



London
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Vedanta's Billions

Regulatory failure,
environment &
human rights

FOIL VEDANTA
2018

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Introduction

Vedanta Resources Plc [LON: VED] is a London listed FTSE 250 diversified natural resources company with a market cap of US\$ 2.922 billion (August 6, 2018), controlled and owned by Anil Agarwal and his family with a 66.87% shareholding, and 36 major shareholders with 31.38%. Vedanta Limited [VEDL] is the principal operating group listed on both the National Stock Exchange of India Limited (NSE) and Bombay Stock Exchange Limited (BSE) with market capitalisation of US\$ 12.1 billion¹, and American Depositary Receipts listed on the New York Stock Exchange (NYSE). Vedanta subsidiary Hindustan Zinc Limited (HZL) [HINDZINC], a BSE and NSE listed company, is the world's second largest zinc producer, and the world's 15th largest mining company with market capitalisation of US\$ 17.5 billion.²

The Vedanta group produces copper, zinc, aluminium, lead, silver, gold, iron ore, oil & gas and commercial energy and has a presence through 12 major subsidiaries and 81 companies in India, Sri Lanka, Zambia, Namibia, South Africa, UAE, Ireland, Liberia and Australia.

On 24 May 2018 thirteen people including women and children were shot dead, 217 injured, and nine disabled for life³ in a police firing during a major rally to mark 100 days of continual protest against Vedanta's copper smelter in Tuticorin, Tamil Nadu, India. On 24 March 2018 thousands of locals had taken part in a protest against pollution in the town.⁴ The tragedy at Tuticorin is the latest in a history of legal violations, human rights and environmental abuses associated with Vedanta, which is faced with protests at many of its operations.

This report summarises the key violations, with reference to important legal judgments and evidence. Its purpose is to inform governments, parliamentarians, regulatory bodies and investors who may be concerned with the company's behaviour.

Vedanta Resources was launched on the London Stock Exchange in 2003, raising nearly \$1 billion at its Initial Public Offering (IPO). The Department of International Development (DfID) supported the launch, and Vedanta's alumina refinery in Odisha was promoted by the UK government's Department of Trade and Industry. According to a report prepared for the City of London Corporation⁵, a London listing allows access to 'an enormous pool of capital' and tracker funds, as well as the reputational advantage associated with London's perceived high standards of transparency and corporate governance. The proceeds from Vedanta's IPO were used to support the expansion of aluminium producing subsidiary BALCO, provide initial funding for the Orissa alumina refinery project, and fund the acquisition of a further 3.5% of HZL's share capital. Vedanta became a FTSE 100 company in 2006, but slid to FTSE 250 in 2013 following the banning of its flagship Niyamgiri bauxite mine in East India after years of protests and court proceedings by the Dongria Kondh tribe.

The Agarwal family controlled 69.9% of the shares until recently, with corporate governance implications for minority shareholders. Anil's brother Navin Agarwal is an Executive Director, and his son Agnivesh Agarwal is a Director of several Vedanta subsidiaries. Anil Agarwal has been a top donor to the Conservative and Labour parties in the UK, and a major donor to both Congress and BJP parties in India from 2004 – 2012, until the

donations were found to be unconstitutional in 2014.

Vedanta Directors have included former High Commissioner of India - Sir David Gore-Booth, former Finance Minister of India - P. Chidambaram (who also appeared as counsel for Vedanta in a recent case⁶), former Home Secretary of India and Indian Ambassador to the USA- Naresh Chandra, mining mogul and former BHP Billiton CEO - Brian Gilbertson, former Rio Tinto CEO - Tom Albanese, and former Anglo American CEO - Cynthia Carroll. Former J. P. Morgan banker and one of the most well known dealmakers in London, Ian Hannam, advised on Vedanta's listing as well as many of the City's largest mining IPOs including Xstrata, BHP Billiton and Kazakhmys.

One of Vedanta's attractions for investors is its, often heralded, low cost operations. This report demonstrates that Vedanta has a consistent modus operandi across its subsidiaries, which includes: operating without appropriate permissions, failing to install or upkeep pollution control equipment, poor health and safety standards leading to a high rate of death and injury, and other corner cutting practices.

Vedanta has been the subject of a number of campaigns by various organisations in the UK since 2003, as well as four Early Day Motions in the UK parliament, and several parliamentary debates concerning its human rights and corporate governance abuses. Most recently, on 25th May 2018, Shadow Chancellor John McDonnell issued a statement accusing Vedanta of "operating illegal mining concerns, trashing the environment and forcibly evicting local people". He went on to say:

"After the massacre of the protestors this week, regulators must now take action. Vedanta must be immediately delisted from the London Stock Exchange to remove its cloak of respectability, restore confidence in the governance of the Stock Exchange, and prevent further reputational damage to London's financial markets from this rogue corporation."

The Norwegian Government Pension Fund divested in 2007. In 2016 Vedanta asked the fund to reconsider its decision on the grounds that it had improved. However the fund upheld its original decision based on an assessment of four of the company's subsidiaries: Sterlite Copper, Bharat Aluminium Company, Lanjigarh Alumina and Konkola Copper Mines, and concluded that there was 'an unacceptable risk that your company will cause or contribute to severe environmental damage and serious or systematic human rights violations'.⁷

In 2011 the former Director of the Confederation of British Industries, Richard Lambert, stated;

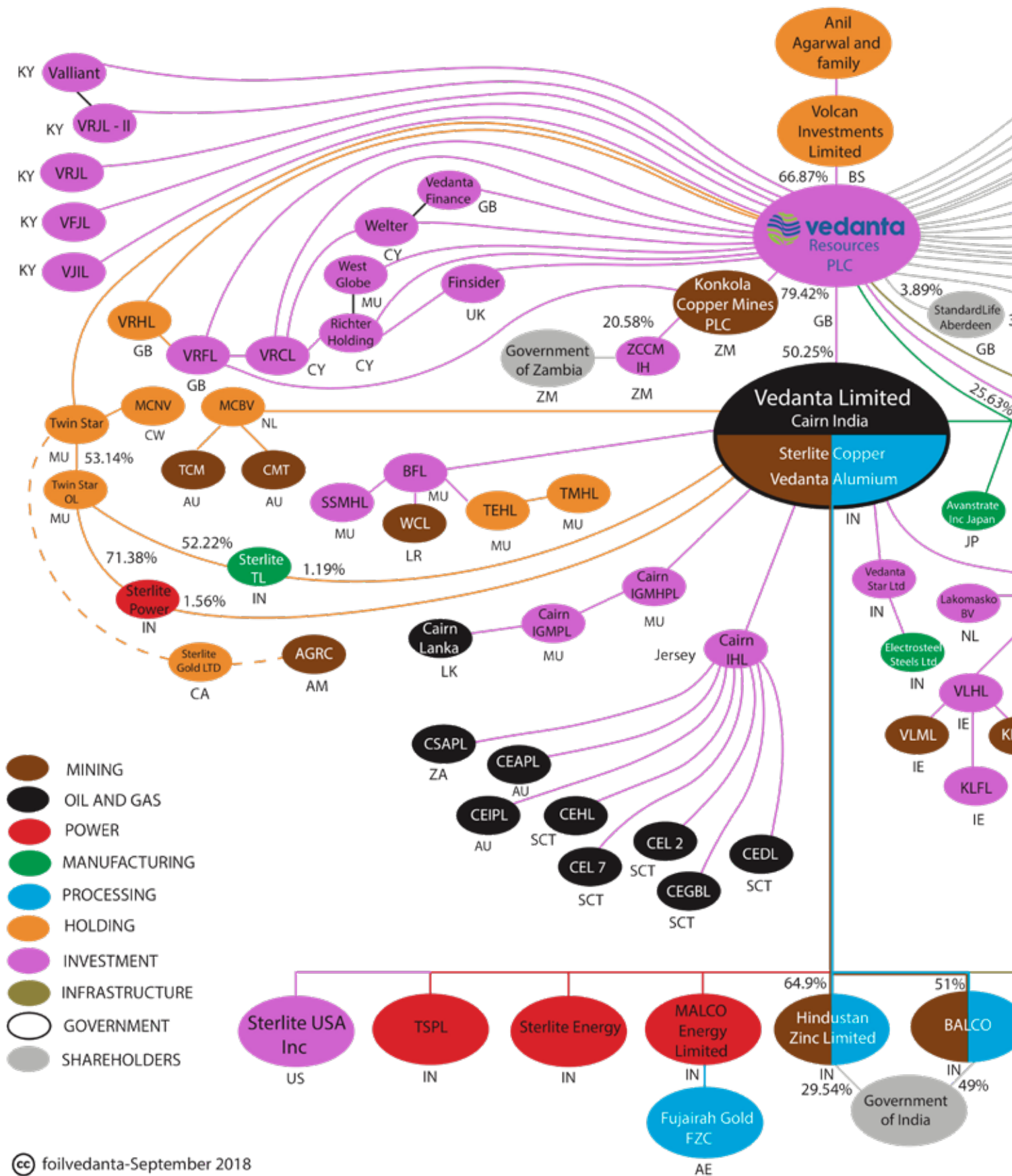
*"It never occurred to those of us who helped launch the FTSE 100 index 27 years ago that one day it would be providing a cloak of respectability and lots of passive investors for companies that challenge the canons of corporate governance, such as Vedanta, ENRC, Kazakhmys, Fresnillo. Perhaps it is time for those responsible for the index to rethink its purpose."*⁸

