

We Shall Not Give an Inch of Land



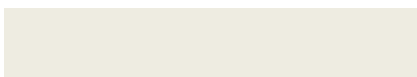
A PUCL (Odisha) Report on the Struggle Against Land Acquisition for OCL India Ltd. in Sundargarh District

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Introduction

I am an Adivasi.

I shall not give land.

I shall not be displaced.

I am an Adivasi and I have inherited valuable Land from my forefathers. Land is the only everlasting source of livelihood for the coming generations. Land is the real source of language, art, culture, customs, faiths and identity of my community. These are more valuable than any job or any amount of money.

You will find these messages written on square sized posters and fixed to tamarind trunks and walls of community houses of villages or on rectangular banners tied to electric poles at village entry points. You also find on rough stone pillars, the testimonies of the Gram Sabha movement, posted at the edge of villages, highlighting the supremacy of the Gram Sabha, “According to PESA Act, 1996, the power of the Gram Sabha is superior to the power of the Parliament... The consent of the Gram Sabha is necessary before implementing any scheme or project for social or economic development. The Gram Sabha has power to recover land illegally alienated from any Adivasi and has control over illegal occupation or transfer of land”. These villages stand to lose their agricultural and homestead land to the proposed acquisition for OCL (Odisha Cement Ltd.) India’s expansion of limestone mining as well as the capacity of its cement plant located at Rajgangpur in Sundargarh district.

Sundargarh, a district under the 5th Schedule of the Indian constitution, is situated in north-western Odisha, with Jharkhand to the north and Chhattisgarh to the west. It is home to many Adivasi communities like Oraon, Kharia, Kishan, Munda etc. Demographically, Adivasis form the largest social group and constitute 50.97% of the total population of the district.

The district occupies an enviable position in the mineral map of Odisha and India. It has rich deposits of coal, iron and manganese, limestone and dolomite. Out of total 17 blocks of the district, eight blocks – mostly the rural parts – are known to be mineral-bearing areas. Coal is concentrated in the IB valley of Hemgir block. Iron ore and manganese are largely found in Koida, Lahunipada and Gurundia blocks; limestone and dolomite in Rajgangpur, Nuagan, Kutra and Kuanrmunda blocks.

Commercial mining has been going on in Sundargarh since the last decade of the 19th century. It was accelerated after Independence with the setting up of mineral-based industries. Despite being one of the major industrialized zones in Odisha, the local people

have hardly benefitted from it. On the contrary, it has propelled the loss of their sources of livelihood, displacement, poverty, destitution and degradation of environment. According to a report by the Centre for Science and Environment (CSE), 65.2% of the population in the district lives below the poverty line and the earning of 89.8% of rural households is below Rs.5000/- per month. The Caste and Socio-Economic survey of 2011 shows that 40% of the rural population is landless. According to Sundargarh District Gazetteer (1975), forest occupied over 70% of the total area of the district. During the last four and a half decades, it has come down to 51.04%. The district-wise Climate Sensitivity Index shows that Sundargarh comes under high-risk zone so far as drought is concerned.

This bitter taste of mining and industrialization has made people rise up to resist the exploitation of their land, forest and environment. This is happening not only in Rajgangpur and Kutra blocks but also in other parts of the district such as Hemgir, Bisra, Banei and Lathikata. The resistance to OCL India's proposal for expansion of capacity of its cement plant at Rajgangpur and acquisition of land for limestone mining at Lanjiberna can be seen as part of these struggles.

Activists of Forum for Gram Sabha Committee, an organization leading the people's struggle against proposed land acquisition, brought to the notice of PUCL how constitutional provisions for protection of Adivasis in Schedule Areas have been ignored and the law concerning land acquisition has been violated to give land to the OCL. Considering the seriousness of issues involved, a three-member team of PUCL visited the area from 5th to 7th March 2022. During its visit, the team interacted with the activists of the Forum, local lawyers, and elected representatives of the Gram Panchayats as well as the common people in a number of affected villages such as, Lanjiberna, Kesramal, Kheramuta, Saliameta, Rengarbahal, Mahuatoli, Thapaberna and Jhagarpur. The team had brief meetings with the Tahsildar of Rajgangpur and the Sub-Collector of Sundargarh. The team also went through relevant documents available in public domain, newspaper clippings, reports on Environmental Impact Assessment and Social Impact Assessment, video recordings of public hearings and copies of Gram Sabha resolutions. This report has been prepared collating all these views and information.

Section-1

Arrival of OCL and Socio-Economic Life of the Local People

A. OCL at Lanjiberna

The Orissa Cement Ltd. (OCL) was established at Rajgangpur on the basis of an agreement signed between the state of Orissa and M/s Dalmia Agencies in December 1948. The aim was to produce cement needed for the construction of the Hirakud Dam. It began its

production in the year 1951, sourcing limestone and dolomite from the Lanjiberna limestone mines, and gradually scaled up its production capacity in different phases.

1951 – 500 ton per day

1957 – 600 ton per day

1998 – 5.25 lakh ton per annum (TPA)

1990 – 7 lakh TPA

2005 – 1.7million TPA

2010 – 4.2 million TPA

2017 - The company has now proposed to expand its production to 9.5 million TPA.

As production capacity grew, mining operation also expanded. More and more land was acquired in phases. The lease-hold also changed hands.



Figure 1: Lanjiberna Limestone Mines

- Of these 893.55 hectares, the company surrendered 20.493 hectares in September, 2011. It has now a lease area of 873.057 hectares. Of these, the company has obtained 'surface rights' over an area of 333.43 hectares (247.83 hectares private land, 62.56 hectares of forest land and 23.04 hectares of common land) and the lands have already been acquired.

- The company has now proposed to acquire the remaining 539.627 hectares area (497.267 hectares of private agricultural land and 42.36 hectares of common land) of its total leasehold area.

The government of Odisha has issued two separate notifications dated 24th February 2020 and 9th February 2021 to acquire private lands of 990.67 acres of the 1243.167 acres

- The Lanjiberna limestone mines were originally given on a lease to the Bisra Stone and Limestone Company (BSLC) over an area of 1002 hectares with effect from 02.05.1951. OCL was working the mines as a sub-lessee of BSLC till 28.02.1990.

