

Editorial

India, as any other developing country, has been on a consistent reform path, recently bringing the overhauled mining bill, the Land Acquisition bill and also the Land Titling bill. All three deal with land and other resources and were introduced during the monsoon and winter session of Parliament (2011). Despite only limited avenues for people to suggest on these long due changes, civil society has condemned these bills in varied forms and substance.

The erstwhile LA Act needed a extensively renewed look in the 21st Century, which it fails to bring in its current form, but it stretches the norms to gain acceptability, like consent. On the other hand, it looks as if like the mining bill is accepting the larger role of communities and making them partners in development, but what it offers them now is a wash down from equity to a share in profit. In the original draft, 26% equity was suggested, but now, it has been bifurcated to two streams, one for non-coal minerals, suggesting 100% additional royalty; for coal it is 26% profits of previous year. Needless to say, it didn't go down well with affected communities and organisations, as well as workers, who have been left out of the conversation.

As the bills are being debated, the state machinery is busy acquiring land under the colonial Land Acquisition Act of 1894 and there is greater concern on the autonomy of institutions proposed to decide the affected persons in the mining enclaves of India.

The mining bill seems to relish taking mining up the economic ladder, by allowing large lease areas, strengthening corporate ventures into major minerals, diluting stakeholders to mere profit-sharing, suggesting a non-governmental, yet bureaucratic district

level institution like the District Mineral Foundation and state and national regulatory authorities and tribunals. *Have we thought how much proportional royalty will go into setting up and running these authorities? It will definitely eat into the little share of proposed royalty sharing with affected people. But considering if this is adopted, how delivery of benefits will be ensured, do people have an outside chance!*

But the question is whether backstepping on ensuring welfare of the people is democratic. The need was to think alternatively, replacing, in words and preamble acquisition with requisition and for damages with reparation to come at par with an inclusive approach. While a beginning has been made, the purpose has been misplaced.

Related Activities

Regional Training by (MICI):

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Angul in Odisha & Gadag in Karnataka on 07.11.2011

Jashpur in Chattisgarh on 8.11.2011

Rishabhdev in Rajasthan on 09.11.2011

Panigain (Himachal) & Ambikapur (Chhattisgarh) on 12.11.2011

Kodinar in South Gujarat on 13.11.2011

Kattapathar in Uttarakhand & Koraput in Odisha on 15.11.2011

Sarugudu in Andhra Pradesh on 15.11.2011

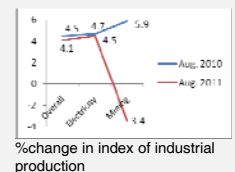
Heading the News

- Tribal panel chief protests bill snub, The Telegraph, Oct. 17
- Activist nun killed in axe attack in

- India coal region, Reuters, Nov. 17
- Workers protest closure of mines, TNN, Dec. 10
- Coal India initiates process to seek green nod for 218 mines, ET, Dec. 12
- Tribals lead anti-bauxite mining bandh in Vizag, TNN, Dec. 21
- UCCI suggests changes in new MMDR Bill, BS, Dec. 29
- Bengal to auction minor mineral mining rights, The Hindu, Jan. 8
- Indian companies in Australia worry over Julia Gillard's new mining tax, ET Bureau, Jan. 8
- Protests shut India NMDC's major iron ore mines, Reuters, Jan 18
- Panel slams Raj for failing to restrict illegal mining, TNN, Jan 20
- Waste ore in Goa down in the dumps, again, Jan 20
- Ecological balanced to be preserved in Lafarge Mining case: Jayanti Natarajan
- Coal India wage talks stalled by new worker demands, The Hindu, Jan 27
- Govt may discuss coal taxes with Indonesia, The Telegraph, Jan 28

In this issue:

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THE NEWS DIMENSION

This period has been a whirlpool for the Indian economy due to bans on mining activities in various states. This has happened because of rampant illegal mining occurring all over the country which has evidently taken a toll on the environment. The government has finally taken a stance (or shows that it has) against illegal mining due to the pressure created by civil society, communities, environmentalists etc. Medha Patkar recently declined Karnataka government's Basava Puraskara on grounds of "disagreement with certain State policies and inability of the government to deal with mining scam". Karnataka government suggests that the licences of 49 iron ore miners in the state should be cancelled. It also stated that 72 other miners should be fined for operating mining pits and burden dumps outside sanctioned areas. MOEF is planning to put together all government notifications and circulars that have been issued over the years on forest and environment clearances into a single document and this along with the forest map will bring clarity and transparency to their clearance policy.