In India, Vedanta was the beneficiary of three State owned companies as part of India's National Mineral Policy of liberalisation and privatisation of the mining sector, which began in 1993, and has attracted criticism for corruption in the pricing and allocation of assets. Vedanta acquired the State owned Madras Aluminium Company Limited

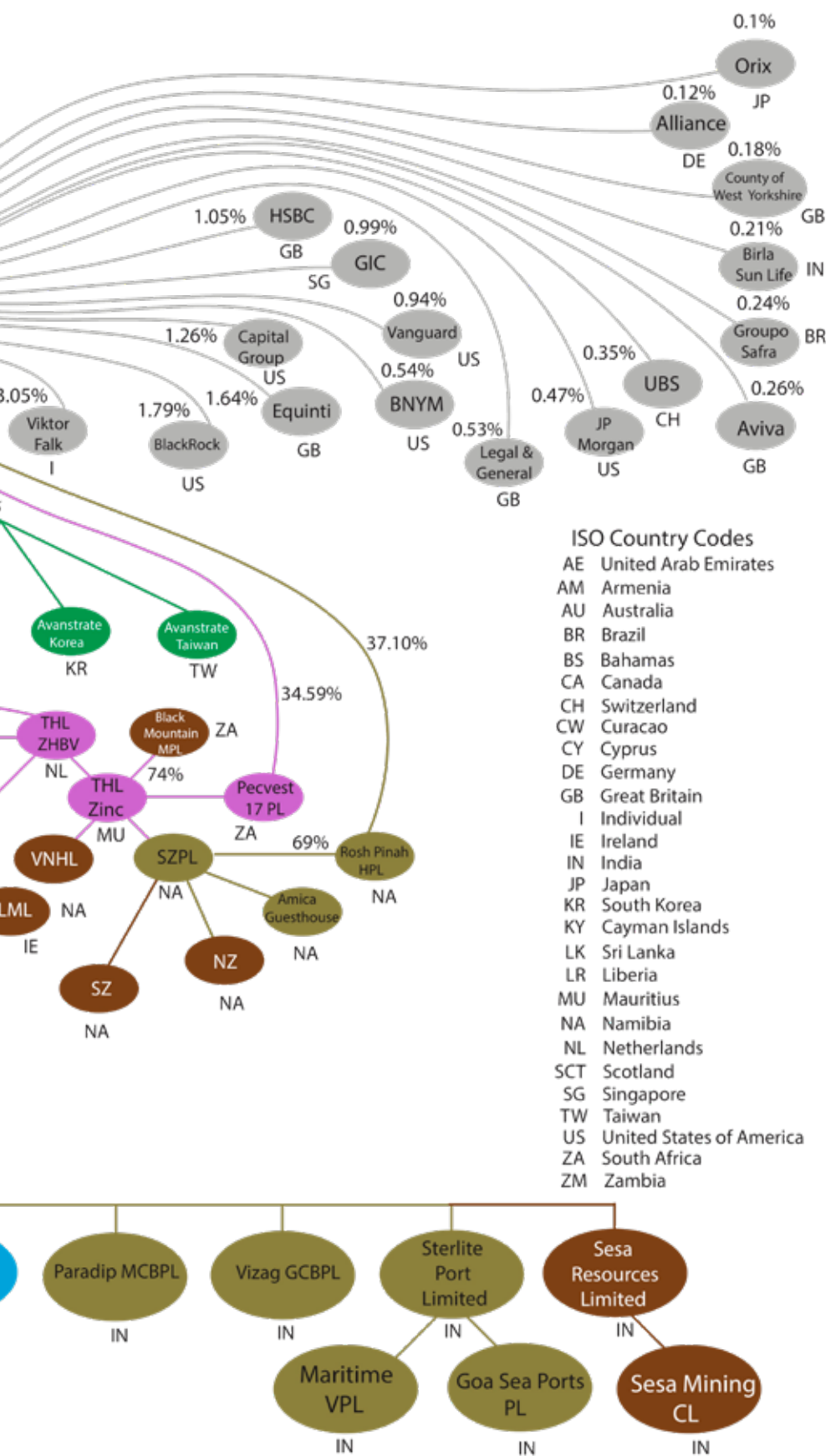
(MALCO), followed by the Bharat Aluminium Company Limited (BALCO) in March 2001.⁹ The gross undervaluing of BALCO has since been confirmed by the Comptroller Auditor General of India (Report No 17 of 2006).¹⁰ The publicly owned Hindustan Zinc Limited (HZL) was sold to Sterlite group (now Vedanta) during the tenure of the BJP-led NDA coalition amid further financial irregularities.¹¹

Despite these concerns neither the London Stock Exchange nor its regulator the Financial Conduct Authority have investigated or imposed any fines or restrictions on Vedanta since its 2003 listing. Arguably the Exchange also failed to carry out proper due diligence into the company, which had already been the subject of several major legal judgments before listing - for stock market abuse in India, as well as tax evasion and pollution in Armenia - as this report will detail.

Analysts often comment on Vedanta's complex corporate structure, with a large number of shell companies and investment holding firms located in tax havens.¹² The graph on the following pages describes the current corporate structure as fully as possible.