- Out of 1002 hectares, an area of 893.55 hectares was granted on a direct lease to OCL from 01.03.1990 for a period of 20 years. Subsequently, it was renewed up to 29.02.2040.

(497.267 hectares) of the following villages under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and Government of Odisha Rules, 2016.

Table-1: List of villages to be acquired

Sl. No.	Tahsil	Gram Panchayat	Village	Private land to be acquired (in acres)
1	Kutra	Katang	Lanjiberna	27.51
2	Rajgangpur	Alanda	Alanda	164.82
3	Rajgangpur	Kukuda	Kukuda	399.8
4	Rajgangpur	Kukuda	Bihabandh	39.01
5	Rajgangpur	Kesramal	Kesramal	293.25
6	Rajgangpur	Kesramal	Raiberna	57.8
7	Rajgangpur	Jhagarpur	Jhagarpur	8.48
	Total			990.67

Source: Social Impact Assessment Reports May, 2021 and July, 2021

The remaining private land of 252.33 acres is likely to be acquired in future. Local people think it is a tactic of the company to acquire land in piecemeal in order to avoid protests by the entire affected population. Secondly, nothing is mentioned about the acquisition of 42.36 hectares of common land (105.90 acres) including water bodies, grazing land, and roads etc. which play an important role for the sustenance of their livelihoods. Thirdly, two NGOs i.e., ARDCS and CYSD have carried out the Social Impact Assessment (SIA) study in seven out of the nine villages mentioned in the Environment Impact Assessment (EIA) Report. Two villages, i.e., Dhaurada and Katang have been left out while village Bihabandh has been studied twice, without any methodological explanation.

B. The Area and the People: A Brief Profile

During the colonial period, these villages were part of the Gangpur Princely State. With the merger of Princely States with Odisha in 1948 and subsequent administrative reorganization, they were assimilated into the Rajgangpur and Kutra blocks. The villages are located between the mining area at Lanjiberna and the OCL cement plant at Rajgangpur, and along Sambalpur- Rourkela Express Highway. Numerically, Adivasis (Oraon, Khadia, Kisan and Munda communities) form the majority social group ranging from 74% to 93% at the village level. Similarly, the Scheduled Caste groups constitute 1% to 13% of the total population.

Table-2: Demographic Profile of the Affected Area

Sl. No.	Name of the village	No. of Household(s)	Total population	Male	Female	SC (% of SC population to the total population)	ST (% of ST population to the total population)
1	Katang	826	3812	1895	1917	512(13.43%)	3137 (82.29)
2	Lannjiberna	594	2573	1315	1258	184 (7.15%)	1911 (74.27)
3	Alanda	822	3891	1970	1921	196 (5.03%)	3637 (93.47)
4	Kukuda	780	3703	1888	1815	19 (0.51%)	3448 (93.11)
5	Bihabandh	387	1748	874	874	161 (9.21%)	1351 (77.28)
6	Dhaurada	437	2092	1046	1046	248 (11.85%)	1719 (82.17)
7	Kesramal	495	2214	1075	1139	93 (4.20%)	2047 (92.45)
8	Raiberna	611	3009	1498	1511	179 (5.94)	2672 (88.80)
9	Jhagarpur	564	2659	1299	1360	37 (1.39%)	2462 (92.59)

Source: Census 2011

Economically, a sizeable population depends on agriculture as cultivators or agricultural labourers. The ARDCS study shows that 80% of families are engaged in agriculture. The CYSD study reports that most of the families are 'agriculture-centric'. Most of them are marginal and small farmers. Both the studies indicate the average landholding of the households is around 1 to 1.5 acres only. Agriculture is largely rain-fed. Officially, around only 8% of the land is irrigated. Besides paddy in rainy season, they produce varieties of pulses like *arhar*, *mung*, *kolath* and *khesari* and vegetables in the winter. But in the recent past, many people have been compelled to abandon winter cultivation as the flowers dry up due to smoke from sponge iron factories compounded by dust and smoke from limestone mining and the cement plant. People rue the fact that they are no longer able to eat *munga* (drum stick) leaves due to mining.

Table-3: Workforce Profile of Affected Communities

Sl. No.	Name of the village	Main workers	Cultivators	Agricultural Labourers
1	Katang	823	272 (33.04 %)	258 (31.34%)
2	Lanjiberna	646	136 (21.05 %)	9 (1.39%)
3	Alanda	606	174 (28.71%)	189 (31.18%)
4	Kukuda	860	302 (35.11%)	172 (20%)
5	Bihabandh	459	194 (42.26%)	44 (9.58%)
6	Dhaurada	357	100 (28.01%)	9 (2.52%)
7	Kesramal	116	7 (6.03%)	0
8	Raiberna	788	243 (30.83%)	47 (5.96%)
9	Jhagarpur	514	116 (22.56%)	9 (1.75%)

Source: Census, 2011

The people of Kheramuta, Lanjiberna and Saliameta (villages close to the mining area) also complain that the water table is going down in the area. The lands that earlier used to be *jalki* lands (water-sufficient good quality land) have now become *maal* land (water-deficient

upland) due to mining. Many families have left cultivation as their lands are on the opposite side of the mines; and the road used by local people to go to their fields is now swallowed up by the mines. As a result, they have to now walk about four to five kilometers to reach their fields.

In the 1990s, a canal had been dug up to carry the water from Kansbahal irrigation project. However, the water is not being supplied despite repeated requests and even protests. Moreover, the waters of Mala *Jora* and the Nakti River have been impounded at Amghat, only to be supplied to OCL and to Rajgangpur Municipality, and not for irrigation purpose in the area. In protest, people from Amghat had once locked up the pump house in 2018. As per the EIA Report, there are as many as 12 streams/nallas in the area. The villagers think that the government is obsessed with mining, so it does not care to utilize these water sources to irrigate the area. People of Kesramal village say,

A few years ago, the government installed three heavy lift irrigation pumps but these never worked, not even for a day. Nobody even tested if these were working. The officials have locked up the machines. We have written to the authorities several times but nothing happens. We don't understand the motive of the administration. They formed a committee in the village to manage the LI points. But the keys haven't been handed over to the committee. And we are getting electricity bills for the pumps! The administration is deaf as a stone.

