

Editorial

Perspective on Illegal Mining

In the midst of the overhauling of Mines and Minerals (Development & Regulation) Act, 1957 with a new bill, the recent illegal mining scams have shown us just how far-reaching its impacts are. From the physical to the environmental, to the social, economic and political but stands out most is the failure of regulatory measures and the missing social architecture that was needed beyond the mining lease boundaries.

What are the boundaries in this grey universe? As an answer to a question asked in the Parliament, the information provided veers on horrifying: 82,000 or more illegal mines were detected in the year 2010 alone. What if we also include 'picking' of coal droppings around coal mines as illegal? It seems that there is too much legal information on illegal mining, but the problem is only growing.

As a layman, one would think, apart from other governance issues, that the chaos of illegal mining bypasses the governance basket; who governs such a vast activity and why one would do that? Few answers emerged over a year and a half!

While the commissions have been set up, Lokayuktas have exposed illegal mining, parliamentarians have raised few questions on illegal mining and explanations have been given on bringing the techno-policy fixes, it is time to give equitable weight to local stakeholders if the growth story has to percolate and check instances of illegality. The new MMDR bill, in renewing its form and nucleus,

promised hope, but the fusion of mining interests has been strong enough to fizzle out the equity clause and bring a replacement model of royalty and profit. This is what Sreedhar has to say, Illegal mining is all-season exploitation - somebody is being robbed of rights, someone is dying, someone is fighting, someone is questioning- each must be answered with pro-active solutions which lie within the social radii, a participative approach which hasn't been suggested since the Samata Judgment.

It's an issue that has finally caught public attention, as tales of how proponents beat the system and how systematized illegal means to profit prevail. Will this news be digested as easily as yesterday's headlines or will it spark off deep-reaching enquiries and changes in policy?

Related Activities During the Quarter

Public Hearing: Children & Mining (Jharkhand), 11.08.2011

Capacity Building: EU workshop on Human Rights (Delhi), 12.08.11

Event: Jan Satyagrah (Ekta Parishad & Himalaya Niti Abhiyan) – Shimla, 29-30, August, 2011

Public Hearing: Children & Mining (Vizag), September 9, 2011

Regional Training by (MICI): Udaipur, September 25, 2011

Participation: Community Rights Sangama on People's rights over natural resources (Karnataka), 09-12 October 2011

Public Event: National Commission for Protection of Child Rights (Orissa), 27-28 Oct. 2011

Participation: Conference on Children & Environmental rights (Kotagiri) by Terre Des Hommes, 29-31 October, 2011

Heading the News

- Over 82K illegal mining cases detected in 2010: govt – PTI, Aug 14
- Mainstream media must focus more on Bellary which is a bigger loss than 2G' – Moneylife, Aug 13
- India probe exposes \$3.6 bln mining scandal, hits opposition, Reuters, July 27
- Santosh Hegde submits report on illegal mining in Karnataka, SIFY, July 27
- Yeddyurappa resigns as Karnataka Chief Minister, NDTV, Aug 1
- New Mining Bill to make industry uncompetitive: FICCI, PTI – Aug 12
- Bellary: lakhs jobless after SC ban on mining, CNN-IBN – Aug 12
- Parliamentary panel asks Coal Min to expedite acquisition abroad by CIL, PTI – Aug 21
- Centre's go-ahead to CBI probe into Sheila Masood murder, Sep 2
- CIL operates 239 mines without environmental clearance: CAG
- Centre seeks report on mining in Punjab Shivaliks, The Tribune – Sep. 7
- Shah Commission begins probing Goa illegal mining, Economic Times, Sep 14
- Ballery-like mining scam unearthed in Orissa, CNN-IBN, Sep. 27
- Illegal mining rampant in Neemrana, TNN – Sep. 29

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THE NEWS DIMENSION

As the new mining bill unfolds amidst several scams of illegal mining, plight of workers, murder of RTI activists in broad daylight, miners disturbed over profit sharing with communities, mining devoid of norms & regulation, there is most of it in the bill but the reality has posed blunt questions whether provisions will save lives, public money and natural resources?

