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## **Demanding rights in company-community resource extraction conflicts: examining the cases of POSCO and Vedanta in Odisha, India**

Kate Macdonald, Shelley Marshall and Samantha Balaton-Chimes

### **Introduction**

Amidst intensified competition for land available to private investors in mining, industrial and commercial agriculture sectors, contests between transnational companies and communities over land are emerging in many countries as a significant domain of social conflict. The power imbalances between actors involved in such conflicts are often stark, as indigenous groups or poor farmers find themselves engaged in social and political struggles against powerful networks of political and business elites. Despite these disparities, organized resistance to land appropriations by marginalized groups — framed in the language of justice or rights — can sometimes result in legal or administrative decisions to stop or alter contested projects.

This chapter examines the cases of two company-community conflicts over land in the Indian State of Odisha, in which communities and their supporters have mobilized to resist proposed new projects, drawing in various ways on rights-based discourses to articulate and support their claims. One conflict relates to the acquisition of land for a bauxite mining project involving the Indian-based and UK-listed company Vedanta, while the other concerns the construction of a mega steel complex by the South Korean company POSCO. Our analysis draws on field research carried out in India during 2012 and 2013, as part of a broader research project looking at the management of human rights grievances involving transnational companies.<sup>1</sup>

In each of these two cases, a community has perceived itself to have been wronged by the activities of transnational business and has formulated claims about this wrong in terms of human rights breaches, broadly conceived. In both cases, affected communities and their supporters have undertaken claim-making strategies at local and global levels. By 'claim making' we mean a range of activities including the normative process of formulating a grievance as a claim, mobilising individuals and communities around an identified harm or issue, and demanding redress from a

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<sup>1</sup> The case studies reported in this chapter are part of a broader study analyzing the effectiveness of non-judicial redress mechanisms in responding to human rights violations linked to transnational businesses and their supply chains. The primary method used to gather data on the two case studies presented here has been interviews and focus groups, supplemented by a range of primary and secondary written sources. Researchers travelled to Odisha and Delhi, India on three occasions to conduct research across 2012 and 2013. During these trips, interviews were conducted with people involved in the campaigns surrounding POSCO and Vedanta, as well as company personnel, journalists, government officials, lawyers and others with knowledge of the campaigns. Interviews were also conducted in Korea and Europe to better understand the transnational campaigns. Over 80 semi-structured interviews were conducted across the two cases altogether.

formal institution or decision making body. The two disputes we examine have involved a similar central human rights breach (the proposed or actual reallocation of land without the consent of the communities living on that land), have both occurred in the same Indian state, and both involve resource extraction and industrial processing projects by transnational companies. In both cases, community resistance to the investment projects has had a significant political impact. In the case of the Vedanta mine, a sustained campaign led to a Supreme Court ruling followed by an administrative decision at the national level to repeal clearance for the mine. In the case of the ongoing campaign over the POSCO plant and mines, there have been delays and modifications, but political authorities continue to assure the company that the project will go ahead.

We compare the strategies of mobilization and claim-making followed by communities in the two cases, asking why there have been different outcomes in these two conflicts despite striking similarities between them. We argue that the different dynamics and outcomes in the two cases have resulted from a combination of three factors: (a) the strength of local solidarity and organizational capacity, (b) the capacity of campaigners to recruit national political and civil society elites in support of community claims, and (c) the extent to which grassroots claims have been supported by transnational mobilization.

Taken together, these three factors highlight the central importance of interactions between grassroots mobilization and the political actions of national and international 'elites'. Such elites either have direct access to institutional authority to make decisions about the contested resource extraction projects, or possess distinctive sources of leverage over authoritative decision-makers. Although local solidarity and organizational strength are crucial to contestation of resource projects, they have not been sufficient in these cases to enable communities to resist the projects. Outcomes have also depended on dynamic and sometimes highly path dependent interactions between rival groups at local, national and international levels as they compete to sway public opinion and influence decision-makers.

In explaining these dynamics, we first provide an overview of the two cases of company-community conflicts. We then present a more detailed analysis of mobilization and claim-making in the two cases, analyzing in turn each of the three main factors identified as particularly important in determining contrasting outcomes.

## **Corporate-community land conflicts: contrasting cases**

### **The grievances of marginalized actors**

We begin with a brief introduction to the nature of the claims being advanced and contested in each case. Both cases involve the mobilization of communities in the Indian state of Odisha, affected (currently and prospectively) by the development of large-scale extractive and industrial development projects in their communities. The affected communities in these cases are marginalized within their local political environments, on socio-economic, political and sometimes cultural grounds. Simply by being located in Odisha, one of the poorest states of India and far from the centres of administration and business, both communities are marginal to elite politics at the

national level. Both cases involve forest-dwellers, who are among the most vulnerable groups in India. These groups face persistent problems of land alienation, indebtedness, government monopoly over non-timber forest produce, involuntary displacement due to development projects, and lack of proper rehabilitation after being displaced from their traditional forest (Mishra, 2011, Dash and Samal, 2008, World Bank, 2006).

Although the communities in the two cases share a range of important characteristics, there are also some notable differences. The differences in the tribal status, agricultural practices and relationships to forests of the affected communities are particularly important. The implications of these differences are complex, as we will explore further below. Although tribal status is often associated with cultural, socio-economic or geographical forms of marginalization, it also confers some strengthened legal protections and normative purchase.

