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A SOCIO-LEGAL STUDY OF THE NIYAMGIRI SURAKSHA SAMITHI'S AGITATION AGAINST BAUXITE MINING

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ABSTRACT

This research examines the socio-legal dimensions of the resistance of Niyamgiri Suraksha Samithi against bauxite mining in the Niyamgiri Hills of Odisha. This movement, organized by the native Dongria Kondh tribe, assembled both legal and constitutional frameworks to resist the extraction of bauxite, and consequently claiming parties, to protect their ancestral land and cultural identity. Through an analysis of the Forest Rights Act, and the Supreme Court's acknowledgment of the Gram Sabhas authority to consent to the mining of natural resources, the study highlights the critical role of indigenous people as participatory stakeholders in the environmental governance space. The study reveals how tribal mobilization was able to strategically apply the courts to gain legal protections within contemporary environmental justice claims, while protecting non-challenging, or traditional livelihoods. However, challenges persist regarding statutory protections with considerable shortcomings in legal enforcement, state-led repression, and procedural shortcomings of recognition of community rights. This case study highlights not only the value of collective advocacy from the grassroots level, but the necessity of improving legal systems for indigenous people. This also acknowledges the notion that sustainable development in indigenous communities requires an integrated approach regarding further economic growth alongside protection of cultural heritage and ecosystems.

Keywords: Bauxite Mining, Dongria Kondh Tribe, Environmental Justice, Niyamgiri Suraksha Samiti, Tribal Land Rights.

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INTRODUCTION

Located within the state of Odisha, the Niyamgiri Hills has matured into a principal site of disceptation between the rights of indigenous people and the interests of industrialists. A primary inhabitant is the Dongria Kondhs, who can be classified as one of the most marginalized tribes in India; a tribe known for its connection to a specific territory and deep cultural connectedness, either with the land or both. The hill environment from which these tribals obtain their sustenance is home to Niyam Raja, their deity. Though, the discovery of large bauxite deposits in the hills aroused interest from corporations, including Vedanta Resources, an international mining company that was sought to extract this valuable commodity. The subsequent clash between economic development and indigenous rights eventually captured national and international attention, presenting important legal and moral questions.

As the bauxite mining project threatened the very livelihood of the Kondh Dongria, the Niyamgiri Suraksha Samithi (NSS) was formed in response to corporate greed to mobilize the grassroots community to prevent business interests. In the following years, NSS developed and sustained its support from environmentalists, human rights organizations, and civil society organizations. The persistence counterattack was framed as a war; not just against the environmental aspect, but also for the control of the capacity to pursue essential self-determination and cultural livelihoods.

The opposition to bauxite mining at Niyamgiri Hills, lead by the Niyamgiri Suraksha Samithi (NSS), is among the most significant recent grassroots ecologies and folk rights movements in India. Academic engagement in this opposition cuts across disciplines of environmental law, human rights, development studies, and inform legal theory. Padel and Das (2010), perceive the opposition as a central conflict of corporate-led industrial development versus customary rights of the tribal community, the Dongria Kondh, whose lifestyle is deeply interwoven with the Niyamgiri landscape. Their study depicts the opposition as a reaction not simply to mining, but to a continuum of systemic marginalization and dispossession endured by tribal in Odisha. A combination of constitutional and statutory protections of tribal rights formed the constitutional base of the resistance on the legal level. The Forest Rights Act and Panchayats (Extension of Scheduled Areas) Act have played the major role in allowing Gram Sabhas to decide on the future of the mining project. In a historic Supreme Court ruling in 2013, there was a ruling that no excavation can be made without the express permission of the Gram

Sabhas. This ruling set a great precedence to the indigenous land tenure in the state and strengthened the policy of democratic governance.³ In addition to the legal implication, the Niyamgiri struggle can pose more general questions about the ecological development, corporate responsibility and the role of the judiciary in protecting the rights of vulnerable groups.⁴ The case highlights the fact that indigenous linear cosmology must be acknowledged when it comes to development discourse, and thus economic development must not lead to the biological or cultural extinction.⁵

Legal academics such as Upendra Baxi (2011) and Amita Baviskar (2007) indicate that the Niyamgiri project constitutes a trial of the constitutional framework in regard to the rights of Scheduled Tribes under the Fifth Schedule, the Forest Rights Act, 2006, and the Panchayats (Extension to Scheduled Areas) Act, 1996 (PESA). The Supreme Court's landmark judgment that Gram Sabhas determine the future of the mining project is an example of rare judicial acknowledgment of tribal sovereignty. This has been famed by legal anthropologists as a turning point in recognizing the substantive and cultural rights of indigenous communities under both domestic and global legal standards, such as ILO Convention 169 and the UNDRIP (though India is not a signatory to the former).

Ecological studies literature, including work by Kanchi Kohli and Manju Menon (2015), critiques the Environmental Impact Assessment (EIA) processes incidental to the Vedanta project, noting the systemic under-reporting of biological impairment and the deficient consultation with affected communities. The project was authorized ab initio despite significant violations of forest and environmental permit standards and fixated on administrative enforcement loopholes and the economics of ecological establishment, while revealing the ways local resistance mobilizations, such as the NSS opposition to the project, have employed sustained activism monitoring and legal advocacy to demonstrate opposition to these violations.

From a sociological stance, the NSS agitation is often regarded as an instance of environmentalism of the poor, a term popularized by Ramachandra Guha and Joan Martinez-

³ Orissa Mining Corp. Ltd. v. Ministry of Env't & Forests, (2013) 6 S.C.C. 476 (India).

⁴ Rajshree Chandra, Understanding Change With(in) Law: The Niyamgiri Case, 50 Contributions to Indian Soc. 137, 137–162 (2016).