There was even a plan for a check dam. Survey work was done. But we don't know what happened to that plan...About 50 to 60 youths have gone to work outside the State, including young girls. If irrigation facilities were provided, the situation would have been better.

Now 293 acres of land will be acquired from this village. Once mining operations begin on this land, the surrounding area will become unfit for agriculture.

Besides being engaged in agriculture, a small section of the population, especially young people, works in limestone mines and the cement factory as casual workers for livelihood. They work as drivers or security guards under contractors, i.e., not as regular company workers. The contractors employ them for two to three months and then fire them. Availability of wage labour has also gone down drastically due to mechanization of mining operations. Many people eke out their living as auto-rickshaw drivers, shopkeepers and roadside eatery owners as these villages are in between the mining and plant area. A section of the youth goes to big cities like Hyderabad and Chennai in search of work. Both

the SIA studies show that the average annual income, from all sources, of more than 50% of families in the affected area is not more than Rs. 1.5 lakhs.

The lack of job opportunities in mining, bitter experiences of the displaced people of Rourkela Steel Plant and Mandira Dam, and fear of loss of permanent source of livelihood like land have made people raise their voices against the project.

Section - 2

Voices of Protests

Since the enactment of PESA (Panchayats Extension to Scheduled Areas) Act in 1996, some youth organizations and NGOs of the district have been working towards building consciousness of people in the power of Gram Sabha, specifically on the question of land rights. Organizations like Adivasi Mulavasi Banchao Manch, have also been trying to organize people focusing on Adivasi identity centered on people's right to land. Echoing this, Emlus Bilung of Mahuatoli says,



“Jobs are for a few days only. Land is there forever. It is our identity. Our ancestors have bequeathed land to us. We shall keep it for our children and grandchildren. We shall never part with land.”

The mobilization around PESA and Adivasi identity have led to the formation of Gram Sabha Committee at village levels and a network has been established across the district. The Gram Sabha movement of 2016-18 has also left its impact in some parts of Sundargarh including Rajgangpur block, focusing on the issue of power and autonomy of Gram Sabha in this region that is categorized as a Schedule-V Area under the Constitution of India.

In such an atmosphere, a notification for public hearing on draft EIA study for expansion in production capacity of M/s OCL India Ltd.'s cement plant was published in the newspapers in January, 2017. This stirred the people into action as expansion in production capacity meant more acquisition of

**Figure 2: Powers of the Gram Sabha:
A testimony**

land for mining. Some local youth associated with political processes took the initiative to start an organization called Forum for Gram Sabha Committee to protest against the proposed expansion of OCL. It was a conscious attempt not only to mobilize people of the affected areas through village level Gram Sabha Committees but also to solicit solidarity of

other Gram Sabha committees outside of the area. The Forum not only mobilised people but also took the legal course to register its protest. It tried to make people aware of the various legal provisions relating to EIA, SIA and Land Acquisition Act. It used RTI as a tool to expose the procedural lapses committed by the administration and challenged the government in the court of law. The Forum also mobilized people both from affected areas and outside through the network of Gram Sabha committees to physically protest against the government's move for clearance to the project.

A physical confrontation between the government and the people took place when the State Pollution Control Board (SPCB) fixed the first public hearing on Draft EIA Report at Katang playground on 22nd February, 2018. Nearly 50 to 60,000 people both from the affected area and outside gathered at the venue and did not allow the public hearing to take place. The Board again tried to conduct the public hearing on 8th August at Jampalli, under Garbhana Gram Panchayat, which is outside the affected area. Still, around 20,000 people gathered and demanded to shift the venue either to Kesramal or Alanda Gram Panchayat, the centrally located place of the project affected area. Once again the proposed hearing could not take place.

The hearing was fixed again for the third time on 3rd October, 2018, the day after Gandhi Jayanti. The venue was chosen to be the Dalmia Industrial Training Centre, OCL Company's private place. It helped the company to mobilize its own support. Company workers and officials and loyalists were brought to the venue to speak in favour of the expansion proposal. The Forum also did massive mobilization. Thousands of people from various parts of the district started coming and occupied the venue on the night of 2nd October. The next day, women and men stood along the Sambalpur-Rourkela Express Highway under a huge photograph of Mahatma Gandhi and chanted slogans like '*gair-sambidhanic, gair-jansunani, band koro, band koro*', '*OCL go back*', '*jameen hamara hai*', and '*we won't part with land*'. Bibol Toppo, the President of the Forum narrates the incidents of the day,

People began to gather from the 2nd October evening, marking the observance of Gandhi Jayanti and peacefully camped near the gate of the venue. The protesting people didn't lock the gate. However, the crowd was so large that the gate to the Centre remained practically closed. People sat on one side of the Sambalpur-Rourkela Express Highway that passes by the Centre. On the day of the hearing, the administration and OCL brought their people in buses and came in a procession from the other direction. The sub-collector also marched with the OCL employees who were raising slogans in praise of the company. The Regional Officer of the State Pollution Control Board was also with them. When they began to conduct a sort of public hearing inside the police cordon, George Tirkey – an Adivasi leader and former MLA of Biramitrapur – immediately went up to them and questioned the procedures of the public hearing. He snatched the mike

from the officials. The police-regulated hearing must have lasted only a few minutes. In protest, the people blocked the Express Highway for the next 24 hours. Then, in the wee hours of the morning of 4th, the SP, Sundargarh came and spoke to the people. He gave in writing that the hearing 'stopped'. Sabita Jalan, the DIG and the ADM, Sundargarh were also present. We thought the hearing was cancelled. Later we realised that the officials had prepared the proceedings prior to the process of hearing. We never imagined that they would deceive us like this. When we asked for the documents through RTI we got to know that they had forged the signatures of people.

