

**Submission to the United Nations Universal Periodic Review of India**

**On**

**State of Human Rights due to Corporate Activities**

**13th Session of the UPR Working Group of the Human Rights Council (2012)**

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**Submitted by**

**Odisha Development Review – a coalition of 33 Civil Society Organisations**

**List of organizations and individual(s) who have endorsed the submission:**

<b>Sl no</b>	<b>Name and Place of the Organisation</b>
1	Centre for the Sustainable-use of Natural and Social Resources (CSNR), Bhubaneswar, Odisha, India
2	Banabasi Surakshya Parisad (BSP), Phulbani, Odisha, India
3	Peoples' Association for Liberty and Integration, Odisha, India
4	National Centre for Advocacy Studies (NCAS), Bhubaneswar, Odisha, India
5	Adhikar, Khandagiri, Bhubaneswar, Odisha, India
6	Rural Action For Development (RAD), Bandhugam, Koraput, Odisha, India
7	National Alliance of Women Organizations(NAWO) , Bhubaneswar, Odisha, India
8	Indian Social Action Forum (INSAF), VIM-395, Sailashree Vihar, Bhubaneswar, Odisha, India
9	Ekta Parishad Trust, Banpur, Odisha India.
10	Palisree Jana Seva Samiti, Kandhamal, Odisha, India
11	Vasundhara, Bhubaneswar, Odisha, India
12	Prabha Sahitya Parisad, Bhubaneswar, Odisha, India
13	Vira Surendra sai Jangal Committee, Sundergargh
14	People's Institute for Participatory Action Research (PIPAR), Dhenkanal , Odisha, India
15	Mines Mineral & People (MM&p), Bhubaneswar, Odisha, India
16	Vastab, Nuapara, Odisha, India
17	Teresa, Ganjam
18	Start Bhubaneswar, Rayagada, Odisha, India,
19	POSCO Pratirodh Sangram Samiti (PPSS), Paradeep, Odisha, India
20	Socio-Economic Development Programme (SEDP), Angul, Odisha, India

21	Integrated Rural Development & Training Institute (KIRDTI), Keonjhar, Odisha, India
22	Centre for the Sustainable-use of Natural and Social Resources (CSNR), Bhubaneswar, Odisha, India
23	OROSA, Orissa forum for Social Action , Bhubaneswar, Odisha, India
24	Actionaid, Bhubaneswar, Odisha, India
25	Odisha Development Action Forum (ODAF), Bhubaneswar-7, Odisha.
26	All India Youth Federation (AIYF), Bhubaneswar, Odisha, India
27	Samajbadi Jana Parisad, Samatabahvan , Baragad, Odisha, India
28	Baitarani River Initiative, Bhubaneswar, Odisha, India
29	Samadrushti, Bhubaneswar-751021, Odisha, India
30	All India Central Council of Trade Unions (AICCTU), Bhubaneswar, Odisha, India
31	Orissa Development Action Forum, Bhubaneswar, Odisha, India
32	Integrated Rural Development of Weaker Sections of India (IRDWSI), Koraput, Odisha, India
33	Rupayan, BHUBANESWAR, ODISHA
34.	Laxmikanta Paikray, Independent consultant, Bhubaneswar, Odisha, India
35.	National Centre for Advocacy Studies (NCAS), Odisha, India
36.	Centre for the Sustainable-use of Natural and Social Resources (CSNR), Bhubaneswar, Odisha, India
37.	Odisha Development Review Collective , Bhubaneswar, Odisha, India

## **Odisha Development Review Collective**

Sandeep Pattnaik

(On behalf of Conveners)