### *The case of Vedanta*

The Vedanta case involves a proposed bauxite mine, intended to be built in the Niyamgiri Hills, which it was hoped would yield 3 million tonnes annually. In addition to the mine, the project has involved a 1-1.4 million tonnes per annum (tpa) alumina refinery in Lanjigarh at the foot of the mine, and a smelter of 250 000 tpa capacity at Brundamal, some 350 km from the refinery (Norwegian Council on Ethics, 2007).

Numerous allegations of human rights abuses have been made regarding Vedanta's actions in Niyamgiri and Lanjigarh. The primary concern in relation to the refinery and mine is the displacement of local people. The refinery has led to the compulsory acquisition of homes and farming lands of 118 families, while 1,220 more families in local villages have lost their farming land (Amnesty International, 2010, p.6). Four Adivasi (indigenous or tribal) villages in the area were levelled to the ground and the tribal peoples have been moved to new settlements (Amnesty International, 2010 p.6). Moreover, concerns about significant forms of cultural, economic and environmental harm have been raised. The Saxena Committee, a committee established by the Indian government to examine the human rights and environmental impacts of Vedanta's operation, reported that if mining were permitted on this site, it would destroy one of the most sacred sites of the Kondh scheduled tribal groups (communities recognised as tribal or 'adivasi' under Indian law), endanger their the forest-based livelihoods (Saxena et al., 2010 p.2) and breach the Forest Rights Act. The Committee also reported that the mine would harm the livelihood of hundreds of Dalit families depending indirectly on these lands through their economic relationships with the tribal groups, destroy a large area of undisturbed forest land, and create transport infrastructure that would make the area more easily accessible to poachers of wildlife and timber smugglers.

A broad range of mobilization and claim-making strategies have been pursued in opposition to the mine, at local, national and international levels. After the Memorandum of Understanding (MoU) between Vedanta and the Odisha government was signed in 2003, a team of activist journalists travelled to the Niyamgiri Hills to warn the community who would be affected by the mine, the Dongria Kondh. The Dongria Kondh united against the mine. These journalists were well-networked

within Odisha. The campaign eventually spread to the national level, gaining the support of the ruling Congress Party. As the Vedanta conflict unfolded, the networks of local movements (in particular the Niyamgiri Protection Committee) opposing the mine gained support, both within the state and nationally (Kumar, 2013, Xaxa, 2012). Resistance against the Vedanta mine has also generated support from a range of international actors, including international NGOs and public figures in the UK and Europe. The involvement of transnational actors saw a corresponding shift in the targets of the protests, to also encompass influential international decision-makers. In 2009, a successful claim against Vedanta was brought before the UK National Contact Point (NCP) under the OECD Guidelines for Multinational Enterprises, and the resulting controversy has led to a number of notable disinvestments in the company by European investment funds.

After multiple court cases at the state and national levels, the Supreme Court of India eventually decided that the decision about whether the mine would proceed should be passed back to the relevant local decision-making body, or Gram Sabha (Editorial, 2010). Following unanimous votes against the mine at all the Gram Sabhas in 2013, the Ministry of Environment and Forests (MoEF) revoked permission for the mine (Saika, 2014). This outcome may not last, as reports, conveyed to us in interviews, continue of communities experiencing ongoing harassment at the hands of army and police under the 'anti-naxalite' (anti-communist) campaign spearheaded by state and national governments. Moreover, India's new government, headed by Prime Minister Narendra Modi, has recently passed an ordinance to make land acquisition easier (Chakravarti, 2015). Nonetheless, sustained mobilizations in this case have resulted in concrete legal and political outcomes that have the potential to alter significantly the course of this planned investment and prevent certain aspects of the project from occurring.

### *The case of POSCO*

The second case that we examine involves a project led by the South Korean company POSCO, the world's 6<sup>th</sup> largest producer of steel. In 2005, POSCO signed a MoU with the Odisha government to build a steel complex, captive port and processing plant in Jagatsinghpur district, with plans to extract 600 million tonne of iron ore in the inland Khandadhar Hills, and construct associated infrastructure, including a port and townships. The total proposed investment has been estimated at US \$12 billion – the biggest foreign direct investment ever in India (IBNLive, 2012).

The project threatens to displace 22 000 residents of three gram panchayats (administrative areas covering villages or small towns) located in the vicinity of the proposed steel plant (International Human Rights Clinic and ESCR-Net, 2013, Pingle et al., 2010). In addition, there are 23 villages in Keonjhar district and 84 villages in Sundargarh districts, whose population, predominantly scheduled tribes, would be affected by mines in these two districts. Prospecting licences for these areas have faced multiple delays and future impacts on communities and the environment remain uncertain. Protest has so far been concentrated at the plant site, where communities are concerned that the project will have severe negative consequences for their livelihoods, despite proposed resettlement and rehabilitation plans. Currently, the livelihoods of villagers are based primarily on farming that depends on the unique ecology and access to common resources from the local forest and marine environments (Asher, 2009, Mining Zone Peoples' Solidarity Group, 2010). As well as being directly

displaced, it is expected that these and surrounding communities would be negatively impacted by environmental degradation associated with the proposed mine and steel plant, especially in relation to water (UN Office of the High Commissioner for Human Rights, 2013).