⁵ Meenal Tatpati, Ashish Kothari & Rashi Mishra, The Niyamgiri Story: Challenging the Idea of Growth Without Limits? (Kalpavriksh 2016).

Alier, that defines how marginalized communities mobilize against environmental degradation that jeopardize their survival instantly. The NSS, comprised primarily of tribal villagers, successfully concerted local cognition systems, grassroots organizing, and strategical legal intercession to elude eviction. Scholars like Nandini Sundar (2016) have also pointed out the function of civil society, NGOs, and autarchy fact-finding missions in magnify tribal voices, those were otherwise omit from formal decision-making processes.

Further, captious improvement literature demands the overriding discourse of resource extraction as requisite for national advancement. Arundhati Roy (2010), in both journalistic and academic writing, critiques corporate-state coalition that frame tribal resistance as anti-development or even anti-national. She, along with other voices in postcolonial studies, contends that projects like Vedanta's mining plan symbolize a neo-colonial form of resource annexation that aggravate existing disparities.

The literature also evaluates the part of corporate social responsibility (CSR) initiatory by Vedanta and others, exhibits that such programs often serve more as public relations instruments than as authentic trial to address displacement, ethical failure, or sustenance disturbance. Sahu and Mishra (2017) debate that CSR was utilized to split communities, offering limited benefits in exchange for abidance, thereby creating internal fractures among the local residents.

Lastly, international law scholarship analyzes the relevancy of Free, Prior, and Informed Consent (FPIC) in the Niyamgiri context. Though uncodified in Indian law, the 2013 judgment effectively initiate FPIC-like principles into Indian jurisprudence. Kumar and Rao (2019) argue this sets a instance for community-led environmental governance, even as its enforcement remains contested in different tribal lands of India.

The paper aims to deliver a socio-legal synthesis of the Niyamgiri Suraksha Samithi's agitation against bauxite excavation, examining the movement's phylogeny, the legal conflict and the long-term impact of the Supreme Court's verdict.⁶ By contextualizing this battle within the broader theory of indigenous rights and environmental justice, the study desires to make impart on current discussions on sustainable development and human rights auspices.

⁶ Saumya Ranjan Nath, *Defending the Sacred: Discourses of Development, Identity and Everyday Resistance Among the Dongria Kondh* (Ph.D. thesis, Univ. of Sussex, 2023).

THE NIYAMGIRI SURAKSHA SAMITHI (NSS) AND ITS GENESIS

The Niyamgiri Suraksha Samithi (NSS) came forth as a vital impedance movement against bauxite mining in the ecologically affluent and culturally important Niyamgiri Hills of Odisha. It was defined in consequence to the Odisha state sovereign's determination to permit bauxite extraction in the land, which posed a direct menace to the indigenous Dongria Kondh community. The NSS was formed as a grassroots establishment with the chief objective of safeguarding the region, society and sacred identity of Dongria Kondhs, who believe the hill integral and holy to their endurance.

The movement vantage traction in the early 2000s when it became crystal-clear that Vedanta Resources, a multinational mining firm, wanted to utilize the bauxite stratum without sufficiently confer with the local communities. The NSS designed itself around the guidelines of sovereignty, ecological protection, and indigenous rights. It will operate to circumvent extraneous corporate and state influences that always place sectoral advancement elevating to the well-fare and traditional way of life of the Dongria Kondh.⁷ The NSS sought to prohibit the land alienation of the Dongria, promote biodiversity and the respect of rights designated in India's legal frame, such as the Forest Rights Act 2006, and the Panchayat Extension to Scheduled Areas Act 1996.

KEY LEADERS AND MOVEMENTS

A number of key figures assumed essential roles in the development of the NSS and subsequent activism. Local responsible persons, including Lada Sikaka, Kumti Majhi, and the other remarkable elders of the Dongria Kondh, have formed as prominent voices of resistance - emphasizing the religious and ecological significance of Niyamgiri. Their leadership assisted mobilize wide-ranging support from multitude of civil society organizations, ecological activists, and legal experts who contributed in articulating the urgency of the movement.

The movement wasn't only confined to local protests; it became a momentous legal and political endeavour that embroiled national and international protagonism. The NSS collaborated with non-governmental organizations (NGOs) such as Survival International and Amnesty International to convey international aid to their effort. Their exertion ceased in a

⁷ Meenal Tatpati, Ashish Kothari & Rashi Mishra, *The Niyamgiri Story: Challenging the Idea of Growth Without Limits?* (Kalpavriksh 2016).

legal dispute that reached the Hon'ble Apex Court.⁸

A momentous point in the motion happened in 2013 when the Hon'ble Court, verdicts on Orissa Mining Corporation Vs. Ministry of Environment & Forests, sceptered the Gram Sabhas of the subjected region to ascertain if mining should be permitted. All 12 Gram Sabhas unanimously disapproved Vedanta's offering, efficaciously crippled the task. This judgment was famed as a victory for grassroots democracy and endemic land rights, showcasing the NSS's ability to influence legal and policy agendas.⁹

GRASSROOTS MOBILIZATION

The capability of the NSS lay in its power to summon the Dongria Kondh community at the grassroots level. The movement structure was strictly rooted in the traditional structures of tribal governance where decisions were made in collectivities through the village meetings. Women were also a central force in the mobilization, they took part in the demonstrations actively, took part in formal deliberation and held the leading roles. The NSS engaged in numerous forms of resistance that included non-violent actions, road blocks, socio-cultural, and juridical activism.