VIM-489, Sailashree Vihar, Bhubaneswar-21

Odisha, India

E mail id: odishadevreview@gmail.com

Mobile nos: +91-8763210608 ; +91-9437112061

# **Submission to the United Nations Universal Periodic Review of India**

**On**

## **State of Human Rights due to Corporate Activities**

**13th Session of the UPR Working Group of the Human Rights Council (2012)**

### **Introduction**

1. This report illustrates the nature and extent of corporate violence inflicted upon the most marginalized communities, including scheduled tribes (indigenous people) and dalits (so-called untouchables) of India. In the name of growth and investment, the Indian state is eagerly inviting national and transnational corporations to setup industries in the regions rich in natural resources. These regions mostly are sources of livelihood for the marginalized communities like Scheduled Tribes (STs) and Scheduled Caste (SCs). Geographically, these communities mostly inhabit the central eastern belt states such as Odisha, Chhattisgarh, Jharkhand, Madhya Pradesh and Northeastern states of India, and thus bear the brunt of the aggressive industrialization and extractive mining. This report narrates the implications of business on human rights in the state of Odisha which is mostly dominated by tribals (22%) and dalits (16%).
2. Two rounds of initial discussion was held in October 2011 by 12 Civil Society Organisations in Bhubaneswar converged on 'State of Human Rights due to corporate activities'
3. Ten case studies collected form various areas where such cases have been reported by third week of October 2011.
4. The selected cases were divided into four broad categories such as: a. Impact on right to livelihood b. Impact on Indigenous communities with regard to their socio-cultural and economic rights c. State repression on peacefully protesting people asserting their rights over land and natural resources d. Impact on ecology and environment
5. Evidences were collected from primary and secondary sources such as Fact Finding Reports, study documents, Government records, news paper reports etc.

6. A team of four people were entrusted with the responsibility to prepare a draft which was presented in a consultation held on 5<sup>th</sup> November 2011 in Bhubaneswar (participated by 40 participants including 30 organizations.) and input was taken from the participants.
7. A new coalition was formed namely Odisha Development Review constituting primarily the participants of the consultations for the purpose of developing and submitting the report for UPR.
8. The modified draft was then widely in various e groups and the final document was prepared reckoning the feedback received.
9. Last report (2008) of the UPR Working Group on India, Paragraph 78 states “In relation to a question by the Republic of Korea on the displacement of tribal people from forest lands, India noted that based on a Supreme Court decision, no land can be diverted from forest use, without prior approval and there can be no displacement unless there is a comprehensive proposal to resettle the tribes as part of the project. This had been the position in regard to implementation of mining projects in Orissa as well.”
10. Last report (2008) of the UPR Working Group on India, Paragraph 50 read “The Republic of Korea “welcomed efforts by India to promote and protect indigenous and tribal peoples’ rights. It asked for further elaboration on plans to protect these rights in newly industrialized zones.”
11. Last report (2008) of the UPR Working Group, Paragraph 16 reads “The inclusion of India’s scheduled tribes in the rubric of “indigenous people” is often posed in multilateral forums. India stated that at independence, after the departure of the colonizers, all its people, including its tribal people, were considered as indigenous to India. This position has been clarified on various occasions, including while extending India’s support to the adoption of the United Nations Declaration on the Rights of Indigenous Peoples at the Human Rights Council and the General Assembly.”
12. Odisha situates in the eastern part of India, comprises around 5 % of the India’s landmass; with 36 .71 million people. It accounts for 4% of the population of the country. More than 37 % of the area is comprised of hilly forest and it has a coastline of 480 km.

Sixty two communities are listed as Schedule Tribes in Orissa of which 13 tribes are primitive tribal groups (PTGs).