Vedanta's Corporate



Amica Guesthouse: Amica Guesthouse (Pty) Ltd
BALCO: Bharat Aluminium Company Limited
BFL: Bloom Fountain Limited
Cairn IGMHPL: CIG Mauritius Holdings Private Limited
Cairn IGMPL: CIG Mauritius Private Limited
Cairn IHL: Cairn India Holdings Limited
Cairn Lanka: Cairn Lanka Private Limited
CEAPL: Cairn Energy Australia Pty Limited(6)
CEDL: Cairn Energy Discovery Limited
CEIPL: Cairn Energy India Pty Limited
CEGBL: Cairn Energy Gujarat Block 1 Limited
CEHL: Cairn Energy Hydrocarbons Ltd
CEL2: Cairn Exploration (No. 2) Limited
CEL7: Cairn Exploration (No. 7) Limited(6)
CMT: Copper Mines Of Tasmania Pty Limited
CSAPL: Cairn South Africa Pty Limited
Finsider: Finsider International Company Limited
KLFL: Killoran Lisheen Finance Limited
KLML: Killoran Lisheen Mining Limited
Maritime VPL: Maritime Ventures Private Limited
MCBV: Monte Cello BV Holding company
MCNV: Monte Cello Corporation NV
MEL: MALCO Energy Limited
NZ: Skorpion Mining Company (Pty) Limited
Pecvest 17 PL: Pecvest 17 Proprietary Ltd.
Paradi MCBPL: Paradi Multi Cargo Berth Private Limited
Richter: Richter Holding Limited
Rosh Pinah HPL: Rosh Pinah Healthcare (Pty) Ltd
Sesa Mining CL: Sesa Mining Corporation Limited
SIL: Sterlite Infraventures Limited
SPL: Sterlite Port Limited
SRL: Sesa Resources Limited
SSMHL: Sesa Sterlite Mauritius Holdings Limited
SZ: Namzinc (Pty) Limited
SZPL: Skorpion Zinc (Pty) Limited
TCM: Thalanga Copper Mines Pty Limited
TEHL: Twin Star Energy Holdings Limited
THL ZHBV: THL Zinc Holding BV
TSPL: Talwandi Sabo Power Limited
TMHL: Twin Star Mauritius Holdings Limited
Twin Star: Twin Star Holdings Limited
Valliant: Valliant (Jersey) Limited
Vedanta Finance: Vedanta Finance UK Limited
Vizag GCBPL: Vizag General Cargo Berth Private Limited
VFJL: Vedanta Finance (Jersey) Limited
VJIL: Vedanta Jersey Investments Limited
VLHL: Vedanta Lisheen Holdings Limited
VLML: Vedanta Lisheen Mining Limited
VNHL: THL Zinc Namibia Holdings (Pty) Limited
VRCL: Vedanta Resources Cyprus Limited
VRFL: Vedanta Resources Finance Limited
VRHL: Vedanta Resources Holding Limited
VRJL: Vedanta Resources Jersey Limited
VRJL-II: Vedanta Resources Jersey II Limited
WCL: Western Cluster Limited
Welter: Welter Welter Trading Limited
Westglobe: Westglobe Limited

Ownership structure

Sterlite Copper: Vedanta in Thoothukudi

On 9 April 2018, Tamil Nadu Pollution Control Board (TNPCB) rejected Vedanta Ltd's application for renewal of the operating license for its 1200 tonne per day copper plant at Thoothukudi in southern India. On 28 May 2018, after mass protests against Sterlite's pollution ended in police firings killing 13 protestors, the Government of Tamil Nadu conveyed its decision to permanently shutdown the industry. This is the fifth time that the plant has been shut down for violating environmental regulations.¹³

On 23 April 2018, the Madras High Court issued an injunction restraining Vedanta Ltd from constructing an additional factory of the same size, following which the land allocation for the proposed unit was withdrawn. In this instance, Vedanta had obtained its Environmental Clearance bypassing the mandatory public consultation. Units coming up within notified industrial estates are exempt from public consultation, but Vedanta falsely claimed that it was located within a notified industrial estate to obtain its clearance.¹⁴

Vedanta's operations in Thoothukudi are mired in illegalities

In 2004 the company constructed an entire smelter complex of 900 tpd without statutory 'Consent to Establish'.¹⁵ The unlicensed expansion was questioned by the Supreme Court Monitoring Committee on Hazardous Wastes on 21 September 2004. A Committee constituted by TNPCB¹⁶ found that the plant had already been constructed without obtaining mandatory Consent to Establish under Air and Water Acts.

In 2006 it obtained permission to expand its production to the current capacity of 1200 tpd on the basis of a false claim that it had adequate land – 172 hectares for expansion and additional environmental protection infrastructure. The company only has 102.4 ha. and faces the risk of criminal prosecution for fraud and violation of environmental law.¹⁷

Between 1996 and the present, the company has expanded its copper production capacity 10-fold within the same land area by cutting corners on pollution control. The environmental clearance for this expansion requires the company to develop a greenbelt covering 43 ha out of 172 ha. As the required 172 ha itself is not available, this statutory condition has not been complied with.¹⁸ The height of the chimney stacks should also have increased with increasing production, but have remained at a constant 60 metres despite the ten-fold expansion, with serious consequences for pollution of the neighbouring town.¹⁹

In 2013, following a gas leak which is alleged to have killed 1 person, as well as hospitalised up to 100²⁰, the Supreme Court of India found the company guilty of serious environmental violations. It noted that:

“The NEERI reports²¹ of 1998, 1999, 2003 and 2005 show that the plant of the appellant did pollute the environment through emissions which did not conform to the standards laid down by the TNPCB under the Air Act and through discharge of effluent which did not conform to the standards laid down by the TNPCB under the Water Act”.

“On account of some of these deficiencies, TNPCB did not renew the consent to operate for some periods and yet the appellants continued to operate its plant without such renewal.”

“For such damages caused to the environment from 1997 to 2012 and for operating the plant without a valid renewal for a fairly long period, the appellant-company obviously is liable to compensate by paying damages”.

“Considering the magnitude, capacity and prosperity of the appellant-company, we are of the view that the appellant-company should be held liable for a compensation of Rs.100 crores²² for having polluted the environment in the vicinity of its plant and for having operated the plant without a renewal of the consents by the TNPCB for a fairly long period and according to us, any less amount, would not have the desired deterrent effect on the appellant-company”.²³

The Supreme Court order and fine had little effect on Vedanta. It continued to operate its plant in violation of the law, by handling, transporting and disposing hazardous wastes without valid authorisation.²⁴

The company has also been pulled up for dumping 350,000 tonnes of copper slag in, and on the banks of, the River Uppar in Thoothukudi. This directly caused heavy flooding in upstream areas in 2015.²⁵

Samples of groundwater taken by Tamil Nadu Pollution Control Board as recently as in March 2018 revealed that all fifteen groundwater sources were heavily contaminated with neurotoxic lead, ranging between 4 and 55 times higher than safe levels prescribed in the Bureau of Indian Standards. Fluoride levels were also above desirable levels in three out of fifteen locations²⁶.

On 23rd July the Minister of State for Water Resources confirmed in parliament that the Central Ground Water Board had carried out a study to ascertain the ground water quality in and around the Sterlite plant finding that ‘most of the ground water samples are contaminated with high TDS and heavy metals like Lead, Cadmium, Maganese, Iron and Arsenic, which are beyond permissible limits of BIS Standards for drinking water (IS:10500 of 2012).’²⁷

In 2008 a report by the Department of Community Medicine, Tirunelveli Medical College²⁸ and other studies in this area showed increased cases of respiratory diseases (13.9%) and eczematous skin lesions (1.38%). Women in this region have more menstrual disorders, like menorrhagia and dysmenorrhea. Disorders of the Joint and Musculoskeletal system are also significantly elevated in the villages.²⁹

In July 2010 Sterlite’s Vice President of Finance Mr Varadarajan was sent to jail for Rs.746-crore (approximately US \$109 million) excise duty evasion. He was later freed following a contempt of court case.³⁰

Konkola Copper Mines, Zambia

Vedanta Resources bought a 51% controlling stake in Zambia's largest copper mine, Konkola Copper Mines (KCM), in 2004, increasing their share to 79.4% in 2005. In 2006 a tailings pipe burst, releasing highly acidic waste into local tributaries of the River Kafue. In 2011 the Zambian High Court awarded \$2 million to 2,001 claimants for damage to health and livelihood following the incident. In his ruling Justice Musonda found KCM guilty of 'gross recklessness' and turning 'the residents of Chingola into Guinea Pigs'. He stated that KCM had acted with 'impunity and immunity' as they had been 'shielded from criminal prosecution by political connections and financial influence, which put them beyond the pale of criminal justice'.³¹ In April 2015 the Supreme Court upheld the guilty verdict against KCM but reduced the payable compensation to only 12 claimants who had medical records of injury.³² To date none of them have been able to claim due to a lack of legal representation.

