa aimed at resolving the conflict in the project area. Utkal hopes that the reduction of project activities and initiative to dialog can reduce tension in the area, which today affects the lives of many people. Utkal also hopes to contribute to a climate that can help the people of Kashipur to develop their human and natural resources for the sustainable benefit of all, based on their free and informed choice. [[www.hydro.com/en](http://www.hydro.com/en)].

- 2001 May 18-23<sup>rd</sup>: The London Declaration: (After: [partizans@gn.apc.org](mailto:partizans@gn.apc.org))
- (1) A moratorium on new large-scale mining projects in greenfield areas of Asia, Africa and Latin America;
  - (2) Companies must clean up the terrible damage caused by their past and current mines, without drawing on public funds, and be held morally, legally and financially responsible for their misdeeds;
  - (3) The World Bank/IMF cease funding of industry-initiated mining codes which are imposed on the governments of Africa, Asia-Pacific and Latin America;
  - (4) Mandatory higher standards in all mining;
  - (5) That surface and subsurface rights of indigenous peoples and all mining-affected communities be unequivocally respected and enforced, as well as their right to veto unacceptable projects. We seek solidarity from civil society and specifically from development and environment NGOs, in response to the global outcry from communities affected by mining. We ask these organizations:
- (1) To ensure that mining-affected communities are fully informed in advance on all aspects of mining and minerals projects and empowered to speak for themselves in response;
  - (2) To refuse to participate in initiatives, such as MMSD, which are primarily spearheaded by the industry to serve its own purposes;
  - (3) To advocate for politically and legally enforceable measures that will hold the mining industry accountable, above all to mining and exploration-affected communities.
- 2001 July 15th: The Hindu: In the wake of the transfer of Mr. Justice Prafulla Kumar Misra from Bhubaneswar to the Madras High Court last month, the President of India, Mr. K.R. Narayanan (himself a Dalit) wrote to the Ministry of Law and Company Affairs urging



that the judge be allowed to continue with the inquiry into the death of three Adivasis in the police firing in Maikanch village, Kashipur, Rayagada in Orissa on December 16, 2000. Mr. Justice P.K. Misra was in charge of the inquiry commission constituted under the Commission of Enquiries Act following the deaths. His subsequent transfer has given rise to apprehension in Orissa that an impartial inquiry into the death of the tribals may be in jeopardy.

- 2001 October/November: Five tribal women and men were killed in two police firing incidents in Raigarh, Nowarangpur district, in peaceful protests to keep their land.
- 2001 December 17th. And 18th: Hydro Aluminum, the aluminum division of Norsk Hydro, the Norwegian energy and metals group, officially decided to withdraw from its operations in Utkal Alumina International Ltd in India.
- 2001 Alcan's Annual general Meeting: Representing five Alcan shareholders, the Regroupement pour la Responsabilité Sociale et l'équité (RRSE), an association of faith-based institutional investors, attended Alcan's AGM and questioned whether local populations had been treated with due respect in the project.
- 2002 August 15th: Left party organizations of Orissa united to give a 'Quit India' call to the World Bank and to UK's DFID. One of their allegations was that both these institutions had influenced government policy on privatization which included the retrenchment of 50% of government staff employed in the Health and Education sectors. World Bank Structural Adjustment Loan of Rps 3000 Crore, and an aid package of Rs. 200 crore from UK's Department for International Development are said to support irresponsible corporatization against the self-determination of the poor.
- 2002 Feb-March: Hindu extremists killed 2000 Muslims in Gujarat.
- 2003 January 17th: Justice P. K. Mishra's Commission report on the 16th. December 2000 Maikanch killings of three adivasis in Kashipur were suppressed by GoO. A synopsis was leaked to the press. GoO refused to place it in the assembly in spite of the provision under Sec-3(4) of the Commission of Inquiry Act 1952 which prescribes that it shall be placed in the Assembly within six months of completion.

GoO termed this as a secret document until it was forced to table it along with the Action Taken Report under popular pressure, in the last moment of the monsoon session of the Assembly in August 2004. There was no scope for discussion on it in the Assembly. The observations of the Commission include: "There is no doubt that the action of police in assaulting two tribal women had the effect of magnifying the tension. Even at that stage when the police were retreating, there was no apparent danger". (p. 210). ".....the stand taken by the State that there was firing on behalf of the villagers which had damaged the police jeep is not acceptable." (p. 211). "... the claim of the police regarding alleged attack by bow and arrow from the side of gathering appears to be highly exaggerated". "The statements made by several tribal people in their affidavits or depositions to the effect that there was indiscriminate firing, which resulted in the death of the three persons and three cows and injuries to several other persons appear to be more probable." (p. 209). "Even though there might have been some justification for giving a direction for firing, it is apparent that the quantum of force used was grossly in excess of the requirement. If the police would have made best efforts to scare away the mob by firing towards the sky, possibly loss of three lives could have been avoided. Even otherwise they should have aimed at firing below the knee joint with a view to disable the persons and not kill them." (p.212). "the death of three tribals amounts to culpable homicide for which the police and administration are criminally liable". About assigning responsibility, the Commission is unequivocal in its observations on administrative and police officials: Sri Y.K. Jethwa, the then S.P. of Rayagada, D.S.P. K.N.Pattnik; Sri Pravasankar Naik, the then OIC of Kashipur Police station, Golak Chandra Badjena, Executive Magistrate on the spot, and Subas Chandra Swain, a police official . Regarding Y.K. Jethwa, the Commission observed that "It is evident from materials on record that he was also overzealous in the matter by directing such a large contingent to go to the village on 6.12.2000." (p. 203). "The Commission notes the overzealousness of the former district police superintendent, Sri Sanjeeb Panda, in threatening the anti-industry leaders on earlier occasions to book them under NSA, which proves the bias and vindictive attitude of

the entire police administration against the anti-industry people". "Sri Subhas Chandra Swain appears to have precipitated the matter by assaulting the two tribal ladies inside Jhodiasahi" (p. 201). "The blame for the use of excessive force lies squarely on the head of Sri Prava Sankar Naik who implemented the orders being passed by the Executive Magistrate. By continuing firing for 19 rounds, he has exceeded the requirement" (p. 201). "Sri K.N.Pattnaik was the Deputy Superintendent of Police of Rayagada and was the most senior officer holding the highest rank among police officers who had gone to the spot on 16.12.2000..... Instead of leaving everything to Prava Sankar Naik, he could have assumed more prominent role and exercised better control" (p.201). "Sri Golak Chandra Badajena was the Executive Magistrate under whose direction the firing took place. It appears that the Executive Magistrate has not exercised proper control in the matter of firing". "He should not have kept quiet regarding the extent of firing and should not have left the matter to the police officers. There was no necessity to continue firing for 19 rounds" (p. 205). The Commission observed that "the agriculture-based economy has not worked for the last many decades. The peculiar hilly terrain in Raygada district is unsuitable for undertaking agricultural operations in modern method or even normal method." Likewise the Commission also remarked: "...we cannot afford to remain backward merely for environmental protection." "...there is no material on record to indicate that extraction of bauxite from a particular area has any significant adverse impact on the environment, particularly relating to water." Following the Commission's inspection of the bauxite mining and alumina refinery site at Damanjodi it commented: "there is every possibility of growth of forest cover in the course of time, as evident from the mining operation undertaken by Nalco at Damanjodi". The Commission is not known to be expert on environment, pollution and forestry. Nor has the Commission solicited the opinion of the experts on these matters. Even while visiting Damanjodi the counsels of various parties were not given any scope to accompany the Commission as an act of fairness and transparency. Particularly on the question of agricultural economy and mining or industrial activities in tribal areas, the head of the Commission, being a sitting

member of higher judiciary before giving his opinion, should have referred to the opinion of the apex court in the famous Samatha vs. Andhra Pradesh case which was cited by various parties in the present Inquiry. Such opinions as by the Commission could have benefited from a workshop or meeting on the subject. [Such observations totally outside its area of expertise is] unbecoming of a Commission of Inquiry and can be discounted as mere overzealous personal pontificating. [Excerpt from: The Maikanch police firing and the Misra Commission report: A misleading exercise. by Sri Biswapriya Kanungo, [saa.net/kashipur](http://saa.net/kashipur).]

- 2003 July 5th: The Economic Times of India: Indian Aluminum (Indal) increased its stake from 20% to 55% in Utkal Alumina International, a proposed 3m ton greenfield alumina project. The additional stake was acquired from Norsk Hydro, one of the original promoters, which had a 45% stake in the proposed venture. Of this, Indal has bought 35% to increase its own holding to 55%. The balance 10% of the Norsk Hydro holding was acquired by Utkal's other promoter, Alcan. Alcan's holding now rises 35% to 45%. With this, Norsk Hydro has quit Utkal Alumina. Thus Alcan and its erstwhile subsidiary Indal now hold 55:45 partnership in the \$1bn Utkal Alumina. The A. V. Birla flagship Hindalco Industries currently holds 96% stake in Indal.
- 2003 November 5th. Indal's Chief Executive Officer, Dr. S.K. Tamotia, "hopeful that it is ongoing....alumina project in Orissa will be completed without further delay" (Hindu Business Line).
- 2003 Alcan's 2004 Sustainability Report: "In Orissa, India, Alcan is a minority shareholder in the proposed Utkal bauxite mine and alumina refinery project, where approximately 150 families would be affected by construction of an alumina refinery. As part of Indian law, but negotiated via a stakeholder consultation process, all project-affected people would be eligible to benefits stemming from a mutually-agreed upon rehabilitation and resettlement package." [www.publications.alcan.com/en](http://www.publications.alcan.com/en).
- 2004 January 8th-14th: Bread for the World and FIAN International (Food-first Information & Action Network of the Protestant Churches in Germany) conducted an international fact finding mission to In-

dia. Highlighted Nalco's severe social and environmental impacts. [www.menschen-recht-wasser.de /downloads/Summary\\_english.pdf](http://www.menschen-recht-wasser.de/downloads/Summary_english.pdf).

- 2004 January 22<sup>nd</sup>: Justice P. K. Mishra's report: "...the general public has a right to know...the full report of (P.K.Misra's) Inquiry Commission. We think that by not making the entire report public, the public in general and the affected people of Kashipur in particular, have been denied of their right to information on a matter which has serious consequences. In view of the above we hope that the Government will take necessary measures to respect the people's right to information by immediately making the Inquiry Commission's report public, along with the Action Taken Report...." [Pramodini Pradhan, PUCL.org, March 2004]
- 2004 "Officials in the Orissa government confirmed that Utkal Alumina International (UAIL) has started rehabilitation and resettlement work at the plant and mining sites" [Suresh Nair, Economic Times, April 14, 2004].
- 2004 April 22<sup>nd</sup> 2004: Alcan's chief executive for bauxite and alumina, Michael Hanley, commits to provide independent journalist Frederic Dubois and Abhimanyu Sud, coordinator of an umbrella group for concerned citizens in the project called "Alcan't in India", with the hitherto secret environmental assessment of Utkal written in 1995 by EILtd. Promise unfulfilled.
- 2004 March 19<sup>th</sup>: Birla Corp. announces Rs.8500 crore for bauxite, alumina & smelting in Rayagada based on a proven reserve of 85 billion tons of bauxite (Hindu Business Line).
- 2004 April 14<sup>th</sup>: GoO confirm that Utkal has started resettlement (Economic Times).
- 2004 June: Messrs Jindal Ltd started to evict the people from Baisipur village. This time a new strategy was employed. In the presence of a strong police force, they started blasting the rocks nearby the village. When stones and boulders started falling on the roofs, the people had no alternative but to leave their homes and run for safety.



- 2004 June: Justice P.K. Misra Commission's report on the Maikanch Massacre is finally tabled in the Orissa's Assembly.
- 2004 June 16: Lanjigada, Orissa is a resettlement colony erected for the Adivasi families whose homes were bulldozed early this year to make way for Sterlite Industries' alumina refinery project in the Lanjigada block of Orissa's Kalahandi district, right behind the beautiful Niyamgiri range. To extract bauxite, Vedanta Resources raised one billion pounds sterling on the London Stock Exchange. Anil Agarwal, Sterlite and Vedanta Resources' boss. More than 360 families were displaced. Sixty families have already been ousted and 300 more are in danger of losing their lands. Rich biodiversity occurs over a bauxite deposit at 4,000 ft on the northwest ridge of the Niyamgiri mountain range. The proposed total lease area is 1073.40 hectares, of which 600.961ha are in Kalahandi, 85 percent being reserved forest. The remaining 472.44 ha lie in the adjoining Rayagada district. The Niyamgiris are home to a people who call themselves Jarene, but are popularly known as Dongria Konds. They are one of Orissa's most distinctive and traditional tribes, and live in about 90 villages dotting the various niches of the range. Predicted to devastate the local ecology, springs, rivers, and many endangered species. Besides beating the Adivasis into submission, the corporate-state nexus has resorted to legal skulduggery to push ahead with the project. For instance, the Sterlite project, which falls in a Schedule V area, runs counter to the spirit of the Supreme Court judgment in *Samatha vs. State of Andhra Pradesh* which not only prohibits sale of land, government or private, in Schedule V areas to non-Adivasis but also bars mining leases or prospecting licenses to mining companies. Second, the law doesn't permit the state to acquire any scheduled land without the prior informed consent of the Gram Sabha. This too has been thrown to the winds with sheer arrogance [Sterlite brings darkness to India's Indigenous Peoples. Rakesh Kalshian, India Resource Center.]
- 2004 July 7th. Alcan can't substantiate claims & admits proposed Indian mine lacks official environmental clearance. Pressed by concerned Canadians over Montreal-based Alcan's investment in a controversial mining project in the Kashipur region of India, high-level



company officials (CEO, Bauxite Aluminum Division Michael Hanley) admitted Alcan does not have the necessary environmental clearances [www.saanet.org, July 7/2004]. Hanley agreed to release substantiation of its claims regarding the support of local population on June 16th. Alcan't India had earlier provided Alcan with signed statements against the project from elected village leaders (Sarpanches) representing all 24 affected villages.

- 2004 August 27th: A mob attacked a Catholic church in Raikia town about 72 km from Phulbani, smashed statues and set ablaze a truck parked outside the church. At least 300 people broke into the church and smashed doors and windows ["The Hindu" Phulbani, Orissa 26<sup>th</sup> Aug.]
- 2004 September: Alcan's website says: "Restated R&R package approved by local committees (Gram Panchayat and Zilla Parishad)".
- 2004 September 9th: The District Collector with 500 police meet in Kucheipadar Panchat villages to obtain their consent for Utkal.
- 2004 September 11th. Local newspapers carried reports of Pali (local ward) sabha meetings in this remote block. "All obstacles to the much awaited Utkal Alumina Project have been removed" ["Villagers finally Agree to have an Alumina Plant in Kashipur", Dainik Bhaskar, a local daily]. The report further stated that in three villages, D. Karal, Kendukhunti and Ramibeda, the villagers had unanimously agreed to the establishment of the alumina plant. "The last 10 years of uncertainty surrounding the Rs.5,000 crores alumina project has finally been set to rest" stated the report, explaining that the three Pali Sabhas had been organized by the Rayagada District Collector with substantial police protection to avoid any untoward incident. But, the report assures us, things went off peacefully, unlike in the past, except for a group of people under the leadership of Bhagwan Majhi who shouted slogans against the project. The District Collector talked to them, assuring that their demands would be looked into. The news report concludes with the statement: "a wave of happiness swept over Rayagada District."
- 2004 December 1st: Anti-UAIL demonstration in Kashipur at Dama Karol village, near Kucheipadar. Ten platoons of state police brutalized unarmed people affected by UAIL. State police brutally lathi-

charged 400 Adivasis, mostly women, who had gathered to protest the inauguration of the road proposed for the bauxite mine site at Baphlimali owned by Alcan. As a result, 16 people were critically injured and three women were beaten unconscious. Eight injured women jailed in Rayagada. Since this incident, platoons of armed police with firing orders have occupied Kucheipadar village, the center of the Adivasi struggle. Eighteen activists of PSSP, the umbrella organization of Adivasis spearheading the struggle against bauxite mining have been picked up from their villages, mostly at night, in separate incidents and are now in jail without bail. (IndiaResource.org)

- 2004 December 16th: Solidarity Day commemorating the martyrdom of Abhilash, Raghunath and Jamdhar massacred by police in Maikanch village.
- 2004-2005 Representatives from Alcan and the Montreal-based Regroupement pour la Responsabilité Sociale et l'Équité agreed that an independent committee investigate the social and environmental aspects of the opposition to the UAIL project in Orissa and recommend corrective actions. This was confirmed in February 2005 with the submission of a proposal by the RRSE titled: "Advisory Committee on the Social and Environmental Aspects of the UAIL project in Orissa".
- 2004 December 16th. Montreal's first demonstration of solidarity commemorates the Maikanch Massacre
- 2005 January: Lawyer's Field mission by India's Peoples Union for Civil Liberties. Report found that Indian Authorities have created a climate of fear surrounding the Utkal project; ipso facto FPIC cannot be construed to have been totally achieved.
- 2005 February 10th. RRSE publishes their proposal to Alcan for an Advisory Committee on social and environment aspects of the UAIL project in Orissa.
- 2005 February: Gilbert Raj, Baptist pastor with the India Mission, was murdered and allegedly tortured before being killed.
- 2005 February: Dilip Dalai, Pentecostal pastor, age 22, was stabbed to death at his residence in Begunia village, Khordha.

- 2005 April 14th: Alcan workers at Kitimat, B.C., refuse to smelt alumina from Orissa, India. [independent.media@gmail.com; ind\_media@rediffmail.com].
- 2005 May 3<sup>rd</sup>: PUDR Report; DNRM Network: According to a People's Union for Democratic Rights report; "The area is teeming with armed policemen, including Indian Reserve Battalion (IRB) personnel... after police bullets claimed three lives and injured many more in Maikanch village in 2000, today again terror is in the air. Another Maikanch is just waiting to happen. In an area that desperately needs more schools and healthcare facilities, money is being spent to set up a new police outpost on the company's properties as at Doraguda near D. Karal village, that too against the expressed wish of villagers and their panchayat. For all practical purposes, the police are acting like a private army for the company. They are operating out of UAIL premises, and village eyewitnesses allege that the food for the camping policemen comes from the company.
- 2005 May 9th: Impacted people organized a protest sit-in at the foundation-laying ceremony of Messrs. Maharashtra Seamless Ltd., near Khurunti village. The same government team (District Collector, District Superintendent of Police, ADM) broke up the sit-in by beating-up the demonstrators, then by shooting at them, this time with rubber bullets. The beatings and shootings were followed by a raid on the villages and consequent arrest of 40 people, including 25 women, 14 children and a 70 year old man.
- 2005 May 15th: Four tribals, including two children, die as a result of Police repression in Orissa [independent.media@gmail.com; ind\_media@rediffmail.com]. Eviction of tribals to make way for industries in Kalinga Nagar, Jajpur District: Four tribals, including two children, die as a result of Police repression. In a tragic development, two children, an 18-month old Sumi (D/O Punjabi Claudia, Gadapur Village) and five years old Raoul (S/o Debendra Kalundia, Gadapur village), died of hunger and heat, while their family was hiding from the police in the hills near Duburi. Two more tribal men, Suren Tamsay, Chandipur Village and Gardi Gaipai,

Gobarghati Village, who were injured in a police lathi charge, also died while hiding from the police.

- 2005 May 20th: Orissa High Court commuted the death penalty for Dara Singh in the case of the killing of Australian missionary Graham Staines and his two sons in Keonjhar district on the night of January 22, 1999, while upholding life imprisonment for Dara Singh and Mahendra Hembram, another accused. The court also acquitted 11 others who had been sentenced to life imprisonment.
- 2005 October 1-3<sup>rd</sup>: An eight-member multi-disciplinary Indian People's Tribunal panel led by retired Chief Justice S. N. Bhargava, with Dileep Singh Bhuria (former Member of Parliament), Professor Ramdayal Munda (former vice-chancellor of Ranchi University), Professor S. Parasuraman (director, Tata Institute of Social Sciences, Mumbai), Dr Ilina Sen (visiting professor at Mahatma Gandhi International Hindi University, Wardha), Sagar Dhara (environmental engineer), and Dr K Balagopal (human rights lawyer, Andhra Pradesh High Court
- 2005 October 7th: Tata Steel Ltd foundation ceremony in Dhulapathar village was attended by District level officials and a large contingent of police. The police used batons, lobbed tear gas shells and rained rubber bullets against the people who were peacefully protesting.
- 2005 October 26th: Tata Co. started building a wall around the land allotted to them. The Organization organized a sit-in at Dhulapathar junction from 11 am. A kilometer away the government kept a fully armed force stationed with bullet-proof jackets etc. The Director General of Police DGP, together with the Officer in Charge (OIC) of the police station, and the Deputy Collector met the leaders of the Organization. The DC told them "you do what you have to do, I will do what I have to do".
- 2005 BHP-Billiton has submitted a proposal to construct an alumina refinery in Kalahandi. It has an agreement with Sulakhana Mines that allows it to mine in Karlapat, which holds bauxite deposits of 1,500 lakh tonnes. If this project comes through the wildlife damage will be unimaginable as the site borders the Karlapat Wildlife Sanctuary. The mines would cut off tiger corridors from Liliguma

and Narayanpatna to Karlapat and greatly damage the sanctity of the 175 sq. km. reserve that is home to elephants, leopards, sambar and panthers, as well as, tigers. BHP-Billiton is also negotiating for open bauxite mines in Khandualmali hill, the highest point in the region from which most of the streams that water the entire reserve originate. The presence of bauxite on the hilltop helps in year round water retention and feeds perennial streams, something that mining would destroy.