Smelling some foul play, the Forum filed an RTI application to get documents and video recording of the public hearing. It submitted a memorandum to the Ministry of Forest, Environment and Climate Change highlighting the irregularities of public hearing and demanded its cancellation. Despite this, the Ministry granted environmental clearance to the project on 4th March, 2020. Challenging it, Bibol Toppo, the President of the Forum and two others filed a petition before the National Green Tribunal (NGT), Eastern Zone in June, 2020. Along with this petition, 10 individuals have submitted affidavits that their names have been falsely included in the participants list and their signatures have been forged. The case is still pending in the NGT.

After completing the formalities for public hearing on EIA, the government initiated the process for land acquisition. Notices were issued to Kukuda and Katang Panchayats on 06.01.2020 and to Kesramal, Jhagarpur and Alanda Panchayats on 10.01.2020 to hold special Gram Sabha on OCL's proposal together with other development agendas. Government officials were deputed to be present in the meetings of Gram Sabha. The special Gram Sabha meetings took place on 26.01.2020. In all the five Panchayats, people passed resolutions rejecting the land acquisition proposal and forwarded the copies of the resolutions to the district administration. In some resolutions, they even directed administration not to raise the issue of land acquisition in future. A snippet from one of the resolutions:

Proposal No-5.1

We unanimously oppose and reject the land acquisition proposal of OCL in the Gram Sabha meeting of Kesramal Gram Panchayat today i.e., 26th January, 2020. We also *inter alia* decided and ordered the district administration not to send in the future again any notice to our GP related to land acquisition.

Despite this, the government went on to conduct the SIA study in the affected Panchayats. The study team faced non-cooperation and opposition from the people as prior consent of the Gram Sabha was not taken. However, two draft SIA reports were prepared. The government again organised public hearings in various phases in April and August, 2021 to discuss the SIA reports. In all the villages, hundreds of women and men, including the elected representatives of the Panchayat and the local MLA, holding placards and banners,



Figure 3: People oppose SIA Public Hearing

gathered in protest and shouted slogans, 'no more public hearings', '*prasasan wapas jao, wapas jao* (administration go back)', '*mul nivasi, adivasi, ek hua, ek hua,*', '*jamin hamara hai, hamar hai*' etc. The villagers did not allow public hearings to take place as they

had already rejected the proposal in the Gram Sabha meetings. Hence, this SIA study is not valid.

However, the government officials and the SIA team brought out the Final SIA reports declaring that public hearings have been successfully completed. In response, the Forum asked, through RTI, for the list of participants and the video recordings of the public hearings. It got to know that signatures of the participants have been forged. Then the Forum mobilised individuals, whose signatures have been forged, to file FIRs in the police station against the concerned officials. When the local police station refused to register the FIRs, they went to the office of Superintendent of Police. Even the SP did not listen to them. Finally, they went to the Orissa High Court. The court passed an order asking the government to ensure that the FIRs be registered. As many as 10 individuals have received such orders from the High Court. After much delay, finally FIRs have been registered against the Sub-Collector, Sundargarh, the Tahsildar and the BDO of Rajgangpur, the PEO of Kesramal GP and the SIA team leader of CYSD on 4th April, 2022 on charges of forgery, defamation and under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Seeing the trickery of the state government, the Forum decided to meet the Governor of Odisha, the constitutional head of the Scheduled Areas. The Forum met the Governor on 30th September, 2021 and apprised him of violations of provisions of laws by the district collector in the Fifth Schedule Area. The Governor assured them that he would write a letter to the district collector in this regard. When situation did not change at the ground level and

as the collector went ahead with the processes of land acquisition, the Forum staged a sit-in protest/dharna in front of the Governor's residence from 2nd December to draw the attention of the Governor as well as the larger public. Each day about 200 people participated in the sit-in protest by rotation. The Governor gave permission for a meeting after 13 days of the sit-in. Then they got to know that no letter was written by the Governor. He sent them to the Chief Secretary, Government of Odisha. The Secretary only said he would see to it later. When they tried to meet the Governor again to apprise him of the Chief Secretary's response, he did not give them permission. Finally, the sit-in was withdrawn.

From the beginning, women of the area are in the forefront of this struggle for the protection of their land, culture and Adivasi identity. This year they observed the International Women's Day (8th March) in a unique way. Thousands of women reached the playground of Kesramal, taking a handful of soil in a mud pot on their heads, and took oath not to give an inch of land to OCL.

Another important aspect of the movement is that families who are not losing land are actively involved as well. Phulmani Minz, a woman from Jhagarpur, explains this in these words,

"I know all of us are not going to lose land. My family is not losing land. But we are aware that whether one loses land or not, we will suffer the same fate, if we allow the mining to expand. Even now, we are experiencing the problem of dust and smoke. It is affecting our agriculture. The problem will increase with the expansion of production capacity. There will be more blasting, more smoke and dust, more vehicles. It will be impossible to live here. That is why all of us are in the struggle, we won't give land."

Protests against eviction, pollution and disregard of laws in the District

Bisra Block: On 28th of March, 2022 police arrested 21 Adivasis. Their crime is that they have been protesting against the construction of a marshalling yard for the South-Eastern Railways. If the yard is constructed, it will displace nearly 750 families. The yard is to be constructed on land which people have been cultivating for seven decades or so. Though the land was allotted to the steel plant in the past, people were not compensated for it. The land also remained unutilised by the plant. Now the same land would be used for a railway marshalling yard evicting the people. The National Commission for Scheduled Tribes, upon field inquiry, has already recommended that the land should be settled in the names of people living there. Disregarding the Commission's recommendations, the government is going ahead with the project and has arrested 21 people to quell the agitation.

Source: Media reports and the report of the NCST.

Hemgir: In Kulda coal mining area, in Hemgir block, affected communities have been protesting – agitating on the road as well as knocking the doors of the Courts – against heavy pollution caused by mining of coal and its transportation. Violating all norms set by the environmental ministry, thousands of trucks transport coal day and night on the highway that passes through village areas. A separate coal corridor was promised but hasn't happened. The culprit here is no private company, but Coal India itself, a public sector entity. The victims belong to the Adivasi and Scheduled Caste communities. In the past, affected people had opposed the expansion of mining but their concerns were not heard. Now they are fighting against coal dust pollution. Between January to March, 2021 villagers staged sit-in-dharnas at different places blocking the movement of trucks. Police arrested 16 people in February and another 26 in March. There are several court orders to control and monitor pollution in the area. The latest in this regard is the suo motu cognizance of the issue by the National Green Tribunal who have directed the Ministry of Environment and Climate Change to constitute a Committee to look into the matter. People of the area have already seen enough of how Court orders are being violated daily by Coal India.