Affected communities have been unable to secure land rights under law. Given their close, multi-generational relationship with the land and forest, villagers have applied for recognition under the Forest Rights Act (2006) as Other Traditional Forest Dwellers, a status which would give their Gram Sabhas rights to determine and reject developments in the area. Two MoEF advisory committees found that local government officials deliberately obstructed these applications (Saxena et al., 2010, 104-105, Pingle et al., 2010, 29-30). The state Government has obtained approval from the MoEF to divert the forest for non-forest purposes without the villagers' consent, and approximately half of the required land has now been acquired for POSCO.<sup>2</sup>

The dispute between POSCO and communities has been associated with insecurity in the villages at the plant site, and intimidation and harassment of anti-POSCO protesters. As early as 2005, not long after the signing of the MoU, villagers reported that 'henchmen' or 'goons', believed by villagers to be hired by the company, began to visit the area and harass people through beatings, looting and other intimidation tactics (International Human Rights Clinic and ESCR-Net, 2013, p. 55). This prompted villagers to erect barricades to their villages, which have been repeatedly attacked by both police and 'goons' (International Human Rights Clinic and ESCR-Net, 2013, p. 42, Bijulal et al., 2007, Mining Zone Peoples' Solidarity Group, 2010, Samadrusti Television, 2011, Samadrusti Television, 2013). In addition, there has been documentation of police systematically targeting anti-POSCO community members through 'arrest and detention based on false or inadequately investigated criminal charges, the use of "others" as a catch-all group on charging documents, the link between protest activities and arrests, and over-reliance on pre-trial detention' (International Human Rights Clinic and ESCR-Net, 2013, p. 45, Alternative Law Forum (Delhi Forum), 2013). Pervasive insecurity of this kind has been shown to have negative impacts on villagers' rights to health, education, work, freedom of movement and access to state services (International Human Rights Clinic and ESCR-Net, 2013, p. 53).

The communities in Jagatsinghpur quickly organized after the signing of the project MoU in 2005, to form POSCO Pratirodh Sangram Samiti (PPSS, the Anti-POSCO Peoples' Movement, discussed further below). They have mounted a sustained campaign to stop the land acquisition and protect their agricultural way of life using direct action tactics, and by categorically rejecting any offers of compensation. The movement is augmented by a network of Odisha-based activists who support PPSS, but are not members. These activists have launched a number of administrative and judicial appeals at state and national levels within India, including appeals to the National Green Tribunal (NGT) and Odisha High Court. Bhubaneswar-based activists have also recently coordinated loosely with international civil society supporters in Korea, the US and Europe, who have further contributed to the anti-POSCO campaign.

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<sup>2</sup> At the time of writing, POSCO has acquired approximately 1700-2000 acres of land at the plant site since 2013. Exact figures remain unclear. The land has not yet been cleared or developed, potentially because access to iron ore still remains uncertain (POSCO-India 2015; Economic Times 2013).

The legal cases and direct action tactics of PPSS have generated a series of delays that together have stalled the project for 10 years. However, the project retains high level support from a powerful coalition of state and company actors at the state and national levels in India, as well as in South Korea, and there is little evidence of mobilizations weakening the resolve of either the company or the Odisha state government, who continue to work together in an effort to secure land and iron ore for the project.

### **Demanding rights: sources of mobilization and political leverage**

Given the many similarities between these two cases, how can we understand why clearance for the Vedanta mine has been blocked, while the POSCO project appears likely to go ahead? There are several factors that can help us understand what may have led to these differing outcomes. As we will see, both the strength of local solidarity and patterns of connection between marginalized and elite actors play important roles in shaping mobilization and formal claim-making processes. The way in which these factors interact through complex, multi-level and highly path dependent dynamics is also crucial to understanding the resulting outcomes.

#### **Strength of local solidarity**

First, we examine the role of local solidarity in influencing outcomes. Here, we are concerned with the ways in which affected community members interact—including the cohesiveness of their campaign and the strength of their organizational resources. In both cases, the coherence and durability of solidarity within communities, and between communities and Odisha-based activists, has been central to sustaining community resistance to threatened land appropriations.

The strength of mobilizing efforts in both cases has depended importantly on organizational patterns that were long-established in the state. Anti-industrialization and pro-poor struggles have been active in Odisha for some time. Multiple Leftist political parties and people's movements opposing various corporate developments have been active in Odisha since liberalization began in the early 1990s. These movements relate to and support one another through networks that stretch across India, including activists from the Narmada Bachao Andolan movement (Sahu and Dash, 2011, p.263). For many Odisha-based activists, self-conceptions of legitimacy are strongly linked with the notion of acting in solidarity with affected communities, particularly with tribal people, forest dwellers, and farmers (especially those that are landless). The idea of 'solidarity' has a long history and is a well-honoured concept amongst these activists (Kumar, 2013, Das, 2001, Swain, 2000). Solidarity entails a commitment to deferring to aspirations developed within affected communities, rather than developing goals in accordance with external priorities.

State-based activists were particularly influential in the Vedanta case. Shortly after Vedanta's MoU was signed in 2003, these activists began attending local protest events, mobilizing villagers and making connections among grassroots activists and other anti-industrialization struggles across Odisha (Kraemer et al., 2013, pp 834-5). These solidaristic norms and practices, and the associated organizational capacity offered by the activists, were decisive factors that helped to sustain the community's decade-long struggle against the mine.