- 2005 December 9th: The Corporation Les Missionnaires Oblats de Marie Immaculée, member of the Regroupement pour la Responsabilité Sociale et l'équité (RRSE), an association of faith-based investors headquartered in Montreal, filed a shareholder proposal with Alcan, asking for improved community consultation procedures. From: Shareholder Resolution Database: "SHARE" Shareholders Association for Research and Education: [www.share.ca/en/node/581](http://www.share.ca/en/node/581).
- 2005/2006 Orissa ranked the poorest state in India, with nearly 50% of its citizens (17 million people) impoverished.
- 2005 May 15th: First Kalinga Nagar Massacre: Four tribals, including two children, die as a result of Police repression. Tata Steel is authorized to possess dynamite, but the police are not. Six arrestees were killed while in prison. Some prisoners corpses were dismembered, others had bayonet wounds and bullet holes which were not there during their arrest. Genitals and mammaries mutilated in prison.
- 2006 January 2<sup>nd</sup>: Kalinga Nagar Massacre: Orissa police fired on unarmed Adivasis defending their land-rights. Twelve Adivasis were shot and killed. A police sergeant, Gopa Prasad Mohanty, entered the crowd and started hitting the people with rifle and bayonet, was beaten to death by the people. Thirty five Adivasi were maimed or seriously injured. Police used live ammunition, tear-gas shells, rubber bullets and started a lathi/baton charge. [Tata Steel accused of genocide, Orissa Govt racist: Xavier Dias: [www.birsa.org](http://www.birsa.org); [www.mmpindia.org/kalinganagarnews.htm](http://www.mmpindia.org/kalinganagarnews.htm)]. Orissa's government bought/acquired the land at Kalinga Nagar for Tata Steel, but the locals rejected the compensation offers. Tribal lands have long been 'acquired' without adequate compensation and without compre-



hensive rehabilitation policies. This process displaces tribals and reduces them to beggary. Since the companies are reluctant to appoint 'unskilled' Adivasis in their plants, most tribals are displaced without alternative employment.

- 2006 January 10th: Tribals blockade India steel mill. Thousands of tribes people armed with bows and arrows have blocked road and rail traffic near the Rourkela steel mill in Orissa. The tribes people are demanding that land acquired for the state-run Rourkela Steel Plant nearly 50 years ago should be returned to them. They also want jobs for a member of each family displaced by the plant. The move came a week after violent protests left 13 dead at the planned site of a new steel mill in the state.
- 2006 February 10th: A new mining policy to streamline exports and meet the needs of the locals would be launched within three months, Minister of State for Mines T Subbirami Reddy.
- 2006 February 17th: Alcan requests the RRSE to withdraw its shareholder proposition claiming that the company needs another year to implement its corrective actions in Kashipur. The RRSE asks in exchange that the company road-test AA1000 SES for Utkal. Alcan refuses; the proposition is maintained.
- 2006 April 26th: One day before the 2006 AGM, Alcan called an "Utkal Project Stakeholder Forum" at their head office in Montreal. Among those invited are a representative of UAIL, Mr. Roy, the Collector of Rayagada District, the consul of India, Canadian institutional investors (e.g., CDP Capital), the Ontario Teachers' Pension Plan, Amnesty International, Right and Democracy representatives, RRSE representatives, and a number of Alcan consultants. During this meeting, Alcan committed officially for the first time that, should the company decide to go ahead with the Utkal project, they will hire an independent third party to assess the social and environmental effects of the project and to recommend how to ensure that the project is sustainable. [OTPP's voting decision: [www.otpp.com/web/proxyvot.sf/0/18CFE0A0A2072BD88525716B0068A5F6](http://www.otpp.com/web/proxyvot.sf/0/18CFE0A0A2072BD88525716B0068A5F6).]
- 2006 April 27th: The shareholder proposal filed by the Oblats Missionnaires de Marie-Immaculée obtained over 36% of shareholders votes at the AGM. The support of more than one third of the sharehold-



ers to a social proposal filed for the first time was exceptional in Canada.

- 2006 May 24th: The Kalinga Nagar Massacre: Industrial Estate Stolen for Steel: Tata Takes Tribal Lands in India. At the site of Tata Steel's proposed 6 million ton a year steel plant Adivasi demonstrators, including the Ho tribals, demanded that work stop until those already evicted by this and other projects in the area were adequately rehabilitated. Police retribution was swift and bloody: 37 injured and 13 dead, including 8 men, 3 women, one 13-year old boy "all tribal" and one policeman, according to Nityanand Jayaraman [CorpWatch.org]. Mr. H.H. Nerurkar, vice president Tata Steel, subsequently confirmed the facts. The People's Union of Civil Liberties (Orissa) reported that five corpses returned after post-mortem were mutilated or dismembered; enraged family members of the deceased said one woman's breast was ripped off, and a young boy's genitals mutilated, and all of them had their palms chopped off. (See: Annex: Kalinga Nagar Massacre).
- 2006 The Justice Naidu Commission, probing the Kalinga Nagar massacre, has sought extension of its tenure, which ends on August 9.
- 2006 September: Publication of the report of Justice Usha's People's Tribunal on Communalism in Orissa investigated (Jan.'05 - June '06) the present situation of increasing criminal activity and human rights violations in the state by Hindu right-wing organizations; the consolidation of these forces; and the related growth of social violence against disenfranchised castes, class, ethnic and other social groups, and religious and gender minorities, and women and children.
- 2006 October 17th: Kashipur's 13-year anti-mining struggle vindicated. The Report of the Indian People's Tribunal on Environment and Human Rights found UAIL's bauxite mining in Orissa's Kashipur region unconstitutional, illegal and against the people's interests and demands that it be scrapped. On October 17, 2006, the Orissa State Pollution Control Board (OSPCB) organized a public hearing to address the expansion plans of the Utkal Alumina International Limited-owned proposed mining and refinery project in Kashipur, Orissa. Two days earlier, October 15, saw the release of the Report

of the Indian People's Tribunal (IPT) on Environment and Human Rights, which called for the immediate scrapping of the existing project. The report was the outcome of a public hearing, held over three days (October 1 to 3, 2005), during which an eight-member multi-disciplinary Indian People's Tribunal panel led by retired Chief Justice S. N. Bhargava, conducted site visits, met dozens of project-affected people, solicited the opinion of experts and scrutinized project-related evidence procured from various ministries under the Right to Information Act. (after: Nilanjana Biswas).

- 2006 October 19th: Hindalco News: "1.5 million ton bauxite mine and the alumina refinery are on track".
- 2006 November 6th: Alcan launches its first Indigenous Peoples Policy (See Annex). This policy is a key component within Alcan's commitment to stakeholder engagement.
- 2006 November 8th: SperoNews: The so-called "Hindu Pope", Swami Swarupananda Saraswati, has denounced conversions to other faiths and called on the government to impose "a complete ban on change of faith". Meanwhile, paramilitary nationalist movements protected by the man announced 10,000 "re-conversions" to Hinduism for next year. Saraswati, leader of the Hindu monastery of Dwarka Peeth, said: "Conversion is ethically wrong", adding: "The problem will persist when one thinks about outcastes, the poor and needy, who are prey to conversion." The religious man said: "Hinduism respects other faiths. But conversion through allurements is unethical. Those indulging in conversion perhaps don't realize they are hurting their own faith". The leaders of the Vishwa Hindu Parishad [VHP, formation of nationalist Hindus that enjoys the holy man's spiritual and practical backing] "reconverted to Hinduism" 73 tribal Dalits in Rourkela district in the eastern state of Orissa, and announced "another 10,000 (will) return to the true faith" for next year. However, Ignatius Lakara, a tribal Christian activist, said the "so called reconverted Christians are not Christians at all. They are actually non-Christian outcastes whom Hindu nationalists have brought from remote villages to stage these ceremonies, just to convince rich Hindus of the Union to give them donations in defense of traditional religion." John Dayal, President, All India

Catholic Council [AsiaNews]: “This is all ironic and tragic. Saraswati is among the very few Hindu religious leaders who supports nationalist groups and their prevalent Hindutva thesis, and yet he speaks of tolerance.” Dayal continued: “The ban he is calling for is a ban on freedom of faith, which violates the Indian constitution and laws. It is an accepted fact around the world that this freedom is one of the principal human rights. Fortunately, only a small fringe of fanatics shares these views.”

- 2006 November 15th. Sterlite to raise US\$2.8bn for 2400MW power plant (Coal?) for 500,000 ton aluminum smelter. 1.4 million tons of metal to be produced. See: Anil Agarwal’s Vedanta Resources.
- 2006 November 26th: Court bans entry for Dalits to Orissa’s Jagannath temple (Sunday Times of India)
- 2006 November 28th. Alcoa to set up plant in Orissa according to Ajoy K Das in DNA Money. The minimum global benchmark for integrated aluminum projects involves a one million tonne aluminum plant costing around Rs 8,000 crore, including a captive power plant and an upstream alumina refining and mining capacity of around Rs 5,000 crore.
- 2006 November 28th. Police in Orissa’s Rourkela District arrested a young pastor under charges of “offending Hindu sensitivities”, according to the US-based human rights group, International Christian Concern (ICC). Pastor Ashish Kumar Muna, 25, has reportedly been in jail in the Rourkela district since November 15, after a Hindu fundamentalist belonging to the Vishwa Hindu Parishad (VHP) lodged a complaint in Udit Nagar police station in Jhirpani Taluka accusing him of “conversions”.
- 2006 December 14th. Business Standard: The Vedanta group’s Rs 3,600-crore alumina refinery, based on 3 million tons of bauxite in Orissa’s Lanjigarh area in Kalahandi district is likely to clear the final hurdle soon. The Supreme Court’s panel approved the project in October 2006, which is home to the primitive tribe Dongaria Kondh who live in the densely-forested Niyamgiri hills.
- 2006 December 14th. India Business: Vedanta Resources faces scrutiny by the Central Empowered Committee (CEC) and Forest Advisory

Committee (FAC) under the environment law, as ordered by the Supreme Court after the Forest Bench comprising Chief Justice Y. K. Sabharwal, Justices Arijit Pasayat and R. V. Raveendran took into account the strong opposition to the project by CEC on the grounds that it will harm the ecology of the forest area in southern Orissa. The court accepted Solicitor General G. E. Vahanvati's suggestion on behalf of the Centre that CEC could give its objections to the technical committee report, thus clearing the project and the same would be placed for consideration of the FAC, which is likely to be constituted by December 15.

- 2007 January 12th: Economic Times: Hindalco/Birla Industries, India's leading aluminum producer, is said to be exploring the possibility of bidding for the US subsidiary of Alcan, as the world's second largest aluminum maker is mulling closure of smelters due to high electricity costs.
- 2007 January 31st: The United Nations Global Compact delisted Utkal's leading partner, Hindalco, as well as Tata Steel and others for failing to submit their communication on progress as they committed to do.
- 2007 February 13th: More than one 1000 men and women of Kucheipadar village hoisted a black flag as a mark of protest against those in power for not paying heed any to their demand that no alumina refinery be allowed to come up in their locality at the cost of their land and livelihood sources. Kucheipadar is known for its opposition to a proposed one million tonne per annum capacity alumina refinery being set up by Utkal Alumina International Limited (UAIL). Kalinga Times.
- 2007 February 1st: Alcan opens its \$1 million annual prize for sustainability. [www.alcanprizeforsustainability.com](http://www.alcanprizeforsustainability.com). Alcan's 2006 prize winner was the Barefoot College of India, an organization devoted to improving the lives of India's poorest people.
- 2007 22 February 22<sup>nd</sup>: Ottawa's Globe & Mail / Jantzi Research survey of mining sector corporations compares the social & environmental performance of mining majors. Alcan won top rank. Most Canadian mining companies recognize the need for a "social licence" to operate. Some, especially those operating in Canada and Australia,

are partnering with local aboriginal communities. However, few companies have set targets for reducing greenhouse gas emissions (Alcan aims at 2% pa reductions), or water consumption.

- 2007 March 14<sup>th</sup>: The Nandigram Massacre: At least 14 people were killed and some 75 villagers injured when West Bengal's state government ordered 4,000 police, para-military, Rapid Action and Combat Commando forces to Nandigram, a town 150 kilometers from Kolkata (Calcutta). Farmers were disputing a Special Economic Zone being set up on their lands for the chemical hub of Indonesia's Salim Group.
- 2007 March: The United Nations Committee on the Elimination of Racial Discrimination (CERD): Seventieth session (February – March 2007); Concluding observations of CERD on India (CERD/C/IND/CO/19; ... March 2007). [Excerpts only] **Para. 10:** The Committee recommends that the State party formally recognize its tribal peoples as distinct groups entitled to special protection under national and international law, including the Convention, and provide information on the criteria used for determining the membership of scheduled and other tribes, as well as on the National Tribal Policy. **Para. 11:** The Committee is concerned that the so-called denotified and nomadic tribes, which were listed for their alleged "criminal tendencies" under the former Criminal Tribes Act (1871), continue to be stigmatized under the Habitual Offenders Act (1952). (art. 2 (1) (c)) The Committee recommends that the State party repeal the Habitual Offenders Act and effectively rehabilitate the denotified and nomadic tribes concerned. **Para. 12:** The Committee urges the State party to repeal the Armed Forces (Special Powers) Act and to replace it "by a more humane Act," in accordance with the recommendations contained in the 2005 report of the above Review Committee set up by the Ministry of Home Affairs. It also requests the State party to release the report. **Para. 14:** The Committee is concerned about reports of arbitrary arrest, torture and extrajudicial killings of members of scheduled castes and scheduled tribes by the police, and about the frequent failure to protect these groups against acts of communal violence. (arts. 5 (b) and 6). The Committee urges the State party to provide effective protection to members



of scheduled castes and scheduled and other tribes against acts of discrimination and violence, introduce mandatory training on the application of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (1989) for police, judges and prosecutors and take disciplinary or criminal law measures against police and other law enforcement officers who violate their duty of protection and/or investigation in relation to crimes against scheduled castes and scheduled and other tribes. **Para 19:** The Committee urges the State party to fully respect and implement the right of ownership, collective or individual, of the members of tribal communities over the lands traditionally occupied by them in its practice concerning tribal peoples, in accordance with ILO Convention 107 on Indigenous and Tribal Populations (1957). The State party should seek the prior informed consent of communities affected by the construction of dams in the Northeast or similar projects on their traditional lands in any decision-making processes related to such projects and provide adequate compensation and alternative land and housing to those communities. **Para. 26:** The Committee urges the State party to ensure that members of scheduled castes and scheduled and other tribes who are victims of acts of violence and discrimination have access to effective remedies and, to that effect, encourage victims and witnesses to report such acts and protect them from acts of retaliation and discrimination; ensure that complaints under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (1989) and other criminal law provisions are properly registered and investigated, perpetrators prosecuted and sentenced and victims compensated and rehabilitated; and establish and make operational special courts trying atrocity cases as well as committees monitoring the implementation of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act in all States and districts, as mandated by the Act.



## **Annex 2: The Kalinga Nagar Massacre:**

### **Action Plan to Prevent Further Massacres of Adivasis**

The reasons for the January 2006 Kalinga Nagar Massacre are very similar to the reasons for the Maikanch Massacre. The Kalinga Nagar villagers suffered a decade ago by the construction on their lands of several industries, such as Bhushan Steel, Nilacal, Mesco and Rohit Corporation which are in operation today adjacent to Kalinga Nagar. At that time a decade ago, the promises made (jobs, fair compensation etc) were accepted in good faith by the Adivasis, as this was the first time any industry had wanted their lands. When the promises failed, the Adivasis were promptly immiserated and were reduced to paupery for the rest of their lives. Now, a decade later, because the Adivasis remember the broken promises and the beggary-causing displacement from industries nearby, they are resisting Tata Steel, which wants more Adivasi lands.

Tata Steel began leveling Kalinga Nagar land in 1992, even where crops were growing and without an adequate cadastral survey. The Adivasis protested and work stopped for a few years. Then in 1995 Bhushan Steel resumed work and began to lay foundations. The Adivasis again protested and work again stopped. In 2002-2003, Tata Steel returned and offered derisory compensation which was generally rejected. All this pre-emptive action followed by protest strengthened the opposition of the villagers in Ambagadia and others.

Despite protests, in 2005, Tata Steel started to build a masonry wall around the site they wanted several times and were stopped each time. The road was upgraded in October 2005. On January 2nd, Tata Steel resumed leveling both cropland and terraced riceland without prior warning to the cultivators and villagers, but this time Tata brought 27 platoons of armed police with them. Tata Steel had planted landmines which dismembered the first villagers arriving to see resumption of construction on their lands. Police fire killed 13 Adivasis outright and maimed 38 others (see Chronology). The adivasis then blockaded the highway to Tata Steel traffic. The blockade remains in effect at the time of my visit (26 February 2007). The Adivasis then drew up the demands below.

The most comprehensive Action Plan to prevent further massacres of Adivasis was drawn up following the Laninga Nagar Massacre by the

Bisthapan Birodhi Jan Manch and Kalinganagar Surakshya Samiti. This is a model for GoO and mining proponents for the future.[Source: Loka Shakti Abhijan, Orissa Unit, epgorissa@gmail.com]

1. A complete halt to forced evictions, and immediate withdrawal of all projects in Kalinga Nagar.
2. A complete halt to the aggressive industrialization initiated in Kalinga Nagar.
3. Dismissal of the Collector and Superintendent of Police from service and initiation of criminal proceedings against them for the crimes committed by them on 2nd January 2006, causing death of 12 tribals and critically injuring several others.
4. Criminal proceedings against all officials party to the January 2nd. 2006 crime.
5. Rs 20,00,000 as compensation to the next kin of the dead; Rs 10,00,000 to the injured persons.
6. Withdrawal of all cases against tribals.
7. Immediate action to be taken to review all projects linked to displacement; prompt rehabilitation and resettlement of people who have been already displaced. Immediate cessation of all Land Acquisition in any area for any purpose until rehabilitation and resettlement of people who already have been displaced by projects starting from Hirakud and Machkund is carried out to the satisfaction of civil society and the tribal communities.
8. The immediate suspension of the Land Acquisition Act, 1894, in Scheduled Areas of Orissa.
9. All land acquisition in the Scheduled areas violates the spirit of the Schedule V of the constitution. Land acquisition carried out after 1997 violates the section 3(iii) of the Orissa Scheduled Areas Transfer of Immovable Property (by scheduled tribes) Regulation, 1956 as almost all the tribals so affected have been rendered landless. All tribal land acquired after 1997 must be immediately returned to the original scheduled tribe owners. The government officers, IDCOL and companies who have engaged in this illegality should be prosecuted under section 7 of the same law and Section 3 (iv and v) and Section 4 of the Scheduled Caste and

Scheduled Tribes Prevention of Atrocities Act, 1989. Restitution to the extent of 10 times the production value of the land should be provided to the tribals whose land has been so acquired.

10. Tribal Land acquired before 1997 should be revalued as per their current value, and restitution in form of ten times this value be given to tribals, along with minimum of five acres of unirrigated land or two acres of irrigated land.
11. Tribals own only 16% of the land in scheduled areas. Steps must be immediately taken to transfer the ownership of Revenue and Forest Land within the traditional boundary of the tribal villages (as defined in the PESA, 1996) in the Scheduled areas. The Panchayati Raj Act, 1964, must be immediately amended to transfer all control on their traditional and customary land to tribal communities.
12. No lease or transfer of government land in scheduled areas to non-tribals must be permitted. The proposal to lease out land in tribal areas to private parties for Jatropha plantations or for carbon trading must be immediately withdrawn. The Government's plantation strategy must be redrawn in view of the fact that the communities are the owners of all land within their village boundaries.
13. The OSATIP Regulations, 1956, may be immediately amended in lines with the AP Regulation of 1970, which says that no land in the scheduled areas can be transferred to non-tribals. No land, including state owned land and private lands held by non-tribal in scheduled areas will be transferable to a non-tribal person. The term judicial person must include corporate and state.
14. The section 3(b) of OSATIP Regulation, 1956, must be immediately put into practice, and the non-tribals who have acquired land through illegal means since 1956 should be immediately identified and punished, and the land restored to the tribals.
15. All mining concessions in scheduled areas that have been permitted to private parties must be immediately withdrawn without any delay as they are illegal and violate Schedule V. Mining under OMC Ltd and other public sector institutions must be sus-

pended and placed under review by the civil society and tribal communities.

16. Some of the blocks and districts boundaries have been deliberately drawn to keep tribal majority areas out of scheduled areas. Blocks and districts boundaries must be redrawn to bring tribal majority areas under schedule V. Apart from this, all settlements where tribal people are in a majority and which are located in non-scheduled areas must be brought under schedule V protection.

## Annex 3: General Recommendations for the Mining Proponent

---

**Best Practice:** The purpose of this Annex is to outline the main social and environmental standards, norms, policies and procedures that all reasonable mining corporations should adopt. Utkal wants to be a reputable company and to be an industry leader in matters of corporate social responsibility and in environmental prudence. Therefore, Utkal should respect relevant international codes and policies regarding the operation of extractive industries. In the case of the Gove bauxite project in Australia, Alcan has decided to aim for best practice standards. Alcan does not want double standards, such as prudent ones in OECD countries, but weaker ones in developing countries. Corporate Alcan should clarify this important point against double standards and ensure that all Alcan staff and projects in whatever countries in which they operate must adhere to Alcan's best practice standards as a matter of mandatory corporate policy. Independent third-party monitoring and verification will be necessary. Performance bonds, insurance, endowments, trust funds, compensatory offsets, and similar prudentiary measures will be necessary.