One of the salient features of the mobilization process was the Niyamgiri Parab that was held every year and became not only a cumulative centre of action but also a symbol of resistance. The Parab was a gathering of the Dongria Kondh people to give renewed commitment to the custodianship of ancestral lands, and to plan future action. At the same time, NSS organized lawyers and human-rights activists to make their demands before the courts of law and policy-making organizations.¹⁰

The NSS continued to fight on with undeterred vigor in combating unabated state repression that was being openly displayed by arrest and intimidation of activists. The Unsupported Import's ability to continue to operate for more than a decade demonstrates both the resilience of, and ingenuity of, indigenous communities when protecting their rights. It also highlighted the significance of grassroots activist efforts in facilitating legal and environmental debate in the country.

The Niyamgiri Suraksha Samith's stood as a testimony to the potential power of indigenous movements to resist corporate interest in the extraction of resources. Their success in stopping

⁸ Rajshree Chandra, Understanding Change With(in) Law: The Niyamgiri Case, 50 Contributions to Indian Soc. 137, 137–162 (2016).

⁹ Orissa Mining Corp. Ltd. v. Ministry of Env't & Forests, (2013) 6 S.C.C. 476 (India).

¹⁰ Saumya Ranjan Nath, Defending the Sacred: Discourses of Development, Identity and Everyday Resistance Among the Dongria Kondh (Ph.D. thesis, Univ. of Sussex 2023).

bauxite mining in the region illustrated the importance of legal strategies to advocate for tribal rights, and the vigor of grassroots mobilization in environmental justice movements. The NSS's achieved much in noting securing the protection of the Niyamgiri Hills, more importantly, they set a precedent in future struggles for indigenous land and resource rights. The movement still inspires environmental and human rights activists, and demonstrates that indigenous communities when united and determined can, in fact, successfully oppose powerful state and corporate interests.¹¹

LEGAL AND CONSTITUTIONAL AGENDA

The legal dispute over the Niyamgiri and the resistance by the Dongria Kondh against bauxite mining by Vedanta Resources really fastened the law and the constitutional framework in the country. It is ascertained that environmental legislation, constitutional protection of Scheduled Tribes and judiciary play a crucial role in protecting the rights of the indigenous population. This part discusses the legal tools that the movement cannot do without and they are the Forest Rights Act, the jurisprudential role of the courts, and the dual role of the Odisha government, which includes facilitating and managing the opposition.

ENVIRONMENTAL LAWS AND REGULATIONS

The legal system of India is not very robust to conserve forests ecosystem and the tribal communities living in ecologically sensitive regions. Some of the major laws like the Environment Protection Act, the Wildlife Protection Act and the Forest Conservation Act have strict laws that regulate the activities in the forested areas as far as industrial activities are concerned. According to the Environmental Impact Assessment Notification of 2006, the environmental clearance is necessary to major industrial projects and therefore, it is obligatory that both social and ecological impacts should be evaluated before granting such a clearance.¹² The EIA process in the case of Niyamgiri received much criticism due to the failure to consider all the ecological and social impacts of the bauxite mining. It was reported that the assessment was rushed and did not engage the local communities in meaningful way, which cast a certain doubt on the appropriateness of the procedural behavior. The Supreme Court emphasized the

¹¹ Ranjana Padhi, Pramodini Pradhan & D. Manjit, How Many More Arrests Will Orissa See?, 45 Econ. & Pol. Weekly 24, 24–26 (2010).

¹² Environmental Impact Assessment Notification, G.S.R. 1533(E) (Sept. 14, 2006), issued under the Environment (Protection) Act, No. 29 of 1986 (India).

importance of the environmental law in its decision of the case.¹³

Then there's the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act from 2006, which became a key legal tool for the Niyamgiri fight. This act recognizes that indigenous communities have rights over forest land, granting them the power to manage, conserve, and protect their traditional territories. Notably, Section 3(1) of the FRA makes it clear that tribal communities have legal rights to their land, meaning they can't be uprooted without proper consent.¹⁴

The section 4(d) of the PESA, 1996 endows Gram Sabhas to guard and reserve the traditions, customs, and social recognition of tribal communities.¹⁵ Section 4(e) of the Act mandates consultation with Gram Sabhas before land acquirement for exploitation undertaking.¹⁶ Section 4(k) aids Gram Sabhas the liberty to control local architectural plan and resources.¹⁷ In the context of Niyamgiri; it fortifies the sub-urbanized administration framework and affirms the legal framework for tribal autonomy in Scheduled region like Niyamgiri.

The Mines and Minerals (Development and Regulation) Act, 1957 regulates the mining body in the nation, allowing allotment of leases and ecological intellection. Though this Act determines excavation operations, it is inferior to environmental and forest rights legislation when excavation influences forest or tribal region.¹⁸

In the Niyamgiri situation, the Dongria Kondh's claim to the land under the FRA was essential in pushing back against Vedanta's mining plans. The Gram Sabhas, or village councils, which were empowered by the FRA, played a crucial role in turning down the mining proposal. This was a epochal moment where indigenous people effectively declared their legal rights to make conclusion about their land and natural resources.¹⁹

The case of Niyamgiri ended in a precedent setting Supreme Court decision in India that reinstated the rights of the indigenous communities. The Court believed that it was the Gram Sabhas that determined whether mining would be continued and thus gave the local populations the power of safeguarding their land and resources. This case was especially important because it acknowledged the concept of Free, Prior, and Informed Consent (FPIC), according to which

¹³ Rajshree Chandra, *Understanding Change With(in) Law: The Niyamgiri Case*, 50 *Contributions to Indian Soc.* 137, 137–162 (2016).

¹⁴ *Scheduled Tribes & Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, No. 2 of 2007, § 3(1) (India)*.

¹⁵ *Panchayats (Extension to Scheduled Areas) Act, No. 40 of 1996, § 4(d) (India)*.

¹⁶ *Panchayats (Extension to Scheduled Areas) Act, No. 40 of 1996, § 4(e) (India)*.