Bellary's mining activity closure reminds us of an absent but important aspect of much needed implementation of Mine Closure which if not implemented leaves no confidence of revival of environment, livelihoods of those dependents and so on....

Parliamentary panel asks CoalMin to expedite acquisition abroad by CIL

While gross violations are ongoing, industry is fighting hard to convince the legislature that proposing profit and revenue sharing will make the Indian mining industry globally uncompetitive. The industry is apprehensive that the effective tax rates may rise by 10-12% if the provisions are implemented. This is the second time when the benefit sharing provisions proposed in the bill are not agreeable to the industry, the earlier one being of providing equity to affected persons in the earlier draft.

Last year, it was Amit Jetwa, this year it is Shehla Masood who were killed, both being RTI activists and wanted to change the system which is unable to counter illegal mining. Is this a message going straight to the whistleblowers that mind your own business! Although the mining firm in case of Shehla has denied any links but why is it so that each such incident is linked to illegal mining, don't we know about those 80,000 illegal mining cases detected which are all spread over and possibly many of them may have bad stories linked.

Political batons are changed over time, how the accountability becomes responsive and a blueprint emerges to ensure lawlessness doesn't lead to a dead end.



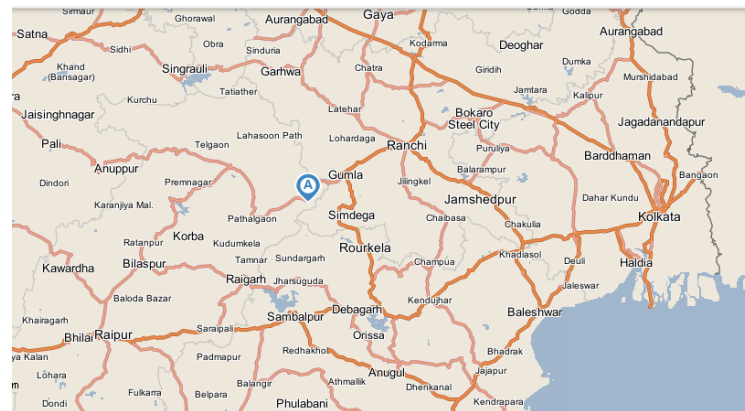
MICI DIARY

CENTRAL

The heart of India's mining belt also represents the core of its problems. Chattisgarh's tribal hinterland has coal, bauxite, iron ore and several other minerals; several areas are reserved for PSU's as promulgated under the MMDR Act 1957. One look at large-scale mining and industrial development in the state, and it is clear that people's participation is on the sidelines. The number of MoUs is increasingly being brought to reality while people's consultation avenues have been vitiated. The paradox is that despite informed, collective resistance, there is no justice in sight.

People are facing hardships even in Scheduled Areas that are constitutionally protected, where, unlike other mining zones, seeing PESA implemented in the right spirit is almost abnormal. The pre-project approach is riddled with opaque information, whereas the only avenue available to people to air their concerns, i.e., the public hearing, is hugely overpowered by special interest groups, neglecting all norms and drowning dissent in a stream of clearances. Several public hearings had panel members who had interest in the industry. For tribals here, raising their voices is only landing them into false allegations and cases, no matter how many flaws they point out in the law of the land.

PESA and Forced Consent in Sarguja District



PESA was introduced in 1996, with the objective to protect people in Scheduled Areas from exploitation. There are many provisions in the Act which bestow

rights upon those who live in India's forests. In principle, PESA has given a lot of power to the Gram Sabha, a much needed step in bringing local decision-making to the fore.

One of the provisions is that the Gram Sabha at the appropriate level shall be consulted before making the land acquisition, be it for development projects and before re-settling or rehabilitating persons affected by them.

Well, here lies a slight ambiguity. If we go by the word 'consult', it means the state has only to consult the Gram Sabha, but their opinions on land acquisition and acceptance or rejection of the project is not legally bound by the law. This is a loophole that has often been misused by the state. Many activists argue that the operative word should be 'consent'. It means that the Gram Sabha, i.e., the representatives of those most directly affected, has full authority to decide whether to part with the land, whatever be the purpose.