13. Odisha is one of the poorest states in India, with an estimated 47% of its population living on less than a dollar a day (Haans & Dubey, 2003). In 1999-2000, 73 % of the Scheduled Tribes in Orissa were below poverty line as compared to 55 % and 33 % respectively for Scheduled Castes and General Castes (Haan and Dubey, 2003). The situation in South Orissa is even worse with approximately 87% of the Scheduled tribes below poverty line, and the socio-economic indicators in some pockets are worse than in sub-Saharan Africa<sup>1</sup>.
14. The dominant theory prevailing in the state and elsewhere is that mining and industry based development is the most viable option to alleviate poverty. In the last UPR Working Group report, Algeria recommends “Consider new ways of addressing growing economic and social inequities arising out of rapid economic growth and share experiences/results of best practices in addressing poverty (Algeria)”
15. People in Odisha and other states mostly depend on agriculture, forestry, fishing etc., which are not only sustainable, but also have inbuilt systems of skill/knowledge transfer to the younger generation that sustains the profession and keeps livelihood options alive. For the last two decades, the government of Odisha has been enthusiastically inviting national and multinational corporations for vigorous industrialization and mining mostly in Schedule Areas<sup>2</sup> for the purpose of economic development. By the end of 2009-2010, the Odisha government had signed 86 MOUs on various industrial sectors like steel, power & cement sector with a total investment of Rs. 4,11, 726 crore<sup>3</sup>. Large number of industrial projects are under implementation or are proposed to be implemented in

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<sup>1</sup> Dispossessed and displaced: A brief paper on tribal issues in Orissa by Kundan Kumar, visit [http://www.vasundharaorissa.org/DiscussionPaper\\_eng/Dispossessed%20and%20displaced.pdf](http://www.vasundharaorissa.org/DiscussionPaper_eng/Dispossessed%20and%20displaced.pdf)

<sup>2</sup> The term 'Scheduled Areas' has been defined in the Indian Constitution as "such areas as the President may by order declare to be Scheduled Areas". The Fifth Schedule covers Tribal areas in 9 states of India namely Andhra Pradesh, Jharkhand, Gujarat, Himachal Pradesh, Maharashtra, Madhya Pradesh, Chattisgarh, Orissa and Rajasthan.

<sup>3</sup> Loot of the Land, Livelihood and Life, a joint fact-finding into incidents of crime against people in Odisha, October 2011. Published by Peoples Union For Democratic Rights, Delhi (PUDR)

Scheduled Areas e.g. alumina refineries of Utkal Alumina Industries Limited (UAIL) in Kashipur of Koraput district and Vedanta at Lanjigarh of Kalahandi District.

16. The mega industrial projects and big dams have resulted massive deforestation, loss of agricultural land, dispossession and loss of livelihood. One study suggests 1.5 million people have been displaced by development projects between 1951 and 1995, of which 42% are tribals. Of these tribal populations less than 25% were resettled, and only partially<sup>4</sup>.
17. While corporations, with the help of state making, expand their dominance in the forest and natural resources rich areas, the original inhabitants of the areas have been opposing the projects vehemently leading to confrontation with the corporation and the state. In this light, the following four categories of cases highlight the deprivation of the marginalized sections from their land and livelihood resources and alienation of the tribal from their culture by the corporate with the help of the state administration.

#### **A. POSCO Steel and Power Project and People's livelihood Issues:**

18. The Government of Odisha signed a memorandum of understanding (MoU) with the South Korean conglomerate Pohang Steel Company (POSCO) on June 22<sup>nd</sup>, 2005 for setting up an export-oriented 12 million tonne per annum (MTPA) integrated steel plant, captive power plant, and marine port near Paradeep of Jagatsinghpur district. The plant will require around 600 million tonnes of high grade iron ore for the proposed steel plant. A Khandadhar hill of Sundhargarh district (approx. 200 kms away from the plant site) is proposed to be made available for captive use for a period of 30 years.
19. For the last six years, 22,000 villagers<sup>5</sup> of Jagatsinghpur district of Odisha have been consistently protesting against the establishment of an integrated steel and captive power

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<sup>4</sup> [http://www.vasundharaorissa.org/DiscussionPaper\\_eng/Dispossessed%20and%20displaced.pdf](http://www.vasundharaorissa.org/DiscussionPaper_eng/Dispossessed%20and%20displaced.pdf)

<sup>5</sup> <http://moef.nic.in/downloads/public-information/report-committee-posco.pdf>

plant by POSCO. The villagers apprehend that they will permanently lose their fertile agricultural land, sustainable livelihood sources and the rich forest and environment.