¹⁷ *Panchayats (Extension to Scheduled Areas) Act, No. 40 of 1996, § 4(k) (India)*.

¹⁸ *Mines & Minerals (Development & Regulation) Act, No. 67 of 1957 (India)*.

¹⁹ Meenal Tatpati, Ashish Kothari & Rashi Mishra, *The Niyamgiri Story: Challenging the Idea of Growth Without Limits?* (Kalpavriksh 2016).

any development project in tribal lands should obtain the local approval.²⁰

This judgment set a strong precedent for future cases related to indigenous land rights and ecological governance. It emphasized the essence for participatory democracy and highlighted the constitutional protections under Article 244, which offers special safeguards for Scheduled Tribes in Scheduled Areas. Plus, Article 21 of the Indian Constitution, which secures the right to life and livelihood, was interpreted to mean that tribal habitats should be protected from environmental harm.²¹

In *Samatha v. State of Andhra Pradesh*, the Apex Court decided that tribal area in Scheduled Areas can't be transferral to non-tribal, peculiarly for excavation, without violating the Fifth Schedule.²²

ROLE OF THE ODISHA GOVERNMENT

The Odisha sovereign processed a double character in the Niyamgiri case. It strongly backed Vedanta's mining undertaking ab initio, emphasizing the fiscal benefits of industrialization and resource extraction. The state's attitude aligned with its wider policy of encouraging mineral-based businesses as a driver of economical ontogeny. However, this attitude drew literary criticism from activists and legal experts who debated that the State had neglected the rights of the Dongria Kondh and failed to maintain its constitutional obligation to safeguard the tribal.²³ Following the Apex Court's verdict, the state government was commanded to conduct Gram Sabha confabulate, which overpoweringly disapproved the excavation proposition. This highlighted the ability of decentralized governance and demonstrated that state-led firmological policies could be legally addressed by local communities. The case thus personify how legal agendas can be used to balance pecuniary growth with ecological and endemic rights. The significance of the legal and constitutional agenda is highlighted in the successful safeguarding of the Niyamgiri Hills from mining. Environmental legislation, the Forest Rights Act, and litigation combined came together to ensure the rights of the Dongria Kondh were still legal. The Supreme Court's recognition of Gram Sabhas as the ultimate authority in any land related decision becoming a notable example of indigenous autonomy in India. Given the legal victory, constant vigilance is needed to prevent changes in policy that may reversible tribal safeguards. The Niyamgiri campaign continues to be an example of legal activism having

²⁰ Orissa Mining Corp. Ltd. v. Ministry of Env't & Forests, (2013) 6 S.C.C. 476 (India).

²¹ INDIA CONST. arts. 21, 244.

²² *Samatha v. State of Andhra Pradesh*, (1997) 8 S.C.C. 191 (India).

²³ Saumya Ranjan Nath, *Defending the Sacred: Discourses of Development, Identity and Everyday Resistance Among the Dongria Kondh* (Ph.D. thesis, Univ. of Sussex 2023).

contributed to environmental and indigenous rights.

LEGAL GAPS PROTECTING INDIGENOUS LAND RIGHTS

India's legal framework anent of indigenous land incumbency, as proven by the Niyamgiri Suraksha Samithi's mobilization against bauxite excavation plans, has fundamental legal insufficiency regarding substantive shelter for impacted adivasi communities. While the Constitution (Schedule V), Panchayats (Extension to Scheduled Areas) Act, 1996 and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, produce formal certainty, including recognition of community land rights, environment protection and spiritual practices, these provisions are rendered by unenforceable, diluted systemic application, peculiarly the procedural obligation of free, prior and informed consent which minimizes the seriousness to a mere advisory effort that disregards the collective customary incumbency of the Dongria Kondh to exercise agency over management practices related to the landscape.²⁴

Prima facie, Section 3 (1) (e) of the FRA recognizes habitat rights as another statutory means of acknowledgment of Indo-Tribal customary control over contiguous territory such as the Niyamgiri hills, but officials routinely bifurcate these claims into singular land holding parcels, failing to consider the socio-cultural or economic necessity that impels the tribe's reliance on shared forested territory for shifting cultivation and subsequently their religious rites.²⁵ Additionally, notwithstanding a landmark Supreme Court ruling that recognized the necessity of gram sabha consent, uncertainties endure concerning the legal obligation of that consent allowing state some degree of extraction industry interests under broad "development" definitions and recollection of property mineral rights by the state.²⁶ The Environmental Impact Assessment process was not designed to involve consideration of or meaningfully engage with the social, cultural, or ecological consequences of decision-making, for indigenous communities; the situation was further muddled by lack of appropriate and transparent communication local languages. Further, most government welfare schemes do not consider indigenous socio-economic systems, and their implementation generally generates dependency rather than empowerment, making communities even more vulnerable while disenfranchising

²⁴ Manipadma Jena, *Voices from Niyamgiri*, 48 *Econ. & Pol. Weekly* 14 (2013).

²⁵ Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, No. 2 of 2007, § 3(1)(e), India Code (2007).

²⁶ Amita Baviskar, *Tribal Politics and Discourses of Environmentalism*, Contributions to Indian Soc. (1997).

them concurrently.²⁷

These barriers to fair, enforceable legal rights place indigenous communities at further risk to marginalization and displacement, as demonstrated by the Niyamgiri conflict. The absence of legal means to exercise comprehensive habitat rights and lack of fair community consent mechanisms has enabled developmental societal to continue with state approval, disruption of traditional livelihoods, cultures, and self-determination. In this context, the existence and dignity of the Dongria Kondh and other tribes with similar situations are threatened because decision-making actors have the power to construct laws, as opposed to built legal protections which safeguard communities.