Another PESA provision is that the Gram Sabha shall approve of plans, programmes and projects for social and economic development before they are taken up for implementation by the Panchayat at the village level. These are the two main aspects that I'd like to discuss based on my experiences in the field.

In my field work in two districts of Chhattisgarh: Jashpur and Sarguja, I came across many situations which are completely contradictory to what PESA prescribes. As a case study, I'd like to discuss what happened in Shankarpur, which reflects on PESA and forced consent taken by the state.

In Shankarpur, the people found out that there is a new mining project only when there was an inauguration ceremony conducted, and were shocked to know that mining had started without informing them. A few tribal leaders started investigating via RTI and learnt that there was a proposal which had apparently been passed in the *Gram Sabha*. All the affected villagers came to gather and organized a *Maha Gram Sabha*. They invited the Collector and company officials to ask them under which act they acquired the land, since this is a Scheduled Area where PESA applies, but nobody

came to address their concerns. Instead, the State Government deployed police at the mining sites. Villagers demanded a governmental enquiry into the issue, that the guilty officials be punished and mining work be stopped immediately.

After waiting for a long time without a response, they finally they decided to attack the mine site, asked mine labourers to leave the site and brought work to a halt. Police was also deployed, leading to conflict with the villagers. At the same time there were a few activists who managed the

situation, such as the advocate Pande, who convinced villagers not to resort to violence. In this case, police filed cases against 13 people who are opposing this project.

I talked to two tribal leaders regarding the current situation in their areas who viewed it as a clear-cut violation and demanded that S.E.C.L II and III be closed. They also said that people are losing their faith in the state government due to its exploitative and manipulative nature. "Now, the people of Sarguja are not so innocent and the government can not violate our laws. Our people are aware of PESA and all development should be done according to it," said Jan Sahya, a tribal leader. They have organised many rallies and sent many request to the Collector to show the government that they don't want mining in their areas.

"We demand that all the new projects should be stopped, proposals be presented before the *Gram Sabha* again, and then let us decide what we want. There should be a proper discussion on rehabilitation and resettlement and that the mining company should return the land which they have acquired so far illegally through manipulation."

I came across a *sarpanch* and few villagers who told me that the Collector had locked the *sarpanch* in a room, and without informing people of what has written on paper, took their thumbprints and signatures. With around 35 signatures and thumbprints, the proposal was seen as passed by the Gram Sabha. The *sarpanch* was also forced to sign on the *prastav* (proposal) document. The authorities have shown that the people have given a green signal to the mining project, while they only

Panchayats (Extension to Scheduled Areas) Act, 1996 was introduced to provide for extension of the provisions of Part IX of the Constitution. It entrusted the Gram Sabha as a decentralized unit for participatory democracy and restricted powers of the state to bring any law which is not in conformity to the provisions. The terms 'consulted' & 'prior recommendation' were introduced to make decision making a decentralized process at the Gram Sabha level. The stories, however, reflects otherwise!

found out about the project much after their signatures were taken.

Once again, the people organised a Gram Sabha where they rejected the mining project and tried to give the *prastav* to the Collector but he refused to accept it.

NORTH

Shimla, 29th August 2011. I attended a consultation on common property and land rights in the Himalayan region, organised by the Ekta Parishad and Himalaya Niti Abhiyan (HNA). A comprehensive land policy is the need of the hour”, Mr. Rajgopal said. “Due to rapid urbanisation, 90000 villages have disappeared, while according to an IMF report, only 1.37% of land has been redistributed in India. There is 100% FDI in mining and we are selling iron ore at 1.6P/kg and bauxite ore @4p/kg. It goes to show that our policies are only oriented to the profit of private companies.”

Mr. Kulbhushan Upmanyu (HNA) described that our efforts are only a fire fighting exercise in a conflict between an ancient agricultural economy and an industrial economy. Different struggles and movements in HP were explained by leaders of struggle.

Mr. Nandlal of Bilaspur narrated that how even people who were displaced 50-60 years ago by the Bhakra Nangal dam and asked to move into the forest have still received no land in their name. Now, as the forest is declared a sanctuary, 2667 notices in Bilaspur have been served to people living there before 2005.