In-house social and environmental professionals need to catalyze Utkal towards meeting corporate goals by means of early warnings, ensuring reliable social and environmental assessments in order to improve decision-making, and seeing that the prudentiary measures set out in the ESA are fully implemented. It is unclear why Hindalco and Alcan's social and environmental staff did not prevent Utkal from becoming so controversial. An external, independent high level panel of advisers is needed to ensure the in-house staff is following a prudent course and to promote acceptance of the recommendations of the in-house staff. Best practice is for each individual mine, refinery or smelter project to have its own external social and environmental; panel from the outset. The first duty of such a panel is to ensure the ESIA is reliably designed and that the best team of ESIA drafters is contracted.

Utkal should adopt modern applicable standards and codes of conduct, including:

1. **ESA/ESHIA standards:** such as those developed by UNEP and IAIA.

2. **The Transparency Initiative (EITI)**, Oslo ([www.eitransparency.org](http://www.eitransparency.org))  
The EITI aims to ensure that the revenues from extractive industries contribute to sustainable development and poverty reduction. At the core of the initiative is a set of Principles and Criteria that establish how EITI should be implemented. See *The Transparency Sourcebook*.
3. **OECD's Precautionary Principle:** Where there is reasonable suspicion of potential harm, lack of scientific certainty or consensus must not be used to postpone preventive action.
4. **Free Prior and Informed Consent: FPIC** (see Annex)
5. **UN ILO's 1998 Declaration on Fundamental Principles and Rights at Work** in its operations and in its relationship with suppliers.
6. **UN ILOs Convention 169** on the rights of Indigenous and Tribal Peoples. (See IFC 2007).
7. **UN CERD on Racial Discrimination 2007**
8. **UN ILO Multinational Enterprises Declaration**
9. **Human Rights:** Perform due diligence, including human rights assessment preferably as part of the customary environmental social and health assessment to determine the national human rights situation. There is much that business has done and will continue to do to help promote respect for human rights. These efforts must be seen as complementing the role of States in implementing and enforcing national laws on human rights. Manage security in accordance with the Voluntary Principles on security and human rights: [www.Voluntaryprinciples.org](http://www.Voluntaryprinciples.org). The UN's Ruggie clearly summarizes the Human Rights obligations of corporations (Ruggie, 2007).
10. **The UN's Global Compact:** Especially: Principle 1 in which corporations agree "to support and respect the protection of international human rights within their sphere of influence". Principle 2 requires them "to make sure their own corporations are not complicit in human rights abuses."
11. **Allocation of Benefits:** A fraction of royalty from mining and license fees of mines must automatically accrue to mining-affected communities and to communities whose land is being used in the mining project.



**12. Restoration & Rehabilitation** and clean-up plans and budget should be a mandatory requirement for permission to begin a project. In addition, rehabilitation of existing damage caused by previous projects by the company seeking a new permit should be completed as a condition of being awarded the new permit. Companies must routinely be held legally and financially accountable for remediation of any damage caused by their past and current mines.

**13. Environmental Sustainability:** See Annex.

**14. The Metals Industry's Declaration** on Recycling for Sustainable Development: [www.greenbiz.com/news/news\\_third.cfm?NewsID=34357](http://www.greenbiz.com/news/news_third.cfm?NewsID=34357) promotes metals recycling. The Declaration encourages product policy-makers, designers and manufacturers to adopt life cycle thinking when developing metals recycling policies. All proponents need to embrace ICMM's December 2006 recycling principles. Metals are chemical elements and therefore can be recycled infinitely with no inherent degradation of properties.

### Two Special Cases

In addition to the international mining norms outlined above, there are at least two special cases that need prompt resolution:

**Bagri Jhola:** This is a village of some 200 families adjacent to Utkal's refinery site. The villagers fear that they will soon be denied access to their terraced fields and agricultural plots. They have expressed their concern to GoO, the District Collector and to Utkal many times over the last 13 years. In addition, they fear that their irrigation water supply will soon be given by GoO to Utkal. By far the main source of livelihood for this village is the irrigation water pond also adjacent to the village and to Utkal's wall. GoO has committed to supply large volumes of water to Utkal and this is the only source. Fifteen days ago since my visit a 38 year old Ragunath Juria was struck by an Utkal vehicle and died. Utkal denied it was their vehicle but only Utkal owns any vehicles in the vicinity. Police asked the villagers to dispose of the body and said they might see if anything can be done, said Rabibaru Jhoria, uncle of the deceased.

**Kucheipadar:** The other special case that needs prompt and specific attention is the village of Kucheipadar, also adjacent to Utkal's refinery wall. The plight of this village is well recounted in Vivek Dash's excellent book "From Kachupeidar to Maikanch." This village has been the best informed, the most threatened with displacement, and looks like receiving the most serious impacts of all villages impacted by Utkal. Because this village is likely to get more severe impacts than any other village, it has been one of the leaders in demonstrations, marches and urging GoO and Utkal to take better precautions for them. The village has blockaded the road several times and has suffered police brutalities such as repeated lathi-charges and tears gassing. Because Kachupeidar has been vocal, Utkal has left them alone for some time and seem to be leaving them to be dealt with later. Kachupeidar is unanimous that Utkal should halt immediately irrespective of who are the current partners. They do not distinguish between Alcan and Hindalco. Kachupeidar is already severely impacted by police atrocities, suspension of their freedom of association, noise and dust from the extremely active site preparation and refinery construction all of which they claim is totally illegal as Utkal's permits have long since expired.

Clearly, if Utkal goes ahead, the village of Kucheipadar will need the most sensitive and conscientious peace overtures. That is a topic for a later date, but assuming Utkal is cooperating with reputable civil society organizations with whom Kucheipadar has firm trust, and that police brutality and other violence has been quelled, then peace and security will return. In that case, there are steps to move in a better direction than the vexed situation prevailing in all impacted communities right now.

All village lands must be generously replaced. 'Village lands' mean all land within the village boundary, including water, forest and other resources on which it depends. By 'generous' I mean if anything err on the side of generosity, so that there are no disputes that any plot is less than what it replaced. No livelihoods shall be harmed in the slightest; on the contrary, performance bonds or insurance are needed to guarantee the new arrangements are indisputably and promptly better. In addition to land-for-land of agreed on similar value, each Kucheipadar village family will need a home-garden plot, and a share in the reforestation and agro-forestry schemes. The home-garden will need a well or water-supply and

a small fish pond. The school teacher(s) need to be made permanent, the school refurbished or a new one supplied. A bare-foot clinic also needs to be supplied, for first aid, speedier access to ambulance transport, immunizations, maternal care and education campaigns for women, with health, nutrition, safety and hygiene training. If Kucheipadar villagers accept fairly permanent jobs in the bold agroforestry scheme recommended to Utkal in Annex 5, they are likely – over time — to be attracted to such conditions noted above.

This model is the most robust one for all communities impacted by Utkal, although each site has to be tailored to fit local conditions.

**Reforestation and Agro-Forestry Jobs:** The fundamental is the provision of many fairly-paid wage jobs in the bold forestry scheme outlined in Annex 5, for as many people as can afford the time away from their households and crops. Parts of the reforestation scheme would be agroforestry depending on site and distance. The purpose is to generate off-farm wages for the impacted people. The second goal is to sequester as much of Utkal's GHG emissions as possible in order to make it GHG-neutral, hence reach sustainability. The third goal of reforestation is to enhance water supply especially for mini-irrigation tanks and plots and to boost river flows and fisheries.

**Home Gardens:** The second fundamental is a home-garden-cum-fish-pond for all families able to benefit from one. These soon become self-sufficient to supply the household with vegetables, fruits, herbs, eggs, chickens (if they are used for food or for selling to others that eat them), fuel-wood, compost and possibly communal bio-gas generators if pigs are used. A quarter-hectare plot can support each family reasonably well, with half a dozen fruit trees, vegetable plots, possibly chicken and pigs. The impacted people already know how to create and manage such home-gardens once violence is prevented and security of tenure returns.

**Cropland:** The third fundamental is what most families generally have already, namely rain-fed rice or other crops or even a small irrigated plot. The trend from rain-fed to irrigated rice should be accelerated. Each family would become more robust with a family cow, possibly chickens, a pig and ducks on the irrigated rice. Goats are problematic. They are used at present because there is little valuable for them to destroy. As refores-

tation, agro-forestry, home-gardens and cropland increase and improve, and as fire is controlled, goats will become too damaging, and are best phased out.

## Annex 4: The Simplest and Most Effective Remedy for Utkal

Most Orissans who so generously helped me and provided me with their views conclude that the simplest remedy is for Utkal to obey the law, get off Schedule 5 Tribal Lands, and cancel the project. I fully respect this point of view. Whether the Utkal project goes ahead or not, a less bad alternative to the current coercive oppression of Adivasis, the following is humbly submitted in order to partly undo the damage of years of police oppression and help the Adivasis on a sustainable path.

The agricultural lands, hills and mountains surrounding the Utkal site have been called semi-desert, in terminal decline, a lost cause, and an example of centuries of environmental degradation. This is factually incorrect, misleading and counter-productive.

It is true that India has lost much of its forest estate. Demand for timber in India and for export has long exceeded regeneration rates, especially since the 1950s, and Orissa is no exception. Tree plantations have nowhere near kept pace with need. As the forests on which Adivasis depend were cut, the people made the transformation to sedentary agriculture and to irrigated rice cultivation. The region around Utkal has an excellent climate for trees as it receives 1.6 mt of rain annually. Although all the forest has been removed in the region around Utkal, each hill is dotted with the odd indigenous trees remaining. The region was clearly Tropical Deciduous Forest. The remaining isolated trees<sup>21</sup> reveal this unmistakably. The forest may appear to be depauperate at the end of the dry season and there are many bare rocky outcrops, but in general the area was until relatively recently forest, and should soon be forest once again. The few Reserved Forests<sup>22</sup> in the vicinity confirm that the region was covered with tropical deciduous forests.

The main point of this bold Action Plan is to reforest the entire area, certainly hundreds of square kilometers.<sup>23</sup> Utkal could become a leader in persuading or partnering with all extractive industries and forest departments to undertake massive reforestation.

1. The goals of this reforestation are first to restore forest to the people for their use and management.
2. Second, the goal is to become serious about reducing the main negative impact of the aluminum industry, namely the emission

of Greenhouse gas. This would be a meaningful step towards the sustainability to which Utkal should be aspiring. Nowadays, good practice mandates calculating GHG emissions and offsetting them by whatever means are appropriate. The calculation of how many trees to plant in order to sequester Utkal's GHG emissions should be central to any reasonable ESA.

3. The third goal of massive reforestation is to create reasonable jobs for the people who have been so severely impacted by Utkal to date by police shootings, maiming, beatings, and unreasonable arrests. Unskilled labor daily rates are about 70 Rps. Skilled labor can earn 100Rps to 150 Rps a day in carpentry and masonry for example. Utkal's goal could be to create jobs for say 1000 Adivasis for as many days as they can spare from their agriculture. Women are best at collecting seeds from indigenous forests, setting up tree nurseries, and caring for saplings. Some families may be able to supply an able-bodied person for 100 to 200 days a year. These jobs should extend until the whole region is reforested; the jobs then become one of managing the forest and agroforestry. If the project goes ahead, then the reforestation must include decommissioning and rehabilitation of the mined-out sites.
4. The fourth goal is to improve the water balance (and fish) for the entire region. It sounds unacceptable for Utkal to abstract say 25,000 Cu. Mts per day from the San river, which must be very seasonal in any event. Alcan's Jürg Gerber commendably stated in 2006: "Water security for business depends on the understanding of the capacities of ecosystems, the valuation of their services, and on the water security of other stakeholders." For these reasons, extraction of river water and any change in water balance for the bauxite-alumina project must be carefully assessed.

The impacts of such abstraction sound enormous, especially in the dry season, when San river flows may contract by 50%. Utkal then proposes to abstract from the Indravati reservoir, also with unknown social and environmental impacts. If the water abstraction fees are set adequately and accrue to the people depending on normal San river flows, some impacts could be mitigated. Recycling after fully restoring water quality



may be an option if conscientiously done. Achieving adequate quality by in-stream dilution of industrial effluents should not be an option.

Well drilling should be a part of mitigation for all communities and agriculture. The extensive reforestation here proposed will ease water scarcities to all parties. The bauxite deposits capping the hills in the region are spongy, absorbing water in the wet season and releasing it gradually throughout the dry season. The Baphlimali hills that Utkal proposes to mine is the source of about 39 creeks feeding the Indravati. Reforestation on the meaningful scale proposed would enhance all these water courses, augment dry season water availability for irrigation, and would boost agricultural yields.

**Deforestation and Biodiversity Loss:** As the ESA remains unavailable, no one knows the magnitude of biodiversity and habitat loss. Species known to be in the Koraput forest include bear, jackal, wolf, sambar, spotted deer, leopard cat, and the Royal Bengal tiger (Mishra and Dash, 1997). Loss of forest represents genetic impoverishment, and a reduction in biomass resources for local communities, given the critical role of forests to Adivasis, such as the Gonds who inhabit the uplands (Mishra and Dash, 1997). The impacts of using a diminishing resource base is to increase pressure on the remaining forests, thus, potentially intensifying and hastening local degradation.

The Indian People's Tribunal (See: Chief Justice Barghava, 2006) noted the project's possible impact on the existing biodiversity, including 195 species of plants, 13 species of mammals, 66 species of birds, 13 species of reptiles, nine species of amphibians and 14 butterfly species in the impact zone. Baphlimali Hills is said to be the abode of the Goddess of the same name, hence is sacred. The main need is for massive reforestation (compensatory offsets) to be established by and for the vulnerable ethnic minorities and for biodiversity conservation, together with a network of water catchment protection buffers to ensure water supply, fish and other aquatic resources, and the health of rivers downstream.

## **Annex 5: NALCO's Social and Environmental Status**

---

[Sources: (a) <http://mmp.n3.net>; (b) [www.saanet.org/kashipur/images/lake.jpg](http://www.saanet.org/kashipur/images/lake.jpg); (c) <http://www.saanet.org/kashipur/images/pond.jpg>; (d) Himansu Sekhar Patra & Aruna Murthy, Fact Finding report of Nalco. Conservation & Livelihood Team, Vashundara, 15, Sahid Nagar, Bhubaneswar. (e) Patra, H. & Murthy, A. (n.d.) c.2006. Fact-finding report on Nalco based on our visit to the refinery plant at Damanjodhi and the Panchapatmali bauxite mines. Bhubaneswar, Vashundara 12 p. ([www.freewebs.com/epgorissa](http://www.freewebs.com/epgorissa)) [www.freewebs.com/epgorissa/NALCO%20Report%5B2%5D-1.pdf](http://www.freewebs.com/epgorissa/NALCO%20Report%5B2%5D-1.pdf); (e) Gupta, P. & Singh, A. 2005. Environmental Monitoring and Assessment, 104 (1-3): May 425-436. (f) Prasad, M.N.V. (ed.). 2004. Heavy metal stress in plants: from molecules to ecosystems. Berlin, Springer Verlag 520 p.]

Nalco was commissioned during 1985 as a public sector enterprise of the Government of India. It is Asia's largest integrated aluminum complex, includes bauxite mining, refining to alumina and smelting to the metal. With reserves of 310 million tones, the opencast Panchapatmali mine has a capacity of 4.8 million tpa of bauxite for the Damanjodi refinery, and the Angul smelter using a 720 MW coal-fired power plant. Export by rail and ports are part of the complex.

Opinions differ on Nalco's impacts. On the one hand, Nalco declared a net profit of 608 crore, the highest on record for the first quarter of 2006, and won GoI's Indira Priyadarshini Vrikshamitra Award for its contributions to forestation and wasteland development. On the other hand, displacement of Adivasis, and severe pollution of air and water have been documented. Reforestation is proceeding well in places. There are masses of beautiful flowers blooming at all the guard posts and checkpoints. Many of the streets have blossoming hedges and shade trees. The recreation area has colored plastic palm trees. While more plantings are much better than no plantings, they do nothing for the much more serious problems of impoverished Adivasis and severe pollution from red mud.

Nalco's mega industrial complex that has turned the area's adivasis from a self-reliant and proud community to landless ecological refugees — within 10 years of operation. Nalco's Koraput to Rayagada rail impact-

ed the forest and Adivasi villages over a wide area. As Nalco is so near to Utkal, many Adivasis from the region around Utkal seek jobs at Nalco and know Nalco intimately. Adivasis from Utkal are all too familiar with the plight of Adivasis displaced by Nalco earlier. They are still hanging on in harsh resettlement colonies which are slum-like. The shock of self-sufficient and independent Adivasis suddenly becoming slum dwelling supplicants to the industry that has beggared them is stark.

Pollution, including fluorides from Nalco's Angul smelter kills fish in a long stretch of the Nandira and Brahmani rivers and seriously pollutes thousands of people downstream and downwind. Nalco's effluents have made the Brahmani into one of the most polluted rivers in India. Nalco's ash pond dam collapsed on 30 December 2000, causing a flash flood of toxic ash into the Nandira river, according to the National Centre for Advocacy Studies in Pune.

Nalco waste from about 125 tons of caustic soda a day enters the two streams that are the major key sources of water for the surrounding villages. Water pH has risen to 13, making it unfit for consumption. Between 1 and 1.5 tonnes of red mud is created for every tonne of alumina produced. Red mud contains the highly toxic caustic soda (NaOH) and heavy metals. A pH of 13 is so extremely alkaline that it kills all plants. On the day of my site visit in late February 2007, the red mud surface had dried into a layer of glistening white caustic soda crystals which was being whipped around by the strong winds. Frequent dust devils raised spirals of caustic soda crystals high into the air where they were being blown for long distances downwind.

## **Annex 6: Alcan's Better Practice: Australia's Gove Project**

[Sources: J. Bernhard Wehr, Ian Fulton and Neal W. Menzies, 2006. Environmental Management 37(3): Revegetation Strategies for Bauxite Refinery Residue: A Case Study of Alcan Gove in Northern Territory, Australia. Websites of Alcan, NWTerritories, the Yolgnu Indigenous Peoples]

*“At Alcan, we do things the right way – we do what we say, we partner and we deliver – that’s the distinctive nature of Alcan. By doing things the right way, Alcan aims to be the best in everything we do – today, tomorrow and in the future.”* [Source: Alcan.com.au/]

The purpose of this Annex is to show that Alcan can achieve high social and environmental standards. In the case of the Gove Bauxite Project in Australia, it looks as if Alcan is trying to meet Good Practice social and environmental standards. I have not inspected Alcan’s Gove project personally, nor listened to first hand accounts, so this section is not as reliable as the other sections. However, based on what literature I have found, the text below suggests that Alcan behaves very differently in Australia than it does in Orissa, including in its interactions with Indigenous People or Aboriginals. The question becomes, if Alcan can achieve reasonable standards in Australia, why is the Utkal bauxite project in Orissa so starkly different?

Alcan’s 100%-owned Gove bauxite mine and refinery is situated in one of the most remote parts of Australia’s Northern Territory, at the tip of Arnhem Land. From the early 1970s, the Gove mine produced 6 million tonnes of bauxite a year, approximately 5 million of which is sent to the refinery 19 kilometers away by conveyor belt, with the rest exported to Canada for refining and smelting. Gove bauxite has high alumina content with one tonne of alumina coming from 2.5 tonnes of bauxite. Gove’s current AUD \$2 billion expansion of refinery is planned to increase plant capacity from 2 to 3.8 million tonnes of alumina per annum by 2007.

The proposed expansion was rigorously assessed environmentally and socially by a team of independent specialist consultants, including international URS. The findings were reviewed by a broad range of community stakeholders before a draft Environmental Impact Statement (EIS) was submitted to the Northern Territory Government in 2004. Stakeholders included: Nhulunbuy and Yirrkala residents, Indigenous traditional

landowners, other Aboriginal clans and organizations in the region, the Northern Land Council, the Nhulunbuy community, Government agencies, Environmental bodies, and other non-government organizations. In addition, two local Community Reference Groups, facilitated by Alcan Gove, played a key role in the consultation process.

The Northern Territory Government published the draft EIS and called for public comment and submissions. During the two-month public comment period Alcan considered more than 300 questions raised by stakeholders and detailed its responses in the EIS Supplementary Report submitted to the Northern Territory Government in May 2004. In July 2004 the Northern Territory Government approved the EIS – taking account of Alcan’s responses and mitigation strategies for managing environmental and social impacts of the expansion. The complete EIS and the Northern Territory Government’s assessment report and recommendations are available online at the Northern Territory Government website.

Alcan designed, funded and delivered a course in Cross-Cultural Awareness in conjunction with the Yothu Yindi Foundation - a non-profit local group. The course has been attended by 1,000 Alcan employees, 1,200 members of the local and Yolgnu Indigenous population and 1,500 project workers from across Australia. The Yolngu are Aboriginal Traditional Owners with an interest in the area of land covered by the Dhimurru Indigenous Protected Area (IPA) created in 2000. That this course received the Prime Minister’s Awards for Excellence in Community Business Partnerships in 2006, suggests that Alcan behaves differently in Australia compared with Orissa.

## **Annex 7: The UN Global Compact**

---

[Source: UN Global Compact Website: [www.unglobalcompact.org](http://www.unglobalcompact.org)]

The Global Compact's ten principles in the areas of human rights, labor, the environment and anti-corruption enjoy universal consensus and are derived from:

- The Universal Declaration of Human Rights.
- ILO's Declaration on Fundamental Principles and Rights at Work.
- The Rio Declaration on Environment and Development.
- The United Nations Convention against Corruption.

Principle 1: Human Rights: Businesses should support and respect the protection of internationally proclaimed human rights.

Principle 2: make sure that they are not complicit in human rights abuses.