Later that year 1,826 farmers and fishermen living along the most affected water bodies engaged British law firm Leigh Day to file a claim against both KCM and parent company, Vedanta Resources in the UK, for continual pollution of their land and water supplies since 2004.³³ The Environmental Council of Zambia recorded another serious pollution incident in 2010 for which some villagers were compensated by KCM. A 2011 academic study³⁴ found that copper, cobalt, arsenic and lead concentrations in the Mushishima stream exceeded international limits. A 2014 report by the Auditor General of Zambia based on the KCM's own monitoring reports from 2009-2011, showed levels of copper, iron and Total Suspended Solids (TSS) consistently above statutory limits, and in some cases 100-200 times higher, flowing into local streams.³⁵ A 2010 report by Engineering firm SNC-Lavalin refers to 'constant contamination of streams with acid, solids and copper', and found that the main pollution control dam is often full to capacity and ineffective.³⁶

In April 2016 a High Court ruling granted the claimants jurisdiction to have their case against KCM and Vedanta heard in the UK, citing KCM's uncertain and opaque finances as one reason they may not be able to get justice in Zambia.³⁷ The Court of Appeal later upheld this verdict. Vedanta have now appealed the decision to the Supreme Court.³⁸

In April 2014 a video of Vedanta Chairman Anil Agarwal's speech to the Jain International Trade Organisation in Bangalore, in which he claimed that he was making between \$500 million and \$1 billion a year from KCM, went viral in Zambia³⁹, where KCM had filed annual losses over a number of years since 2004, hence avoiding paying taxes to the Zambian government.⁴⁰ A 2016 UNCTAD report detailed further evidence of widespread transfer mispricing and tax evasion by KCM.⁴¹ This has created serious mistrust between the government and the mining sector.⁴²

In July 2014 a London judgment in a commercial arbitration between KCM and U&M Mining found evidence of related party trading on 'less than commercial terms' and exorbitant 'management fees' paid to the parent company, constituting possible tax evasion. Justice Eder also found that Vedanta Resources had not invested in KCM as claimed, and instead KCM had been 'effectively mortgaged' by loans taken against all its assets.⁴³ In 2017 the London Commercial Court ordered KCM to pay Zambian government investment arm ZCCM-Investments Holdings Plc \$139 million of unpaid sums under a copper and cobalt price participation agreement dating back to 2004.⁴⁴

Bharat Aluminium Company Ltd (BALCO), Chhattisgarh

Recognised as India's worst industrial accident since the Bhopal gas disaster, Vedanta subsidiary BALCO's⁴⁵ 1200KW thermal power plant chimney at Korba, Chhattisgarh, central India, collapsed in September 2009 while under construction. Forty construction workers are known to have been killed, though according to eyewitness reports, there are allegedly more buried under the chimney.⁴⁶

After the collapse, engineers and officers from Chinese company Shandong Electro Power Construction Company (SEPCO) and the Indian construction company Gannon Dunkerly Construction Limited (GDCL) fled the scene, and a BALCO office containing the records of all the low paid migrant contract workers allegedly burnt down the following day. Consequently there is no accurate record of who was working at the site at the time of the collapse although most of the contract labourers who died were tribal migrants from Jharkhand, or from poverty stricken villages in the states of Bihar and Madhya Pradesh. Four BALCO officers were arrested and charged with culpable manslaughter, but were released on bail and have never been brought to court.

Despite successive demands for an inquiry by shareholders at Vedanta's annual general meetings in London, the company has continued to absolve itself of responsibility by attributing the collapse to a freak lightning strike. This contradicts the findings of the independent two-year inquiry carried out by District and Sessions judge Sandeep Bakshi on behalf of the Chhattisgarh Government, which dismisses the theory, and found BALCO along with SEPCO and GDCL were culpable due to a catalogue of illegalities.⁴⁷ The Bakshi report found that BALCO failed to fulfill their responsibility for obtaining the requisite statutory and legal formalities and procedures, which was a major contributory factor to the chimney collapse. It said:

*"All three companies seemed to be exclusively focused on maximizing their profits. None of them have bothered to consider whether a low cost chimney can be constructed to be stable and strong. Hence all the companies involved in the construction of collapsed Chimney (BALCO, SEPCO and GDCL) are equally responsible and liable for the mishap of the Chimney under construction"*⁴⁸

The report also noted that the company monitoring site safety - Bureau Veritas India Limited (BVIL) - continually alerted BALCO to the shortcomings in safety but were consistently ignored.⁴⁹

The 122 page report of the inquiry was never published after Vedanta's lawyers succeeded in getting the Chhattisgarh High Court to place a stay on it based on the claim by BALCO's lawyers that the company had not been provided with "a reasonable opportunity to be heard".⁵⁰ However the inquiry report shows considerable pages dedicated to reporting the evidence of BALCO. Page 107 of the inquiry report states:

"Mr. Abhishek Sinha, learned counsel on the behalf of BALCO, Mr. Ashok Tiwari the learned counsel on the behalf of GDCL and on behalf of the Government, the Assistant Attorney General, Mr. Yeshwant Singh Thakur sincerely co-operated with the commission in all of its proceedings".

Each year in subsequent Vedanta Resources Annual General Meetings in London former CEO Tom Albanese

has promised shareholders that an enquiry would be forthcoming. However this has not happened.⁵¹

Prior to chimney construction, BALCO received notices from the Chhattisgarh Forest Department telling them that it was being illegally built on protected forestland without permission. Similar notices were sent by the Revenue Department, the Town Planning Department and the Korba Municipal Corporation. The latter sent notices on 05/02/2008 and 17/06/2008 ordering BALCO to stop construction within 3 days or the building would be dismantled by the authorities. A similar notice was sent on 12/08/08 stating:

*“We have still not issued the necessary permissions. By starting construction without necessary clearances you have violated penal code 293, [1956]. According to penal code 3307 we order you to stop any further construction without permission of the MCP or we will have to dismantle any further construction, and initiate legal proceedings against you”.*⁵²

In September 2017 Chhattisgarh Environment Conservation Board (CGECB) issued a notice for the closure of the thermal power plant after a major breach in its ash dam wall.⁵³ But this was not heeded by BALCO.



Protest condemning the Thoothukudi massacre in front of Anil Agarwal's residence and headquarters of Vedanta Resources and erstwhile Sterlite Gold, at 44 Hill Street, Mayfair, London.