SOCIO-CULTURAL AND ECONOMIC DIMENSIONS

The clash of industrial development versus the rights of indigenous communities has been epitomized by Niyamgiri. Resource-mining corporation Vedanta Resources plan to mine bauxite from sacred land has met fierce resistance from the Dongria Kondh, a uniquely vulnerable tribal community. The NSS is underpinning the campaign itself and has raised the profile of environmental justice, corporate accountability and indigenous people's rights to their ancestral lands globally. This considers the social, cultural and economic aspects of this campaign by looking at the impact on the Dongria Kondh, the significance of Niyamgiri to their traditional way of life and how the prospective economic benefits of mining are calculated.

IMPACT ON THE DONGRIA KONDH TRIBE

- 1. Threats to Indigenous Identity and Culture:** The Niyamgiri Hills are admired by the Dongria Kondh as the soil of their deity, Niyam Raja, as well as a home of nourishment. Any excavation functions in the region jeopardize their way of life, devoutness and social heritage. Historically, the tribe has coexisted peacefully with the environment, depending on the forests for shelter, food, and medicine.²⁸ In addition to physically displacing them, the proposed bauxite excavation would demolish their centuries-old cultural heritage.

²⁷ K. Sivaramakrishnan, *Ethics of Nature in Indian Environmental History*, 49 *Modern Asian Stud.* 1261 (2015).

²⁸ Gethin Chamberlain, *India Blocks Vedanta Mine on Dongria-Kondh Tribe's Sacred Hill*, *The Guardian* (Aug. 24, 2010), <https://www.theguardian.com/business/2010/aug/24/vedanta-india-mining>.

2. **Violation of Indigenous Rights:** The Indian legal system acknowledges indigenous communities' rights to their ancestral lands. According to the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA), they are entitled to self-governance and land transfers cannot occur without their approval. Recognition of Forest Rights Act of 2006 for Scheduled Tribes and Other Traditional Forest Dwellers. Yet, in order to facilitate mining operations in Niyamgiri, the Odisha government first disregarded these provisions. Only in 2013, after much opposition and a historic Court decision were the rights of the Dongria Kondh recognized, enabling Gram Sabhas to make decisions regarding the future of the project.²⁹
3. **Human Rights Violations and State Repression:** Despite legal victories, the resistance movement has faced state repression, with activists being arrested, harassed, and even subjected to violence. Reports from Amnesty International have derived how the Odisha police and paramilitary forces have applied intimidation tactics to vanquish opposition to the mining project.³⁰ This raises consequential concerns about human rights violations and the state's role in safeguarding corporate interests over the welfare of indigenous people.

TRADITIONAL LIVELIHOOD AND CULTURAL SIGNIFICANCE OF NIYAMGIRI

1. **Sustaining Traditional Ways of Life:** The Dongria Kondh are essentially subsistence farmers and gatherers, hanging on the rich biodiversity of Niyamgiri for their livelihood. They mulch millet, collect honey, and anticipate upon medicinal plants found in the regions.³¹ Mining operations would derange their orthodoxical economy by tearing down forests and polluting water bodies, forcing them into wage labor and significantly altering their way of livelihood.
2. **Environmental and Ecological Impact:** Bauxite mining is known for its acute ecological consequences, including deforestation, soil degradation, and water taint.³² The Niyamgiri is the home to sundry flora and fauna, many of which are only native to

²⁹ Orissa Mining Corp. Ltd. v. Ministry of Env't & Forests, (2013) 6 S.C.C. 476 (India).

³⁰ Amnesty Int'l, India: Generalisations, Omissions, Assumptions (2011), <https://www.amnesty.org/en/documents/asa20/036/2011/en/>.

³¹ Prafulla Das, When I First Saw Niyamgiri, I Was Speechless, The Hindu (Apr. 29, 2017), <https://www.thehindu.com/society/when-i-first-saw-niyamgiri-i-was-speechless/article61790770.ece>.

³² Samanwaya Rautray, MK Jiwarajka Seeks SC Nod to Step Down, The Econ. Times (Oct. 31, 2014), <https://economictimes.indiatimes.com/news/politics-and-nation/mk-jivarajka-seeks-sc-nod-to-step-down-as-member-secretary-of-ccc/articleshow/44988834.cms?from=mdr>.

the land. Large-scale mining would guide to abode destruction and threaten the biological stability. The Dongria Kondh's deep green knowledge has been instrumental in conserving these forests for centuries, and their displacement would have far-reaching environmental results.

- 3. The Role of Women in Conservation and Resistance:** Women have played a vital part in the Niyamgiri resistance movement, proactively involving in riots and advocating for their land rights. The loss of Niyamgiri would disproportionately distress them, as they are chiefly responsible for gathering food, water, and medicinal plants.³³ Their inclusion in the riots shows the intersection of gender, indigenous rights, and environmental just.

ECONOMIC JUSTIFICATIONS FOR MINING VS. INDIGENOUS RIGHTS

- 1. State's Economic Argument for Mining:** The Odisha government has justified bauxite mining in Niyamgiri on economic grounds, arguing that industrialization would bring employment, infrastructure development, and revenue generation.³⁴ India has vast bauxite reserves, and Vedanta Resources proposed to set up an alumina refinery that would supposedly contribute to regional economic growth. However, critics argue that such projects primarily benefit corporations and political elites, with little trickle-down effect for local communities.
- 2. Employment vs. Displacement:** While mining companies claim that their projects create jobs, the reality is often different for indigenous communities. Nearly all high-paying jobs go to skillful workers from outside, while the localites is left with low-wage, unstable employment.³⁵ In many instances, displaced people brawl to adapt to new forms of labor, resulting to increased poverty and marginalization. The loss of traditional livelihoods far outweighs the potential fiscal advantages of mining.
- 3. The Supreme Court's Role in Balancing Development and Rights:** In 2013, the Supreme Court made a groundbreaking ruling in the case of*Orissa Mining Corporation v. Ministry Of Environment And Forests opposed the rights of Dongria Kondh and declared that no mining exercise could be conducted without the permission of local

³³ Kathryn Hopkins, Church of England Sells Vedanta Stake Over Human Rights Concerns, The Guardian (Feb. 5, 2010), <https://www.theguardian.com/business/2010/feb/05/vedanta-niyamgiri-orissa-church-of-england>.