In the Vedanta campaign, the energy and commitment of the affected communities themselves has been a crucial factor behind the campaign's success. Their campaign was greatly aided by the fact that the Kondh communities affected by the planned mine were unanimous in their desire to stop the mine, and were thus able to function as a unified collective. They also developed a clear representative structure. Some interviewees suggested that this was a consequence of pre-existing governance structures within the tribal communities, along with strong ethics of equality present in the cultures of those groups. These factors provided the affected communities with a relatively clear structure, through which links could be formed with the broader Odisha-based activists discussed above.

A comparison with the POSCO case illustrates that these local organizational resources are not sufficient for successful claim-making by marginalized groups. In the POSCO case, solidarity and organizational capacity amongst affected communities has been very strong. These communities have built on traditions of solidarity similar to those in the Vedanta case, and maintained a strong level of community cohesion. As noted above, the PPSS has acted as the main vehicle through which the affected communities have mobilized in this case. With an elected leadership that is primarily from the local area, but also includes some Communist Party of India members, PPSS uses direct action tactics, such as blockades by hundreds of women, children and men, as well as broader political protest. PPSS has played an important role in hampering land acquisition efforts over the last decade by preventing surveyors and other agents from accessing the area (Pattnaik, 2011, p. 56-59, Mining Zone Peoples' Solidarity Group, 2010, p. 18, Samadrusti Television, 2011). The movement refuses to engage with government in relation to land acquisition efforts, such as surveying or promoting compensation packages. Its engagement with the government and the law is limited to demanding rights under the Forest Rights Act in the form of filing claims for OTFD status, and advocating rejection of the project in the gram sabhas. The movement has not always enjoyed uncontested support from all community members. Approximately 50 families expressed support for the POSCO project early on, and left their homes for the promise of compensation in a POSCO transit camp. However, the poor conditions at the POSCO transit camp, and the lengthy delays in the project and associated compensation packages have resulted in many of these families returning to their homes and to PPSS (Asher, 2009, International Human Rights Clinic and ESCR-Net, 2013, p. 63-68). The core of the movement's support from a critical mass of villagers has not waned, and the movement's resolve has survived a decade.

The strength of local solidarity has thus been central to the claim-making capacity of communities in both of the cases. Without this solidarity, communities may have become divided, and would have struggled to sustain resistance to the projects over the many years that the disputes have dragged on. Although the importance of local solidarity is a common feature of the Vedanta and POSCO cases, some subtle differences in the characteristics of local groups and their approach to solidarity are worthy of note. The anti-Vedanta group, based primarily among the culturally marginalised Dongria Kondh, maintained internal coherence and unity while remaining relatively open and receptive to outside actors who played important roles in establishing and sustaining community mobilization. The anti-POSCO campaign has relied on solidarity primarily amongst its own

membership of farmers, who compared with communities mobilizing in the Vedanta case tend to be less culturally marginalised and more engaged with the politics of industrial development. Correspondingly, participants in the anti-POSCO campaign have been more restrained in their dealings with external organisations. As we will see in the following sections, these differences have implications for the ability of local groups to form alliances with outside actors in support of their campaigns.

### **Capacity to build national political alliances in support of community claims**

Although sustained grassroots mobilization can stall projects, it rarely has the capacity to stop them, and it has not had this effect in either of the cases we examine here. Elite support for community mobilization and claim-making has played an important role in enabling contestation to translate into firmer and more sustainable outcomes favouring communities. Support from elites at the national level is particularly important as a basis for achieving legal and administrative decisions that respond to community demands. In this section we examine three significant forms of elite support: first, support for community organizational capacity at the grassroots level; second, elite provision of knowledge about, and access to, formal claim-making processes, and; third, elite influence over decision-making processes.

Grassroots campaigners in both the Vedanta and POSCO cases have been supported by a number of state and national civil society entities. Lok Shakti Abhiyan is a loose network of anti-neoliberal activists, headed by activist Prafulla Samantara at the Odisha state level, and connected to the National Alliance of People's Movements, founded by Medha Patkar of Narmada Bachao Andolan. Lok Shakti Abhiyan has provided support in both the POSCO and Vedanta cases, integrating both cases into larger national narratives of marginalization wrought by liberalization and industrial development. In the Vedanta case, it instigated a ban to stop the influx of foreigners into the Niyamgiri Hills, in order to build more sustainable grassroots resistance structures (Kraemer et al., 2013 p.844), and in the POSCO case it has routinely joined and publicised protests, as well as engaged formal claim-making processes (see below). Both campaigns have also been supported by Video Volunteers and Samadrusti, organizations of journalists and film makers who gather evidence of the negative effects of industrial developments, and provide alternative sources of news to counter the biases they perceive in local media. At state level, other entities were established specifically to help the anti-Vedanta movement, such as Green Kalahandi, founded in 2005 when a number of delegates met in Bhawanipatna to discuss the positive and negative effects of Vedanta's presence in Kalahandi. The founder of Green Kalahandi is Bhakta Charan Das, a member of the Indian Parliament representing the Kalahandi constituency at that time. In 2008, Das and the Green Kalahandi reached out to Rahul Gandhi, Chairman of the Congress Party and an influential political figure who subsequently put his weight behind the anti-Vedanta movement (discussed further below). Congress is one of the two major political parties in India, and has led the central government for a total of 49 years since Independence.