Photo: Selin George, 2018

Vedanta Limited - Sesa Goa Iron Ore Division

Vedanta Ltd (formerly known as Sesa Sterlite Ltd/Sesa Goa Ltd) is a majority-owned subsidiary of Vedanta Resources PLC with large iron ore mines in Goa, including the Codli and Sonshi Group of mines, the Narrain mines in Karnataka and a pig iron plant in Goa.⁵⁴

Navin Agarwal, its current Chairman, claims: “Our commitment towards implementing sustainable development and community initiatives makes me confident that Vedanta Ltd will continue to create significant value for all our stakeholders”. However recent decisions of the Indian Supreme Court and National Green Tribunal show that Vedanta Ltd’s Sesa Goa Iron Division corporate behaviour is exemplified by almost absolute illegality and a “total lack of concern for the environment and the health and well being of the denizens in the vicinity of the mines”.⁵⁵

The Supreme Court’s judgment⁵⁶ found that (amongst other illegalities), Vedanta Ltd’s iron ore mines in Goa had been operating illegally since 22nd November 2007 until mining was eventually halted on 12 September 2012. Four years later the Supreme Court upheld the finding in The Goa Foundation vs M/S Sesa Sterlite Ltd. And Ors. 2018(2) SCALE103, but also went on to consider other evidence which found:

“The State ignored the fact that every single mining lease holder had committed some illegality or the other in varying degrees”.

The Supreme Court finding that all mining was illegal in Goa for nearly five years is yet to be officially disclosed in India or the UK by the company, either to its shareholders, or to the London Stock Exchange. The value of the ore illegally extracted and exported between 2007-2012 by Vedanta Ltd is now legally recoverable due to the judgment. The value just from the year 2007 is estimated at Rs 20,924 crores (£2.3 billion).⁵⁷ However, there will also be amounts recoverable due to other illegalities not yet calculated, including mining outside the lease area, and mining areas with invalid environmental clearance and licenses. The levels of environmental and social degradation, including the effect on Sonshi School, can be clearly seen in a video taken in relation to Vedanta Ltd’s Sonshi Group of Mines.⁵⁸ There are cogent allegations that Vedanta Ltd has also mined illegally in Karnataka.⁵⁹

The Amona pig iron plant operated by Vedanta Ltd, was expanded illegally in order to circumvent environmental protection laws and is now causing pollution in the local area.⁶⁰ In Ramchandra Vaman Vs. M/s. SESA Goa Ltd. & Others, the National Green Tribunal, Delhi stated:

“We dispose of the above application with the directions that Ministry of Environment, Forest & Climate Change to examine, if any, additional or further conditions that are required to be imposed on the Project Proponent for grant of Environmental Clearance particularly keeping in view of the facts that the two units which clearly appear to be distinct units and hardly fall within the ambit and scope of the word expression [expansion][sic] used in ‘EIA Notification 2006’.”⁶¹

Therefore, it is clear Vedanta Ltd's mining in Goa has only benefitted the shareholders of Vedanta Resources Plc, and left the people of Goa with environmental, economic and social destruction, contrary to the claims made by the company on their website or annual reports.

Vedanta Alumina Limited (VAL), Odisha

The listing of Vedanta Resources plc on the London Stock Exchange in December 2003 was based on a fictitious assumption that Vedanta had already secured a bauxite reserve in Odisha, India.⁶² It was a watershed moment as Vedanta were the first Indian company to raise US\$ 825 million, and constituted the second largest listing on the London Stock Exchange in 2003, 'counting on several former Indian politicians and diplomats among its backers.'⁶³ The bauxite reserve in question was Niyamgiri (meaning literally the Mountain of Law), sacred to the Dongria Kond, a 'Scheduled Tribe' people of India.⁶⁴

The Initial Public Offering (IPO) was advised by J. P. Morgan plc with HSBC bank and J. P. Morgan Securities Ltd as joint book-runners. Mining dealmaker Ian Hannam from J. P. Morgan was in charge of the flotation and Freshfields Bruckhaus Deringer and Amarchand & Mangaldas & Suresh A. Shroff & Co. were the legal advisers.⁶⁵

According to Brian Gilbertson who joined Vedanta as non-executive chairman after leaving Lonmin as a consultant⁶⁶,

*"At the time of the Listing, we committed ourselves to a four-pillar strategy... The second pillar of our strategy is to complete our two mega-projects, the 250,000 tpa Korba aluminium smelter at a capital cost of US\$900 million, and the one million tpa Orissa alumina refinery (capital cost US\$800 million)."*⁶⁷

The UK Department of Trade and Investment even advertised the Lanjigarh alumina refinery, built at the foot of Niyamgiri mountain to process its bauxite, as a sales opportunity for British manufacturing, as part of the aid-funded business project that was launched in September 1998.⁶⁸ But Vedanta did not bank on the considerable local and global resistance, which culminated in a 10 year protracted battle in various courts, leading to a referendum in which the Dongria Kond and other local people succeeded in stopping the mine.

The project to set up the one million tonne per annum alumina refinery along with 75 MW coal based captive power plant at Lanjigarh on 720 hectare land, was based on an application filed by Vedanta on 19 March 2003 to the Ministry of Environment and Forest (MoEF)⁶⁹ which asked for environmental clearance, stating that 'no forest land was involved within an area of 10 kms' and de-linking it with the mining project.⁷⁰ Based on this fact, the Central Empowered Committee (CEC), the Supreme Court's own expert examination body, reported in September 2005 objecting to 'the clearance sought by Vedanta on the grounds that the Refinery would be totally dependent on mining of bauxite from Niyamgiri Hills, Lanjigarh, which was the only vital wildlife habitat, part of which constituted elephant corridor, and also on the ground that the said project would obstruct the proposed

wildlife sanctuary and the residence of tribes like Dongria Kondha'.⁷¹

After many further cases and expert reports, the Supreme Court's judgment of April 18th 2013 finally directed the Odisha government to hold a referendum in the Niyamgiri villages to resolve the question of whether the Scheduled Tribes (ST) and other Traditional Forest Dwellers (TFD), such as Dongria Konds, have religious rights over the Niyamgiri Hills, which would be affected by the mining project. The judgment concluded that:

*"Needless to say, if the BMP (Bauxite Mining Project), in any way, affects their religious rights, especially their right to worship their deity, known as Niyam Raja, in the hills on top of the Niyamgiri range of hills, that right has to be preserved and protected."*⁷²

Following this order, the state government of Odisha selected 12 villages⁷³, seven from Rayagada and five from Kalahandi district, to decide whether proposed bauxite mining inside Niyamgiri hill range would infringe on their religious and cultural rights. In every village the vote was unanimously against the mine. The ruling was referred to the MoEF, and Environment Minister M. Veerappa Moily rejected Vedanta's bauxite mine on 8th January 2014. The referendum was hailed as a precedent victory for Free Prior and Informed Consent.⁷⁴

Despite this, in July 2014, a public hearing for the six fold expansion of the refinery project was disrupted and opposed by Dongria people⁷⁵ after the company's notification stated that 'bauxite would be sourced 3.5km away from the Lanjigarh refinery'. The implication that Vedanta have not given up on mining the Niyamgiri Hills despite the landslide victory for the local people raises concern about their credibility. Despite repeated denials at Vedanta AGMs in London that there is still any intention to eventually mine the mountain, the company has attempted to get the authorities to re-run the local referendum which stopped the project. Furthermore, there have been midnight raids and harassment of Dongria Kond women and other local activists who are opposed to the mining, including imprisonments based on false accusations that they are maoist insurgents, kidnappings of anti mining activist's children, and suicides as a result of pressure from the pro-mining lobby. The National Human Rights Commission (NHRC) Eastern Region Special Rapporteur has recorded that the Lanjigarh police, acting on various complaints from Vedanta's employees and contractors during 2005-2010, had filed more than 65 cases against members of local communities and named at least 250 persons as accused in these cases.^{76 77}