³⁴ Tribe Takes on Global Mining Firm, BBC News (July 17, 2008), http://news.bbc.co.uk/2/hi/south_asia/7486252.stm.

³⁵ Rautray, supra note 30.

Gram Sabhas.³⁶ The ruling has become a legal precedent of self-determination and participation in the governance of the indigenous people and the significance of participatory governance in the process of environmental decision-making.

- 4. Global Precedents and Corporate Accountability:** The Niyamgiri struggle has parallels with other indigenous resistance movements worldwide, such as the Standing Rock protests in the United States and anti-mining movements in Latin America. International advocacy organizations like Amnesty International and Survival International have brought global attention to the issue, pressuring Vedanta Resources and the Indian government.³⁷ The Church of England even divested from Vedanta over human rights concerns, showing how corporate accountability can be enforced through ethical investments.³⁸

JUDICIAL INTERVENTION AND LANDMARK CASES

The Niyamgiri Hills, located in Odisha, India, have been at the center of a long-standing socio-legal battle involving indigenous rights, environmental conservation, and corporate mining interests. The struggle led by the Niyamgiri Suraksha Samithi (NSS) against bauxite mining by Vedanta Resources has brought into focus critical questions regarding judicial intervention, governance, tribal autonomy, and international advocacy. This article examines these aspects through landmark legal decisions and governance mechanisms.

The Indian judiciary has played a significant role in addressing the conflict between tribal rights and industrial development. The intervention of the Supreme Court and High Courts in cases involving environmental degradation and tribal rights has set critical precedents.

THE VEDANTA CASE AND SUPREME COURT'S VERDICT

One of the most significant legal battles concerning Niyamgiri was *Orissa Mining Corporation Ltd v Ministry of Environment & Forests* (2013), where the Supreme Court upheld the rights of the Dongria Kondh tribe and recognized their traditional and religious connection to the land. The court ruled that the Gram Sabha (village council) had the final authority to decide whether mining could take place in their region.³⁹ This decision reinforced the importance of

³⁶ Id.

³⁷ Id.

³⁸ Tribe Takes on Global Mining Firm, *supra* note 7.

³⁹ Id.

constitutional provisions under the Forest Rights Act of 2006.

This case was revolutionary for various reasons:

- It reaffirmed the Fifth Schedule of the Indian Constitution, which safeguards tribal rights in scheduled areas.⁴⁰
- The verdict was based on the PESA Act of 1996, which gives Gram Sabhas the power to decide on local governance and resource utilization.⁴¹
- It was a victory for the “Right to Environment”, as outlined under Article 21 of the Indian Constitution, which guarantees the Right to Life.⁴²

The Niyamgiri case also set a precedent for corporate responsibility and environmental governance. The Supreme Court questioned Vedanta’s corporate social responsibility (CSR) policies and emphasized that businesses must adhere to ethical and environmental considerations rather than merely seeking profit.⁴³ The ruling placed legal obligations on corporations to comply with environmental clearances and indigenous rights.

Apart from the Supreme Court, the National Green Tribunal (NGT) and Odisha High Court have been instrumental in reviewing industrial projects that threaten ecological balance. The NGT has repeatedly upheld the principle of sustainable development, certifying that corporate interests don’t override ecological concerns.

STATE VS. TRIBAL AUTONOMY

The conflict between state governance and indigenous autonomy is at the heart of the Niyamgiri agitation. The tribal communities, particularly the Dongria Kondh, assert that they have been the natural custodians of the hills for generations and that their traditional governance structures should not be overridden by state or corporate decisions.

Legal Recognition of Tribal Rights:

Indian legal frameworks recognize tribal liberty through:

1. The Forest Rights Act of 2006, which grants indigenous people legal rights over forest land that they have traditionally occupied.⁴⁴
2. The Panchayats (Extension to Scheduled Areas) Act of 1996 (PESA Act), which empowers Gram Sabhas to make decisions on local governance.⁴⁵

⁴⁰ India Const. art. 244, sched. V.

⁴¹ The Panchayats (Extension to Scheduled Areas) Act, No. 40 of 1996 (India).

⁴² India Const. art. 21.

⁴³ M.C. Mehta v. Union of India, (1987) 1 S.C.R. 819 (India).

⁴⁴ Id.

⁴⁵ Id.

- Section 4(d): Empowers Gram Sabhas to safeguard and preserve the traditions, customs, and cultural identity of tribal communities.
- Section 4(e): Mandates consultation with Gram Sabhas before land acquisition for development projects.
- Section 4(k): Grants Gram Sabhas the power to control local plans and resources.

Importance in this matter: Strengthens the decentralised governance model and affirms the legal basis for tribal self-rule in Scheduled Areas like Niyamgiri.

3. The Fifth Schedule of the Indian Constitution, which protects tribal lands from alienation.⁴⁶

Even with these lawful safeguards, the state often colludes with corporations to foster industrial evolution, resulting in conflicts with indigenous governance systems.