Source: Media reports and Interviews with local activists

Section - 3

The Course of the Law

Despite people's protest and the legal battle, the government unheedingly proceeded to complete the formalities involved in the process of expansion of plant capacity and land acquisition for mining. Prevailing laws were trivialised and violated in the process. The following is an account of this process.

A. The Public Hearing on the EIA

As per the EIA Notification, 2006 Public Hearing on draft EIA report is a process of consultation between the project proponent and the affected population. The SPCB is required to circulate the summary of EIA report in the local language, minimum of 30 days before the date of public hearing, to facilitate the process of consultation. The Notification stipulates that a representative of the project proponent shall initiate the proceedings with a presentation of the project and summary report, and the representative of the SPCB shall read out the minutes of the proceedings to the audience at the end. However, the concerned authorities did not adhere to these processes in conducting the public hearing. Here are some of the snippets from the video recordings of the proceedings:

The recordings clearly show that on one side of Sambalpur-Rourkela highway, in front of the venue, thousands of men and women are incessantly chanting slogans like '*gair-sambidhanic, gair-jansunani, band koro, band koro*', '*OCL go back*', '*jameen hamara hai, we won't part with land* etc. As the eye of the camera shifts, there are men and women in a vacant field, below the road and someone is tutoring women to say in the hearing that "We support OCL". Then they come on to the road led in a procession raising slogans like '*OCL Zindabad*', '*Bharat mata ki jai*', '*OCL's progress is our progress*' etc. Police officials and the jawans of Odisha State Armed Forces (OSAF) on duty lead the crowd to the opposite side of the road to clear the traffic. In the midst of this din and bustle, a white car arrives at the place where people are shouting *OCL Zindabad*. A man from the crowd immediately distributes some papers, some people start signing on it and the papers are pushed onto the hands of a person sitting inside the car. After sometime, a tall man picks up the mike and some people standing behind him hang a cloth banner with 'Public hearing for Environmental Impact Assessment' written on it. He then invites people to speak. Most of the speakers only say, "*We want OCL, OCL Zindabad*". The company executives also speak about the benefits of project and increase in generation of revenue for the government. Interestingly, the man who is conducting it also shouts *OCL Zindabad* in between. This entire drama is enacted to give an impression of a real public hearing in motion. It suddenly stops and the man quickly disappears as the Addl. District Magistrate and OPCB's local representative enter the scene. They appeal to both the groups to speak or submit their views in writing. A few people speak in favour of OCL and a few also submit written papers.

This continues for a few minutes. It stops when George Tirkey appears and objects. The process of public consultation ends.

Can we conclude that it is a process of public consultation as mandated by law? Will we be wrong to call it a farce? It is strange that all the concerned public authorities including Ministry of Environment and Climate Change accepted it as such and the clearance was granted on the basis of a rigged hearing in favour of OCL. Perhaps, it was to be, as the Sub-Collector says, 'If we take pollution control rules seriously, then Delhi would not even exist'.

Not only have the environment laws been trivialised, the constitutional provisions and LARR Act-2013 have also been grossly violated.

B. Scheduled Area and the LARR Act, 2013

There are many special provisions for the Scheduled Areas in LARR Act of 2013 such as, "No acquisition of land shall be made in the Scheduled Areas" and if it takes place, "It shall be done only as a last resort". It further stipulates "In all cases of land acquisition in such areas, including acquisition in case of urgency prior consent of the Gram Sabha be obtained"(Section 41(1)(2)and (3). Similarly, Rule-41 of Odisha, RFCTLARR Rules - 2016 categorically states, "In all cases of acquisition or alienation of any land in Scheduled Areas, consent of the concerned Gram Sabha and the Panchayats shall be obtained in Form-M before publication of notification under Section 11 (1) of the Act."

However, villagers deny that any consent has been taken from any of the Panchayats in Form-M. Rakesh Dungdung, a local activist of Lanjiberna sought information from the District Collector's office through an RTI application and asked for photocopies of M-Forms. The written reply he gets from the Land Acquisition Officer (LAO) is interesting. It reads,



"Some files/documents of land acquisition section including Form-M were in the custody of the then LAO. Due to his sudden demise, these files are un-traceable."

In fact, hundreds of people have filed their objections in writing before the court of the District Magistrate, expressing their objection that they don't want to part with their land. They also mentioned how existing laws meant

to protect the rights of Adivasis have been violated. The objection application submitted by Effrem Toppo, a resident of Kukuda village, is a case in point.

I am an Adivasi of the Kishan tribe. (1) In the land record of our joint family, my share is only 1.87 acres. According to Odisha Scheduled Areas Transfer of Immovable Property Regulation 1956, I am entitled to keep minimum five acres of un-irrigated land or two acres of irrigated land. Therefore, kindly do not deprive me of my constitutional right to possess land. (2) It needs to be noted that during 1950/51/52 our land had been acquired for Lanjiberna mines, but our forefathers were illiterate and didn't understand the importance of written documents. So we don't have any. Again in 1978/80/81 our land has been acquired for OCL, Lanjiberna mine. (3) Till now the Odisha government has not formed Gram Sabha in Scheduled Areas according to the PESA Act-1996. Consent of the Gram Sabha hasn't been taken for land acquisition as required under the LARR Act-2013. (4) According to Rule-13 of the Land Acquisition Act notice can be issued under Section-11(1) only after the Social Impact Management Plan (SIMP) has been approved in the Gram Sabha. But notice has been issued even when no SIMP has been approved by the Gram Sabha. (5) No member of our family has given consent for land acquisition. (6) Our Gram Sabha has not given consent for land acquisition as required under Section-41 of the LARR Act and Rule-41 of the Rules 2016 before issuing notification under 11(1) of the Act. (7) No public hearing took place in the Gram Panchayat as claimed. Therefore, I request you to cancel the notification issued to me. It violates my constitutional rights and that of my family.