Principle 3: Labor Standards:: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;

Principle 4: the elimination of all forms of forced and compulsory labor.

Principle 5: the effective abolition of child labor.

Principle 6: the elimination of discrimination in respect of employment and occupation.

Principle 7: Environment: Businesses should support a precautionary approach to environmental challenges.

Principle 8: undertake initiatives to promote greater environmental responsibility.

Principle 9: encourage the development and diffusion of environmentally friendly technologies.

Anti-Corruption: Principle 10: Businesses should work against all forms of corruption, including extortion and bribery.



## **Annex 8: Alcan's New Indigenous People's Policy**

[Source: Alcan's website, first published 8<sup>th</sup> November 2006.<sup>24</sup> Questions should be addressed to Alcan's Senior Vice President, Corporate and External Affairs. Entire policy at the link [Alcan Indigenous Peoples Policy \(.pdf\) Annex](#) ]. [Note: Alcan has had many decades of first hand experience with Indigenous Peoples impacted by its projects, especially in the Canadian North In 1950, for example, Alcan's 900MW Kemano hydro-reservoir powering the Kitimat smelter displaced 200 members of the Cheslatta nation in British Colombia.]

Alcan advances corporate responsibility in all aspects of its operations as part of its sustainable approach to business. The Indigenous Peoples policy is a critical component of Alcan's commitment to stakeholder engagement and will guide Alcan as it pursues the creation of sustainable economic, environmental and social value for both the Company and indigenous communities. Furthermore, this policy demonstrates Alcan's commitment to transparent communication, innovative partnerships, and cultural diversity.

**Alcan's Indigenous Peoples Policy:** Alcan is committed to being a responsible and recognized international leader for its relationships with indigenous peoples. Alcan believes that building mutually-beneficial relationships with indigenous communities based on trust, respect and meaningful interaction creates sustainable value for both Alcan and indigenous peoples. Alcan employees are expected to support, uphold and act in line with these strongly held values, consistent with the following guiding principles:

**Guiding Principles:** Alcan accepts the diversity of indigenous peoples.

- We acknowledge the unique and important interests that they have for the land and environment as well as their history, culture and traditional ways of life.
- In our interactions with indigenous peoples, Alcan will be guided by its core values of trust and transparency, integrity, accountability and teamwork.

- We will strive to build, maintain and enhance positive, sustainable, and mutually-beneficial relationships with indigenous communities wherever Alcan operates.
- We will strive to increase our awareness of the concerns and interests of indigenous peoples through respectful, open and transparent dialogue.
- We will work with indigenous communities where Alcan operates to encourage their economic independence through appropriate opportunities for employment, business development, education and training.

## **Annex 9: The World Bank's Indigenous Peoples Policy**

[Source: Worldbank.org OP 4.10 of July 2005; abbreviated; important annexes and footnotes omitted]

1. This policy contributes to the Bank's mission of poverty reduction and sustainable development by ensuring that the development process fully respects the dignity, human rights, economies, and cultures of Indigenous Peoples. For all projects that are proposed for Bank financing and affect Indigenous Peoples, the Bank requires the borrower to engage in a process of free, prior, and informed consultation. The Bank provides project financing only where free, prior, and informed consultation results in broad community support to the project by the affected Indigenous Peoples. Such Bank-financed projects include measures to (a) avoid potentially adverse effects on the Indigenous Peoples' communities; or (b) when avoidance is not feasible, minimize, mitigate, or compensate for such effects. Bank-financed projects are also designed to ensure that the Indigenous Peoples receive social and economic benefits that are culturally appropriate and gender and intergenerationally inclusive.
2. The Bank recognizes that the identities and cultures of Indigenous Peoples are inextricably linked to the lands on which they live and the natural resources on which they depend. These distinct circumstances expose Indigenous Peoples to different types of risks and levels of impacts from development projects, including loss of identity, culture, and customary livelihoods, as well as exposure to disease. Gender and intergenerational issues among Indigenous Peoples also are complex. As social groups with identities that are often distinct from dominant groups in their national societies, Indigenous Peoples are frequently among the most marginalized and vulnerable segments of the population. As a result, their economic, social, and legal status often limits their capacity to defend their interests in and rights to lands, territories, and other productive resources, and/or restricts their ability to participate in and benefit from development. At the same time, the Bank recognizes that Indigenous Peoples play a vital role in

sustainable development and that their rights are increasingly being addressed under both domestic and international law.

3. Identification. Because of the varied and changing contexts in which Indigenous Peoples live and because there is no universally accepted definition of “Indigenous Peoples,” this policy does not define the term. Indigenous Peoples may be referred to in different countries by such terms as “indigenous ethnic minorities,” “aboriginals,” “hill tribes,” “minority nationalities,” “scheduled tribes,” or “tribal groups.”
4. For purposes of this policy, the term “Indigenous Peoples” is used in a generic sense to refer to a distinct, vulnerable, social and cultural group<sup>6</sup> possessing the following characteristics in varying degrees:
  - (a) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others;
  - (b) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories;
  - (c) customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and
  - (d) an indigenous language, often different from the official language of the country or region.

A group that has lost “collective attachment to geographically distinct habitats or ancestral territories in the project area” (paragraph 4 (b)) because of forced severance remains eligible for coverage under this policy. Ascertaining whether a particular group is considered as “Indigenous Peoples” for the purpose of this policy may require a technical judgment (see paragraph 8).

5. **Use of Country Systems.** The Bank may decide to use a country’s systems to address environmental and social safeguard issues in a Bank-financed project that affects Indigenous Peoples. This decision is made in accordance with the requirements of the applicable Bank policy on country systems.

## **Project Preparation**

6. A project proposed for Bank financing that affects Indigenous Peoples requires:
  - (a) screening by the Bank to identify whether Indigenous Peoples are present in, or have collective attachment to, the project area (see paragraph 8);
  - (b) a social assessment by the borrower (see paragraph 9 and Annex A);
  - (c) a process of free, prior, and informed consultation with the affected Indigenous Peoples' communities at each stage of the project, and particularly during project preparation, to fully identify their views and ascertain their broad community support for the project (see paragraphs 10 and 11);
  - (d) the preparation of an Indigenous Peoples Plan (see paragraph 12 and Annex B) or an Indigenous Peoples Planning Framework (see paragraph 13 and Annex C);
  - (e) disclosure of the draft Indigenous Peoples Plan or draft Indigenous Peoples Planning Framework (see paragraph 15).
7. The level of detail necessary to meet the requirements specified in paragraph 6 (b), (c), and (d) is proportional to the complexity of the proposed project and commensurate with the nature and scale of the proposed project's potential effects on the Indigenous Peoples, whether adverse or positive.

### Screening

8. Early in project preparation, the Bank undertakes a screening to determine whether Indigenous Peoples (see paragraph 4) are present in, or have collective attachment to, the project area. In conducting this screening, the Bank seeks the technical judgment of qualified social scientists with expertise on the social and cultural groups in the project area. The Bank also consults the Indigenous Peoples concerned and the borrower. The Bank may follow the borrower's framework for identification of Indigenous Peoples during project screening, when that framework is consistent with this policy.

## **Social Assessment**

9. **Analysis.** If, based on the screening, the Bank concludes that Indigenous Peoples are present in, or have collective attachment to, the project area, the borrower undertakes a social assessment to evaluate the project's potential positive and adverse effects on the Indigenous Peoples, and to examine project alternatives where adverse effects may be significant. The breadth, depth, and type of analysis in the social assessment are proportional to the nature and scale of the proposed project's potential effects on the Indigenous Peoples, whether such effects are positive or adverse. To carry out the social assessment, the borrower engages social scientists whose qualifications, experience, and terms of reference are acceptable to the Bank.
10. **Consultation and Participation.** Where the project affects Indigenous Peoples, the borrower engages in free, prior, and informed consultation with them. To ensure such consultation, the borrower:
  - (a) establishes an appropriate gender and intergenerationally inclusive framework that provides opportunities for consultation at each stage of project preparation and implementation among the borrower, the affected Indigenous Peoples' communities, the Indigenous Peoples Organizations (IPOs) if any, and other local civil society organizations (CSOs) identified by the affected Indigenous Peoples' communities;
  - (b) uses consultation methods appropriate to the social and cultural values of the affected Indigenous Peoples' communities and their local conditions and, in designing these methods, gives special attention to the concerns of Indigenous women, youth, and children and their access to development opportunities and benefits; and
  - (c) provides the affected Indigenous Peoples' communities with all relevant information about the project (including an assessment of potential adverse effects of the project on the affected Indigenous Peoples' communities) in a culturally appropriate manner at each stage of project preparation and implementation.



11. In deciding whether to proceed with the project, the borrower ascertains, on the basis of the social assessment (see paragraph 9) and the free, prior, and informed consultation (see paragraph 10), whether the affected Indigenous Peoples' communities provide their broad support to the project. Where there is such support, the borrower prepares a detailed report that documents:
  - (a) the findings of the social assessment;
  - (b) the process of free, prior, and informed consultation with the affected Indigenous Peoples' communities;
  - (c) additional measures, including project design modification, that may be required to address adverse effects on the Indigenous Peoples and to provide them with culturally appropriate project benefits;
  - (d) recommendations for free, prior, and informed consultation with and participation by Indigenous Peoples' communities during project implementation, monitoring, and evaluation; and
  - (e) any formal agreements reached with Indigenous Peoples' communities and/or the IPOs.

The Bank reviews the process and the outcome of the consultation carried out by the borrower to satisfy itself that the affected Indigenous Peoples' communities have provided their broad support to the project. The Bank pays particular attention to the social assessment and to the record and outcome of the free, prior, and informed consultation with the affected Indigenous Peoples' communities as a basis for ascertaining whether there is such support. The Bank does not proceed further with project processing if it is unable to ascertain that such support exists.

### **Indigenous Peoples Plan/Planning Framework**

12. **Indigenous Peoples Plan.** On the basis of the social assessment and in consultation with the affected Indigenous Peoples' communities, the borrower prepares an Indigenous Peoples Plan (IPP) that sets out the measures through which the borrower will ensure that (a) Indigenous Peoples affected by the project receive culturally appropriate social and economic benefits; and (b) when potential adverse effects on Indigenous Peoples are identified, those

adverse effects are avoided, minimized, mitigated, or compensated for (see Annex B for details). The IPP is prepared in a flexible and pragmatic manner, and its level of detail varies depending on the specific project and the nature of effects to be addressed. The borrower integrates the IPP into the project design. When Indigenous Peoples are the sole or the overwhelming majority of direct project beneficiaries, the elements of an IPP should be included in the overall project design, and a separate IPP is not required. In such cases, the Project Appraisal Document (PAD) includes a brief summary of how the project complies with the policy, in particular the IPP requirements.

**13. Indigenous Peoples Planning Framework.** Some projects involve the preparation and implementation of annual investment programs or multiple subprojects.<sup>13</sup> In such cases, and when the Bank's screening indicates that Indigenous Peoples are likely to be present in, or have collective attachment to, the project area, but their presence or collective attachment cannot be determined until the programs or subprojects are identified, the borrower prepares an Indigenous Peoples Planning Framework (IPPF). The IPPF provides for the screening and review of these programs or subprojects in a manner consistent with this policy (see Annex C for details). The borrower integrates the IPPF into the project design.

**Preparation of Program and Subproject IPPs.** If the screening of an individual program or subproject identified in the IPPF indicates that Indigenous Peoples are present in, or have collective attachment to, the area of the program or subproject, the borrower ensures that, before the individual program or subproject is implemented, a social assessment is carried out and an IPP is prepared in accordance with the requirements of this policy. The borrower provides each IPP to the Bank for review before the respective program or subproject is considered eligible for Bank financing.

**Disclosure:** <sup>15</sup> The borrower makes the social assessment report and draft IPP/IPPF available to the affected Indigenous Peoples' communities in an appropriate form, manner, and language.<sup>15</sup> Before project appraisal, the borrower sends the social assessment and

draft IPP/IPPF to the Bank for review.<sup>16</sup> Once the Bank accepts the documents as providing an adequate basis for project appraisal, the Bank makes them available to the public in accordance with The World Bank Policy on Disclosure of Information, and the borrower makes them available to the affected Indigenous Peoples' communities in the same manner as the earlier draft documents.

### **Special Considerations: Lands and Related Natural Resources**

16. Indigenous Peoples are closely tied to land, forests, water, wildlife, and other natural resources, and therefore special considerations apply if the project affects such ties. In this situation, when carrying out the social assessment and preparing the IPP/IPPF, the borrower pays particular attention to:
  - (a) the customary rights of the Indigenous Peoples, both individual and collective, pertaining to lands or territories that they traditionally owned, or customarily used or occupied, and where access to natural resources is vital to the sustainability of their cultures and livelihoods;
  - (b) the need to protect such lands and resources against illegal intrusion or encroachment;
  - (c) the cultural and spiritual values that the Indigenous Peoples attribute to such lands and resources; and
  - (d) Indigenous Peoples' natural resources management practices and the long-term sustainability of such practices.
17. If the project involves (a) activities that are contingent on establishing legally recognized rights to lands and territories that Indigenous Peoples have traditionally owned or customarily used or occupied (such as land titling projects), or (b) the acquisition of such lands, the IPP sets forth an action plan for the legal recognition of such ownership, occupation, or usage. Normally, the action plan is carried out before project implementation; in some cases, however, the action plan may need to be carried out concurrently with the project itself. Such legal recognition may take the following forms:
  - (a) full legal recognition of existing customary land tenure systems of Indigenous Peoples; or

- (b) conversion of customary usage rights to communal and/or individual ownership rights.

If neither option is possible under domestic law, the IPP includes measures for legal recognition of perpetual or long-term renewable custodial or use rights.

### **Commercial Development of Natural and Cultural Resources**

18. If the project involves the commercial development of natural resources (such as minerals, hydrocarbon resources, forests, water, or hunting/fishing grounds) on lands or territories that Indigenous Peoples traditionally owned, or customarily used or occupied, the borrower ensures that as part of the free, prior, and informed consultation process the affected communities are informed of (a) their rights to such resources under statutory and customary law; (b) the scope and nature of the proposed commercial development and the parties interested or involved in such development; and (c) the potential effects of such development on the Indigenous Peoples' livelihoods, environments, and use of such resources. The borrower includes in the IPP arrangements to enable the Indigenous Peoples to share equitably in the benefits<sup>18</sup> to be derived from such commercial development; at a minimum, the IPP arrangements must ensure that the Indigenous Peoples receive, in a culturally appropriate manner, benefits, compensation, and rights to due process at least equivalent to that to which any landowner with full legal title to the land would be entitled in the case of commercial development on their land.
19. If the project involves the commercial development of Indigenous Peoples' cultural resources and knowledge (for example, pharmacological or artistic), the borrower ensures that as part of the free, prior, and informed consultation process, the affected communities are informed of (a) their rights to such resources under statutory and customary law; (b) the scope and nature of the proposed commercial development and the parties interested or involved in such development; and (c) the potential effects of such development on Indigenous Peoples' livelihoods, environments, and use of such resources. Commercial development of the cultural resources and knowledge of these Indigenous Peoples is

conditional upon their prior agreement to such development. The IPP reflects the nature and content of such agreements and includes arrangements to enable Indigenous Peoples to receive benefits in a culturally appropriate way and share equitably in the benefits to be derived from such commercial development.

### **Physical Relocation of Indigenous Peoples**

20. Because physical relocation of Indigenous Peoples is particularly complex and may have significant adverse impacts on their identity, culture, and customary livelihoods, the Bank requires the borrower to explore alternative project designs to avoid physical relocation of Indigenous Peoples. In exceptional circumstances, when it is not feasible to avoid relocation, the borrower will not carry out such relocation without obtaining broad support for it from the affected Indigenous Peoples' communities as part of the free, prior, and informed consultation process. In such cases, the borrower prepares a resettlement plan in accordance with the requirements of OP 4.12, Involuntary Resettlement that is compatible with the Indigenous Peoples' cultural preferences, and includes a land-based resettlement strategy. As part of the resettlement plan, the borrower documents the results of the consultation process. Where possible, the resettlement plan should allow the affected Indigenous Peoples to return to the lands and territories they traditionally owned, or customarily used or occupied, if the reasons for their relocation cease to exist.
21. In many countries, the lands set aside as legally designated parks and protected areas may overlap with lands and territories that Indigenous Peoples traditionally owned, or customarily used or occupied. The Bank recognizes the significance of these rights of ownership, occupation, or usage, as well as the need for long-term sustainable management of critical ecosystems. Therefore, involuntary restrictions on Indigenous Peoples' access to legally designated parks and protected areas, in particular access to their sacred sites, should be avoided. In exceptional circumstances, where it is not feasible to avoid restricting access, the borrower prepares, with the free, prior, and informed consultation of the affected Indigenous Peoples' communities, a process framework

in accordance with the provisions of OP 4.12. The process framework provides guidelines for preparation, during project implementation, of an individual parks and protected areas' management plan, and ensures that the Indigenous Peoples participate in the design, implementation, monitoring, and evaluation of the management plan, and share equitably in the benefits of the parks and protected areas. The management plan should give priority to collaborative arrangements that enable the Indigenous Peoples, as the custodians of the resources, to continue to use them in an ecologically sustainable manner.

### **Indigenous Peoples and Development**

22. In furtherance of the objectives of this policy, the Bank may, at a member country's request, support the country in its development planning and poverty reduction strategies by providing financial assistance for a variety of initiatives designed to:
- (a) strengthen local legislation, as needed, to establish legal recognition of the customary or traditional land tenure systems of Indigenous Peoples;
  - (b) make the development process more inclusive of Indigenous Peoples by incorporating their perspectives in the design of development programs and poverty reduction strategies, and providing them with opportunities to benefit more fully from development programs through policy and legal reforms, capacity building, and free, prior, and informed consultation and participation;
  - (c) support the development priorities of Indigenous Peoples through programs (such as community-driven development programs and locally managed social funds) developed by governments in cooperation with Indigenous Peoples;
  - (d) address the gender and intergenerational issues that exist among many Indigenous Peoples, including the special needs of indigenous women, youth, and children;
  - (e) prepare participatory profiles of Indigenous Peoples to document their culture, demographic structure, gender and intergenerational relations and social organization, institutions, production systems, religious beliefs, and resource use patterns;



- (f) strengthen the capacity of Indigenous Peoples' communities and IPOs to prepare, implement, monitor, and evaluate development programs;
- (g) strengthen the capacity of government agencies responsible for providing development services to Indigenous Peoples;
- (h) protect indigenous knowledge, including by strengthening intellectual property rights; and
- (i) facilitate partnerships among the government, IPOs, CSOs, and the private sector to promote Indigenous Peoples' development programs.

Such projects include community-driven development projects, social funds, sector investment operations, and financial intermediary loans.

If the Bank considers the IPPF to be adequate for the purpose, however, the Bank may agree with the borrower that prior Bank review of the IPP is not needed. In such case, the Bank reviews the IPP and its implementation as part of supervision (see OP 13.05, Project Supervision).

The social assessment and IPP require wide dissemination among the affected Indigenous Peoples' communities using culturally appropriate methods and locations. In the case of an IPPF, the document is disseminated using IPOs at the appropriate national, regional, or local levels to reach Indigenous Peoples who are likely to be affected by the project. Where IPOs do not exist, the document may be disseminated using other CSOs as appropriate.

An exception to the requirement that the IPP (or IPPF) be prepared as a condition of appraisal may be made with the approval of Bank management for projects meeting the requirements of OP 8.50, Emergency Recovery Assistance. In such cases, management's approval stipulates a timetable and budget for preparation of the social assessment and IPP or of the IPPF.

"Customary rights" to lands and resources refers to patterns of long-standing community land and resource usage in accordance with Indigenous Peoples' customary laws, values, customs, and traditions, including seasonal or cyclical use, rather than formal legal title to land and resources issued by the State.

The “Indigenous Peoples Guidebook” (forthcoming) will provide good practice guidance on this matter.

## **Annex 10: India's Indigenous People's Support Groups** **[Examples only; not a comprehensive listing]**

---

The purpose of this Annex is to show readers and especially foreign corporations that there is a wide range of civil society organizations with valuable track records and deep professional experience of assisting Adivasis. Often Adivasis ask one or more such organizations to represent them concerning their problems and to act as advocates for Adivasis. Clearly, it will be essential for Utkal to win the support of Adivasi advocates and support groups, and to foster mutual cooperation.

### **1. Governmental**

#### **Ministry for Tribal Affairs:**

[www.tribal.nic.in/national\\_st\\_policy.html](http://www.tribal.nic.in/national_st_policy.html).

The National Human Rights Commission: (NHRC)

### **2. Civil Society**

**Aragamee:** Aragamee, which means, "pioneer", is a group of activists and thinkers committed to working with marginalized and underprivileged communities in the tribal districts of Orissa, in India. Aragamee's efforts at initiating a people-centered development have combined an issue-based approach with programmes for socio-economic development. Aragamee has been engaged in people-centered, culturally sensitive and ecologically balanced sustainable development of remote tribal communities in Orissa for over two decades. It began as the Social Work and Research Centre in 1981 and was registered as Aragamee in 1987. Currently, we work directly in 8 districts of Orissa and indirectly through a consortium of 9 partner NGOs called Sanjojana. Our mission is to promote all aspects of tribal development throughout India, with a focus on Orissa and integrated approaches to help tribal communities mobilize for self-sustaining development initiatives. Our efforts are directed at establishing total human development and bringing about social change through awareness as well as forming local level organizations to ensure social justice and self-reliance. We aim to better the economic conditions of poor communities by realizing the potential of personal skills and resources.