State Policies and Development Vs. Indigenous Consent:

The Odisha government awarded Vedanta Resources mining leases in its quest to develop economically without obtaining the informed consent of the local people. This was against the international standards, including the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) which insists on free, prior, and informed consent (FPIC) prior to starting projects on the indigenous lands.⁴⁷ The unusual case of the Gram Sabha consultations ordered by the Supreme Court in 2013 was an example of such a rare event where the autonomy of the indigenous population was seen as superior to state-driven development. This was seen through the unanimous opposition to mining by 12 out of 12 Gram Sabhas, a fallacy that made a democratic claim to the governance by the tribals over the state.

Police Repression and Violation of Human Rights:

How the government has dealt with the Niyamgiri agitation has often been typified by police brutality, arbitrary arrests and suppression of protests. Human rights organizations have reported incidences where activists and National Students Solidarity (NSS) chiefs have been intimidated, harassed and accused falsely.⁴⁸ As a result, the war can be seen as a manifestation of a wider problem of state oppression of the marginalized groups.

⁴⁶ Id.

⁴⁷ United Nations Declaration on the Rights of Indigenous Peoples, G.A. Res. 61/295, U.N. Doc. A/RES/61/295 (Sept. 13, 2007).

⁴⁸ Amnesty Int'l, India: Landmark Supreme Court ruling a great victory for indigenous rights (2013), <https://www.amnesty.org/en/latest/news/2013/04/india-landmark-supreme-court-ruling-great-victory-indigenous-rights/>.

ROLE OF NGOS AND INTERNATIONAL PRESSURE

The world community has not been making the Niyamgiri conflict a global issue only through the judicial intervention, and the role of the international non-governmental organisations, the environmental activists and the human rights organisations have been central to boosting the movement.

NGO Advocacy and Legal Support:

Several national and international NGOs, including Survival International, Amnesty International, and Action Aid, campaigned against Vedanta's mining undertaking, bringing global perusal to the issue. These organizations:

- Provided legal aid to NSS and tribal activists.
- Petitioned international financial institutions to withdraw investment from Vedanta.
- Raised awareness through documentaries, reports, and media coverage.

International Corporate Accountability Mechanisms:

The Niyamgiri movement also impacted globular debates on corporate ethics and accountability. After sustained pressure from ecological groups and NGOs:

- Norwegian Pension Fund divested from Vedanta, citing human rights violations.
- OECD Watch filed complaints against Vedanta for violating environmental and indigenous rights standards.
- Shareholder activism resulted in various investors pulling out from Vedanta.

UNITED NATIONS AND HUMAN RIGHTS FRAMEWORKS

The interventions were brought about by international pressure where the United Nations Special Rapporteur on the Indigenous rights condemned the Indian government over its capability to handle the conflict. The UN Human Rights Council reports pointed out that the projects like Niyamgiri were to comply with the international human-rights requirements.⁴⁹

The Niyamgiri agitation is an intricate convergence of legislation, government and indigenous opposition. Tribal self-determination and environmental protection have been given a strong precedent through judicial interventions, especially the Supreme Court decision of 2013. However, still, in India, the clash between state controlled industrial policies and the rights of the indigenous population continues to exist. NGOs and international pressure in bringing corporations to book cannot be ignored and this makes the Niyamgiri movement not just a

⁴⁹ U.N. Human Rights Council, Report of the Special Rapporteur on the Rights of Indigenous Peoples, U.N. Doc. A/HRC/33/42 (2016).

localized battle against environmental degradation but a symbol of the entire world against corporate rape.

COMPARATIVE ANALYSIS

Throughout India, indigenous peoples have resisted mining projects that threaten their ancestral lands, ecological integrity, and cultural identities. One notable example in this regard is the Hasdeo Aranya Movement in the State of Chhattisgarh. The Hasdeo Aranya forests are often known as the lungs of Chhattisgarh, because of its great biodiversity and the number of indigenous group, involving the Gond and Oraon communities, which depend upon this habitat. Moreover, the Hasdeo Aranya forests are an important elephant route which adds to ecological balance of the place.

In 2011, the Hasdeo Aranya Movement gained a push when the government granted a clearance to mine coal in the forest, which was previously decided by the Ministry of Environment and Forest as a “no-go” area in mining (Hasdeo Aranya). Indigenous opponents, who collectively organized under Hasdeo Aranya Bachao Sangharsh Samiti, heralded their opposition to the destruction of forests and encroachment of their land rights. Grassroots resistance gained traction when it was asserted that several Gram Sabhas had been manipulated into falsely consenting to mining. Local peoples have coordinated protests, take legal action, and idled inquiries with various levels of government to thwart the large-scale mining of Hasdeo Aranya in the short term. All the while, the threat to their rights continues. The Hasdeo Aranya Movement represents just one case of how indigenous peoples in India continue to engage in legal and grassroots activism to protect their rights to land against powerful corporate and state interests.⁵⁰

Correspondingly, the Pathalgadi Movement in Jharkhand expressed a form of resistance to laws of land acquisition imposed by the state on episodic risk to tribal autonomy. The title Pathalgadi derived from the traditional practice of erecting stone plaques (Pathalgadi) with inscriptions from the Indian Constitution to illustrate protections for indigenous rights. repression against the movement was brutal, including mass arrests, and state crackdowns, drew attention to the

⁵⁰ Shubhomoy Sikdar, Explained | The Coal Mining Protests in the Hasdeo Aranya Region, The Hindu (Nov. 23, 2024), <https://www.thehindu.com/news/explained-the-coal-mining-protests-in-the-hasdeo-aranya-region/article65726814.ece>.

underlying nature of resource extractive capital in tribal territories.⁵¹

These cases resonate with the Niyamgiri Movement, where the Dongria Kondh resisted Vedanta Resources' bauxite mining project. All these movements demonstrate a common struggle: the fight for indigenous self-determination, protection of sacred lands, and resistance against large-scale corporate extraction that disregards environmental and human rights concerns.