20. The proposed plant and port will adversely affect the vibrant agricultural economy in the three gram panchayats (the lowest unit of rural governance in India) comprising of paddy, beetle vine, fish and different fruit bearing trees such as mango, cashew etc. There are about 5000 betel vines grown in three Panchayats, which are supported by 10, 000 cultivators<sup>6</sup>. This provides a steady, reasonable income both to the owner-cultivators and to wage labourers. The rehabilitation package on offer from POSCO will in no way compensate for the losses that will be suffered by the people.
21. The government has engaged in the grievous violations of laws and the abuses of democratic processes and breach of human rights through violent treatment against the villages. These violations encompass human rights abuses such as the use of state force and intimidation to quell dissent against the project, attempts to forced evictions, loss of land, housing and livelihood of the people, as well as serious harm to the land, forest, riparian and marine ecologies and environments in Orissa. The numerous instances of rights violations reported against the police include beatings, arrests, shootings and torture of (suspected) anti-POSCO protestors, filing of false cases against them and the arbitrary arrest and detention of one of the leaders of anti-POSCO movement. On November 29, 2007, there was an attack by POSCO sponsored private militia on a peaceful protest in which at least 17 people of anti-POSCO movement were injured. On June 20, 2008, the persons hired by POSCO and supported by a few pro-POSCO villagers from Govindpur village threw bomb on the anti-POSCO villagers. As a result Dula Mandal was killed in the bomb attack and another villager Dhruba Sahani was critically injured. Similarly, more than 100 injuries occurred on May 15<sup>th</sup>, 2010 due to the blind firing of rubber bullets by police forces during a cruel dispersal of protesters. The police thus have been using coercive measures to suppress their constitutional right to dissent. Till now about 180 false cases like attempt to murder, breach of peace and tranquility in public places, criminal conspiracy etc have been registered against the

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<sup>6</sup> Manshi Asher, Striking while the Iron is hot, National Center for Advocacy Studies , 2009

villagers by the government, 1100 warrants have issued out of which 340 are women. The villagers cannot move out of the village even for medical treatment and other household work for fear of getting arrested.

22. In July 2010, a four member committee was set up by the Ministry of Environment and Forest to investigate the status of implementation of Forest Rights Act (FRA), 2006, compliance of environment laws, CRZ rules etc by the POSCO India Pvt. Ltd aiming to establish an Integrated Steel Plant and Captive Port. Three of the four members of the Committee unanimously observed that environmental laws were violated and provisions of the Forest Rights Act (FRA), 2006 were not followed. The report considered that there are grave violations of environmental laws, fabrication of evidence, suppression of information, and perpetuation of forest rights violations. The committee has also recommended the prosecution of authorities who violated the provisions of the FRA and other environmental laws. Instead of accepting these recommendations, however, the government of India finally gave the forest and environmental clearance on 2<sup>nd</sup> May 2011.

### **B. Tribal Cultural Alienation by Vedanta Resources (violation of bio-cultural rights of Dongria Kondhs by Vedanta)**

23. In 2003, Vedanta Resources signed a Memorandum of Understanding with the State Government of Orissa for construction of a refinery for aluminum production, a power plant and related mining development at Lanjigarh in Kalahandi district. M/s Sterlite Industries (India) Limited (SIIL), fully owned and controlled by Vedanta Resources, proposed to set up a refinery with a capacity of 1.0 million tonnes per annum (mtpa) for processing aluminum for export,<sup>7</sup> with plans to be expanded eventually to 6 mtpa. The