## *Laxman Nayak Society, Ankaran and The Weaker Sections Integrated Development Agency (WIDA)*

Four leading NGOs in Utkal's area, Agragamee, Laxman Nayak Society, Ankaran and the Weaker Sections Integrated Development Agency (WIDA) have been served 'deregistration' notices by GoO which could ban them from receiving funds. These NGOs have been working among the adivasis of this remote area for nearly two decades trying to raise awareness, spread literacy and introduce better watershed management and agricultural practices.

**EPGO**Orissa: Environment Protection Group, Orissa, is an informal forum, where a number of Indian citizens have joined together with an aim to safeguard the state's rich biological diversity, its environment, its people, its economy and culture of various ethnic groups from the clutches of existing development paradigm based on extractive mining and industrialization.

**Friends of Tribal Society** (FTS) or Vanabandhu Parishad, which is committed to uplifting the lives of 8 crore tribal people.

**Gram Vikas's** Rural Health and Environment Programme (RHEP) consolidates housing, water and sanitation through participative processes of community mobilization, empowerment strategies for women, and micro-credit.

**Alcan't** A Montreal-based group, 3647 University Street, 3<sup>rd</sup> floor Montreal, QC H2V 4B4, Canada. Alcan't in India organizes protests against the Kashipur project. Alcan't in India: [alcantinindia@yahoo.com](mailto:alcantinindia@yahoo.com).

**Samarpan Charitable Trust:** [gist.ap.nic.in/cgi-bin/edn/ednshow.cgi/?en=5341](http://gist.ap.nic.in/cgi-bin/edn/ednshow.cgi/?en=5341): A study center related to the Indira Gandhi National Open University in Bhairach U.P.

**Deshapremi Jana Samukhya:** A front of revolutionary & patriotic parties, peoples' movements, democratic groups and individuals, based in the Kedargouri Area, Bhubaneswar-751 002. Deeply concerned with the use of police atrocities in Kashipur.

**Yasodha Sadan:** Runs several orphanages in and around Bhubaneswar.

**Samata:** Samata is a social justice organization working for the rights of the tribal/ adivasi people of Andhra Pradesh and for the protection of the natural resources and livelihoods of the marginalized. Formally registered as a non government organization in 1990 and have become a national level advocacy and support organization for the rights of the tribal people.

**The Samata Judgment:** Samata is an advocacy and social action group. Samata first filed a case in the local courts and later in the Andhra Pradesh High Court in 1993 against the State for leasing tribal lands to mining companies. When it was dismissed there, Samata filed a Special Leave Petition in the Supreme Court of India, where a four-year battle led to a historic judgment in *Samata vs. State of Andhra Pradesh* by the Supreme Court of India (Ramaswamy, K., Saghir, S., Ahmad, G.B. & Pattanaik, J.J. on 11 July 1997), became termed 'the Samata judgment'. This declared that the transfer of land in scheduled areas for private mining was null and void. Mining is permitted in Adivasi lands, but only by government, a state instrumentality, or a cooperative society of the tribals, not by the private sector. The underlying theme of the Samata judgment and the concern of groups like Samata is the concept of sustainable development and the precautionary principle. When development is controlled, regulated or supervised by the local tribal community or state instruments (assuming the social welfare mandate of the state), there is less chance of environmental degradation and social destruction. (See: Ravi Reba Pagoda and K Bhanumathi, 2001).

**Regroupement pour la Responsabilité Sociale des Entreprises (RRSE)**, a Quebec-based group specializing in directing religious groups in ethical investments, has been diverting investments from Alcan for the last three years. Known for their actions against investment in Hydro Quebec, the RRSE has even created an 'Alcan Committee' to follow Alcan's practices with great care, specifically with regards to their projects in India. In regards to Alcan's consultation with Kashipur villagers, "we're seeking assurances, to try and better understand the checks and balances that are being put in place" says Claude Grou, the pastor of St. Joseph's Oratory and a member of the RRSE.

Three different organizations, the **Baphli Mali Suraksha Parishad**, the **Prakrutik Sampad Suraksha Parishad** (qv), and the **Anchalik Suraksha**

**Parishad**, formed fronts against the work of different corporate partnerships in different parts of the block.

**Indo-Swiss NRM Programme Orissa G-695**, B.J.B.Nagar, Bhubaneswar-751 014 Khurda, Orissa, India Tel: 00 91 674 433580, 433582 Fax:433581 E-mail: nrmpo@satyam.net.in

**Jharkhandi's Organization for Human Rights** is the first human rights mass-based Organization of Jharkhand. Founded in 1987 it has done pioneering work in taking the human rights struggles of Jharkhand and of Jharkhandi Adivasis to national and international for a, including the UN. The central secretariat is in Chaibasa the district head quarters of Singhbhum District in Jharkhand. (See: [www.johar.in](http://www.johar.in)).

**Jharkhand Mines Area Coordination Committee** is an alliance of communities affected by mining within Jharkhand, founded in 2001. J.M.A.C.C has since launched two mass based campaign on 'Ownership Rights to Minerals' and on the consequences of Greenfield mining and allied projects 'Mines Eat Us: Agriculture Feeds Us'. J.M.A.C.C's secretariat is at Ranchi the capital of Jharkhand (See: [www.firstpeoplesfirst.in](http://www.firstpeoplesfirst.in)).

**Prakrutik Sampad Surakshya Parishad (PSSP)**: (Council for the Protection of Natural Resources). People's movement based in Kashipur, leading resistance against UAIL.

**Strømme Foundation**: Strømme Stiftelsen, Skippergaten # 3. Post-box 414, 4664 Kristiansand, Norway. [www.strommestiftelsen.no](http://www.strommestiftelsen.no), or: [postkrs@stromme.org](mailto:postkrs@stromme.org). A Christian aid organization, founded 1976, runs no projects of its own, but supports poverty reduction, local organizations and churches financially and professionally in their own aid work.



## Annex 11: Definitions of 'No-Go' and Other Sensitive Areas

'No-Go' areas are to be avoided by extractive industry projects to the fullest extent possible

- (a) **Human Displacement:** Dwellings, villages and other settlements are No-Go areas because displacement of humans or involuntary resettlement historically has led to impoverishment, the opposite of the main goal of development. The concerns of potentially affected people are paramount and need to be addressed before, or at the same time as, the other 'No-Go' criteria. If there are water-tight guarantees (performance bonds or insurance) that oustees will be promptly better off after their move, then displacement could be acceptable.
- (b) **Vulnerable Ethnic Minorities:** Areas used by vulnerable ethnic minorities or Indigenous Peoples are 'no-go' to extractive industries.
- (c) **Rich Biodiversity:** Critical Natural Habitats are No-Go areas. They include:
- Protected areas (e.g., UN World Heritage sites; UN Biosphere Reserves; Natura 2000 sites in Europe, Ramsar Convention sites, [ramsar@ramsar.org](mailto:ramsar@ramsar.org)).
  - Areas meeting IUCN's categories I thru VI, and marine categories I-V (e.g., fishing or fish breeding reserves).
  - Proposed protected areas (e.g., as designated in ecoregion action proposals, regional assessments or land use plans).
  - Areas recognized as protected, reserved or conserved.
  - Areas maintaining conditions vital for protected areas (e.g., watersheds, buffer zones).
  - Areas on supplementary lists or as determined by the nation's biodiversity guardians.
  - Areas highly suitable for biodiversity conservation (meaning that areas in which biodiversity is unknown need to be assessed before they can be categorized).
  - Areas critical for rare, vulnerable, migratory or endangered species, e.g., [redlist@ssc-uk.org](mailto:redlist@ssc-uk.org)).

**(d) Cultural Property:** This refers mainly to archeological, religious, sacred, and historic sites. National museums of history and archeology maintain lists and maps of such sites. Esthetic sites and 'beauty spots' also should be avoided.

If displacement is guaranteed (such as by insurance or performance bonds) to be successful (oustees become promptly better off after their move), then it would become admissible. If biodiversity is better off by means of financing compensatory offsets in perpetuity, then such sites may be useable. Extractive industry proponents should follow international best practice such as the World Bank's Environmental and Social Safeguard Policies. The World Conservation Congress' Resolution (# 2.82, IUCN, held in Amman, October 2000, see: <http://wcpa.iucn.org>, [mab@unesco.org](mailto:mab@unesco.org), & Anon, 1994; 2000), and the UN Biodiversity Convention can be used to foster improvements in conservation by the extractive sector. Proponents can be guided by WWF's detailed guideline: "To dig or not to dig" (Dudley & Stolton, 2001). The UN's Convention on Biological Diversity and the Akwe Kon Guidelines also provide a framework for linking extractive industries with sustainable development and with improved conservation.

## **Annex 12: Characteristics of FPIC**

---

The main characteristics of FPIC are that it is: (1) freely given, (2) fully informed, (3) obtained before permission is granted to a proponent to proceed with the project, and (4) is consensual.

1. **“Freely-given”** means that potentially affected people must freely offer their consent. Consent must be entirely voluntary; they must not be coerced or tricked into consent.
2. **“Fully-informed”** means the affected people know and understand as much about their own rights and the implications of the proposed project as do the proponents in order to ensure balanced negotiation. This means two categories of information sharing. First the vulnerable and weaker of the two sides must understand what their rights are, including their historic territorial rights, their rights to lands where they have been living for generations, and their rights of access to natural resources on which they depend, such as fish in the nearby river. Indigenous peoples have the right to determine the course and pace of their own development and the right to self-determination. Facilitating the process of FPIC is usually best done by neutral agents. This may preclude the WBG from acting as the facilitator for a FPIC process, as it usually has a vested interest in the positions of governments and corporations as much as in the rights of potentially affected peoples (Colchester et al. 2003).

The second category of information concerns the nature of the project being contemplated by the proponent. Affected people must understand the potential harm and risks that might accrue if they accepted the project. Worst-case scenarios and potential disasters need to be understood. In the experience of many indigenous peoples, it may be beyond their imagination for a river to die. However, an industry can easily kill a river. The possible death of a river, the sterilization of an area of ocean, or the irreversible removal of a tract of forest is not easy for many indigenous people to imagine. Even the damage from a rare and devastating forest fire, within living memory or in oral history, is not irreversible. Regeneration restores many resources after as few as ten years. Showing a cartoon or video film of a similar project or

accident elsewhere cannot be assumed sufficient to bring affected people up to speed for the “fully informed” comprehension criterion.

It is not possible to obtain FPIC if the people involved have never seen an example of the project proposed. It is not productive to ask peoples’ views on a gold mine if they are not aware of what a gold mine is. (See: “Laos: Sepon Gold Mine” case). Similarly, even if the people have seen a country lane, it is not legitimate to ask them to imagine a road some orders of magnitude greater than the road they know, and ask questions about that imagined highway. Asking people questions about infrastructure that they have never seen means asking them to exercise their imagination. If a person is asked about the acceptability of a reservoir – “like the farm pond you know well, only thousands of times bigger” – imagination will not provide an adequate basis for a valid response.

In the case of Ontario, Canada, the government thought it impossible to reach fully-informed consent on their proposal for siting new nuclear power plants. The government therefore financed a learning experience that would enable potentially affected people to understand the questions that would in the future be asked of them. Such “Intervener Financing” is now commonplace and it augments the affected community’s capacity to design studies, ask the right questions, and assimilate the results—all before deciding on FPIC.

In the case of dams, people are bussed to the nearest dam so they can understand what a reservoir is like and can spend some days talking in detail with the people impacted by the previous project. Explaining what a project will be like is not an easy task. While scale models, videos, maps, diagrams, photographs and the like can help, they are unlikely to suffice. The affected people, or their representatives, need to visit similar projects and talk with people who have experienced the potential impacts of similar projects firsthand. “Fully-informed” is the means to equality of negotiation. Many societies require building reciprocal relationships before negotiations can legitimately begin. Lack of compre-

hending with full information means the people's lack of information is being exploited by the proponent.

3. **“Prior”** means FPIC has to be obtained before permission is granted to the proponent to proceed with the proposed project that will affect the communities. This means well before a financing agency considers the request to finance the project. FPIC is best achieved as part of the standard Environmental and Social Impact Assessment process. The impacts are predicted together and their mitigation is also designed together.
4. **“Consent”** means harmonious, voluntary agreement with the measures designed to make the proposed project acceptable to the potentially affected communities. Tacit consent is avoided by the “fully informed” criterion: silence is not the consent required for FPIC. FPIC does not demand absolute consensus: a significant majority suffices. A majority of 51% suffices in democratic elections, which may be used as a guide to the definition of a ‘significant majority’. If there is substantial opposition to the proposed project, FPIC becomes less achievable. Although there are no hard and fast rules about the fraction agreeing, the point is usually less important than it at first appears. Most relevant societies discuss important issues together as a community, with leaders or representatives, and often for days on end, until the spirit of consensus is reached.

There are many mechanisms for achieving FPIC although they may be called by different terms. Plebiscites (direct single issue votes), referenda, (a vote on a proposal or subsequent endorsement of an agreement reached by leaders or a legislative body) for example, are used on occasion. Some municipalities, for example, mandate referenda on assuming debt before issuing bonds for a new thruway.

## **Annex 13: Greenhouse Gas Emissions**

---

[Sources: Mahadevan, H. 2001. Managing Greenhouse Gas Emission in the Indian Aluminum Industry. JOM 53 (11): 34-36. Wysham, D. 1996. Destroying Orissa, Fuelling Climate Change: A Joint Project of the World Bank, Transnational Corporations, and G-7 Governments. Institute for Policy Studies, Washington. Wysham, D. 1997. Talcher Angul: coal mining destroying Orissa, fuelling climate change. [www.50years.org/factsheets/orissa.html](http://www.50years.org/factsheets/orissa.html). Wysham, D. 2003. Climate change and policy coherence in global trade and financial flows. Sustainable Energy and Economy Policy Network, [www.seen.org/PDFs/climate\\_policy.pdf](http://www.seen.org/PDFs/climate_policy.pdf). Wysham, D., Tripathy, S., & Valette, J. 1996. The World Bank's Juggernaut: The Coal-Fired Industrial Colonization of the Indian State of Orissa. Washington DC., DEEN & IPS, District Action Group of Talcher-Angul in Orissa and International Trade Information Service: <http://www.seen.org/pages/reports/orissa.shtml>]: 91 p.]

President Jacques Chirac in his 1st Feb '07 "Ecological Will" wrote: "We could tax imports from countries that do not conform to the Kyoto Protocol with specific additional duties." GATT, the keystone of the WTO, authorizes countries to take measures "necessary to the protection of life and health of people and animals and the preservation of vegetation." Thus, in 1998, the WTO acknowledged the United States's right to prohibit shrimp imports from any country that fished for shrimp with nets dangerous to turtles. Economics Nobellist Joseph Stiglitz notes that any country that gets off from paying for the damage it inflicts on the environment, in fact receives a subsidy. One of the WTO's main objectives is to equalize business conditions: subsidies introduce distortions; that's why countries are allowed to respond to them with countervailing duties. If a country or business exempts itself from reducing its carbon emissions the way businesses from countries adhering to the Kyoto Protocol must, aluminum manufacturers enjoy a substantial subsidy (possibly 10% of their cost per ton) over Kyoto compliers. Kyoto-compliers therefore could raise a countervailing tax equivalent to the subsidy. This would be a commercial way to encourage polluters to respect the planet's equilibria. As the aluminum industry emits more GHG than most other industries, proactive GHG-reducing measures would be rational.



Assessment of Greenhouse gas (GHG) emissions is good practice in ESIA and is becoming more important as climate change risks intensify. Alcan is familiar with GHG climate change risks. During the May 2006 Climate Change Technology Conference, Alcan's Sustainability VP, Simon Laddychuk, commendably aims at more than 2% annual reduction in CO<sub>2</sub>. In Canada, 22.5% of the Dominion Energy shareholders, who collectively own about \$5.85 billion worth of shares, supported a resolution requesting that the company undertake a comprehensive review on how it is responding to growing regulatory, competitive and public pressure to reduce greenhouse gas emissions. Shareholders requested that the climate risk report be completed by September 1, 2006 and be reviewed by a board committee of independent directors.

Wysham (1996, 1997, Wysham et al 1996) details Orissa's greenhouse gas problems, so these are not repeated here. A significant 3 percent of manmade global greenhouse gas emissions coming from Orissa alone. Orissa proposes to add about 12,000 MW of new thermal power capacity in the state by 2012. This means an annual consumption 60 million tonnes of coal which will create 30 million tones of ash, and require 7200 hectares of land. Building the power plants and associated coal mines will intensify pressure on land and forest.

Four nations seem to be financing the coal-fired electricity generation in Orissa. Known G-7 financiers of Orissa's industrialization include:

1. U.S. government loan of \$232 million toward the Ib Valley coal-fired power plant; an additional \$75 million is forthcoming for further investment in Ib Valley's coal-fired power plants.
2. France's US\$607 million financing toward the construction of an aluminum smelting complex, Nalco; the Kaniha and Ib Valley coal-fired power plants; and the Ananta coal mine.
3. Japan has invested \$125 million in coal mining expansion in Orissa.
4. The U.K. has invested \$40 million in the upgrading of the Hirakud dam in Orissa, and an additional \$75 million toward the privatization of Orissa's power sector. The World Bank has invested heavily in the Coal sector and the Ib Valley.

## **Annex 14: Sustainability in the Aluminum Industry**

---

Selected as a “Super-Sector Leader” on the Dow Jones Sustainability World Index in 2005, Alcan seeks to balance its economic, environmental and social responsibilities everywhere it operates. Alcan embraces sustainability as a corporate goal. Alcan and the International Business Leaders Forum offers an annual US\$1 million Alcan Prize for Sustainability.

I have not been able to find Alcan’s definition of sustainability. How one defines a problem – reaching sustainability – often dictates how one crafts a solution. Some organizations define environmental sustainability as little more than corporate social responsibility. Alcan’s website highlights (a) Improving performance: increasing the social and economic benefits and reducing the environmental impacts of our activities over the short and long term, and becoming a more profitable and competitive organization; (b) Strengthening relationships and partnerships: recognizing and working with our employees, stakeholders and shareholders to address their needs and the needs of the Company; and (c) Demonstrating integrity and commitment: maintaining the high standards we value as a company in our day-to-day operations. While reducing environmental impacts can be a part of sustainability, the rest of this definition is good corporate social responsibility. While CSR is important, it has little to do with environmental sustainability. This Annex therefore suggests that Alcan defines environmental sustainability and then plot a course to achieve it as optimally as possible. That is a substantial task but needs to be started as soon as possible from this starting point.

The fundamental definition of environmental sustainability employs the input/output rule. Building on the definition of economic sustainability as “non-declining wealth per capita,” environmental sustainability can be defined by the two fundamental ecosystem services — the source and sink functions — that must be maintained unimpaired during the time over which sustainability is required.

This definition is robust for all countries, sectors, and epochs. At the next level of detail, Alcan should adopt specific indicators of environmental sustainability to measure conditions and trends. But the starting point is the sustainability rule. Of the three rules, the third — the quasi-sustainability of non-renewables — is the most relevant for Alcan.

The Three Rules of Environmental Sustainability: There are only three rules of environmental sustainability (After: Daly & Farley 2004; Goodland & Daly 2004):

**On the source side:** Keep harvest rates of renewables within regeneration rates.

**On the sink side:** Hold waste emissions within the assimilative capacity of the environment without impairing it.

**Non-renewable Resources:** Non-renewables cannot be made sustainable. But quasi-sustainability can be approached for non-renewables by holding their depletion rates equal to the rate at which renewable substitutes are created (see below).

**Greenhouse Gas: Alcan's Biggest Sustainability Challenge:** The biggest challenge for Alcan in their search for sustainability is clearly their enormous emissions of greenhouse gas. This violates the 'sink' rule because the assimilative capacity of the environment to absorb GHG has long been exceeded. In view of the UK Govt's Stern report and the recent IPCC warnings,<sup>25</sup> Alcan has a major task to resolve with little time to achieve sustainability unless it acts fast. Switching Alcan's Gove Australia plant to natural gas, as planned for c.2009, would reduce GHG emitted per ton, but would still be a huge emitter of GHG. All Alcan's refineries and smelters that depend on coal or natural gas would have to absorb their GHG in tree plantations or in other methods of carbon sequestration in order to approach sustainability. Alcan's hydroelectric reservoirs probably are net emitters of GHG; these have to be attended to as well. Alcan's corporate goal of reducing GHG by 2% annually seems modest. Alcan is probably better on reducing non-GHG pollution, such as refinery red muds, and fluorides and PAHs from smelters.

### **Quasi-Sustainability of Non-Renewable Resources**

The Serafian Rule, developed by Salah El Serafy at the World Bank in 1989, is the normative rule for calculating quasi-sustainability pertaining to non-renewable resources, such as fossil fuels, fossil water and other minerals, as well as to renewables that are being "mined."

It states that the owners of these resources may enjoy part of the proceeds from their liquidation as income. But the remainder must be re-invested to generate income to replace the depleting asset. The interest

rate to be used to estimate user cost should be low, say 2% or 3%, not the 10% or more that some institutions employ. The income stream must be prudently reinvested in order to produce the optimal income in perpetuity. Orissa's bauxite, alumina and aluminum revenues on their own will not at all guarantee improved livelihoods for Orissa's citizens. On the contrary, unless prudently and stringently managed, such revenues often harm a nation, the widely quoted "Natural Resource Curse".

Prudently managed, all bauxite revenues should be invested in a Permanent Fund in order to prevent the "Natural Resource Curse", and to promote sustainability (see below). Such a Permanent Fund is the main means to translate revenues from depleting minerals into sustainable or Hicksian income in perpetuity. Utkal, GoI and GoO, together with civil society have a role in ensuring that the crucial Permanent Fund is managed prudently and transparently.