National organizations have also provided support in both cases. For example, the People's Union for Civil Liberties, India's oldest and largest human rights organization, first began to document incidents of repression in relation to the Vedanta mine in 2003, providing an important source of

credibility to local claims in the early days of the Vedanta struggle (Public Union for Civil Liberties, 2003). The Delhi Solidarity Group, a social justice collective, pledged support for the Adivasis of Niyamgiri in 2007, and helped to provide information for local activists on the progress of the mining operations. The Alternative Law Forum has investigated and documented irregular use of criminal charges against anti-POSCO activists (Alternative Law Forum (Delhi Forum), 2013), while the National Centre for Advocacy Studies has also generated investigative reports and documented the movement (Asher, 2009, Pattnaik, 2011). Other forms of support have been aimed at supporting the autonomy and solidarity of the affected communities. For example, in 2006, POSCO organized mobile health camps in the area. In response to this, PPSS organized a two-day health camp at the Dinkia and Govindpur villages to demonstrate that local people were not dependent on POSCO for addressing their healthcare needs (Pattnaik, 2011, p. 57). Doctors were drawn from both Delhi and Bangalore, sent by different social action groups throughout India. The POSCO and Vedanta cases are very similar in their capacity to engage support in these ways from national civil society elites.

Second, and relatedly, elites can provide knowledge about, and access to, formal claim-making processes. This can help to hinder the progress of projects and impose costs on project proponents, even where they are not directly able to block the projects through access to authoritative decision-making sites. In both the Vedanta and POSCO cases, elite civil society support to pursue formal channels of rights claiming has taken a very similar form.

In the Vedanta case, a number of actors have provided support of this kind at the national level. Lawyers possessing strategically important forms of procedural and technical knowledge, as well as access to more informal networks with decision-makers, have played an important role. For example, Legal Initiative for Forest and Environment (LIFE) lawyers have helped facilitate the sustained and ultimately successful legal actions on behalf of communities in the Vedanta case.<sup>3</sup> LIFE lawyer and environmental activist Ritwick Dutta appeared before the Supreme Court on behalf of the Dongria Kondh in 2013 on a largely pro-bono basis, leading to a ground breaking case in support of the community's right to vote on the clearance of the mine.

Elite identification with environmental norms has played an important role in assisting communities to connect with national elite networks. The remote forest location of the tribal communities in the Vedanta case, and the associated capacity for the project location to be characterised discursively as 'pristine', and replete with 'charismatic mega-fauna' (elephants), also facilitated the development of linkages with wilderness movements including groups like The Wildlife Society of Odisha and The Wildlife Institute of India, the latter of which performs an advisory function to the MoEF.

In the POSCO case, national elites have also engaged sites of decision-making that the people's movement avoids, thereby extending the reach of the overall campaign. The anti-POSCO movement has tested a range of legal, administrative and quasi-legal strategies, with mixed outcomes. Prafulla Samantara of Lok Shakti Abhiyan, with the pro bono support of LIFE lawyers also involved in the

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<sup>3</sup> This group also has close relations with Amnesty International and funding from various European foundations, highlighting the often close connections between elite action at national and international levels, as we examine further below.

Vedanta case, initiated a number of legal cases contesting forest and environmental clearances (at the NGT) and land acquisition (at the Odisha High Court). Here, the POSCO legal cases explicitly seek to build on the social and, in particular, environmental progress made in the Vedanta legal cases. One of the High Court cases resulted in the voluntary withdrawal of plans to acquire private land at the plant site, although since most of the land is government land, this impact is limited. The NGT cases have resulted in multiple reassessments of both forest and environmental clearance such that neither is currently finalised. POSCO is now pursuing the project in small stages of 4MTPA at a time. Although none of these processes has yet generated any authoritative decisions in favour of community claims, delays and modifications in the clearance for the project associated with these processes have generated costly setbacks for POSCO and its supporters.

Elite alliances may also help to alter the course of contested projects by extending influence to decision-makers in positions of institutional authority, thereby helping to facilitate legal or administrative support for community claims. Securing such influence has been difficult in both the Vedanta and POSCO cases, since both projects enjoy the support of a powerful alliance of government and business actors, including corporate executives, investors and senior figures within the Odisha State government (Padel and Das, 2007, Xaxa, 2012 p.192). Elites at local levels have also tended to be highly supportive of both projects, in part owing to opportunities for minor contracts, employment, and compensation for land acquisition to large landowners (Kumar, 2013). High-level political alliances backing the POSCO project have engendered highly unified elite support for that project within India, in contrast to the greater diversity or at least ambiguity of elite positions concerning the Vedanta project, which has created some openings for support for project opponents from elites with direct access to legal or administrative authority within India.