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<sup>7</sup> REPORT OF THE FOUR MEMBER COMMITTEE (Dr, N C SAXENA AND OTHERS) FOR INVESTIGATION INTO THE PROPOSAL SUBMITTED BY THE ORISSA MINING COMPANY FOR BAUXITE MINING IN NIYAMGIRI 16 Aug, 2010

mining was proposed to be undertaken on the top of the Niyamgiri hills spread over an area of 7 sq. km. Even though the approval of project was challenged in the High Court and Supreme Court by some public spirited organizations and individuals, in principle diversion of forest for mining was granted by Ministry of Environment and Forest (MoEF) on 11 December 2008 following the conditional go-ahead given by the Supreme Court in August 2008. Based on the recommendations the four member committee headed by Dr N C Saxena, IAS (Retd), Member, National Advisory Council in June-July, 2010, MoEF withdrew the environmental clearance from the project on August 24, 2010. But as the proposal comes to surface again (The Expert Appraisal Committee (EAC) of Ministry Of Environment and Forest (MoEF), GoI in its report in March 2011 again raised the possibility of mining in Niyamgiri)<sup>8</sup>, it would be pertinent to discuss how the social and cultural rights of indigenous communities are violated when such mining take place.

24. The proposed mining lease (PML) area, which lies on the upper reaches of the Niyamgiri hills, is surrounded by dense forests and is the habitat for diverse species of plant and animal life. The streams that flow through them provide the means of living for Dongaria Kondh and Kutia Kondh, Scheduled Tribes that are considered by the government as ‘Primitive Tribal Groups’<sup>9</sup> and thus eligible for special protection Article 3 of resolution adopted by the General Assembly [without reference to a Main Committee (A/61/L.67 and Add.1)] , 61/295. The United Nations Declaration on the Rights of Indigenous People stipulates that "Indigenous people have the right to self-determination” All people have a right to self-determination within the ICCPR and ICESCR as well. By virtue of that right they must be allowed to freely determine their political status and freely pursue their economic, social and cultural development.

25. The Niyamgiri hills are the sole habitat of Dongria Koondh group whose distinctive identity. At least 1453 Dongaria Kondh (20 per cent of the total population of the

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<sup>8</sup> India Together (<http://www.indiatogether.org/2011/jul/env-niyam.htm> )

<sup>9</sup> According to the Ministry of Tribal Affairs, ‘Primitive Tribal Groups’ are communities among the Scheduled Tribes that live in near isolation in inaccessible habitat.

community numbering 7952 as of the 2001 census) live in villages in and around the proposed mining lease area.<sup>10</sup>

26. All the 104 Dongaria Kondh villages are linked by marriage, since the member of a clan must seek a spouse from another clan. Mining, if permitted, will directly affect a substantial section and will have repercussions on the community's very survival and its biological and social reproduction.<sup>11</sup>
27. Mining-related activities such as tree-felling, blasting, the removal of soil, road building, and the movement of heavy machinery would deny the tribals access to their lands that they have used for generations.
28. Niyamgiri is the source of Vamsadhara river and many other streams which sustain the agriculture and other livelihood options of people in and down the hills. The mining will dry these sources.
29. FRA recognizes and vests forest rights of the scheduled tribes and other traditional forest dwellers. The forest rights particularly important for the Dongrias in Niyamgiri are the rights of community tenure over habitat and habitation of PTGs under section 3 (1)(e), rights and authorities provided under section 3 (1)(i) and Section 5 that vests the Gram Sabhas ( Village Council) and the forest dwellers with statutory rights to conserve, protect and manage forests, biodiversity etc. section 4(5) of FRA protects the forest rights recognized under the law and provides that, there can be no removal or eviction of people from forest land unless the tribal rights under FRA have been recognized and the verification procedure is complete. The MOEF has issued a guideline in July 2009 that obligates the State governments to ensure completion of FRA and to obtain free prior informed consent of the Gram Sabhas in the areas proposed for diversion of forest land.