Serafy's method shows that an easily calculable fraction (which changes from time to time) of revenue from non-renewables can be allocated to current expenditure for job creation, diversification out of the mineral when it is depleted, social safety nets (education, health, staple food vouchers) and human capital formation. The other part must be reinvested to balance depletion of the non-renewable resource in order to earn Hicksian income. Such oil reserve funds need to be transparent and to be subject to public accountability so that revenues can be used to foster development and to provide income against the time when the depleting asset is exhausted (see World Bank 2006b).

For non-renewable resources, future acceptable rates of extraction should be based on the historic rate at which improved efficiency, substitution, and re-use became available. These calculations show the folly of relying on technological optimism, rather than on a historic track record.

Alcan must ensure that conservation of aluminum is continually being tightened. In the power industry, new generating capacity is permitted only when the proponent can prove that conservation is being optimized. Alcan would have to show that conservation and recycling is as efficient as possible at the time, that efficiency is maximized in bauxite mining, alumina refining and aluminum smelting. The search for substitutes is part of the equation.

## **Annex 15: Glossary**

---

[Sources: (a) [www.vsubhash.com/desienglish.asp](http://www.vsubhash.com/desienglish.asp); [www.iiit.net/ltrc/Dictionaries](http://www.iiit.net/ltrc/Dictionaries); (b) Yule, H., Burnett, A, & Crooke, W. 1886/1995. A glossary of colloquial Anglo-Indian words and phrases: Hobson-Jobson. (2nd. ed.) Richmond, Surrey, Curzon Press 1021 p. (c) Muthiah, S. 1991. Words in Indian English: A Reader's Guide. Harper-Collins/Indus, 165 p. (d) Lewis, I. 1991. Sahibs, Nabobs and Boxwallahs: A Dictionary of the Words of Anglo-India. Bombay: Oxford Univ. Press 266 p.]

**Adivasi:** The Indigenous Peoples of peninsular India prefer to be known as Adivasi or 'first-people', akin to the Canadian "First Nations", or "original inhabitants", who comprise a substantial indigenous minority of the population of India. Indian tribals, Atavika (forest dwellers), or Vanvasis or Girijans (hill people), are numerous in Orissa, Bihar and Jharkhand. Adivasis are officially recognized "Scheduled Tribes" in the Fifth Schedule of the Constitution of India. During the 19<sup>th</sup> century, substantial numbers converted to Christianity. Many tribal groups are vulnerable to environmental degradation as they rely totally on their environment for their livelihoods. Commercial forestry and intensive agriculture have destroyed the forests used for swidden agriculture for many centuries.

**Crore:** The number ten million, 10,000,000; one hundred lakhs.

**Dalits:** Outcastes. Dalit originates from Marathi "dal" meaning peoples crushed or oppressed. Dalits are "broken people" or "slaves" of the Hindu society of hierarchical castes. Dalits are untouchable therefore made to live in segregated colonies or Ghettos outside the towns and villages where caste Hindus live. The Hindu identity is forced on all Dalits (despite being outcasts of Hindu society). According to Hindu Civil Law all people who are not Christians and Muslims are "Hindus". Those Dalits who convert to Christianity lose the concessions provided in state employment and education. Thus the victims of the caste system are kept in perpetual bondage by law and those who seek to escape this bondage by conversion are penalized. [extracted from a letter to the Boston Globe from Dr. Iniyam Elango, M.D. Tamil Nadu State, India. Posted by Runoko Rashidi, November 23, 1999. Note: The President of India is a Dalit



**Dharna:** (or Dhurna): A fast taking place at the door of an offender, especially a debtor, in India as a means of obtaining compliance with a demand for justice, such as payment of a debt.

**The Fifth Schedule:** The Fifth Schedule of the Indian Constitution provides for the administration and control of tribal lands (termed 'scheduled areas') within nine states of India. The Fifth Schedule provides protection to the Adivasi (tribal) people living in scheduled areas from alienation of their lands and natural resources to non-tribals. (See The Samatha Judgment).

**FPIC: Free, Prior and Informed Consent:** Free prior informed consent (FPIC) is a process that can be implemented to improve the social situation around economic development projects. While not a perfect process, FPIC is a preferable alternative to the use of force or imposing involuntary conditions on impacted people. FPIC provides potentially impacted communities with information about a proposed development project and encourages their consent. It begins with the provision of details on the nature of a proposed action, including the risks, benefits, and alternatives to the proposed action. FPIC protects community members by providing relevant information to them in order to make informed choices; it can also be used as a tool to help developers achieve a "social license" to operate. The FPIC process can ensure that potentially affected communities have all the relevant information at their disposal in order to ensure balanced and fair negotiations with project proponents. Balanced negotiation requires the education of all stakeholders (governments, proponents, affected communities) with regard to their rights and responsibilities. Negotiation between asymmetrical parties usually requires the aid of advocates, facilitators and technical assistance. Other companies in similar context, notably Hydro-Québec, HSBC and BHP, have developed processes and tools based on the principle of free, prior and informed consent of the communities to insure that they address the concerns and requests of the people affected by their projects, and to secure their trust and acceptance.

**Gram Sabha:** All men and women in a village who are above 18 years of age form the Gram Sabha, which meets twice a year. The Gram Sabha meets to promote development of the people through participation and mutual co-operation, to discuss the annual budget and approve the development schemes proposed for the village.



**Harijan:** Harijan was a term invented by M.K.Gandhi for the 'Untouchables'. It means Children of God. (Hari is another name for Vishnu). Nowadays considered patronizing.

**Hindutva:** Right-wing extreme nationalism, pro-Hindu fundamentalism aimed at "cleansing" the country of non-Hindus, and the more generic project of recovering India's founding faith (the sangh parivar). Its aims are mediated through a number of organizations. The most violent of their activities are carried out by adherents of the RSS (Rashtriya Swayamsewak Sangh) - some of whose leaders have openly praised Hitler - Bajrang Dal, the RSS military wing, and the VHP (Vishwa Hindu Parishad. Although Hindutva is an old movement, it was quiescent until the early 1990s. Two incidents mark the reawakening of Hindutva. First, the Hindu-oriented Bharatiya Janata Party (BJP) became a major political force in the 1991 elections. Second, the spectacular five-hour demolition of the 16th.Century Babri mosque at Ayodhya by Hindu nationalist mobs on 6th. December 1992.

**Jagannath:** The Sanskrit deity form of Krishna, meaning master (nath) of the universe (jagat).The oldest and most famous Jagannath deity is in Puri, Orissa.

**Lakh:** The number: 100,000. One lakh is equal to a hundred thousand. A hundred lakhs make a crore.

**Satyagraha:** is the philosophy of nonviolent resistance credited to M.K.Gandhi in ending the British colonialism in India; also used by Martin Luther King Jr. during the Civil Rights Movement in the United States.

**Social and Environmental Standards:** (See Annex for amplification) (a) **Social:** These include human rights, gender equity and gender audits, core labor standards as adopted by UN ILO, social security, health and retirement insurance, FPIC, public health and communicable diseases that may be affected by the project, occupational health and safety (e.g., traffic accidents), especially for vulnerable groups, such as ethnic minorities, the aged or infirm, women, children, Performance Bonds, endowments, trust funds or insurance (b) **Environmental:** (air, water, soil, marine, coasts) Pollution, including Greenhouse gas emissions, conservation of natural resources especially those on which impacted people depend, waste management, water use, erosion, sedimentation, impacts on fish and other aquatic resources in wetlands, biodiversity, natural habitats. (c)

**Health Impacts:** which impacts may cause increase in morbidity or mortality? Will a project increase the risk of AIDS for example if truck drivers drive long distances from an AIDS area (such as a marine port) to an AIDS-free area? Will the project cause an increase in disease vectors such as malarial mosquitoes? Public health, occupational health, safety, and prevention of traffic accidents all for part of Health Impact Assessment.

**The Samata Judgment:** Samata is an advocacy and social action group. Samata first filed a case in the local courts and later in the Andhra Pradesh High Court in 1993 against the State for leasing tribal lands to mining companies. When it was dismissed there, Samata filed a Special Leave Petition in the Supreme Court of India, where a four-year battle led to a historic judgment in *Samata vs. State of Andhra Pradesh* by the Supreme Court of India (Ramaswamy, K., Saghir, S., Ahmad, G.B. & Pattanaik, J.J. on 11 July 1997), became termed 'the Samata judgment'. This declared that the transfer of land in scheduled areas for private mining was null and void. Mining is permitted in Adivasi lands, but only by government, a state instrumentality, or a cooperative society of the tribals, not by the private sector. The underlying theme of the Samata judgment and the concern of groups like Samata is the concept of sustainable development and the precautionary principle. When development is controlled, regulated or supervised by the local tribal community or state instruments (assuming the social welfare mandate of the state), there is less chance of environmental degradation and social destruction. (See: Ravi Rebba Pragada and K Bhanumathi, 2001).

**Tehsil:** tehsil, tahsil, tahasil, taluka, taluk and taluq means "County" and may refer to a unit of consists of a town or a number of villages. Tehsil is entity of local government, it exercises certain fiscal and administrative power over the villages and municipalities within its jurisdiction. It is the ultimate executive agency for land records and related administrative matters. Its chief official is the tehsildar or talukdar.

**Yatra:** A march or pilgrimage (demonstration). Padyatra is a pilgrimage on foot. A Rath yatra is a procession on a rath (chariot).

**Yolngu** are an indigenous people inhabiting north-eastern Arnhem Land in Australia, and are impacted by Alcan's Gove mine (See Annex on the Gove Project).

**Zilla Parishad** Electoral district?

## **Annex 16: Shifting from Violence to Willing Economics**

All standard market economics depends on willing seller/willing buyer; willingness to sell and willingness to buy. Both partners in the transaction must be willing; the exchange must be voluntary. If there is coercion or force, then willingness disappears, and standard economics does not apply. Anything involuntary is not ruled by the laws of economics.

In the case of Utkal, force is the prevailing underlying theme. When impacted people won't behave as the authorities demand, then the villages suffer and continue to suffer police violence used as a tool in order to change villagers' behavior. Normal economics does not apply in this vexed situation. Yet economics is important for reasonable livelihoods. Therefore, any future program to defuse the situation surrounding Utkal needs to scrupulously address economics. As I am not an economist, only the priority topics are here mentioned.

### **Rents**

Villagers should receive rent for any of their lands or natural resources that they are willing to let Utkal use. Both partners to the exchange must be well informed beforehand and the rent must be agreed to before the transaction. Abstraction of water from a river or from groundwater must be paid for. All resources extracted, such as bauxite, soil and gravel also has to be paid for at fair and agreed-on rates. The rents for the use of natural resources accrue to the owner, normally the land-users of the area. If the state expects a share, then benefits allocation needs to be thoroughly discussed and agreed on.

### **Royalties and Taxes**

Natural resources are commonly taxed by the owning party, such as a severance tax on each ton of bauxite trucked out of the mine. Royalties may be imposed on bauxite or alumina or aluminum produced or exported. Royalties must be set transparently and agreement must be reached beforehand on allocation of the royalties. What share does GoO expect? What share do the villagers expect? Royalties often exceed 10% in Canada, but may be 1% in developing countries. Best practice is to allocate a modest fraction of sales or profits to the impacted people or to their environments.

## **Compensation**

Compensation is something given or received as an equivalent for services, loss, or suffering. It is the main tool relied on by Utkal in order to take lands for the desired bauxite mines and refinery spaces. The difficult part is reaching agreement between the parties about the equivalency of the value or effect. Compensation is very popular in development and resettlement because authorities can underestimate opportunity cost of displacement by substituting involuntary transaction for voluntary ones. Voluntary exchange is unpopular with authorities and industry because it costs much more than involuntary exchange and tends to reflect the rising opportunity cost of displacement. Involuntary transactions are enforced by threat of official violence. FPIC (See Annex) seeks to make displacement voluntary. Replacement costs must be the starting point when calculating just compensation, and this is a big improvement over amortized purchase price. Using replacement cost must become the norm.

Compensation as the main tool for displacement needs a major rethink. Displacement of people becomes more important as there is less and less unoccupied nature to accommodate people and to make room for new projects. There are fundamental and theoretical reasons why compensation doesn't work adequately and in practice may never be able to work satisfactorily. Some communities can benefit from compensation in money, but most are better served by escrow accounts against approved expenditures or more secure financial arrangements. Cash compensation is rarely the best option. Income Restoration Funds are useful in preventing lowering of livelihoods. Grameen Bank-type micro-credit has a reliable role in resettlement.

## **Eminent Domain**

Villagers and Adivasis in general nearly always discuss offers in detail, negotiate long and hard, and come to a community decision. That is why FPIC is so important and must be used in the Utkal case. However, when community structures fail and families are disrupted, such as by urbanization, then group decisions are more difficult. In that case, where the government needs some land for an agreed on and unambiguous public good, such as for a rail or widening a highway, if every person to be affected accepts the level of compensation already negotiated, except

for one obdurate family, the government has two choices. The best is to wait until the obdurate family changes its mind, retires, or dies naturally. Otherwise, for public needs by the government, eminent domain can be invoked, with the full panoply of checks and balances and prudential protections. Eminent domain must never be permitted for private purposes or commercial corporations.

## **Annex 17: Literature Cited and Sources of Further Information**

- Abhiyan, S. V. (n.d.) Globalization and starvation deaths in Orissa. In: Globalization and People's Development Choices. Appendix 6:81-83.
- Adivasi Journal: Director, Scheduled Tribe and Scheduled Caste Research & Training Institute, CRPF Square, Unit - VIII, Bhubaneswar.
- Acharya, T. & Behera, D. K. 2005. Scheduled caste and general caste students of Cuttack Municipality Corporation, Orissa. J. Soc. Sci., kre-publishers.com.
- Aggarawala, O. P., Sarin, H.L. & Sarin, M.L. 1999. Compulsory acquisition of land in India. Commentary on the Land Acquisition Act (I of 1894). Allahabad, University Book Agency.
- Agramee (n.d.) Declining quality of river water in Orissa. [www.agramee.org](http://www.agramee.org).
- Agramee, 2005. Governance in Tribal Areas: Myths and Realities. [www.agramee.org](http://www.agramee.org).
- Agramee, 2001. Stock taking exercise: A Report. Compiled by Bishnu Mohapatra & Vimala Ramachandran. [www.agramee.org](http://www.agramee.org).
- Agramee, 1999. Agramee: How Wrong? How Right? [www.agramee.org](http://www.agramee.org).
- Agramee, 1996. Study on the assessment of environmental, economic, and social impacts of bauxite mining & alumina processing in Kshipur and Kalahandi, Orissa. [www.agramee.org](http://www.agramee.org).
- Agramee, 1992. Base line socio-economic study and preparation of action plan of rehabilitation and resettlement for upper Indravati project, Koraput. [www.agramee.org](http://www.agramee.org).
- Agramee, c.2004. A socio-economic study of people affected by the Upper Indravati Multi-purpose Project in undivided Koraput district, suggesting an action plan for Rehabilitation of the 3000 affected families through community participation, and natural resources development. [www.agramee.org](http://www.agramee.org). 3 vols.
- Agramee, 1998. Agramee & Kshipur Leadership: An open dialogue. Report of an interaction between tribal and non-tribal leadership in Kshipur and Agramee. [www.agramee.org](http://www.agramee.org).



- Ali, S.H. 2003. Mining, the environment and indigenous development conflicts, Tucson AZ, University of Tucson Press 254 p.
- Azeez, P. A., Bhupatry, S., Rajasekaran A., Arun, P. & Mohanraj, R. 2001. Study on biological, environmental and assimilation capacity: Utkal Alumina International Ltd., Rayagada, Orissa. Coimbatore, The Salim Ali Centre for Ornithology and Natural History 92 p.
- Bailey, F.G. 1971. Tribe, caste and nation: a study of political activity and political change in highland Orissa. Manchester, Manchester University Press 279 p.
- Bhargava, S. N. 2006. (Oct). (Retd. Chief Justice, Sikkim & Rajasthan High Court), Tribunal Members: Justice. S.N. Bhargava (Retd.), Shri. Dileep Singh Bhuria, Dr. K. Balagopal, Prof Ramdayal Munda, Iina Sen, Prof. S. Parasuraman, Mr. Sagar Dhara, Dr. V.T. Padmanabhan. Kashipur: An enquiry into mining and human rights violations in Kashipur, Orissa. Report of the Indian People's Tribunal on Environment and Human Rights (iptindia@vsnl.net) Mumbai, IPT, 105 p.
- Behera, D. K. 1996. Plight of the tribal workers of Rourkela Steel Plant of Orissa. *Man in India* 76 (3): 239-251.
- Behera, M.C. 2000. Tribal religion: change and continuity. New Delhi, Commonwealth Publishers 313 p.
- Bhatt, C. 2004. Democracy and Hindu nationalism. *Routledge Linking Options* 11(4): 133-154.
- Bibhuti Bhushan Malik, 2004. Social ecology of forest resources: A study of tribal regions of Orissa. New Delhi: Kalpaz Publications 375 p.
- Biswas, Nilanjana, 2006. Kashipur's 13-year anti-mining struggle vindicated. <http://www.infochangeindia.org/features394.jsp#>: 4 p.
- Cassels, J. 1993. The Uncertain Promise of Law: Lessons from Bhopal. Toronto, Ont., University of Toronto Press 364 p.
- Chatterji, A. P. 2005. Who benefits? At what cost? - State tyranny in Orissa, India. *Sikh Spectrum Quarterly*, # 19. [www.sikhspectrum.com/022005/orissa.htm](http://www.sikhspectrum.com/022005/orissa.htm).
- Chatterji, A. P. 2004. The biopolitics of Hindu nationalism. *Cultural Dynamics* 16(2-3): 319-372. [cdy.sagepub.com](http://cdy.sagepub.com).
- Chatterji, A. P. 2003. Communalism Combat. Special Report. Orissa: A Gujarat in the making: With little resistance to its aggressive onslaught,

the sangh parivar looks well set to meet its 2006 deadline for reshaping Orissa into the next 'laboratory for Hindutva'.

- Chatterji, A. P. & Desai, M. (ed.) Communalism in Orissa: Report of the Tribunal on Communalism in Orissa. New Delhi, IPTCO: 80 p. [The Justice K. K. Usha Tribunal q.v.]
- Chatterji, A. P. 2001. A Critique of forest governance in Eastern India. *International Journal of Economic Development* 3 (2): 21 p.
- Chatterji, A. P. 2000. Decolonizing anthropology: Knowledge making toward social change. Paper presented at the Society for Applied Anthropology. San Francisco.
- Chatterji, A. P. 1998. Toward an ecology of hope. Community and joint forest management in Orissa. Sweden: Scandisconsult Natura AB., and Berkeley: Asia Forest Network, University of California.
- Chatterji, A. P. 2000. The Politics of Sustainable Ecology. Initiatives, Conflicts, Alliances in Public Lands Access, Use and Reform in Orissa. Research report. Berkeley: Asia Forest Network..
- Chatterji, A. P. 2003. Land and Justice: The Struggle for Cultural Survival; Voices, Concerns and Initiatives from Orissa. Unpublished report for Lokayan.
- Chatterji, A. P. & Schwarz, A. 1996. Community forest management in Arabari [the location of the first Joint Forest Management scheme in India, started in 1971]: Understanding sociocultural and subsistence issues. New Delhi: Society for Promotion of Wastelands Development 164 p.
- Chatty, D. & Colchester, M. (eds.) 2002. Conservation and mobile Indigenous Peoples: displacement, forced settlement and sustainable development. New York, Berghahn Books 392 p.
- Chernaik, M. L. 2006. Evaluation of The Rapid Environmental Impact Assessments The Proposed Capacity Expansion of Bauxite Mines From 3.0 MTPA to 8.5 MTPA at Baphlimali Plateau Rayagada/Kalahandi District, Orissa The Proposed Capacity Expansion of Utkal Refinery from 1.0 MTPA to 3.0 MTPA Doraguhra, Rayagada District, Orissa. Environmental Law Alliance Worldwide: 7 p.

- Chernaik, M. L. 2005. India: Evaluation of the Environmental Impact Assessment for the Proposed Aluminium Smelter (2,50,000 TPA) Near Jharsuguda, Orissa. Environmental Law Alliance Worldwide 7 p.
- CSE, c.2006. Analysis of the EIA reports of Utkal alumina refinery project and its captive bauxite mines. New Delhi CSE: 9 p. [freewebs.com/epgorissa/Utkal\\_CSE\\_Report\\_Final.doc](http://freewebs.com/epgorissa/Utkal_CSE_Report_Final.doc)
- Dalua, A. K. 1993. Environmental impact of large reservoir projects on human settlement: a case study of Upper Kolab Project in Orissa. Ashish Publishing House 312 p
- Daly, H. & Farley, J. 2004. Ecological economics: Principles and applications. Washington DC., Island Press 454 p.
- Das, A. & Das, V. 2006. Chronicle of a Struggle: the Kashipur anti-mining movement. Ecologist Asia 12 (2): Mining: Digging our own graves? Agragamee Publication, Agragamee, Kashipur, Rayagada, Orissa. [agragamee@satyam.net.in](mailto:agragamee@satyam.net.in). National Foundation of India, New Delhi. Third Eye Communications, Bhubaneswar: 80 p.
- Das, V. 2001/7/14. Orissa: Mining Bauxite, Maiming People. Economic and Political Weekly Commentary: [www.saanet.org/kashipur/articles/vidhyadas.htm](http://www.saanet.org/kashipur/articles/vidhyadas.htm).
- Das, U. & Das, B. 1991. Dowry deaths in Orissa. mimeo, Short Report No. 1, Women's Studies Research Centre, Berhampur University, Berhampur.
- Das, U. & Das, B. 1992. Rape violence in Orissa. mimeo, Women's Studies Centre, Berhampur University, Berhampur.
- Das, U. & Das, B. 1993. Women victims of police atrocities in Orissa. mimeo, Short Report No. 4, Women's Studies Centre, Berhampur University, Berhampur.
- Das, V. 2001. From Kucheipadar to Maikanch. (in Orya). Bhubaneswar: 92 p.
- Das, V. & Patnaik, S. 2007. The killing of Orissa's marginalized must stop. [Ambedkar.org/news/appeal.htm](http://Ambedkar.org/news/appeal.htm); 5 p.
- Dash, J. 1999. Human ecology of foragers: A study of the Kharia, Ujia and Birhor in Similipal Hills, Orissa. New Delhi, Commonwealth Publ. 483 p.