The strength of elite political support for the POSCO project is associated with the enormous scale of the project, and its implications for economic growth and job creation. The strength of elite support for POSCO can also be understood in the context of wider diplomatic and economic strategies adopted by the Indian government. The POSCO project is in line with India's National Steel Policy and broader industrial promotion policies at both state and national levels (Government of India, 2005), and the Government of India has expressed great enthusiasm for efforts to secure investment from Korea, in part reflecting a prevailing optimism that Korean foreign direct investment will lead to a transmission of Korea's widely respected economic development techniques (Business Standard, 2012). The government's strong support may also be in part explained by POSCO's capacity, as a company proposing the biggest foreign direct investment in India, to embellish or tarnish Odisha and India's reputation as a hospitable host for foreign capital (Economic Times, 2014).<sup>4</sup>

In contrast, the anti-Vedanta campaign had notable success in recruiting some influential political elites in support of its campaign. Rahul Gandhi, who was at the time Vice President of the Indian National Congress Party, visited Lanjigarh in August 2010 to announce the government's decision to reject environmental clearance for the mine, telling a large crowd, 'we promised you in 2004 that

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<sup>4</sup> The only politicians who have consistently spoken out against POSCO are from state level CPI, and they have little direct decision-making influence over the project.

there'll be a government for the *aam aadmi* (common man) and we gave you that.' (NDTV, 2010). Other key political figures from Congress added their weight to opposition to the project at various points, including Jairam Ramesh, Minister of Environment and Forests from 2009–2011, a strong political ally of the Gandhis.<sup>5</sup>

Congress' support for the Dongria Kondh can be, at least in part, explained by its vested interest in regaining support from its traditional constituency--scheduled tribes and scheduled castes--which has been shifting on the right both to BJP (nationally) and BJD (in Odisha), and on the left to Maoists. The rising power of Maoists amongst disenfranchised tribal communities has bolstered the interest of some political elites in protecting rights of tribal people (Kumar, 2013). Tribal peoples are joining the Maoists in significant numbers (Roy, 2009), and some observers have reported that the Maoists may have support amongst the Dongria Kondh. In March 2010, a few months before Ramesh's decision to deny environmental clearance to the mine, the influential Economic Times of India printed an editorial urging the use of the Forestry Act to curb the growing power of the Maoists, representing growing Maoist power as a threat to Indian security and economic prosperity, and claiming that, 'one of the UPA government's major legislative achievements, in its previous term, was the Forest Rights Act, whose sincere implementation would deprive Maoists of a crucial support base' (Economic Times, 2010). Furthermore, the founder and majority shareholder of Vedanta, Anil Agarwal, supports the BJP, a move that further alienated Congress from the company. This does not mean that Congress ministers were automatically antagonistic towards Vedanta – Vedanta has mines and plants across India that have received Congress support. However, it does mean that Vedanta has wielded less leverage at a national level than within Odisha.

As a result of these complex political dynamics, communities in the Vedanta case have had more success than those mobilizing against POSCO in securing support from national elites. Such support can be important both as a means of helping to bolster and sustain organizational capacity amongst communities at the local level, and as a means of accessing decision-makers with direct authority to influence legal or administrative processes in favour of community demands.

### **Capacity to recruit international support for community claims**

Support from state and non-state actors at the international level has also played an important role in influencing the outcomes in each case. Generally, the anti-Vedanta campaign has been able to galvanize and deploy such international support more effectively than the anti-POSCO campaign. We can identify a number of ways in which international support can influence the course of disputes—contributing to our understanding of the different outcomes obtained so far in the two cases.

First, alliances with international groups can help to support local solidarity and organization amongst affected communities. In the Vedanta case, material support from members of international networks bolstered the capacity of local people's movements and NGOs in a number of ways. For instance, ActionAid UK supports and is guided by ActionAid India, which was a key local

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<sup>5</sup> Such conditions were linked to the Equator Principles, which provide a credit risk management framework for determining, assessing and managing environmental and social risk in project finance transactions.

player in the campaign, providing various forms of support to local communities mobilizing in opposition to the Vedanta project (Kraemer et al., 2013, p. 833).

In the POSCO case, some support has been provided by international networks, but it has been more restricted than in the Vedanta case. Factors that help explain this difference include PPSS' autonomous organising principles and physical isolation (due to insecurity), together with foreign NGOs' lack of local physical presence and correspondingly restricted capacity to build close, trusting relationships with local groups, or access the project site. In the tense political environment surrounding the case, PPSS leaders see part of their role as protecting the community from those that might seek to divide it and thereby weaken the movement. Foreigners are also prohibited from visiting the site without government permission (Economic Times, 2012), and must face a 'siege-like' security situation if they attempt to visit (International Human Rights Clinic and ESCR-Net, 2013, p. 49). Bhubaneswar-based activists therefore act as intermediaries between international supporters and communities, giving rise to concerns amongst international supporters that they find it difficult to access 'authentic' or unfiltered views of community members, and thus struggle to identify a meaningful mandate to guide their support. Where international organizations have a permanent local presence, building trust and communication with affected communities has been easier. For example, Mining Zone Peoples' Solidarity Network, which conducts research on the economic impact of the project, is run by Indian expatriates with pre-existing networks in Odisha, and has fostered an ongoing relationship with the anti-POSCO movement.