Mr. J.S.Dukhiya from Nalagarh, Solan told us about the efforts of JP company, which was allotted 326 bighas of land in 2004 without consent to establish a 25MW thermal power plant. This was strongly opposed and ultimately got cancelled. In 2008, JP once again pushed for a 30 MW plant, and again, strong opposition stalled their move. There are serious mining issues in Nalagarh as well as a demographic shift, due to the sudden arrival of 4-5 lakh migratory labourers, which has created a conflict with the local population.

Mr. Dulambh Singh from Una, who spearheaded movement against land acquisition in 36 villages for the proposed Reliance SEZ by Seaking infrastructure, was

of the view that only strong and aggressive opposition can lead to stalling of land grabbing.

From upper region of Chamba Mr. Ratan Singh shared his experiences of fighting the installation of a 4.5 MW Hydro Project on the Saal river by a Hyderabad-based company for the last 7-8 years. Their peaceful agitation had even faced firing by company goons. 5 small hydro projects are proposed on the river, which is formed by the confluence of Silla Khadd and Saha Khadd streams, the life source for people in six panchayats.

Mr. Hari Mani Bharadwaj of the Deo Badogi Sanyukta Sangharsh Samiti, Karsog informed us of the struggle against Lafarge's Al Sindi cement plant by 15 united panchayats, out of the 27 affected. Environment clearance for this project has been rejected.

Mr. Puranchand from Sirmaur appraised us of their struggle against the Renuka Dam just to supply the city of Delhi with drinking water and power to industry.

Shri Ramkumar from Jhajjar, Haryana also narrated how land of 45 villages were given to companies like Reliance at Rs. 40 lakhs per acre, which further leased it to companies like Panasonic, Toshiba and Hyundai at Rs. 1.3 crore an acre for 40 years, with a 40% partnership. Land was taken using massive force by the state and companies.

Mr. Ashok of the National Federation of Forest People and Workers described the scenario of Uttarakhand, which has 65% forest cover. “Van Panchayats have existed here since 1936, but no *van panchayat* law or FRA is in force in the state. There is no proper state policy on SEZs, while 1100 acres were given to the Tatas at Pant Nagar.”

Thus, this meeting gave ample opportunities to know the different views and happenings in the Western Himalayan region and helps to prepare ground for the proposed *Jansatyagrah* in 2012, when 100,000 people will march peacefully from Gwalior to New Delhi on 2nd October 2012 for their land rights.

EAST

In our visit to the project site, we learnt that out of 14 villages that are likely to be affected, there has been strong resistance from around four tribal villages: Mendaputu, Uparanchalbari, Anchalbari and Lekhpai. While there has been hardly any coverage of community opposition against RSBM, what is visible on the ground is forcible acquisition, with the company hiring local goons to threaten people to hand over their land. Most of the land identified for the project is agricultural, interspersed with revenue forest land. A good number of trees will be cut from the revenue forest land and also from private agricultural lands. The first question that strikes us is this: on what basis were the Terms of Reference granted? How can a huge chunk of land be allocated without an environmental clearance? What is surprising is that the company mentions that land acquisition is under process, while it has applied for and not received the environmental clearance.

Giving final clearance to the company by the state government of Odisha is a gross violation of the Forest Rights Act, 2006, which states that it is illegal to acquire land until the act is implemented and claims are settled fairly. However, while five years have passed since the FRA was introduced into our legal vocabulary; local communities here have not even been informed about its existence. Instead, every effort has been made to bypass the act and transfer the land to the company.

In Siriguma, where land has been acquired in the name of plantation for just Rs. 40,000 per acre, almost 70 acres of land has been sold to RSBM Ltd through different touts, said villagers.

The company's documents, on the other hand, state that there will be no physical displacement but the land will be taken away, hence rehabilitation and resettlement is not applicable.