But the government is so confused between its priorities whether it is about generating revenue through mining or saving its affected people and the environment. On one side Karnataka government wants to take away licenses of illegal mining giants but on the other hand it is urging the SC court to grant licenses to 117 mining firms to start its operations. Additionally the government is also encouraging giants like NTPC to maximise its production in the Damodar valley in Odisha. Once again this throws light on the fundamental question of the government's priorities. On one hand it is taking away licenses and on the other hand encouraging and aggravating the situation further.

Similarly, in Chhatisgarh the government is proposing a rail corridor through one of the most dense and ecologically rich forests in the country that will link all the coal mining sites. How can they think of such a step, according to the MOEF itself, dense forests have thinned down to massive industrialization in the country?

Recently, a brutal murder of a journalist Chandrika Rai and his family in Madhya Pradesh has raised many questions about the nexus between politics and mining projects. Rai mostly reported about the illegal mining projects and mining tycoons in Madhya Pradesh. If this is the fate of 'powerful' then what can be said about the powerless?

The government is stuck in its own turmoil, after banning mining in a few states it is worried about the de-growth in the mining sector which is pulling the GDP down. As it has always been seen, Indian government has always patronised statistics, figures, numbers etc, irrespective of how

many people die in the process, how many forests are burned and how many animals decrease in numbers.

Wise Thoughts Indeed!

As the government puts into perspective the growth story together in the form of Five Year Plan (2012-2017) and aligning it with the policy environment, we take a look at what is carried in the documents referring to mining and minerals. As shared in the editorial, the two key legislations i.e. Mining Bill and Land Acquisition and R&R Bill are going to determine the future challenges which the communities have to face and looking at the current situation, how these statements carry along.

From the '**Approach to the 12th Five Year Plan**' On

Mining

5.46 Mining for coal and other ores is always disruptive. We must ensure the rectification and restoration of mined areas and ensure that some of the revenue/costs of the mining go towards direct restoration and also towards the strengthening of environmental resources and ecosystem resilience in adjoining areas. Where possible, it may be advisable to encourage underground mining as against strip mining (open cast), promote technological improvement and perhaps create different regulatory costs in favour of underground mining where feasible

8.5 Mining sector can play a significant role in providing raw material security for the country. Not only steel and aluminium, but also energy critical metals and technology metals like Germanium, Gallium, Osmium, Indium, Selenium, Cobalt, Niobium, Beryllium, Tantalum, Wolfram, Bismuth, etc. and rare earth metals, which have a wide application in electronics industry are emerging as critical inputs. Suitable strategies and funds for stepping up exploration, mining and extraction and recycling of these metals as well as for acquisition of global raw material assets for supplementing longterm strategic need of the country require special attention in the Twelfth Plan.

http://planningcommission.gov.in/plans/planrel/12appdrft/approach_12plan.pdf

The matter of fact is restoration has not been taken up as a revolution, the mine closure rules came up in 2003, prior to these rules, how administrative and policy stands can accommodate the lost out land due to mining. Relevant here is to read the perspectives of an over a decade old alliance – mines, minerals & People – on the approach based on the experiences of the alliance and valuing natural resources of the communities!

http://www.wadanatodo.net/camapaignreports/download/2011/approaching_equity_may_2011.pdf (pg 164-165)

From '**Faster, More Inclusive Sustainable Growth**'

ON GDP, ADIVASIS, FORESTS

Our focus should not be just on GDP growth itself, but on achieving a growth process that is as inclusive as possible. For example, rapid growth which involves faster growth in agriculture, and especially in rain-fed areas where most of the poor live, will be much more inclusive than a GDP growth that is driven entirely by mining or extraction of minerals for exports. Similarly, rapid growth which is based on faster growth for the manufacturing sector as a whole, including MSME, will generate a much broader spread of employment and income earning opportunities and is therefore more inclusive than a growth which is largely driven by extractive industries.