Support from international actors can also be important because of the distinctive sources of material and normative leverage held by these groups. In the Vedanta case, the capacity of international campaigners to influence international investors in Vedanta has been of particular significance. Attempts by European campaigners to convince investors that serious action should be taken in response to human rights abuses by the company produced some notable successes. In 2007 the Norwegian government sold its \$13m stake in Vedanta, stating, 'there is little reason to believe that the company's unacceptable practice will change in the future' (Hopkins, 2010). Likewise, Martin Currie Investment Management sold its £2.3m stake in 2009, and BP's pension fund reduced its holdings in Vedanta because of 'concerns about the way the company operates' (Hopkins, 2010). These actions later contributed further sources of investor pressure, as the intensified critical scrutiny on the company associated with the international campaigns encouraged international banks to place social conditions on new lending that Vedanta required to re-finance its global operations in 2010.<sup>6</sup> This in turn has driven some changed practices within the company, including the creation of a new sustainability team whose job it is in part to manage disputes of this kind, and the creation of a dispute resolution mechanism at the refinery site.

These divestment decisions illustrate the distinctive material and normative leverage possessed by international supporters. This, in turn, can generate direct forms of pressure over the companies that communities are seeking to influence. However, the ability of such pressure to alter the

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<sup>6</sup> Such conditions were linked to the Equator Principles, which provide a credit risk management framework for determining, assessing and managing environmental and social risk in project finance transactions.

eventual trajectory of the contested project depends on cumulative or snowballing patterns of influence over extended timeframes. In the Vedanta case, a number of relatively small successes in influencing different targets contributed, over time, to a larger shift in favour of the communities affected by the Vedanta mine. The longer timeframe compared with the anti-POSCO movement over which national and international groups have been working on the Vedanta case enabled them to experiment with multiple strategies over a number of years. Multiple parallel forms of political action can in this sense 'concatenate' through dynamic and interactive processes or 'webs' of influence (McAdam et al., 2001, Braithwaite and Drahos, 2000, Cerny, 2007).

Illustrations of the normative and material leverage held by international supporters have been comparatively lacking in the POSCO case. US-based activists have targeted a number of high profile investors, including Berkshire Hathaway, JPMorgan Chase, Bank of NY Mellon, Deutsche Bank and Blackrock, to seek divestment, but with no notable success to date (International Human Rights Clinic and ESCR-Net, 2013, Mining Zone Peoples' Solidarity Group, 2012). Lok Shakti Abhiyan took an OECD National Contact Point complaint to the South Korean, Dutch and Norwegian NCPs (the latter two countries having national pension fund investments in POSCO). The Korean NCP declined to pursue the complaint on the grounds that the human rights issues are the responsibility of the Indian government (Korean National Contact Point, 2013 ). The Norwegian NCP accepted the complaint, but the Norwegian Pension Fund declined to participate in a problem-solving process and was found to be non-compliant with the OECD Guidelines for Multinational Enterprises both for refusing participation, and for not demonstrating adequate due diligence (Norwegian National Contact Point, 2013). The Dutch NCP accepted the complaint and found the pension fund compliant with the OECD Guidelines because it was exercising its leverage over POSCO through correspondence and face-to-face meetings in Seoul (Netherlands National Contact Point, 2013). The Dutch NCP then facilitated a dialogue between complainants and the pension fund, which POSCO became involved in, to attempt a fact-finding mission. However, parties were unable to agree to terms and the dialogue stalled.

It is worth considering why international leverage has been less influential throughout the anti-POSCO campaign. One important factor contributing to more sustained leverage in the Vedanta case has been the ability of international supporters to frame the community's struggle in terms of norms and discourses that hold currency at the international level. This normative resonance is important as a basis for enabling international allies to justify their connection to the dispute. It also provides an important basis for international campaigners to exercise leverage over targets such as international investors. The capacity of the Vedanta campaign to frame claims around indigenous rights has been particularly important in this regard. This has played a significant role in enabling alliances to be formed with international NGOs, for whom the 'indigenous rights' discourse has held strong sway. For example, public performances held by activists in the UK focused on the 'exoticism' of the tribal communities and their distinctive traditions that were under threat. Activists at Vedanta AGMs in London painted their bodies blue to draw parallels with the plot of the Avatar movie. In this sense, the tribal identity of some communities in the Vedanta case generated the potential for

stronger resonance with international norms and organizational capacity focused on indigenous issues.

The framing of community claims in the Vedanta case can be contrasted with the primarily livelihood-oriented concerns emphasised by communities mobilized against POSCO. The land affected by the POSCO steel plant is small-scale agricultural land with a deep connection to surrounding forest and marine environments. These complex realities have limited the ability of affected communities to connect with mobilizing frames and networks as powerful and readily intelligible as indigenous rights discourses. In addition, local activists have struggled to translate the norms of self-sufficiency, non-engagement and non-violence to an international audience. The strategies of direct action used by the peoples' movement have been a source of discomfort for some international groups, while their anti-capitalist ideological stance is not taken as seriously as the Dongria Kondh's claim, in the Vedanta case, to tribal rights. Where international support for communities in the POSCO case has been attained, this has usually rested on the capacity of community supporters at national or international levels to (re)frame the dispute through a human rights lens.