A public hearing for this project was conducted in October 2010, with very little information and prior notice given to the local people. The chief attendees were the SPCB officer, *tehsildar*, the Collector, police and local goons. "If they are to be considered as public, it is the total failure of democracy," said Purnabati, an adivasi woman from Talanachalbari. Those who dared to enter and register their concerns and objections were

Project Overview:

Proponent: RSB Metaltech (RSBM)

Project: Greenfield 0.7 MTPA Alumina Refinery Complex, and a 30 MW co-generation power plant in Seriguma and Guma panchayats and a Greenfield Integrated Aluminium Complex which consists of 0.175 MTPA smelter plant and 4x120 MW captive power plant in Kamakhyanagar Tehsil, Dhenkanal District, Orissa.

Mineral requirement: Bauxite will be sourced from Sasubohumali Bauxite Deposit located in Rayagada, operated by a Joint Venture (JV) between RSB and Orissa Mining Corporation.

Land Requirement: The alumina refinery plant will require 613.8 hectares. consisting of **401.56 Ha of Govt. land**, including 40.44 Ha of revenue forest land and 212.21 Ha of private land.

Villages Affected: Talaanchalbari, Baraja, Lekhpai, Mandaput, Deulaguma, Seriguma, Kaskadango, Lambari, Kusupai, Chancharajori, Tumbitorai, Sembiri, Parlapai, and Balapai in Seriguma Panchayat under Kalyan Singhpur Tehsil and Villages Raikona, Dumapai and Kiaparu in Guma Panchayat under Rayagada Tehsil.

Status: The Government of Orissa has allocated the proposed site for establishing the alumina refinery and the land acquisition process is under progress.

kicked out. Not one objection was allowed in the hearing, said a village elder from Guma. Suman Parida, an activist told the ADM and the tehsildar of Kalyansinghpur to stop the PH but when they declined to the peoples request they went into a destructive mode fearing harm to their lives the officials fled.



So Quite, so intact but for how long

While the area comes under PESA, there have been serious violations of the *gram sabha*. People have not even been asked to express their opinion, while in other cases; company-hired goons have interrupted *gram sabha meetings*, threatening local communities to give up their land. The company had planned a *palli sabha* on the 25th, 28th and 30th September in Tumbitorai, but it was opposed by the people of Toloncholobadi and

Chachagajodi. As a Kondh mother narrates, "Consent in these parts is forcefully being taken with muscle or at gun point." There were two bastions of police but they were outnumbered and so they fled too.

In the beginning of the public hearing the ADM had tried to convince the people but the people were so agitated that they didn't listen to his pleas.

Deputy Secy. RSV, Prasant Kr. Mishra told the press that the tribals are being motivated by some kind of organisations in a wrong way by misinforming about the company. So they have decided to wait for the future to get into talks with the resisting sections of the population

However the MEGA PROJECT of RSBC has come into limelight now with the confrontation and the resistance of the people to both its units. Their work on acquisition of land and obtaining of clearances for the twin-site Rs 9,000 crore RSBMetaltech Ltd's project involving bauxite mining and setting up an alumina refinery unit at Rayagada and a 0.7 million tonne per annum (mtpa) smelter unit plus a 500 MW power plant to be set up at Kamakshyanagar in Dhenkanal in Orissa, had been progressing till date but the times are changing for this venture with the steeply rising resistance of the people in both the districts of Rayagada and Dhenkanal.

WEST

24th September 2011, Udaipur Samata and mm&P organized a public hearing on Mining and its Impact on Children in Rajasthan. Almost 250 people participated from the Scheduled Area of Rajasthan's Dungarpur, Banswara, Udaipur and Chittorgarh districts, of which 40% were women. Many senior government officials and representatives of civil society were present. During the hearing, views were shared on the violation of child rights and the acute problem of seasonal migration of families from southern Rajasthan to North Gujarat. Ms. Kavita Srivastva, General Secretary of PUCL (People's Union for Civil Liberty), Mr. Sukhdev Patel, senior child rights activist and Mrs. Sadhana Meena, a senior activist from Adivasi Ekta Parishad, Rajasthan were invited for the public hearing.

The hearing started providing a background note on the national study titled **Mining and its impact on Children in India**. After welcoming the public and introducing the jury, the book was released by Mr. Kishor Sant, an environmental activist.

After the book release, a short movie on mining and children was presented by Samata, followed by cases presented by children from different districts of Rajasthan.