A number of villages surrounding Vedanta's Lanjigarh plant have demanded rehabilitation and resettlement ever since Vedanta's refinery commenced operations in 2007. In 2010 the NHRC recommended that project-affected people of Bandaguda, Kothadwar, Rengopalli, Kenduguda, Sindhbaheli and other villages located close to the refinery should be resettled with assistance from the state government or Vedanta Aluminium. The Committee report confirmed that most of them have lost the bulk of their agricultural land and have not been provided with any alternative source of livelihood.⁷⁸

In January 2012, 47 Rengopali villagers were arrested while protesting against the Odisha government's July 2011 decision to take over 0.86 hectares of their common land for the Lanjigarh west red mud pond. They continue to face harassment by company officials and lawyers to vacate the area today. The villagers are now living within a few meters of the toxic red mud pond, and suffering chronic respiratory problems.⁷⁹ Furthermore, there have been

repeated breaches of the red mud ponds at Lanjigarh, with toxic spills in to the Vanshadhara river, but despite video evidence these have been consistently denied by the company.⁸⁰



Lanjigarh refinery: The iconic tall chimney for the planned 5mpta capacity expansion remains half built before environmental clearance was sought.

Photo: Mohammed Khalil, 2018⁸¹

While there is a case pending at the National Green Tribunal against the expansion of the Lanjigarh refinery⁸², their aluminium smelter in Jharsuguda has been mired in illegalities. It was alleged that Vedanta has obtained Environment Clearance for expansion of their aluminium smelter and captive power plant at Jharsuguda, Orissa on 11 June 2008 by suppressing the involvement of forest land in the project.⁸³ The recent ash pond disaster on 28 May 2017 that flooded a significant area of agricultural land, damaging crops and polluting the River Bheden, is one of the many cases that has caused huge resentment against the company in Jharsuguda.⁸⁴

Hindustan Zinc Limited (HZL), Rajasthan

Hindustan Zinc Limited (HZL) is a Bombay Stock Exchange and National Stock Exchange (India) listed company in which Vedanta Ltd has a 64.92% controlling stake. It was one of the largest cash-rich and profit making public sector companies incorporated from the erstwhile Metal Corporation of India on 10 January 1966. In April 2002, Sterlite Opportunities and Ventures Limited (SOVL) acquired 26% of the company through the disinvestment of Government of India's (GOI) stake, and later acquired an additional 20% of publicly owned shares, thereby taking management control of HZL. In August 2003, SOVL acquired additional shares to the extent of 18.92% of the paid up capital from Government of India. Later on, SOVL merged with Sterlite Industries India Ltd in April 2011, which in turn merged with Sesa Goa Ltd to form Sesa Sterlite Limited in August 2013. Sesa Sterlite was renamed Vedanta Limited in April 2015. Hindustan Zinc is now a direct subsidiary of Vedanta Limited. The Government of India own 29.54%.⁸⁵

HZL owns an 8.5 million tonne reserve and resources rock phosphate mine near Maton which is now under investigation for illegal mining concerns. The Rajasthan state pollution control board has raised concerns about heavy metals and sulphates in wastewater samples and in the lagoons near Debari zinc smelter which exceed permitted limits, but their findings have been ignored by the company.⁸⁶

The Rajasthan High Court has directed the Anti-Corruption Bureau (ACB) to complete an investigation into the two-year-old pending case against former mining secretary Ashok Singhvi and Vedanta after the hearing of a petition by lawyer Ajay Kumar Jain. Rock phosphate, as an essential mineral, is a monopoly of the state. The lease was granted to HZL when it was still a state-owned company on "condition that it would only sell to Rajasthan State Mines Minerals Ltd (RSMML), a state government undertaking." According to the ACB's preliminary probe, HZL has violated the government's lease terms, including operating without environment clearance, and inviting bids for mining and selling 100,000 metric tonnes of rock phosphate which was the sole right of RSMML.⁸⁷

Since 2003 there have been several public interest litigations filed by various individuals regarding the government's sale of HZL to what is now Vedanta Ltd. A preliminary enquiry by the Central Bureau of Intelligence (CBI) Jodhpur⁸⁸ against the undervaluing of HZL started in 2013 and was referred to the CBI head office in Delhi so that an FIR could be registered. This implied that the CBI considered the case to be bona fide with huge losses to the Exchequer, but it was discontinued following the election of Narendra Modi's BJP government in 2014.⁸⁹ The Public Interest Litigation (PIL) filed against the sell off of HZL in 2014 has renewed the concern of undervaluation which was dismissed by the Supreme Court of India earlier.⁹⁰ Though further divestment by the government was legally stayed in 2016⁹¹, the PIL is still to be heard.⁹²

Talawandi Sabo Power Limited (TSPL), Punjab

Vedanta Ltd was selected as the developer of a 1980MW power plant in Mansa district, Punjab, to supply power to Punjab State Electricity Board (PSEB) for 25 years. The plant was constructed on 2100 acres of land and is the largest green field investment in Punjab. It is also the largest private sector investment in the state of Punjab and claims to be the “Greenest Thermal Power Plant in North India”.

Various farmer organisations opposed the acquisition on the grounds that the agricultural land was fertile with good irrigation, although it was described as barren by the Punjab Government and Vedanta. Protests were curbed by implicating the protesters in false legal cases.⁹³ Almost all of these ended in acquittal. The farmers have claimed that compensation paid for their land was much lower than market value. They have filed an appeal before the Punjab and Haryana High Court, Chandigarh. No efforts whatsoever were made for the rehabilitation of the small landowners.⁹⁴

The land was acquired by the government of Punjab on the basis that it would be for its own use rather than for a private company. Under the Land acquisition Act 1894 the considerations of ownership by a private company would have been more stringent. Local people feel they were misled.⁹⁵

There has been loss of access to common resources and other valuable assets such as tube wells, houses and trees, which adversely affects the poorer and Dalit locals. Their right to access this land was protected under law.⁹⁶ The rural economy (especially of the landless people) depends upon the income generated from the sale of milk as well as other animal products, but cattle directly eat the fodder growing in the contaminated soil, and drink untreated ground water and pond water. Many have lost their cattle to diseases. Sand dunes which previously acted as flood defenses were bulldozed during the plant’s construction, resulting in an increase in flooding in the region.⁹⁷ None of the required public hearings or consultations were held with the community to get Environmental Clearance.

There are complaints from local residents that at night the plant releases ash into the air, which settles on houses, crops, cattle and water bodies. People have also complained of respiratory problems, itching and burning eyes, headaches and rashes on the body. The number of cancer patients in the adjoining area is alarmingly high.⁹⁸

There have been serious allegations behind the power agreements entered between the (then) Punjab government and Talwandi Sabo Power Limited (TSPL). While government operated thermal plants are being closed, the government has agreed to buy the power at much higher rates than the market price.⁹⁹

Other scandals affecting Vedanta Resources

Government probes in Armenia and Azerbaijan:

In 1998, Sterlite (via offshore entity Twin Star Holdings in Mauritius) acquired a major stake in First Dynasty Mines Ltd [TSX: FDM], controlled by mining magnate Robert Friedland, in a deal arranged by current Vedanta strategy adviser, Canadian lawyer - John Kolada. Through First Dynasty, Sterlite Gold [TSX: SGD] (a Canadian listed company)¹⁰⁰ took over mining rights at the Zod and Meghradzor gold mines in Armenia in 2002. Within several years Sterlite Gold's subsidiary, the Ararat Gold Recovery Company (AGRC), faced protests over outsourcing of jobs and working conditions as well as issues over threat of pollution of Lake Sevan, the main potable water reservoir for the country. In 2004 the Armenian government accused AGRC of tax evasion and failure to report profits, and later froze the company's assets as well as imposing \$58 million in fines, following an investigation.^{101 102} A 2007 cable published by Wikileaks from the American Embassy in Armenia to Washington stated:

AGRC has a poor reputation in Armenia as an exploitative company that does not protect workers' rights. Vedanta and Anil Agarwal also have a poor reputation internationally and it is plausible that AGRC may have been involved in tax evasion and underreporting profits.¹⁰³

Vedanta were also accused of illegal mining by the Government of Azerbaijan, who claimed part of the lease area was in Azeri territory, located in the disputed, and geostrategic, Nagorno-Karabkh region, and asked the Indian government to intervene.¹⁰⁴

The Armenian operations were subsequently sold to Russian-Georgian firm GeoProMining Ltd [GPM] (which was already linked to Vedanta via shared directorships¹⁰⁵) in abnormal circumstances in October 2007.¹⁰⁶

Sterlite Gold also obtained mining rights in Myanmar in 1997 when the country's mining sector was first opened to foreign investors.¹⁰⁷

Insider trading

Vedanta's predecessor Sterlite Industries was indicted in 1998 and 2001 for illegal insider trading on the Bombay Stock Exchange by the Securities Exchange Board of India (SEBI) in a share price rigging scam involving 'promoter' Harshad Mehta, who had earlier been found guilty of defrauding the State Bank of India of five billion rupees. It was banned from trading in the Bombay Stock Exchange for three years. Sterlite later appealed the ruling and stayed proceedings, but the SEBI are currently appealing this decision to the Security Appellate Tribunal.^{108 109 110 111} Sterlite was also declared by the Enforcement Directorate to be violating the rules requiring companies to repatriate assets back to India.¹¹²

Asarco scandal

In 2012 Vedanta subsidiary Sterlite was ordered to pay US mining and processing company Asarco LLC \$82.75 million in damages for failing to complete their acquisition of the firm.¹¹³

Mergers and Acquisitions

In March 2017 Anil Agarwal acquired a 12.4% stake in Anglo American, via his holding company, Volcan Investments, and later increased his stake to 20%, making him Anglo's biggest shareholder and sparking speculation about his plans to merge Vedanta with the company. In July 2016 Agarwal joined Indian Prime Minister Narendra Modi on his envoy to South Africa, demonstrating his Indian state backing.

On April 25th 2018 Vedanta incorporated Vedanta Star Ltd, a holding company under Vedanta Ltd. In June Vedanta Star placed the winning bid for bankrupt Indian steel manufacturer Electrosteel Steels Ltd (BSE/NSE) with Rs.3,500 (US \$510 million) crore borrowings from Standard Chartered Bank at 8.7 - 9.1% interest.

UK government lobbies for Vedanta

In 2011 Vedanta acquired oil and gas firm Cairn India from Scottish energy company Cairn Energy PLC despite resistance from the Indian government due to Vedanta's human rights and environmental record. A UK investigation revealed that officials in the Department for UK Trade and Investment lobbied Indian ministers to help push the deal through, after being approached by the Cairn Energy CEO. Prime Minister David Cameron even wrote to his Indian counterpart on the matter.¹¹⁴ Both Cairn Energy and Cairn India (now merged into Vedanta subsidiary Vedanta Ltd) are the subject of arbitration cases with the Indian Revenue Authority for failure to pay capital gains made on the transfer of Cairn India's assets.¹¹⁵

Vedanta subsidiary Cairn India has exploration rights for Block 1 in the South African Orange Basin Offshore oilfields in a joint venture with Petro SA. Vedanta Ltd is also developing Africa's largest zinc mine at Gamsberg mountain in the Northern Cape.

Fibre optic technology patent disputes

In 2002 OFS Fitel LLC [NASDAQ: OFS] filed proceedings against Sterlite Optical Technologies Inc [NSE: STRTECH] for infringement of patents covering a number of optical fibre technologies. The lawsuit was settled in 2010.¹¹⁶

In a separate case, Furukawa Electric North America Inc accused Sterlite Optical Technologies Inc [NSE:

STRTECH], alongside Sterlite India and Sterlite USA, of stealing patented fibre optic technology developed by Furukawa's predecessor Lucent Technologies in 2001. The case alleged that Sterlite USA had attempted to hire former Lucent employees after the company refused to grant them a patent in 1999.¹¹⁷

Financial manipulation

Sterlite's ex-VP of mergers and acquisitions, Mr Rajat Bhatia, was awarded £806,384.34 in compensation by an English employment tribunal, after being fired for raising concerns to Chairman Anil Agarwal, and an investment bank, that the information Sterlite was supplying about a \$5 million initiative for a proposed listing on NYSE was misleading and would breach its legal rules. Bhatia also raised concern that the proposed dilution of equity in an Australian company, Western Metals, would breach Australian legal rules. Bhatia had joined Sterlite on 24 April 2000 with a salary of US\$11,700.00 a month, before it was listed in LSE. The tribunal was told that Mr Agarwal threw a digital diary at him and threatened Mr Bhatia that:

"You have not seen my negative side and I will make sure that you do not have a place on this planet. I will destroy you".¹¹⁸

Divestment from Vedanta Resources

A number of shareholders have already divested from Vedanta Resources since its London listing due to human rights and ethical concerns, including the Norwegian Sovereign Wealth Fund^{119 120}, Scottish investment group Martin Currie¹²¹, the Church of England¹²², and Joseph Rowntree Charitable Trust.¹²³ A number of UK councils have been (and may still be) shareholders in Vedanta Resources PLC¹²⁴ and the Ireland National Pensions Reserve Funds hold a 0.05% share.

The City of London

The City of London, with its ‘colonial era links’¹²⁵, has been an important source of mining finance that operates at a level beyond political parties, maintaining London’s position as a top destination for many of the world’s largest mining companies such as Rio Tinto [LSE: RIO], BHP Billiton [LSE: BLT] and Anglo American [LSE: AAL].

According to one estimate there are 362 extractive companies on the London stock market, collectively worth \$1.6 trillion¹²⁶, more than the GDP of the world’s thirteenth largest economy. There are currently eight mining companies in the FTSE 100 and several more in the FTSE 250 through which vast quantities of pension and savings investments are exposed to some of the riskiest parts of the global economy, in which mining companies operate.¹²⁷