- Dash, M.C., Padhi, S. & Meher, S. 2002. Natural resource assessment: endowments, utilization and degradation. In: Orissa Development Report Planning Commission, Government of India. 9-53 p.
- Dubey, M., Yugandhar, B.N., Nagi, B.S. & Bandyopadhyay, D. 1999. Report on the visit of a team of the Council for Social Development: Rayagada and Bhubaneswar on January 11-18. New Delhi, CSD: 41 p.
- Extractive Industry Review, 2004. Striking a Better Balance: The final report of the independent EIR. Washington DC, World Bank Group, 6 vols.
- Fernandes, W. & Asif, M. 1997. Development induced displacement and rehabilitation in Orissa, 1951 to 1995: A database on its extent and nature. New Delhi, Indian Social Institute: 72-80.
- Fernandes, W., Menon, G. & Viegas, P. 1988. Forests, environment and tribal economy: Deforestation, impoverishment and marginalization in Orissa. New Delhi: Indian Social Institute, 363 p.
- Fernandes, W. & Paranjpye, V. 2000 (1997). Rehabilitation policy and law in India: a right to livelihood. New Delhi, The Indian Social Institute, 554 p.
- Gadgil, M & Guha, R. c.1999. Using one transnational corporation active in the Third World as a case study, (Orissa's Utkal & Alcan) assess the extent to which it is accurate to blame TNC's for the Third World's environmental problems. 9 p. [www.ganesha.co.uk/JoPubWeb /TN-CEssay.htm](http://www.ganesha.co.uk/JoPubWeb/TN-CEssay.htm)
- George, G. M. 2004. Mining to destruction and hijacking their rights to submission. (Orissa, Kashipur) 28 February; [countercurrents.org](http://countercurrents.org).
- Goodland. R. 2003. Sustainable development sourcebook for the World Bank Group's Extractive Industries Review: Examining the social and environmental impacts of mining. Washington DC, The World Bank's Extractive Industries Review: 189 p.
- Goodland. R. 2004. Free, prior and informed consent. Sustainable Development Law and Policy IV (2): 66-75.
- Goodland. R. 2005. Strategic environmental assessment. International Journal of Sustainable Development (September) 12(3): 245-255.
- Goodland. R. 2007. The institutionalized use of force in economic development. Chapter 24 in: Soskolne, C. L, Westra, L., Kotze, L. J., Mackey,

- B., Rees, W. E. & Westra, R. (Eds.) Sustaining life on earth: Environmental and human health through global governance. Lanham, MD., Lexington Books (Rowman & Littlefield Publishers) (in press).
- Goodland, R. & Daly, H. 2004. Environmental sustainability: definitions and process. (English version) Wien, Zeitschrift für Ökologische Nachhaltigkeit, Natur und Kultur 5(2): 29-48.
- Ghosh, M. 2004 . Resolving Conflict between the State Government Agencies of Orissa and local residents through forest management programs. <http://ist-socrates.berkeley.edu/~es196/projects/2004final/gosh.pdf>. 12 p.
- Government of India, 1982. Report of the Committee on Forest and Tribals in India. New Delhi, Tribal Development Division, Ministry of Home Affairs.
- Government of India, 2002. Orissa Development Report. Planning Commission, New Delhi, prepared by Nabakrushna Choudhury Centre for Development Studies, Bhubaneswar.
- Government of India, c.2000. Census of India, Office of the Registrar General and Census Commissioner, Tables on Scheduled Castes and Scheduled Tribes, Directorate of Census Operation, Orissa.: 1950–51 to 1993–94 (1980–81 base), Directorate of Economics and Statistics, Planning and Co-ordination Department, Bhubaneswar.
- Government of India, c.2000. Monitoring forests of Orissa by remote sensing. Orissa Remote Sensing Application Centre, Department of Science, Technology and Environment.
- Govt. of Orissa, 1990. Tribes of Orissa. Bhubaneswar: Harijan and Tribal Welfare Department, 264 p.
- Govt. of Orissa, 2006. State of Environment Orissa 2006. Orissa State Pollution Control Board 283 p.
- Govt. of Orissa, 2003. Wildlife Conservation in Orissa, 2003. Forest Department, Government of Orissa, Wildlife Wing. 64p.
- Govt. of Orissa (n.d.) State Pollution Control Board (SPCB): Recommendations for Environmentally Sound Growth of Aluminium Industry in Orissa.



- IFC, 2007. The United Nations ILO Convention 169 and the Private Sector: Questions and Answers for IFC Clients. Washington, D.C., International Finance Corporation of the World Bank Group: 11 p.
- India Social Action Forum (INSAF), 2005/10. Fact Finding on the People's Resistance to Utkal Alumina International Limited (UAIL), Kashipur, Rayagada, Southern Orissa. INSAF website: <http://www.insafindia.org>.
- International Business Leaders Forum and the University of Wales, 2003. Engaging stakeholders: Lessons from three eastern India business case studies. Barney, I. (comp.) The Journal of Corporate Citizenship 4 p.
- International Organisation of Employers (IOE), International Chamber of Commerce (ICC), & Business and Industry Advisory Committee (BIAC) to the OECD 2006. Business and human rights: The role of business in weak governance zones - Business proposals for effective ways of addressing dilemma situations in weak governance zones. 12 p.
- IUCN, 1996. India's Emerging Experiences with Joint Forest Management: The Forest Protection Committees of Tangi, Orissa. In: Communities and Forest Management. Gland, Switzerland, IUCN Working Group on Community Involvement in Forest Management, IUCN (The World Conservation Union) Publications.
- J.O.H.A.R. – J.M.A.C.C. 2006. Massacre of Adivasis [at] Kalinga Nagar [Orissa] on 2 January 2006: A Fact Finding Report. J.O.H.A.R. – J.M.A.C.C.: 16 p.
- Jayaraman, N. 2001. Norsk Hydro: Global Compact Violator. Oslo-based corporation Norsk Hydro, a partner in the Utkal bauxite mine and alumina smelter in Orissa violates human rights principles 1 and 2 of the UN Compact. It may also violate principle 9 which promotes eco-friendly practices. <http://www.corpwatch.org>.
- Jerve, Alf Morten and Grieg, K. 1998. International standards and social impacts of the proposed Utkal alumina project, Orissa, India. Background Report. Bergen, Chr. Michelsen Institute: 29 p. + 6 Appendices.



- Jonsson, S. & Rai, A. (eds.) 1994. Forests and protection: Case studies of voluntary forest protection by communities in Orissa. New Delhi, ISO/Swed Forest and SIDA.
- Krishna, S. 2004. Globalization and people's development choices. [www.hivos.nl/index.php/content/download/3738/21864/file/phpHYiE13.pdf](http://www.hivos.nl/index.php/content/download/3738/21864/file/phpHYiE13.pdf): 93 p.
- Kumar, N. A. & Menon, N. V. C. 2000. Enabling infrastructure in disaster mitigation and management: A case study of Gram Vikas in Orissa. Preparedness and mitigation, with particular reference to the approach of the NGO called Gram Vikas towards the development of the Adivasi villages of Orissa. [www.gramvikas.org](http://www.gramvikas.org). 23 p.
- Kalshian, K. 2004. Sterlite brings darkness to India's Indigenous Peoples. India Resource Center 16 June.
- Khatua, S. & Stanley, W. c.2006. Ecological debt: a case study from Orissa, India, 42 p.
- Leer-Salvesen, T. 1998. Local people chase Utkal contractor. Norwatch Newsletter No.8 (April).
- Leer-Salvesen, T. c.1998. Uail's CEO [Mr. Ola Lie] knows who was behind the Maikanch firing: Refuses to contribute in Judicial Inquiry: Nor-Watch.
- Leer-Salvesen, T. 1998. Workers mistreat protestors. Norwatch Newsletter # 9 June.
- Lenka, J. 2004. Ch.29. Economic development and the tribals: an experience from Orissa. in: Misra, S.N. (ed.) Indian Economy and Socio Economic Transformation. New Delhi.
- Lunheim, R. 2004. Building the myth of corporate social responsibility. Paper submitted to EABIS Third Annual Colloquium, Brussels, 27-28 September.
- Lunheim, R. 2003. Operationalising corporate social responsibility. Visions of Ethical Business, FT Prentice Hall/PriceWaterhouseCoopers.
- Lunheim, R. 1995. Suggested ethical principles of Utkal Alumina concerning environmental and social issues (13th. July). Oslo, Naeringslivet Hovedorganisasjon (NHO).
- Mahapatra, B. C. 2004. Dalits in third millennium. New Delhi: Sarup & Sons Publ., 113 p.

- Martinez-Alier, J. 2003. Ecological distribution of conflicts in a context of uncertainty (Utkal). Fronyiers-Esse, Universidad de La Laguna, Tenerife: 19 p.
- Mathur, H. M. & Marsden, D. (eds.) 1998. Development projects and impoverishment risks: resettling project-affected people in India. New Delhi: Oxford Univ. Press 296 p.
- Mearns, R. & Sinha, S. 1999. Social exclusion and land administration in Orissa, India. Washington DC., World Bank, Policy Research Working Paper 2124: 83 p.
- Mihir, Jena, Pathi, P. & Jagganath, D. (& Seeland, K.) 2006 (2002). Forest tribes of Orissa: Lifestyle and social conditions of selected Orissan tribes: Dongaria Kondh v. 1 (Man & Forest). New Delhi, D.K. Print-world 430 p.
- Mines, Minerals and People (MMP). 2003. Land, forests, displacement and livelihoods: Protecting womens rights in mining. Background paper for the Indian Women and Mining Seminar, New Delhi, (April) [www.minesandcommunities.org/Mineral/women3.htm](http://www.minesandcommunities.org/Mineral/women3.htm).
- MMP, 2003. Labour and women in mining. Background Paper for the Indian Women and Mining Seminar, New Delhi, April: [www.Minesandcommunities.org/Mineral/women4.htm](http://www.Minesandcommunities.org/Mineral/women4.htm).
- MMP, 2003c. Women in mining struggles in India: The invisibility of gender concerns in mining struggles. Background Paper for the Indian Women and Mining seminar, New Delhi, April: [www.minesandcommunities.org/Mineral/women1.htm](http://www.minesandcommunities.org/Mineral/women1.htm).
- Mishra, D. K. 2002. Global challenges and local action: organizational dimensions of anti-mining movement in Kashipur. *The Indian Journal of Labour Economics*.
- Mishra, M. K. & Dash, S. S. 1997. Medicinal plants used by the Tribals of Koraput District, Orissa. (pp.160-182) In Mohapatra, P. M. & Mohapatro, P. C. (Eds.) *Forest Management in Tribal Areas: Forest Policy and Peoples' Participation*. Proceedings of the seminar, Forest Policy and Tribal Development 15-16 February 1994, Koraput. Concept Publishing, New Delhi & Jaipur: Aavishkar Publisher.

- Mohapatra, B.P. 1997. Synthesis of Tribal and Oriya Language. in Mishra, P.K. & Samal, J.K. (eds), *Comprehensive History and Culture of Orissa*. New Delhi, Kaveri Books 1014 p.
- Mundu, B. 2003. India Case Study: Breaking the trust. (297-334): in: Colchester, M. et al. (eds.) *Extracting promises: Indigenous Peoples, the Extractive Industries and the World Bank*. Baguio City, Tebtebba Foundation 342p. & [www.forestpeoples.org/documents/prv\\_sector/eir/eir\\_internat\\_wkshop\\_india\\_case\\_eng\\_apr03.pdf](http://www.forestpeoples.org/documents/prv_sector/eir/eir_internat_wkshop_india_case_eng_apr03.pdf).
- National Institute of Applied Human Research & Development, 2001. *Study of Social Factors Contributing to Maternal Mortality*. Cuttack, Orissa State Report.
- IIJG, 2003. *Threatened existence: A feminist analysis of the genocide in Gujarat*. Mumbai, The Initiative for Justice in Gujarat (IIJG), December.
- Mathur, H. & Marsden, D. (eds.) 1998. *Development projects and impoverishment risks: Resettling project-affected people in India*. New Delhi, Oxford Univ. Press 296 p.
- Mahmood, C.K. 1999. Writing the bones. *Human Rights Review* 1(1): 19-33. Transaction Publishers Justice D.S.Tewatia, formerly Chief Justice of the Calcutta High Court, Justice H. Suresh, formerly of the Bombay High Court, and Justice Jaspal Singh: Orissa Tribunal examining the Maikanch Massacre.
- Menon, M. 2001. Kashipur: Bullets for Bauxite. *The Hindu Survey of Environment*, 2001. [www.corpwatchindia.org/issues/PID.jsp?articleid=423](http://www.corpwatchindia.org/issues/PID.jsp?articleid=423).
- Menon, M. 2005. Utkal mining and alumina refinery project: Environmental related clearances and their implementation. Pune/Delhi: Kalpavriksh Environmental Action Group 9 p.
- Misra, P. K. (Prafulla Kumar), Justice, 2001. Report of the Commission of Inquiry relating to incident of police firing at village Maikanch on 16.12.2000 [S1:s.n.]: L.C.Control Number: 2005386067: 253 p.
- Mishra, Prashant K. & Samal, J.K. (eds.) 1997. *Comprehensive history and culture of Orissa*. New Delhi, Kaveri Books, 1764 p., 2 vols.
- MMSD, 2002. *Breaking New Ground: Minerals, mining and sustainable development*. London, Earthscan 441 p.

- Mohanti, K.K.1988. Vulnerable ethno-cultural groups (VEGs). Adivasi 38 (1 & 2): of the SC and ST Research and Training Institute, Orissa.
- Orissa Legislative Assembly, 2006. Interim report of the house committee on Environment, 2005-2006 (5<sup>th</sup> April): 5 p.
- Otta, B. K. 1998. Report on socio-economic activities at Utkal Alumina project. Alumina International Ltd. (General Mgr of UAIL).
- Padel, F. & Das, S. c.2007. Exodus. Part 2. Lanjigarh (Kalahandi). Tehelka: Tehelka.com /story\_main.asp?filename =Cr030604Exodus.asp.
- Panda, S. C. 1989. Tribal education in Orissa. Bhubaneswar: Documentation and Information Processing Syndicate 168 p.
- Pandey, B. 1998. Impoverishing effects of coal mining projects: a case study of five villages in Orissa (174-192) in Mathur, H. & Marsden, D. (eds.) 1998. Development projects and impoverishment risks: Resettling project-affected people in India. New Delhi, Oxford Univ. Press 296 p.
- Parasuraman, S. 1999. The Development Dilemma: displacement in India. London: Macmillan 328 p.
- Patnaik, N. R. 2005. Primitive tribes of Orissa and their development strategies. New Delhi, D.K. Printworld, 304 p.
- Patnaik, N. R. 1993. History and culture of the Khond tribes. New Delhi, Commonwealth Publishers 490 p.
- Patnaik, R. (n.d.) c. 1996/7. Anthropological investigation of Utkal Alumina International's project site for identifying significant religious and ritual sites. Preliminary report.
- Pandey, S. 2000. Adivasis: Defying Samatha with impunity: Five years after the Supreme Court pronounced the Samatha judgment, it remains a dead letter. *Combat Law* (Aug-Sept): 1(4).
- Pati, B. 2001. Identity, hegemony, resistance, and [religious] conversions in Orissa, 1800-2000. *Economic & Political Weekly*: lse.ac.uk
- Pati, R. N. & Dash, J. 2002. Tribal and indigenous people of India. New Delhi, A.P.H. Publishing Corp. 510 p.
- Patra, H. & Murthy, A. (n.d.) c.2006. Fact-finding report on Nalco based on our visit to the refinery plant at Damanjodhi and the Panchapatmali bauxite mines. Bhubaneswar, Vashundara 12 p. (freeweb.com/epgorissa)

- People's Union for Civil Liberties (PUCL). 2005. Atrocity on the people of Kashipur. A fact finding report by Cuttack, Bhubaneswar and Rayagada Units of the People's Union for Civil Liberties. People's Union for Civil Liberties Website: [www.pucl.org/Topics/Dalit-tribal/2005/kashipur.htm](http://www.pucl.org/Topics/Dalit-tribal/2005/kashipur.htm): 19 p.
- People's Union for Democratic Rights (PUDR). 2005. Halting the mining Juggernaut: People's struggles against alumina project in Orissa. People's Union for Democratic Rights: [www.pudr.org/index.php?option=com\\_docman&task=doc\\_view&gid=60&Itemid=63](http://www.pudr.org/index.php?option=com_docman&task=doc_view&gid=60&Itemid=63).
- Pragada, R.R. 2001/2. The impact of liberalisation on Adivasi communities in the Eastern Ghats. Samata, Hyderabad. [theminingnews.org/theminingnews/assets/pdf/utkal.pdf](http://theminingnews.org/theminingnews/assets/pdf/utkal.pdf): 19 p.
- PSSP, 2000. Peoples Struggle. Assessment of environmental, economic and social impacts of bauxite mining & alumina processing in Kashipur and Kalahandi, Orissa. NCCI Meeting on Displacement Report, Pg. 1-6.
- Porter, M. & Kramer, M. 2006. Strategy and society: The link between competitive advantage and corporate social responsibility. Harvard Business Review (December): 16 p.
- Ratanlal, R. & Dhirajlal, K. T. 1992. The law of torts: Commentary on Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985 and Bhopal Gas Leak Disaster (Registration and Processing of Claims) Scheme, 1985. 22nd ed. thoroughly revised & revitalised by Guru Prasanna Singh. Nagpur, Wadhwa & Co. 784 p.
- RRSE, 2005. Advisory committee on the social and environmental aspects of the UAIL project in Orissa. Montreal, RRSE (Parent, L. & Meloche, F.) Feb.10th: 5 p.
- Rebbapragada, R. & Bhanumathi, K. 2001. The Fifth Schedule of the Indian Constitution and the Samata Judgment. Indigenous Law Bulletin 82.
- Ray, B. C. & Das, A. K. (eds.) 2002. Tribals of Orissa: The changing socio-economic profile. New Delhi, South Asia Books 147 p.
- Reddy, S. (ed.) 2006. Kashipur: An enquiry into mining and human rights violations in Kashipur, Orissa. Report of the Indian People's Tribu-



- nal on Environment and Human Rights. Tribunal headed by: Justice S. N. Bhargava (Retired), Former Chief Justice, Sikkim High Court. Mumbai, 84 Samuel Street, Dongri: iptindia@vsnl.net: 105 p.
- Rew, A., Fisher, E. & Pandey, B. 2000. India: Policy for development induced displacement & resettlement, Calcutta & Orissa. Oxford, DFID/ ESCOR/Refugee Studies Programme, 144 p. [[www.swan.ac.uk/cds/pdf](http://www.swan.ac.uk/cds/pdf)].
- Ronning, M. 1998. The fight against Utkal is coming to a head. Norwatch Newsletter 4 (February).
- Rout, N. R. 2003. Nutritional status of women in Orissa: A rural-urban differential from NFHS-2. International Institute for Population Sciences, Mumbai.
- Row, S. 2001. [India's] Land acquisition and compensation act. ISBN:8187162686.
- Roy, B. 2000. Villages as a positive force for good governance: The right to information and India's struggle against grass-roots corruption. United Nations Chronicle 37(1).
- Royal, R. 2000. Catholic Martyrs of the 20<sup>th</sup> Century. Arlington Catholic Herald [details on Fr. Arul Das' murder in Orissa inter alia] National Book Network, Crossroad Publ. Co 430 p.
- Ruggie, J. G. 2007. State responsibilities to regulate and adjudicate corporate activities under the United Nations' core human rights treaties. Prepared for the mandate of the Special Representative of the United Nations Secretary-General (SRSG) on the issue of human rights and transnational corporations and other business enterprises. Cambridge MA., Harvard University 34 p.
- Sahu, Bholeswar, 2000. Development and displacement: A case study of Rengali dam projects in Orissa. Bhubaneswar, Utkal University, Nabakrushna Choudhury Centre for Development Studies, Ph.D. thesis. submitted to Utkal University, Bhubaneswar and prepared at Nabakrushna Choudhury Centre for Development Studies, Bhubaneswar.
- Samal, U. N. & Naik, B. N. 1990. Dental fluorosis in human beings around an aluminum factory in Orissa. Journal of Environmental Biology 11(4): 371-378.