Geeta Kumari's story was one of the many heartrending cases presented at the public hearing. Geeta, a 14 year old girl from Thobawada, Udaipur shared her experiences of a life in the pits. Her father worked in the same mines and later died of silicosis. There was no compensation granted to them and the responsibility on her mother increased. After a few years, her mother also developed Silicosis, and due to lack of proper treatment, she died as well. Geeta has left school and is now working in the same quarries. She understands how dangerous it is to work in the mines but is left with no other options.

Mr. Dashrat Kothar, a social worker, shared his experience of working with mining, children and their families from tribal communities. Children of mine workers are deprived of basic fundamental rights. The poor and uneconomic family condition of mine workers does not allow their children to take up education. Children work with their parents and help the family to earn more. Many children get married and become head of the family at an early age.

One of the activists, Mr. Khemraaj, expressed how he has seen many people die while working in mines and strongly feels that a network should be built to address the issues of mine workers and their children. There needs to be a strong advocacy and lobbying to address these issues especially of child rights violations.

Mr. Sreedhar, Chairperson of mm&P, concluded by saying that since the new MMDR Bill is being drafted, all civil society organizations and activists should keep an eye on this new proposed bill and the space that it offers for mine worker and children's safety.

Capacity Building Workshop for EIDHR Projects

European Union organized a capacity building workshop for EIDHR projects in August 2011. The role of new & social media, campaigns and media strategy was shared and speaker from the National Human Rights Commission spoke about the role of National and State Human Rights Institutions and actions taken by the human rights commission.

He welcomed the participants to bring in instances of human rights violations to the notice of the commission. He was asked whether the NHRC has or can present its viewpoint on the new mining bill, he told that if such request comes from the legislature or the Ministry concerned, NHRC can provide its suggestions to the bill - NHRC in the past had given inputs on legislations framed by legislature.

IMPORTANT EVENTS OF QUARTER

Parliament Sessions Concluded

Session VIII (01.08.2011 – 08.09.2011)

Number of Questions on Mining: 39

30.09.2011 – GoM recommends the bill to cabinet

18.10.2011 – GoM on Corruption Accepts Recommendations of Ashok Chawla Committee on Allocation of Natural Resources

On Draft Mines & Minerals (Development & Regulation) Bill

Press: Civil society condemns GoM changes...Wants debate on MMDR Bill.

“Taking a cue from the former Minister Handique’s statement at the National Consultation (Jointly organized by Oxfam India-mm&P-SPWD and PIC) last year that this was not a dole but it was the right of the people, we believe that the affected communities must be made co-owners to stem the rot of illegal mining as well as the huge backlog of poverty in the mining regions. It is sad that the Minister has been unceremoniously dropped for his sensitivity on the issue.”

read more at <http://www.indiaonline.com/Markets/News/Civil-society-condemns-GoM-changes...Wants-debate-on-MMDR-Bill/5209477889>

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This programme is implemented by Samata. The views expressed in this publication do not necessarily reflect the views of the European Commission

“The European Union is made up of 27 Member States who have decided to gradually link together their know-how, resources and destinies. Together, during a period of enlargement of 50 years, they have built a zone of stability, democracy and sustainable development whilst maintaining cultural diversity, tolerance and individual freedoms.

The European Union is committed to sharing its achievements and its values with countries and peoples beyond its borders”.

The European Commission is the EU’s executive body.



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The European Union’s EIDHR programme for “INDIA”

Samata is a social justice organization working for the rights of the tribal “Adivasi” people of Andhra Pradesh, India and for the protection of the natural resources and ecology of the Eastern Ghats (hills).

Our mission is to advocate for the voiceless, to hold government accountable to its promises, to enable minorities to fully achieve and exert their rights, to promote sustainable development while defending against environmental abuses and to aid the human development of the disadvantaged. We believe the best way to achieve our mission is through adherence to nonviolence, community empowerment and adherence to the democratic process

Mining Information Clearinghouse of India (MICI) is an effort to streamline information and to build capacities of communities, organizations in mining areas where the rights cut across a score of natural resources. MICI is headquartered in Delhi.