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<sup>10</sup> REPORT OF THE FOUR MEMBER COMMITTEE (Dr, N C SAXENA AND OTHERS) FOR INVESTIGATION INTO THE PROPOSAL SUBMITTED BY THE ORISSA MINING COMPANY FOR BAUXITE MINING IN NIYAMGIRI 16 Aug, 2010

<sup>11</sup> REPORT OF THE FOUR MEMBER COMMITTEE (Dr, N C SAXENA AND OTHERS) FOR INVESTIGATION INTO THE PROPOSAL SUBMITTED BY THE ORISSA MINING COMPANY FOR BAUXITE MINING IN NIYAMGIRI 16 Aug, 2010

30. Both these provisions of FRA were violated before in-principle clearance was granted by MoEF in 2008 as several Gram Sabhas had already passed resolutions claiming community and habitat rights over the PML area under appropriate clauses of FRA.
31. Similarly under Panchayats (Extension to the Scheduled Areas) Act (PESA), every Gram Sabha (Local self- governance) shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources to prevent alienation of land in the Scheduled Areas. Both these provisions were violated in case when mining proposal was cleared.
32. The Saxena Committee notes that: “If mining is permitted on this site it will not only be illegal but it will also:
- Destroy one of the most sacred sites of the Kondh Primitive Tribal Groups
  - Destroy more than seven square kilometers of sacred, undisturbed forest land on top of the mountain which is sacred to Niyam King (this PTG customarily worship this kind) and as essential to preserving the region’s fertility.
  - Endanger the self-sufficient forest-based livelihoods of these Primitive Tribal Groups.
  - Seriously harm the livelihood of hundreds of Dalit families who has economic relationship with these PTGs.
33. The Vedanta Company has consistently violated the Forest Conservation Act, 1980 (FCA), Forest Rights Act 2006(FRA), Environment Protection Act 1986 (EPA) and the Odisha Forest Act in active collusion with state officials. Perhaps the most blatant example of this is their act of illegally enclosing and occupying at least 26.123 ha of Village Forest Lands within its refinery depriving tribal, dalits and other rural poor of their rights.<sup>12</sup>

### **C. Corporate Killings, Indiscriminate Police arrest and detention**

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<sup>12</sup> REPORT OF THE FOUR MEMBER COMMITTEE (Dr, N C SAXENA AND OTHERS) FOR INVESTIGATION INTO THE PROPOSAL SUBMITTED BY THE ORISSA MINING COMPANY FOR BAUXITE MINING IN NIYAMGIRI 16 Aug, 2010

34. Raijharan village is a coal rich area of Angul district which is 180km away from the State Capital of Odisha. The Central Pollution Control Board of India has declared Angul as the seventh most polluted district in the country. Four Companies have acquired 1,223 acres of land- both agricultural and homestead, of 900 families of Raijharan village. This includes 103 acres by Jindal Steel Plant Limited ( JSPL) for Utkal (B-1) coal mine, 60 acres of land by Monet Power Plant, 820 acres by UCL and 103 acres by KCM. Villagers have been protesting the land acquisition process. They alleged that “We have been complaining before the authorities. But nobody seems to be concerned about our plight. We are losing our entire homestead and fertile agricultural land for these projects. Hence, we are fighting to protect our land. On the other hand, the companies officers are making false promises”.
35. On 12<sup>th</sup> July 2011, a public hearing was organized on the land acquisition where the officials of JSPL, MPC also participated. Villagers resisted the public hearing process, and as a result were severely beaten up by police. 40 peoples in the incident were injured and 300 peoples were arrested including women and children. Sanjay Barik, a young villager was severely injured in police firing. Police threatened the villagers to face the dire consequences if they will again protest against the company in future. A complaint has been filed in this regard to the National Human Rights Commission (NHRC)<sup>13</sup>.
36. The police shot dead 14 tribals at Kalinga Nagar at Jajpur district of Odisha on January 2, 2006 during when the people were protesting the forcible construction of the boundary wall by TATAs. Amin Banra, a member of the people’s organization opposing land acquisition Visthapan Virodhi Janmanch, was killed in cold blood by Private Militia of TATAs in Kalinga Nagar<sup>14</sup>. No government inquiry was undertaken against the police officers who were involved in the police firing.
37. The police fired on the peaceful crowd on 16<sup>th</sup> December 2001 at Maikanch under Kashipur Block of Rayagada district and killed 3 people who were protesting against Utkal Alumina Industries Limited (UAIL). It detained scores of activists of Kashipur