- Samal, K. C. 1998. The socio-economic impact of the Nalco Angul Sector. *Social Action* 48 (January–March): 83–93.
- Samata, 2002. The people’s struggle against Utkal alumina plant in Kaspipur, Orissa. *Samata*, Hyderabad March 8, [globalminingcampaign.org](http://globalminingcampaign.org): 19 p.
- Samata, 2001. Surviving a minefield: an Adivasi triumph - A landmark Supreme Court Judgement: Restoring the Rights of Tribals. Hyderabad, Samata.
- Samantara, P. 2006. Niyamgiri: Waiting for justice. Berhampur, Lok Shakti Abhiyan: 34 p.
- Samantara, P. 2000. People’s struggle for right to livelihood: Save nature-save humanity. Berhampur, Pg: Gopalpur Coast Environment Protection Forum.
- Sarangi, D. 2006. Kashipur redux I : Weapons of mass destruction :The relentless repression of peaceful resistance and the insatiable quest of the MNCs and big business to extract bauxite for aluminium in Orissa’s tribal hinterland is directly linked to the politics and economics of war. *Tehelka* (Jan 26).
- Sarin, Madhu & Ajay Rai. 1998. Capacity building for participatory management of degraded forests in Orissa, India. Stockholm: Scandia-Consult Natura AB and Berkeley: Asia Forest Network, University of California.
- Sengupta, S. & Ahuja, A. 1997. Mining: impact on the livelihood of people: emerging trends and Oxfam responses. New Delhi, Oxfam (India) Trust.
- Shukla, N. 2002. Commentaries on Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 along with Rules 1995 [with a foreword by Hon’ble Mr. Justice G.P.Mathur, Judge Allahabad High Court].
- Sinha, B.N. 1987. Adivasi Atlas of Orissa. Department of Harijan and Tribal Welfare, Govt. of Orissa.
- Sharma, A. 2002. On Hindu, Hindustan, Hinduism and Hindutva. *Nu-men* 49(1).

- Shankar, K.J.N. (n.d.) c.1994/1995. Gowtham, Report on socio-economic, cultural and environmental impact assessment study of the proposed alumina plant at Rayagada, Orissa. IDEA.
- Satapathy, S. (ed.) n.d. 2005/2006? Orissa vision 2020: Towards building a new and modern Orissa: [freewebs.com/orissapolitics/orissavision2020htm](http://freewebs.com/orissapolitics/orissavision2020htm).
- Sarkar, M. C. 2002. Law of land acquisition of land in India, including requisition and acquisition of immovable property. Calcutta, 232 p.
- Sunday The Indian, 2006. Is India pampering Muslims? New Delhi, Arindam Chaudhuri/Planman Media Initiative (27 Nov.)
- Taradatt, 2001. Tribal development in India: with special reference to Orissa. New Delhi: Gyan Publishing House, 242 p.
- TARU, 1996. Environmental impact of the mining project. Assessment of environmental, economic and social impacts of bauxite mining and alumina processing in Kashipur and Kalahandi, Orissa. New Delhi, TARU [prepared for Agramee] (June).
- Tata Energy Research Institute, 2001. Overview of mining and mineral industry in India. New Delhi, IIED, MMSD, Report 185. TERI Project Report No. 2001EE42]: 133 p.
- Tebtebba, 2003. Extracting promises: Indigenous Peoples, extractive industries & the World Bank. Indigenous Peoples' International Centre for Policy Research and Education (Baguio City, Philippines: Tebtebba Foundation, Inc.); Moreton-in-the-Marsh, UK Forest Peoples Programme 341 p.
- Tewatia, Debi Singh & Swami Agnivesh. 2001. [Orissa] Police Firing on Tribals: A Report. Rayagada: Maikanch.
- Tewatia, D.S, c2003. Report on the violation of human rights of the Dawoodi Bohras, prepared by a committee headed by D. S. Tewatia, retired chief ... [Justice Chinappa Reddy, O., Justice Desai, D.A., Justice Tewatia, D.S., Citizen's Tribunal on Ayodhya. 1993, Park Extension, New Delhi: Secretariat, Citizen's Tribunal on Ayodhya. 81].
- Thorndycraft, B. & Herman, T. 2005. The cost of consent: The struggle against Alcan. Canadian Dimension Magazine (May 1st.)
- Thukral, E. G. (ed.). 1992. Big dams, displaced people: rivers of sorrow, rivers of change. New Delhi, Newbury Park 199 p.

- Traboulsi, S. 2003. Mullahs on the mainframe: Islam and Modernity among the Daudi Bohras. *Journal of the American Oriental Society*, 123. [... the Dawoodi Bohras, prepared by a committee headed by D. S. Tewatia, retired chief justice of Calcutta high court, and Kuldip Nayar... submission of Nathwani Commission Report on 8<sup>th</sup> April 1979" (D. S. Tewatia and K. Nayar, Report on the Violation of Human Rights..)].
- Tripathy, S. N. (ed.) 2003. Economic development and problem of displacement. HYPERLINK "[javascript:open\\_window\(%22http://catalogue.bl.uk:80/F/THRBG4Y96KEMV4AILXLR5TS37RIFB24314P5JLXPB2597ABSVF-14239?func=service&doc\\_number=011807591&line\\_number=0009&service\\_type=TAG%22\);](http://catalogue.bl.uk:80/F/THRBG4Y96KEMV4AILXLR5TS37RIFB24314P5JLXPB2597ABSVF-14239?func=service&doc_number=011807591&line_number=0009&service_type=TAG%22)" New Delhi, Anmol Publications Pvt. 206 p.
- Tripathy, S. N. (ed.) 2003. Tribal women in India. HYPERLINK "[javascript:open\\_window\(%22http://catalogue.bl.uk:80/F/THRBG4Y96KEMV4AILXLR5TS37RIFB24314P5JLXPB2597ABSVF-14239?func=service&doc\\_number=011807591&line\\_number=0009&service\\_type=TAG%22\);](http://catalogue.bl.uk:80/F/THRBG4Y96KEMV4AILXLR5TS37RIFB24314P5JLXPB2597ABSVF-14239?func=service&doc_number=011807591&line_number=0009&service_type=TAG%22)" New Delhi: Anmol Publications Pvt. 200 p.
- United Nations, c.2005. Embedding human rights in business practice. UN, High Commissioner for Human Rights [www.eldis.org/static/DOC17218.htm](http://www.eldis.org/static/DOC17218.htm).
- United Nations, 2007. The United Nations Committee on the Elimination of Racial Discrimination (CERD): Seventieth session (February – March); Concluding observations of CERD on India (CERD/C/IND/CO/19: 8 p.
- Usha, K. K., Chatterji, A., Desai, M., Hans, A., Missal, L., Nilofer, S., Pattnaik, S., Puniyani, R., Justice R. A. Mehta et alii. 2006. People's tribunal on communalism in Orissa: Report of the Indian People's Tribunal (IPT) on Environment and Human Rights. Mumbai, Indian People's Tribunal on Environment and Human Rights 37 p.
- Varghese, M.P. 1999. The law of land acquisition and compensation: a criticism. Phoenix Publ. House 166 p.
- Varajardan, S. (ed.) 2002. Gujarat: the making of a tragedy. New Delhi, Penguin India 460 p.

- Vasundhara, Violations of right to livelihood, human rights and constitutional rights of the Indigenous People of Orissa, India Petition. Appendix 9: p.94++.
- Viegas, P. 1992. The Hirakud Dam Oustees: thirty years after. in Thukral, E. G. (ed.) Big Dams: displaced people: rivers of sorrow — rivers of change. New Delhi, Sage Publications India Pvt. Ltd. 199 p.
- Viswanathan, G. 2000. Literacy and conversion in the discourse of Hindu nationalism. *Race & Class* 42 (1): 1-20.
- Vimta Labs 2006 (July). Rapid environmental impact assessment for the proposed capacity expansion of bauxite mines from 3.0 MTPA to 8.5 MTPA at Baphlimali plateau, Rayagada/Kalahandi, Orissa. [for] Utkal Alumina International Ltd. Ovimta Labs, Hyderabad: [www.vimta.com](http://www.vimta.com): 6 chapters (v/p.), 6 Annexures.
- World Bank, 2006. Mining royalties: a global study of their impact on investors, government, and civil society. [Otto, J., Guj, P. & Andrews, A. eds.]. Washington, D.C., World Bank 320 p.
- World Business Council for Sustainable Development. 2006. Business and ecosystems: ecosystem challenges & business implications. WCSD, Earthwatch, IUCN, WRI: 20 p.
- Wysham, D. 1996. Destroying Orissa, fuelling climate change: A joint project of the World Bank, Transnational Corporations, and G-7 Governments. Institute for Policy Studies, Washington.
- Wysham, D. 1997. Talcher Angul: coal mining destroying Orissa, fuelling climate change. [www.50years.org/factsheets/orissa.html](http://www.50years.org/factsheets/orissa.html).
- Wysham, D. 2003. Climate change and policy coherence in global trade and financial flows. Sustainable Energy and Economy Policy Network, [www.seen.org /PDFs/ climate\\_policy.pdf](http://www.seen.org/PDFs/climate_policy.pdf).
- Wysham, D., Tripathy, S., & Valette, J. 1996. The World Bank's Juggernaut: The coal-fired industrial colonization of the Indian State of Orissa. Washington DC., DEEN & IPS, District Action Group of Talcher-Angul in Orissa and International Trade Information Service: <http://www.seen.org/pages/reports/orissa.shtml>]: 91 p.
- Yugandhar, B. N. 1998. Land acquisition for non-existent aluminium projects: experience of displacement of tribals in the scheduled areas of Orissa. *ASCI Journal of Management* 28(1): 47-63.

Zillman, D.N., Lucas, A.R. & Pring, G. 2002. Human rights in natural resource development. Public participation in the sustainable development of mining and energy resources. New York, Oxford University Press 710 p.

## Annex 18: Abbreviations & Acronyms

<b>ADB</b>	Asian Development Bank
<b>ATR</b>	The Action Taken Report by the recipient (Government of Orissa)
<b>COHRE</b>	Centre on Housing Rights and Evictions
<b>CSR</b>	Corporate Social Responsibility
<b>DFID</b>	Department for International Development
<b>DIDR</b>	Development Induced Displacement and Resettlement
<b>DoWR</b>	Department of Water Resources (India)
<b>DP</b>	Displaced Person
<b>EIA</b>	Environmental Impact Assessment
<b>EIL</b>	Engineers India Ltd
<b>ESA</b>	Environmental and Social Assessment
<b>EU</b>	European Union
<b>FAO</b>	Food and Agriculture Organisation
<b>GoI</b>	Government of India
<b>GoO</b>	Government of Orissa
<b>ICMM</b>	International Council on Mining & Metals
<b>IUCN</b>	World Conservation Union
<b>J.M.A.C.C.</b>	Jharkhand Mines Area Coordination Committee
<b>J.O.H.A.R.</b>	Jharkhand's Organisation for Human Rights
<b>LAO</b>	Land Acquisition Officer (India)
<b>M&amp;E</b>	Monitoring and Evaluation
<b>NGO</b>	Non-Governmental Organisation
<b>NORAD</b>	Norwegian Government International Assistance
<b>NTPC</b>	National Thermal Power Corporation (India)
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>PAP</b>	Project Affected Person
<b>PUCL</b>	People's Union for Civil Liberties



<b>PSSP</b>	Prakrutik Sampal Surakshya Parishad: People's movement
<b>PIA</b>	Project Implementing Authority (India)
<b>RAC</b>	Resettlement Advisory Committee (India)
<b>RO or R&amp;RO</b>	Resettlement Officer or Rehabilitation and Resettlement Officer (India)
<b>SEZ</b>	Special Economic Zone
<b>R&amp;R</b>	Resettlement and Rehabilitation
<b>UAIL</b>	Utkal Alumina International Ltd
<b>UN</b>	United Nations
<b>UNCESCR</b>	United Nations Committee on Economic, Social and Cultural Rights
<b>UNCHR</b>	United Nations Commission on Human Rights
<b>UNDP</b>	United Nations Development Programme
<b>UNHCR</b>	United Nations High Commission for Refugees
<b>UNICEF</b>	United Nations Children's Fund
<b>WB</b>	World Bank
<b>WFP</b>	World Food Programme
<b>WWF</b>	World Wide Fund for Nature

## Endnotes

---

- <sup>1</sup> Alcan of Montreal is the world's second biggest manufacturer of aluminium (after Alcoa). Alcan employs 65,000 people in 61 countries, and earned revenues of \$20.3 billion in 2005. Hindalco Industries Limited, part of the Aditya Birla Group, is India's biggest aluminium producer, and the fourth largest aluminium producer in Asia.
- <sup>2</sup> [www.publications.alcan.com/AR2005/English/pdf/MD&A.pdf#page=16](http://www.publications.alcan.com/AR2005/English/pdf/MD&A.pdf#page=16)
- <sup>3</sup> Alcan's website states that the bauxite mine site is uninhabited. The number of families displaced and the numbers affected is in serious dispute, most recently by the Orissa General Assembly, 2006. The number 147 families refers to the villages of Karal, Ramibeda, Kundukhunti, and Doraguda whose household plots Utkal says it needs.
- <sup>4</sup> The reasons why NorskHydro withdrew from Utkal were not specified in detail. The reasons probably include: (a) The low price of alumina at the end of the 1990s. (b) Ongoing pressures from Norwegian civil society after the Strømme Foundation which inspected Utkal, released their report in February 1997, confirming the unacceptable state of affairs (see Internet). Churches, priests and missionaries in Orissa were already being killed. (c) In 2001, the Church of Norway financed a team of Indian and Norwegian NGOs to raise awareness of civil society in Montreal after NorskHydro had sold its interests.
- <sup>5</sup> Fide: Viega 1992; Thukral 1992; Fernandes & Asif 1997; Mines, Minerals and People 2003; Parasuraman 1999; Rew et al. 2000; Sahu 2000; Tripathy 2003; Yugandhar 1998.
- <sup>6</sup> Unfortunately for Utkal, the devastating impacts of displacement are nearby for all to see, such as at the 18-year old Nalco bauxite mine and refinery (See Nalco Annex). See also: Behera 1996 (Steel corp displacement), Fernandes & Asif (1997), Dalua (1993), Viegas (1992) and Thukral (1992) on displacement by reservoirs, George (2004), Jayaraman (2001), Lenka (2004), Mishra & Marsden (1994), MMP (2003a,b,c), Mundu (2003) and Pandey (1998) on displacement from coal mines, Parasuraman (1999) on India-wide displacement, Rew et al (2000), Sahu(2000), Sengupta & Ahuja (1997), Tripathy (2003), and Yugandhar (1998).

- <sup>7</sup> Orissa comprises 1.2 million Christians, 5.1M Dalits from 93 castes, and 7M Adivasis from 62 tribes. Orissa is 24% Adivasi. About 47% of Orissa's citizens are below the poverty line. In Kashipur, about 60% are Adivasis, mainly Khonds. Literacy is very low; only 3% of women are literate.
- <sup>8</sup> Usucapion means the acquisition of the title or right to property by the peaceful and uninterrupted possession of it for a certain term prescribed by law; sometimes usucaption.
- <sup>9</sup> Tamara Scurr's documentary: [www.radio4all.net/proginfo.php?id=19363](http://www.radio4all.net/proginfo.php?id=19363) includes extensive testimonies about the legality of these consultations involving threats, exclusions, bribery and corruption.
- <sup>10</sup> The official 1995 EIR was produced by Engineers India Ltd (EIL), which specializes in engineering, not environment. They are said to be Asia's leading design and engineering company. Their website lists 11 priority areas of experience, but none mention mine engineering, nor mining. Their search facility mentions working for Nalco, but does not mention Utkal or Alcan. Delving deeper, their 'capabilities' window claims they have Environmental Engineering abilities. Deeper still, the site says they do environmental assessments, but not one is specified by name. The Human Resources section lists many technical disciplines, but not one environmental, sociological, anthropological, biological or ecological discipline. Nor does their extensive recruitment vacancies list have any for such environmental disciplines.
- <sup>11</sup> MMSD (2002), The Extractive Industry Review (2004), Saleem Ali (2003), Chatty & Colchester (2002), Tebtebba (2003). The compendium of the: [www.Halifaxinitiative.org](http://www.Halifaxinitiative.org) "Extractive Industries and Corporate Social Responsibility" lists the main international codes to be followed by project proponents. a series of National Roundtables to discuss how to deal with the activities rseas
- <sup>12</sup> [www.icmm.com/independent\\_verification.php](http://www.icmm.com/independent_verification.php).
- <sup>13</sup> ([www.globalreporting.org/guidelines/sectors/Mining\\_Pilot1.pdf](http://www.globalreporting.org/guidelines/sectors/Mining_Pilot1.pdf))
- <sup>14</sup> Lagoons proposed to be lined with geotextiles to receive thickened red mud have a finite life. Many eventually rupture, leak or overflow in an overly wet season. For these reasons, the ESA needs to specify neutralization with limestone followed by revegetation. Vimta Labs (2006)

environmental report (Ch.5; page 26; Section: 5.14) refers to Utkal's limestone mine, so this must be pursued as a matter of priority.

<sup>15</sup> See, for example, the official Judicial Commissions and other reports by jurists of: Justice Dubey (1999), Justice Tewatia (2001), Justice Misra (2003), Justice Bhargava (2005), Justice Naidhu (2006), Justice Usha (2006; in Chatterji & Desai, 2006), Justice Subharwal (2007), & UN 2007.

<sup>16</sup> Compensation is usually based on under-valued assets, of only some of the people losing assets, and often excludes some assets. Cash may lose value between estimation and payment, and is easily wasted if the recipient is unfamiliar with money. Escrow accounts help to a limited extent. Land-for-land is less subject to abuse and is more prudent.

<sup>17</sup> Alcan is aware that the Canadian Government is paying Canadian citizen Mr. Maher Arar \$9million in February 2007 for being falsely imprisoned and tortured in Syria for 10 months. The Supreme Court resolution and decisions regarding the 1984 Bhopal explosion could inform the Orissa case. See: Ratanlal & Dhirajlal 1992; and Cassels 1993. The survivors of the 2006 Kalinga Nagar Massacre demand two million Rupees for the families of the murdered members, and one million Rupees for each of the seriously wounded (See: Kalinga Nagar Annex).

<sup>18</sup> In the case of India's Narmada dams (with which I was officially involved until the early 1980s), GoI similarly later violated rulings of its Supreme Court, part of the reason the World Bank eventually withdrew Narmada financing.

<sup>19</sup> Two examples of external factors affecting the Utkal decision: (a) Guinea possesses about one third of the world's supplies of bauxite, and is the world's biggest exporter of bauxite. Alcoa and Alcan share joint partnership in Guinea's biggest bauxite mining operation. Guinea's January/February 2007 general strike, martial law and curfews led to 100 deaths and more than 1000 wounded. Bauxite operations were halted, and bauxite/alumina prices jumped. Alcoa/Alcan are said to be losing \$1million/day because of the civil strife. The crisis seems to be ending as of March 2007. (b) In mid-March 2007, Ghana's Volta Aluminum Company (VALCO), in which Alcoa & Alcan have interests, closed their smelter indefinitely, and laid off most of the company's

700 employees. Less than usual rains have curtailed power generation at the nearby Akomsombo Hydro-electric dam. The VALCO website does not link poor rainfall with climate change from Greenhouse gas emissions, such as from alumina refining and smelting. VALCO already imports \$300/month of crude oil, but now proposes to import coal for a new 500MW generator to replace the lost hydropower, which could further boost GHG emissions.

<sup>20</sup> Robert Goodland, an environmental scientist, served the World Bank Group as Environmental Adviser in Washington, DC for 25 years. He drafted and persuaded the Bank to adopt most of its current social and environmental “Safeguard Policies” including: (a) Indigenous Peoples, (b) Dams & Reservoirs, (c) Cultural Property, and (d) Environmental Assessment. He helped design and start-up the World Commission on Dams. He was elected chair of the Ecological Society of America (Metropolitan), and president of IAIA. He led the Bank’s Environmental Assessment Sourcebook. Upon retirement in 2001, H.E. Emil Salim appointed him as the technical director for the independent “Extractive Industry Review” (2001-2003) of the World Bank Group’s mining portfolio.

<sup>21</sup> The indigenous leguminous trees include several species each of *Pithecellobium*, *Cassia*, *Acacia*, *Bauhinia*, *Erythrina*, *Inga*, and *Mimosa*s. Trees useful in reforestation in this case include: *Shorea*, *Butea*, *Tamarindus*, *Melia*, *Azadirachta*, *Terminalia*, *Jacaranda*, *Bombax*, and of course as many *Ficus* spp, as possible.

<sup>22</sup> Dandabar, Chirka, Udalasil, Udaygiri, Sirigurha, Khanda Bindha and Porha Bandh are all Reserved Forests within 10 Km of Utkal. The biggest (c.20 km long either side of the road) tract of remaining original forest that I saw is between Laximpur and Rayagada. Areas of original forest not yet converted to *Eucalyptus* spp. and other risky exotica have now become very valuable as sources of indigenous seeds for reforestation.

<sup>23</sup> Utkal’s minimalistic proposals to reforest greenbelts and buffer zones of 80 ha and 600 ha need to be upped towards 80 sq km and 600 sq km. Utkal’s reliance on *Eucalyptus* should be dropped or used very sparingly in special cases. Exotics should also be used sparingly, if at all. Beautification should be interpreted to be reforestation of all non-

agricultural hills and lands. Plastic palm trees and blossoms at Guard Posts are nice, but are scarcely environmental mitigation.

<sup>24</sup> It is unclear if this 2006 policy is the first attempt Alcan has made to promulgate a policy on Indigenous peoples as it has been closely involved with such peoples since the company was created half a century ago. It contrasts strongly with the Indigenous Policies of other institutions, such as the World Bank (see Annex: World Bank's Indigenous Peoples Policy). Alcan's website does not show if it has an Indigenous Peoples Affairs department in-house, or a Social Impact Unit, or a Department of Anthropology to foster corporate compliance with this new policy.

<sup>25</sup> (a) Stern N. 2007. *The Economics of Climate Change: The Stern Review*. Cambridge, Cambridge Univ Press 570 p. (b) *Climate Change 2007. The Physical Science Basis of Climate Change*, prepared by Working Group I of IPCC.