GLOBAL PERSPECTIVES ON TRIBAL LAND RIGHTS AND RESOURCE EXPLOITATION

Similar battles have been faced by indigenous people around the world, where the exploitation of resources poses a threat to the lives and culture of indigenous people. The Land Reclamation of the Siekopai Nation in Amazon rainforest is one of the most prominent cases. The Siekopai which is an indigenous people that cut across Ecuador and Peru were forcibly sent out of their ancient lands owing to colonisation and corporate agendas. They were able to reclaim more than 600,000 acres of forest after an 80-year court fight.⁵² Their victory wasn't just about land ownership but about biological preservation too. Studies have shown that deforestation rates in indigenous-managed forests are significantly lower compared to state-managed or privately controlled lands.⁵³ The Siekopai's case highlights the effectiveness of indigenous stewardship in maintaining biodiversity and combating climate change.

Another parallel case is the Standing Rock Sioux Tribe's protest against the Dakota Access Pipeline (DAPL) in the United States. The movement drew global attention in 2016 in relation to the protest against an oil pipeline that was projected to threaten the tribe water and sacred places of worship. This protest led to a mass mobilization of tribes, legal pushback, and solidarity from Indigenous movements and allies throughout the globe. Indeed the oil pipeline was constructed eventually to the protest of the Pathalgadi, however, the case has been an explicit precedent for indigenous environmental activism around the world.⁵⁴

In Brazil, resistance from the Kayapo Tribe against the encroachment of gold mining, and

⁵¹ Mukulika Banerjee & Manisha Priyam, Margins and Marginality: The Pathalgadi Movement and Jharkhand Elections 2019, *The India Forum* (June 4, 2020), <https://www.theindiaforum.in/article/margins-and-marginality>.

⁵² Returning the Amazon Rainforest to Its True Caretakers, *Wired* (Feb. 4, 2024), <https://www.wired.com/story/amazon-rainforest-indigenous-peoples-justice-stewardship>.

⁵³ Intergovernmental Panel on Climate Change, *Special Report on Climate Change and Land* (2019), <https://www.ipcc.ch/srccl>.

⁵⁴ Rebecca Solnit, *Standing Rock Protests: This Is Only the Beginning*, *The Guardian* (Sept. 12, 2016), <https://www.theguardian.com/us-news/2016/sep/12/north-dakota-standing-rock-protests-civil-rights>.

deforestation has also countered and resisted state and large corporate access to state and tribal lands. Although Brazilian constitutional protection exists for indigenous peoples, illegal gold mining and illegal logging has devastated their territories. The Brazilian government failed to enforce indigenous protections, led to international campaigns calling for enforcement of stronger protection of indigenous rights.⁵⁵

These global movements reflect a recurring pattern of indigenous resistance to land dispossession and environmental destruction. They highlight the need for stronger legal frameworks, corporate accountability, and international advocacy to protect indigenous communities from exploitative resource extraction. The success of movements like the Siekopai's land reclamation and the Niyamgiri struggle exemplifies the power of legal activism, grassroots mobilization, and judicial interventions in safeguarding indigenous sovereignty.

CONCLUSION

The directive issued by the Apex Court on the protection of rights of Gram Sabhas in land-use considerations, when it comes to economic development, illustrated the strength of local political agency in that economic development does not have to involve tribal encroachment and environmental degradation. The successes of the move not just guaranteed the safeguarding of the Niyamgiri Hills, but it also provided a precedent of juridical action to case subsequent mobilization of the people in the rural areas, a tactic that could hold companies responsible as well.

The NSS movement is one of the brightest examples of the power of mass action, which confirms that indigenous populations can claim their rights to be respected in an institutional system by organizing a movement, mobilizing, and using the law. The case demonstrated the utility of the established legal protections contained within the Forest Rights Act of 2006 and the Panchayat (Extension to Scheduled Areas) Act of 1996, providing a foundation of indigenous self-governance protection. The Supreme Court ruling in the case of Orissa Mining Corporation v. Ministry of Environment & Forests (2013) also provided a stronger commitment of the judiciary to environmental and human rights protections, by including the tribal population as the most important element of the decision-making process of land ownership.

⁵⁵ Ricardo Brito & Adriano Machado, Indigenous Mining Complicates Brazil's Fight Against Illegal Gold, Reuters (Dec. 2, 2024), <https://www.reuters.com/business/environment/indigenous-mining-complicates-brazils-fight-against-illegal-gold-2024-12-02/>.

Furthermore, the influence of international organizations, such as Survival International and Amnesty International, demonstrated the profound effects of international advocacy on the strength of indigenous advocacy and ensuring multinational corporations would be held accountable for their violations of ethical and environmental standards.

Despite the achievement of free, prior, and informed consent in the NSS agitation, the larger struggle for land rights for tribal societies and sustainable development continue. Indigenous groups across India continue to be displaced by indiscriminate mining, deforestation, and industrialization without any or with limited, free, prior, and informed consent. Future policy agendas must value indigenous decision making and implement Free, Prior and Informed Consent (FPIC) legislation to take place before any new development on tribal land begins. A reconceptualization of sustainable development needs to occur, where environmental protection and indigenous welfare takes precedence over unending industrial development. The knowledge and contributions of indigenous peoples and their knowledge as rightful stewards of biodiversity can aid in the fight against climate change and ecological preservation. The Niyamgiri movement is most important example meditation that economic development cannot disregard marginalized groups and not compromise environmental sustainability. A fair and inclusive form of development needs to be employed as a model that values indigenous rights by providing enforceable legal protection, and creating an inclusive economic model rooted in ecological conservancy and social justice.

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