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<sup>13</sup> <http://petition-nhrc.blogspot.com/2011/07/give-or-do-not-give-land-be-ready-for.html>

<sup>14</sup> <http://orissaconcerns.net/2010/04/odisha-poverty-corporate-plunder-and-resistance/>

struggle for months on false criminal charges. Shukru Majhi was murdered in Lanjgarh, Kalahandi district where the democratic protest was going on against Vedanta Aluminum<sup>15</sup>.

38. The indiscriminate police arrest and killing of people violate Article 21 (Protection of life and personal liberty) and Article 22 (person arrested must be informed on the grounds of detention and produced before the Magistrate within 24 hours) of Indian Constitution. Such provisions ensure that arbitrary arrest and detention are not made. The above cases of police atrocities are the clear example of systematic subversion and erosion of the rule of law.
39. The government is providing huge concessions to private industrial and mining corporations including access to water from natural water bodies, minerals, granting monetary concessions and other assurance. Almost all the MOUs signed with the corporate are kept as secret documents by the government.

#### **D. Industrial Activities and Environmental Pollution:**

40. Angul-Talcher area is one of the major industrial zones in the state of Orissa. The availability of coals in Talcher coalfields and the presence of abundant water in the river Brahmani are the prime factors for rapid growth of industrial activities in this area. The prominent industries of the area are Talcher Thermal Power Station, Talcher,, Fertilisers Corporation India, National Aluminium Company, Angul, Captive power plant, Smelter plant, Talcher Super Thermal Power Plant, Kaniha. Besides these, there are few medium and small scale industries operating in the industrial estate of the Angul-Talcher area as well as within Angul-Talcher area. The area is fast emerging as a big source of coal and thermal power in the country<sup>16</sup>

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<sup>15</sup> <http://www.countercurrents.org/das240710.htm>

<sup>16</sup> Impact of mining and Industrial activities on Brahmani River in Angul-Talcher region of Orissa, India.

41. There is severe water pollution problems in mining areas due to continual and uncontrolled discharge of effluents from mining, industrial, domestic and other activities; thereby contaminating the adjoining water bodies, ground water, river etc. Brahmani, a mighty river during monsoon, turns in to a more or less stagnant pool of water in the summer. Acid mine drainage, liquid effluents generated from coal washery, colliery workshops and mine sites is causing serious water pollution in the river adversely affecting the aquatic life. The deterioration in water quality has an adverse impact on human health and aquatic life directly or indirectly.
42. The mines of MCL & NTPC draw about 25 crores liters of water per day from the river and in return they release thousands of gallons of waste water to the River Nandira (A tributary of River Brahmani) which contains obnoxious substances like Ash, Oil, Heavy Metals, Grease, Fluorides, Phosphorus, Ammonia, Urea and Sulphuric Acid. The industrial and mining effluents is creating environmental hazard by increasing the total suspended particle and heavy metal concentration (Reza et. Al., 2009). The results from the monitoring programme of State Pollution Control Board, shows high level of suspended solids throughout the year and “very high” during the monsoon.
43. People’s concerns over Odisha’s river are fast becoming loud and clear. They are now raising their concerns about the massive pollution, unmindful and unjust water allocation, dwindling environmental flows and biodiversity erosion in their rivers. Most of the industries and urban bodies in the state directly discharge their effluents to the rivers.
44. There are severe health and livelihoods implications in peripheral and downstream areas of mining and industrial belts, leading to further alienation and dispossessions of local communities. The upcoming industrial hubs now have become the most common water-conflict terrains of the state. In mine belts, regular blasts are resulting in cracks in the rock layers surrounding aquifers affecting the local geo-hydrology. In many areas, the tube wells are going dry or have started yielding poor quality water. Many of the perennial streams have suddenly disappeared. Community protests have frequently been

suppressed through use of unfair means. Situations are quite tense in many villages and violence may erupt at any time<sup>17</sup>.