Until 2012, POSCO was relatively impervious to allegations of human rights breaches in Odisha, insisting it was acting within the law. Since then, POSCO has responded to pressure from human rights advocates by publicly committing to human rights standards including the OECD Guidelines, ISO 26000 and the Global Compact, and defending its human rights record through forums such as the Business and Human Rights Resource Centre website. Nonetheless, the company's behaviour in relation to promotion of the project and engagement with communities in Odisha has not so far discernibly altered, and there is no available evidence that the company is developing an explicit human rights policy, or has sufficient internal capacity to assess and respond to human rights concerns. When placed in the broader context of the company's operational practices and policies, the capacity of rights discourses to underpin normative or material leverage over the company has remained limited.

### **Understanding the interplay between grassroots and elite leverage in demanding rights**

What, then, does the above analysis of mobilization and claim-making suggest regarding this book's broader questions about the capacity of marginalised groups to make effective demands in support of their rights? What factors have been most decisive in determining the effectiveness of such demands in the two cases we have examined, and to what extent can we extrapolate broader lessons on the basis of these two specific cases of local struggles?

Our chapter has emphasised three factors, which separately and in interaction with one another have played decisive roles in shaping the differing outcomes in the two cases. Taken together, these three factors highlight the importance not only of community solidarity and organising strength, but also of strategies through which marginalized actors are able to benefit from supportive interventions by other social actors, as a basis for advancing their claims. We have seen that

collective resources and capabilities at the local level can provide an important basis for politicizing contested land claims, and for sustaining processes of resistance and contestability over time.

In both the POSCO and Vedanta cases, such local pressure though crucial, was not sufficient on its own to achieve meaningful outcomes for the affected communities. In both cases, support from national and international elites has been vital. Our emphasis on the importance of links to national and international elites supports and builds on existing literature that has highlighted the potential value of elite support as a basis for unsettling established social and political alliances, and building more conducive political environments for community claims (McAdam et al., 2001). Our analysis has further emphasised the value of elite alliances for providing support for grassroots organising, thus intensifying and helping to sustain local resistance. We have seen that elite support can also provide access to distinctive sources of material or normative leverage over project proponents, or to sites of legal or administrative decision-making wielding direct authority over the future of the contested projects.

Recognizing the potential importance of elite support for grassroots community demands has implications not only for questions about the effectiveness of community mobilization strategies, but also for questions about power, representation and legitimacy within these wider political alliances. Even where local groups have succeeded in eliciting support from national or international elites, members of such coalitions often have significantly different normative commitments or underlying material interests. For example, in the Vedanta case, although common frames around indigenous issues were developed by both local and transnational coalition members, the meaning of these played out very differently to local and international audiences. Transnational advocates focused primarily on indigenous and human rights, while at the national level, such discourses were framed more narrowly with reference to 'tribal rights' under the domestic Forest Rights Act. Both environmental frames and those centred on the protection of due process and the rule of law also received greater emphasis at the national level, in both the POSCO and Vedanta cases.

Our emphasis on the potential value of elite alliances for supporting community mobilizations to demand their rights has potential relevance to a range of social and political contexts, though as we have seen, the particular ways in which elite support is provided, and the extent to which support from national or international elites can influence outcomes, will vary between cases. In both cases examined here, support from the national level has been particularly important in influencing contested outcomes. Importantly, the support built on and bolstered solidarity within the communities. To a significant extent this can be understood as a function of the distinctive patterns of political authority, political discourse and political mobilization in Odisha where ethics and traditions of solidarity are particularly strong. Nonetheless, given the emphasis that is often placed by external analysts on support from transnational actors, the relative importance of national and sub-national dynamics in both these cases is worth highlighting.

Our analysis has also suggested that explaining the relative success of communities in demanding their rights across cases requires attention to highly contingent and path-dependent dynamics. In the Vedanta case, cumulative effects from multiple, loosely coordinated strategies of mobilization

and claim-making at local, national and international levels, played out over a long timeframe to eventually stop the mine, whereas in the POSCO case a multifarious campaign has resulted in delays but not the cancellation of the proposed project. Communities in both cases were able to capitalize on a relatively recent socially progressive law (the Forest Rights Act), and judicial bodies (the NGT) to provide regulatory barriers to the projects they oppose, although other factors were also influential in shaping overall outcomes. The tribal identity of the affected communities at the location of the bauxite reserve in the Vedanta case proved decisive in gaining both international attention on the company from investors, and national political support from decision-makers. The farming and forest-dwelling villagers in the POSCO plant site have been unable to attract the same attention. Vedanta's stock market listing in the UK enabled activists to draw attention to indigenous (and human) rights concerns in a European context where government and corporate actors are more vulnerable to citizen pressure than in Korea, where POSCO is listed. Cumulatively, these pressures gave rise to processes and outcomes that may have occurred sooner, later or played out differently under different circumstances. The path dependent dynamics through which mobilization, alliance-formation and political contestation evolve, and their contingent intersections with wider political dynamics and events, must thus also be recognised as crucial in shaping outcomes in any given case.

Such path dependent and contingent dynamics can frustrate the desire of social and political analysts to generate predictive claims about the 'conditions under which' community demands will be successful. These dynamics also generate challenging questions about how community strategies of mobilization, alliance formation and claim-making ought to operate within complex, multi-level political environments. While this chapter has generated some firm conclusions about the importance of interplay between grassroots mobilization capabilities and engagement with elite supporters at national and international levels, our analysis has also highlighted the importance of both practical and theoretical responsiveness to the varying political contexts and temporal dynamics within which marginalized groups mobilize to demand their rights.

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