1.107. The third potential conflict between accessing our mineral resources and minimising disturbance to forests also poses difficult problems. The services that are rendered by forests are unique and cannot be easily replaced. They include sustaining the life styles of the adivasis, but go well beyond that to include critical ecological services such as acting as a carbon sink and as a natural harvester of water through enhanced groundwater recharging. Mining encroaches on forest land and involves displacement of tribals, but the conflict can be reconciled if mining is combined with scientific replanting or regeneration, plus compensatory forestation on a larger scale, which may enable effective exploitation of our mineral resources with an actual increase in total forest cover. There may be some areas of forests that we view as sacrosanct, such as special reserves and biodiversity hotspots, where no intrusion is allowed, but other than these it should be possible to reconcile the two conflicting objectives, extracting valuable minerals and protecting the forests, through scientific methods of exploitation combined with steps which can protect and even enhance forest cover.

2.23. The Mining and Quarrying Sector grew by only 3.2 per cent in the Eleventh Plan, the growth rate being pushed down by negative growth of 0.9 per cent in 2011–12 reflecting problems in the iron ore sector, gas production and also coal (*see graph on index of industrial production on Page 1*). The Twelfth Plan assumes a substantial improvement with the growth rate averaging 7.2 per cent. This will require serious attention to the many constraints that have bedevilled growth in this sector.

The National Mineral Policy & the new Mining Bill speaks loud about attracting investments and opening new areas for mineral exploitation. The Go-No Go policy is now redundant (on coal mining) which banked upon the forest intensity coupled with mineral regions.

On Transparency, Awarding Natural Resources

10.39. The other aspect of corruption is development of transparent procedures in award of government contracts, government procurement and award of licences for permitting various activities including mining or the use of other natural resources. It is important that the use of e-tendering, mandatory posting of all major procurements on the websites and other transparent procedures are adopted for all major procurements. Similarly, in awarding of contracts, transparency in selection of contractors and the bids is must. This can be strengthened by using e-technology more extensively. In award of natural resources to private players, while transparency is a must, public policy must

simultaneously ensure the pricing policies do not lead to exorbitant rise in the price of services which benefit the ordinary consumers. It has to be appreciated that communication, power and water are today basic necessities for all citizens. The allocation award procedures for these natural resources must keep these factors in mind.

6.33. Independent estimates place the number of people displaced following development projects in India over the last sixty years at 60 million, and only a third of these are estimated to have been resettled in a planned manner. Most of these people are the asset-less rural poor, marginal farmers, poor fisherfolk and quarry workers. Around 40 per cent of those displaced belonged to Adivasis and 20 per cent to Dalits. Given that 90 per cent of our coal, more than 50 per cent of most minerals and most prospective dam sites are in Adivasi regions, there is likely to be continuing tension over issues of land acquisition in these areas.

6.34. These problems have arisen in large part because the legal framework under which land has been acquired is outdated. It is based on the principle of 'eminent domain' under which the State can forcibly acquire land for a public purpose at prices which do not reflect the market price nor provide any premium to reflect the fact that the acquisition is forcible.

6.35. The way forward is to move away from the colonial perspective of treating people as 'subjects', which is inherent in the doctrine of eminent domain, towards a vision of citizens, whose rights are guaranteed under the Constitution. Ultimately, we have to go beyond narrow legality to seek broader legitimacy. http://planningcommission.gov.in/plans/planrel/12thplan/pdf/vol_1.pdf

Faster, More Inclusive and Sustainable Growth, Vol. I

It has been made clear in the preceding paras that why the Go-No Go policy got paralysed and to access resources, the proposed legislations pretend to move away from colonial perspective but correlates growth which cannot be free from conflict whether it is land acquisition or mineral exploitation.