## **E. Recommendations**

45. In India's last UPR review, in response to a question by the Republic of Korea on the displacement of tribal people from forest lands, the Government of India responded that "based on a Supreme Court decision, no land can be diverted from forest use, without prior approval and there can be no displacement unless there is a comprehensive proposal to resettle the tribes as part of the project. This had been the position in regard to implementation of mining projects in Orissa as well."<sup>18</sup> Despite this claim, it is clear that the GOI is in abrogation of its commitments under domestic law (the FRA and the noted Supreme Court decision), as well as international law, including the UNDRIP. The government should respect and observe the principles that any development project should be initiated only with a transparent and democratic process that includes local participation. The United Nations Permanent Forum on Indigenous Issues recommended that Governments adopt, in relevant national legislation, the principle of "free, prior and informed consent" of indigenous peoples regarding potential development projects or other activities carried out on their lands. The government of India should recognize and respect indigenous peoples' right to access and manage communal lands and natural resources are central to their collective survival.

46. The Government should immediately implement domestic laws and policies including the Panchayat Extension to Schedule areas (PESA), 1996 & FRA, 2006 ( Section 3 (1)(e), section 3 (1)(i), Section 5, Section 4(5) ) in the affected areas using transparent and democratic methods to ensure individual and community rights under the law. The Government should be asked to institute mechanism to track and monitor the diversion of forest land for various development projects to ensure that protection guaranteed under FRA on rights over forest land, community forest resources and customary habitats is

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<sup>17</sup> <http://www.scribd.com/doc/48361998/Odisha-Water-Conflicts-Pranab>

<sup>18</sup> Paragraph 78, Report of the Working Group of the UPR, A/HRC/8/26

strictly enforced by the implementing agencies and necessary information regarding the compliance should be shared for public information.

47. The government should conduct inquiries and take punitive action against police responsible for the death of people by police attack for the establishment of UAIL at Kashipur.
48. The government should establish new and revamp existing policy frameworks in order to regularly monitor corporate activities to ensure accountability. Such policies should protect peoples' right to self-determination, from possible violation by corporations. It is the government's responsibility under international law to protect the rights of people from any violations meted out by corporate. The United Nations International Covenant on civil and Political rights and the international Covenant on Economic, Social and Cultural Rights state that all peoples have the right of self –determination by virtue of which they “freely determine their political status and freely pursue their economic, social and cultural development”. (Part one, Article one, 1966)
49. The Indian corporations functioning overseas should have a strict adherence of principles and practices to respect the human rights obligations. There should be a policy of democratic industrialization in which complete transparency is assured to the people.
50. It is an established fact that mining in Niyamgiri hills will severely degrade the hills ecosystem and endanger the existence of Dongria Kondhs, the rare PTGs apart from heavily affecting their socio-cultural and economic lives. The central government should declare this area as sacrosanct and will rule out any future possibility of mining the same.
51. Basing on the Four Member Committee's report, a thorough inquiry should be initiated to the illegal occupation of 26.123 ha of Village Forest Land by the refinery of Vedanta. The collusion between the company and the officials should be brought to light and be punished. The owners of the land should be given back their land and be compensated for the years of land alienation.

52. Expedite ratification of the Convention against Torture (United Kingdom France, Mexico, Nigeria, Italy, Switzerland, and Sweden) and its Optional Protocol (United Kingdom)
53. Ratify the Convention on Enforced Disappearances (Nigeria)
54. Receive as soon as possible the Special Rapporteur on the question of torture (Switzerland)