I will not give my land.

Effrem Toppo

The cavalier approach to laws of the land can be seen when the Sub-Collector Sundargarh says to the PUCL team, 'No law has been violated in the land acquisition process. But if you follow the law, nothing can get done.'

C. Social Impact Assessment Study

According to the LARR Act-2013, Social Impact Assessment is an important phase in the process of land acquisition for any project. The main purpose is to assess the likely impact of the project on the livelihood of the affected families and to ascertain their views thereon. The Act specifically provides that while conducting the SIA the affected families are required to be consulted at village level and adequate representation should be given to the representatives of Panchayat and Gram Sabha. It further provides that 'the process of obtaining the consent shall be carried out along with the Social Impact Assessment study'. If the land is acquired for private companies, the prior consent of at least eighty per cent of the affected families shall be obtained (Section 2(2) of the LARR Act). Most importantly, the Gram Sabha must be conducted before carrying out the SIA study. In this connection, the notification of 9th February, 2021 by the Revenue and Disaster Management (R&DM) Department, in its memos to the concerned authorities, such as the RDC Sambalpur,

Collector, Sundargarh and NCDS, the nodal agency for conducting the SIA study clearly say, 'Scheduled Area rules under RFCTLARR, 2013 must be followed scrupulously and the Gram Sabha must be conducted before carrying out the SIA study'.

While these rules and procedures are meant to take people into confidence and do the SIA in an objective manner, they have been ignored in practice. People from affected villages, including a number of elected representatives deny that there was any communication. There also seems to have been no consultation with the people either at the Panchayat or village level regarding the SIA study. Information obtained through RTI from Kukuda Panchayat office by a local activist testifies to this allegation, i.e., "No notice is received by the Panchayat regarding carrying out of an SIA study in the Panchayat".

The SIA studies were conducted despite local people's non-co-operation and opposition. The NGOs even admit to it in their reports. However, both studies report that a large majority of families do not see the mining expansion would benefit them in any way and were not willing to give their land i.e., 88% of the families as per the CYSD report. Only 12% were willing to cooperate in lieu of proper compensation. In case of Kesramal, the report says, 'the team conducted the focus group discussion with 10 participants in Kesramal village...They very emphatically said that they would not cooperate with the mining expansion project at any cost. They were against the project and their only demand was to stop it. When asked, what their expectations from the project were, people said that nothing can compensate their loss of land and they do not want to give their land'. The responses of the other five villages too, have been, more or less, the same. The ARDCS report mentions that 100 per cent of the surveyed families – both directly and indirectly affected – said that they do not see the mining expansion project benefitting them in anyway.

Based on such findings, the reports casually conclude that most people are willing to give their land if proper compensation is paid. The intentions of the two studies seem to be doubtful as they conclude very differently from what the findings show. The casual approach can be seen in another instance too. It is clearly printed on the cover as well as the inside page of the report prepared by CYSD that the 'final report' was submitted in 'July 2021', whereas the public hearings were conducted in August 2021. When the PUCL brought this discrepancy to the notice of the Sub-Collector, Sundargarh, he first disbelieved and then brushed it aside saying that "It is a printing mistake." But activists of the Forum allege that the authorities had actually prepared the final report before the public hearings, and the proceedings of the public hearings, which were in any case manufactured, were added later on. As the following account would show, actually the villagers didn't allow the public hearings to happen.

D. Public Hearings on SIA Study

As soon as the draft SIA study reports were ready, the administration went ahead to complete the next phase, i.e., to hold public hearing on the draft studies before publishing the final ones. Public hearings were conducted in Bihabandh and Kukuda villages in April, 2021 and for other villages in August, 2021. The video recordings of public hearings clearly show how they have been conducted. Here are some excerpts:

On the one hand, there is a face-off between the protesting villagers and administrative and police officials. People are in no mood to allow them to go to the meeting place. The Additional SP is trying to convince them, and even goes on to say, 'The right to property has been abolished', meaning there is no point in holding protests to protect their land. On the other hand, a comical scene is being enacted away from this face-off. Some youths are called to a secluded place. They are asked to hold a copy of the draft SIA report close to their chests and pose for photographs. They are asked a few questions mechanically by the members of SIA team and government officials. Then they are hurried to sign on a sheet of paper while standing or on the seat of a scooter. While doing this, the officials are looking here and there, as if to check if someone is seeing this. Then, the police force, the administrative officials and the SIA team return and the public hearing ends.

But after each hearing, the study reports note, "In spite of all this, the officials of the district administration smoothly and successfully conducted the public hearing."

Section - 4

Mining Affected People and the Illusion of DMF and CSR

Of late, the government of India has woken up to the plight of people living in mining areas and wanted to do something for them. So, in 2015, through an amendment to the MMDR Act of 1957, it provided for the establishment of District Mineral Foundation (DMF) in mining affected districts with an object to work for the interest and benefit of persons, and areas affected by mining related operations. For this, the Ministry of Mines made rules that a certain amount (10% of royalty in respect of mining leases granted on or after 12.1.2015; 30% of royalty in respect of mining leases granted before 12.1.2015.) would be allocated to the DMF to be invested for the development of the affected people and the area. The central government also launched the Pradhan Mantri Khanija Kshetra Kalyan Yojana, to be implemented through funds collected under DMF. The provisions under both MMDR Act and Odisha DMF Rules 'emphasise on undertaking a bottom up approach involving Gram Sabhas of mining affected areas and focusing on certain "high priority areas" such as, drinking water supply, sanitation, health, education, welfare of women and children, welfare of aged and disabled, skill development, environment preservation and pollution control measures.'