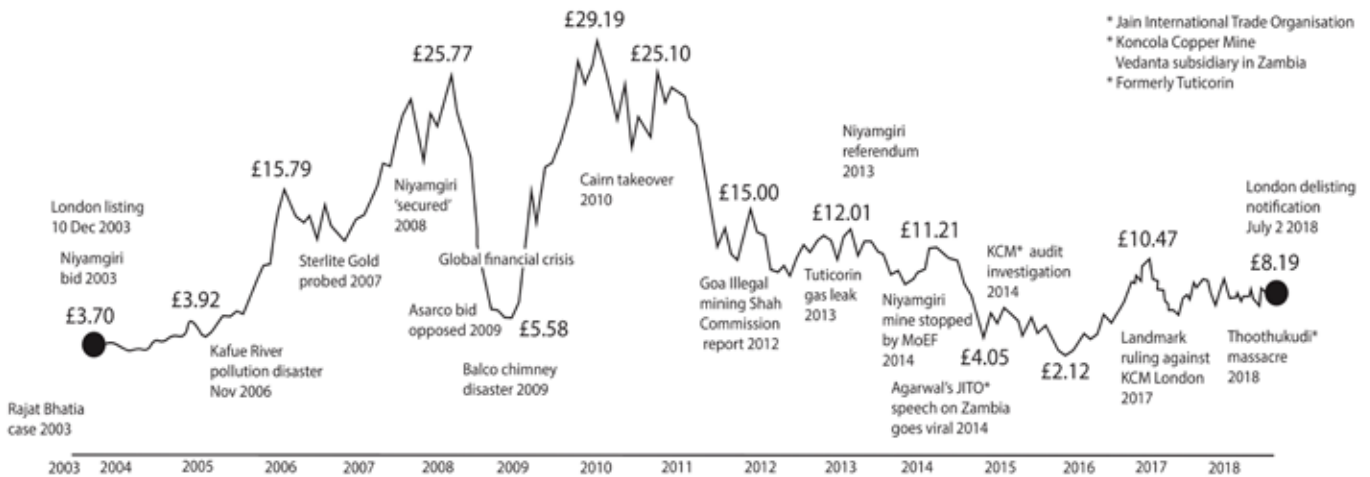
The fact that many of these mining companies have been linked to the murder or ‘massacre’ of activists - notably the Huancabamba-Cajamarca killings and torture in August 2005 (Monterrico Metals), Phulbari firing in August 2006 (GCM Resources), Kalinaganagar shootings in January 2006 (Tata Steel), Marikana massacre in August 2012 (Lonmin Plc), and the Thoothukudi massacre in May 2018 (Vedanta Resources) – should have set off alarm bells and sparked serious investigations in London.

There have also been a string of mining companies who, having benefited from the reputation of a London Stock Exchange (LSE) listing, have subsequently de-listed or demerged themselves, or attempted to re-enter through another entity, following scandals relating to human rights issues or financial irregularities and fraud. These include Eurasian Natural Resources ENRC¹²⁸ [ENRC], Kazakhmys [KAZ], BUMI [BUMI], Monterrico Metals [MNA], ESSAR [ESSR], GCM [GCM], and Lonmin [LMI], to name a few. Others have obtained a London listing through the back door by merging with a listed group. The crackdown on dominant shareholders and the reverse takeover tactics of Bumi and ENRC were brought to the attention of the Financial Services Authority and UK Listing Authority (UKLA) in the past, but none of the regulatory bodies has taken any step to address human rights or environmental concerns, or subjected companies to an inquiry of their alleged violations.¹²⁹

Like Essar, Vedanta’s London Stock Exchange (LSE) listing has enabled them to gain financial status and reputation, by attracting many reputed investment funds and super entities as shareholders. This ‘cloak of respectability’ has fuelled its rapid growth and expansion across Africa and India in recent years, and mitigated the risks associated with its legal violations and human rights and environmental abuses. However, following the killing of thirteen protesters at its Tamil Nadu copper smelter, and the subsequent closure of the copper plant, which catalysed a series of protests and negative publicity in London, majority shareholder Anil Agarwal has decided to buy back the 33% of the company he does not already own via his Bahamas based family trust Volcan Investments, and de-list from the LSE.

Some companies have de-listed due to a legitimate need to pursue long term company strategy, which may not be supported by shareholders’ emphasis on short term profitability. However in this case, Vedanta’s

track record of human rights, environmental and financial violations, together with its already complicated financial structure, strongly suggests that de-listing is part of a policy to further limit public scrutiny of its operations.



Vedanta's chequered history 2003-2018
Share price graph

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- 82** Case filed before the National Green Tribunal, Kolkata, OA No 01/2016 dated 03 October 2016.
- 83** Case filed before the National Green Tribunal, Kolkata was dismissed on grounds of limitation on 13 Nov. 2017; OA NO 151/2016/EZ dated 03 October 2016; Public Interest Litigation WP (C) (PIL) No. 2660 of 2015 filed before the High Court of Odisha.
- 84** Jharsuguda Banchao Samiti Vs. Ministry of Environment and Forest &...Vedanta Aluminium Ors, Application No. 351 of 2018, National Green Tribunal (NGT), Principal bench, New Delhi.
- 85** http://www.hzllindia.com/history_milestone.aspx
- 86** Rajasthan Pollution Control Board F-Tech/RPCB/CPM/M-23/UID-589/282-283 dated 16 March 2017 shows high level of iron, zinc and lead in the lagoons, and cadmium, nickel and cobalt in the sludge.
- 87** FIR NO.266/2015 PS-Anti Corruption Bureau, Jaipur Criminal Writ Petition No 308/2017. In September 2015, an ACB probe revealed that IAS officer Ashok Singhvi, the then mining secretary had allegedly benefitted Hindustan Zinc Ltd. The ACB probe found that on November 1, 2006, Singhvi first ordered revocation of a lease granted to Hindustan Zinc Ltd (HZL) when it was a government of India-owned company. The next day, the mines department took possession of the mine. 'End probe against Singhvi by March 21: Rajasthan high court to government', Times of India, Feb 16, 2018, <https://m.timesofindia.com/city/jaipur/end-probe-against-singhvi-by-march-21-hc-to-govt/articleshow/62938628.cms>
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- 93** For example FIR No.7 dated 29.01.2008 was filed at the police station in Jaurkian district Mansa, Punjab wherein cases under the Indian Penal Code Sections 307, 341, 323, 148, 149, 506, 427 were registered against various protesters.
- 94** The land of the appellants was acquired vide Notification No. 10.5.2007 US 6/10316 dated 02.07.2007 issued under section 4 of the Land Acquisition Act which was published on dated 06.07.2007. Notification under section 6 of the Act was issued vide No. 10/5/2007 US6/31466 dated 27.11.2007 and published in Punjab Government Gazette dated 21.12.2007. The total land acquired was 2091 Acres and 18 Marias situated within the revenue limits of villages Banawala, Talwandi Akia, Peron in Tehsil Mansa and village Raipur in Tehsil Sardulgarh, District Mansa. Notice under Section 9 the Act was issued and the same was published in local newspapers on 04.01.2008. About 91 cases are pending for enhancement of compensation in the Punjab and Haryana High Court.
- 95** Letter 7447, dated 3 August 2008, submitted before the Court of Land Acquisition Collector, Mansa.
- 96** Rule 6 of Punjab village common lands (Regulation) Rules, 1964 framed by the Punjab government in exercise of powers under the Punjab village and common land (regulation) act 1961, one third of the cultivable land shall be reserved for giving on lease by auction to the members of the schedule caste only.
- 97** Rule 6 of Punjab village common lands (Regulation) Rules, 1964 framed by the Punjab government in exercise of powers under the Punjab village and common land (regulation) act 1961, one third of the cultivable land shall be reserved for giving on lease by auction to the members of the schedule caste only.

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On 22nd May 2018 thirteen people, including women and children, were shot dead by police on their 100th day of protest against pollution by British company Vedanta Resources' copper smelter in Tamil Nadu, India.

With this tragic event Vedanta became the latest London listed mining company linked to the murder or 'massacre' of protesters.

Like Lonmin, Glencore, Kazakhmys, ENRC, Essar, GCM Resources, Anglo Gold Ashanti, African Barrick Gold and Monterrico Metals before them, Vedanta has benefited from the 'cloak of respectability' of a London listing, enabling its rapid growth and expansion across Africa and India in recent years, and mitigating the risks associated with its legal violations and human rights and environmental abuses.

This report summarises the company's key violations, with reference to important legal judgments and evidence, and makes a compelling case for Vedanta to be investigated and brought to justice, as well as exposing the complicity of the City of London and the Financial Conduct Authority in its crimes.

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