According to the annual report of DMF Sundargarh, 30 GPs in the district are identified as directly affected and 114 GPs as indirectly affected. Four of the five GPs – Kukuda, Alanda, Kesramal, Katanga – where land will be acquired for OCL, are identified as ‘directly affected areas’ by the DMF Sundargarh as mining operations are already going on there. Common people and elected representatives, that the PUCL team interacted with, in the affected GPs said that they are not aware of any planning that took place at the Gram Sabha level for utilisation of DMF fund. According to official documents, in 2020, the DMF commissioned an NGO for “Strengthening People’s participation through grassroots planning, Baseline Survey and Micro Planning, Gap Analysis and Comprehensive Annual Action plan of Mining affected Gram Panchayats”. However, the fate of this work is not available in the public domain.

On the other hand, a huge amount of fund remains unutilised with the DMF. Between 2015-16 and 2019-20 financial years, the DMF, Sundargarh has received an amount of Rs. 2024.79 crores (with interest of Rs.117.77 crores added; it is Rs.2142.56 crores). But it has spent only Rs.659.56 crores during this period. The non-utilisation of these funds is clearly an indicator of the concerns and seriousness of the DMF and of the government for people’s sufferings in mining affected areas.

The OCL officials even boast of the company’s contribution to the State’s economy and the DMF fund and the developmental work they have been doing in the area (as seen in EIA video). The Sub-Collector, Sundargarh too argued that all the developments you see in Rajgangpur are because of OCL. But what is the reality of people living in the mining area?

People in the area say that all the company has done is reserved for Rajgangpur town only. The public school run by the OCL is meant for the rich. Poor people have no access to it. The government schools in the affected area face shortage of teachers and have poor infrastructure. There is only one dispensary run by the company for common people. However, people say that they are not happy with its services. People complain of severe health issues in the area, particularly the prevalence of tuberculosis (TB). According to the CSE report, the prevalence of TB in Sundargarh is 280 per one lakh population in rural area, whereas for Odisha the corresponding figure is 193. In every village that the PUCL team visited, people said that not only are there many TB patients in the village but also people are dying of the same. They ask, “When TB can be treated if proper medicines are taken, why are people dying”? They suspect that people who are dying of TB could be actually suffering from silicosis but they are not diagnosed as such because the company authorities wouldn’t like it to be reported as such. In one of the villages the PUCL team visited, people said that OCL has provided a few solar-powered street light sets, some of which work sometimes, while others do not.

The issue of clean drinking water was raised by people in many villages. In Lanjiberna, which is located very close to the mining pit, people complained of drinking water sources already being polluted. People in other villages also complained of ground water level going

down and wells drying up. Mahuatoli village (of Kesramal Panchayat) is located at a distance of about a kilometre from the pump house from where river water is being drawn both by the OCL for its plant and by the Public Health Engineering Department (PHED) for Rajgangpur town. The pipes carrying water to the plant and to the town are laid very close to the village. However, people of this village don't have access to piped water.

As noted earlier, violation of rules to promote the interest of mine owners and in the process alienating Adivasis from their land is not a recent phenomenon. The following is an account of this process in Lanjiberna area.

Section-5

The Bitter Pill of Mining

Since 1951, people have a bitter experience of mining in the area. Though the generation that experienced the direct impact of mining is no more, their experiences have been passed on orally to their children and grandchildren. The present generations carry those experiences. They say,

Our fathers and grandfathers lost the land first in the year 1951. At that time, people were very afraid of police, so they could not do anything. Most people got neither compensation nor any job. As lands were lost to the mining, the land share of the family decreased. It became difficult to run the family with less land. So, some members of the family left the village and settled in the jungles of Jujumara and Rairakhola in Sambalpur district. Thus, the first phase of mining led to the disintegration of our families.

In the 1980s, land acquisition started again. That time, we were bit assertive. Though meagre, we got compensation for land at Rs. 8000/- per acre. The company also assured us to give one job per three acres of land acquired. But that promise was not fulfilled. It also created tension in the family. If there were three eligible members in the family, how could one decide who gets the job? A few people got work under contractors only i.e., no permanent job.

Michel Dungdung of Lanjiberna recounts his experience as a worker,

I was given a job in Zenith Company (contractor) as a Munshi. We lost so much land but I was given a job under a contractor in 1982. However, I was retrenched in 1987. The company gave us some gratuity money, about Rs.2000/3000. Then I was given a job in Rajeswary agency. It was the same

Munshi job despite the problem with my eyes. Again, contractual mining was abolished and I lost my job. Finally, I was given a job directly in OCL in 1995. I was very happy. But then I was asked to resign in 2001, though officially it was VRS (Voluntary Retirement Scheme). I was given Rs.60000/-. I protested. I went with my five children and sat in dharna at the company's office.

The people of Kheramuta (Revenue village Bihaband) also share similar bitter experiences.

Some lands of our village were acquired in the year 1980-81. As a result, some families became landless. Again in 2004-2006, lands were acquired. People living in the lower part of our village lost land. Their lands were quite close to the mining site. Rest of their lands was in the opposite side of the mines. As mining expanded, the company cut off the road and they could not go to their fields. This forced 40 families to leave the village. Some families settled on their own land, opposite to the mines. Some even went to Hemgir and Deogarh. When we objected to cutting off the road, the police picked up our people and then left us after talking to the company. We have repeatedly demanded for another road, but to no avail.

Perhaps, the darkest page in the history of mining in Lanjiberna is the killing of Sushil Lakra on 8th December 2007. In the words of Bibol Toppo,

At that time, the conveyor belt work was going on. All sorts of iron materials were kept around the work site. In the evening, Sushil Lakra had gone to answer nature's call. The security guard of OCL took him for a thief and fired at him. Sushil Lakra sustained serious injuries, and died on the way while he was being taken to the SCB Medical College, Cuttack. This created a lot of anger among local people against the company. Though, after a lot of agitation, OCL gave a job to Sushil's elder brother and some money to his family, people's mistrust and suspicion of the company grew. Its impact could be seen when OCL planned to increase its production capacity from 1.7 MTPA to 4.2 MTPA and public hearing for environmental impact had to be held. In 2008 and 2009, people strongly opposed the expansion of plant and did not allow hearings to take place.

It needs to be mentioned that the OCL was given clearance for its expansion by the Ministry of Environment on the basis of para. 7(III) (V) of its Notification of 2006 which allows for environmental clearance without public hearing. The government of Odisha also informed the central government that a committee has been formed headed by the Sub-Collector of Sundargarh, to look into the grievances of people in OCL mining area and that this committee would sit every two months. People in the affected area have no knowledge of

this committee. There is no way to know if the committee was formed or it remains just on paper.

The story of limestone mining in this area does not end here. Going back to pre-Independence time, we see how people have suffered at the hands of the then rulers and have also been neglected by the rulers of post-Independence period. Alphons Barla, an 84-year-old man of Thapaberna, tells this tragic story.

Thapaberna: A village washed away by the Limestone mine of TISCO

I was then studying in class 5 or 6. The country had gained its independence. My father's elder brother was trying for the rehabilitation of 41 families of our village displaced by TISCO's limestone mine. I had heard about it from him in bits and pieces. He had kept various papers in a file. That file is still there. Patras Dhanwar was our village head. He was writing petitions and letters on behalf of the displaced families. When in the year 1997, a mine owner named K. C. Pradhan was granted limestone mining lease in our area and people opposed it, I read those papers then. I am telling the story on the basis of those papers.

TISCO had signed an agreement with the erstwhile Gangpur Estate to mine limestone. Its lease area was from Raiberna to Kesramal Bridge. According to those papers, the length of the area was two miles and the width was half a mile. Those were our revenue lands. Our original village was Amghat (Thapaberna), close to the mining area. The company worked the mines from 1925-1940. When blasting began, stones flew around and fell on the houses. Undone, people left the village and began to settle on their own revenue lands far from the village. Families were scattered over Thapaberna, Rambahal, Raiberna, Amghat and Barpali. Only one family is living in the original village near the mango tree. Till date, we call it purna toli (old village); the new settlement retained the old name, Thapaberna.

Mining stopped after 1940. But the mine pits remained open. The company put up a guard from Kansbahal to watch over the mining area lest people acquire the land and start cultivation. This continued till 1954. Afterwards, TISCO began to dismantle its offices. TISCO had two big quarters for its foreign officers at the place where you find the poultry farm now. Then it enclosed the mining area with the bricks collected from dismantled quarters and left the area.

When TISCO acquired our revenue land, we were not given any compensation. Under the rule of the king and the British, our people could not do anything. Our people weren't even given jobs in the mines. Instead,

TISCO employed prisoners. When the country became independent, our people thought something could be done. They contacted Dr. A. Samsed, a trade union leader, to help them. With his assistance, they began writing and visiting ministers and district level officers ranging from the Chief Minister Nabakrushna Choudhury, Tribal Welfare Minister, Sonaram Soren to District Collector Sundargarh, DFO, RDC Sambalpur. They contacted leaders and the MP of Jharkhand Party to draw the attention of the Union Government. They even wrote a petition to the Prime Minister of India. It went on for years, from 1951 to 1968.

There was no transport facility then. There was only one bus plying from Rourkela to Rajgangpur. It reached Rajgangpur 7 P.M. in the evening. I remember, we trekked from the village to Rajgangpur with a lantern to bring Badabapa home. When I reached class eight, I could understand the contents of those letters written in English. I understood that our main demand was to give us land equivalent to the land we lost to the mining. Our people went to different areas like Gurundia under Banei, Bhai-Bahin Khol under Bamra to locate good quality land. Finally, they settled for the Hatidharsa reserved forest. They even bribed the forest officials so that they would not raise objection to the allotment of reserved forest. But the government did not agree to it. Instead, the government wanted us settle on the Khasra forest of Banei. Our people did not agree as the land was not fit for cultivation. Then, the government agreed to give us reserved forest with the condition that we would settle there as Jagir holders (service tenure), not as Royats with record of rights. Our people did not agree to it because the government would displace us as and when it felt that our services were no more required. Again, we applied to the government to reclaim our original land and return to us. This never bore any fruit.

Meanwhile, many years passed by running from post to pillar to get land. People got tired and could not maintain their unity. Things did not move further. We got neither land nor compensation. Those mining pits are there even today. Some portions have been filled up in course of time.

When the PUCL team met the Tahsildar, Rajgangpur in connection with the land acquisition for OCL project, we raised the issue of Thapaberna before him. He told us that he did not know about it. Nobody had brought this to his notice. Still, he told the Land Supervisor to take note and enquire about this. At this time the Revenue Inspector (RI), Kesramal was there in the Tahsil Office and the Tahsildar wanted us to talk to her. The RI told us that as far as she knew, the concerned land is still shown as *khadan* (mine) land in the government records.

Conclusion: A few questions

Mining and industry are key to removal of poverty and development of people – this is being repeated ad nauseum by capitalists, politicians, bureaucrats and economists. Sundargarh has been experiencing mining for more than a century and industrialisation for over six decades. Why is poverty still so widespread in the district? Similarly, the limestone mining of OCL has been going on for almost 70 years. The two SIA studies clearly show the economic state of villages that have lost land in the past and stand to lose more now (see the Section 2 of the report). Can we say that their lot has improved? It is rather amply clear that this is not the case. Thus, instead of parroting the myth of the panacea of mining, should we not re-examine it and search for alternatives?

Our omniscient rulers just do the opposite. They push the bitter pill of mining down the gullet of people and do not care for the constitutional provisions and laws of the land when interests of the corporate houses are involved. This is what we see in Sundargarh. Similar developments are seen at Maliparbat, Dinkia or Baliapal. Obviously, one is prompted to ask, are these laws there to be followed or flouted? Put differently, do they have any meaning? Are they mere dead letters in statute books?

Ironically, people still keep on invoking these same laws and provisions to protect lands, forests and rivers from corporate greed. They keep on agitating and raising the issue of violation of laws and provisions; knocking at the doors of the law keepers – from the level of the sub-collector, via the Collector, the Chief Secretary, the Chief Minister and the Governor of the State and on to that of the President of India. But their concerns remain unaddressed and grievances lie unheard. If people do choose another path to protect their lives and livelihood, should they be blamed? Finally, does this augur well for the democratic polity of this country? It is high time for all of us to ponder this over.
