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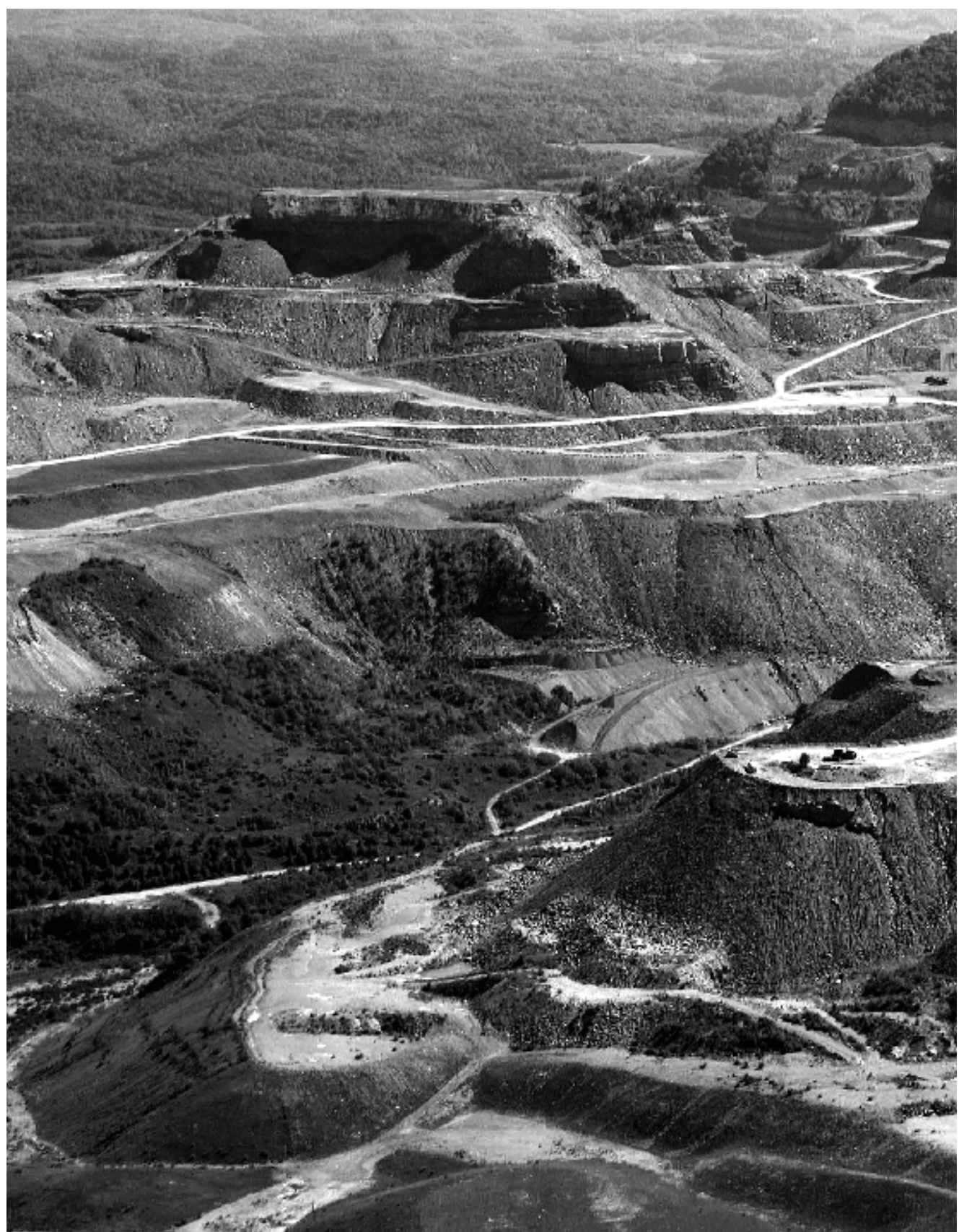
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A NOTE FROM mines minerals and PEOPLE

This reprint of a series of articles appeared in the July 03-16th 2010 issue of Frontline Magazine provides an excellent review of the mining scenario and the context of the new mining bill. This is being released as an accompaniment to our document "Mining Matters" which focuses on the key issues to restore justice in the Mines Minerals (Development and Regulation) Bill 2011, table on forest land diversion the last column does not have the borders.

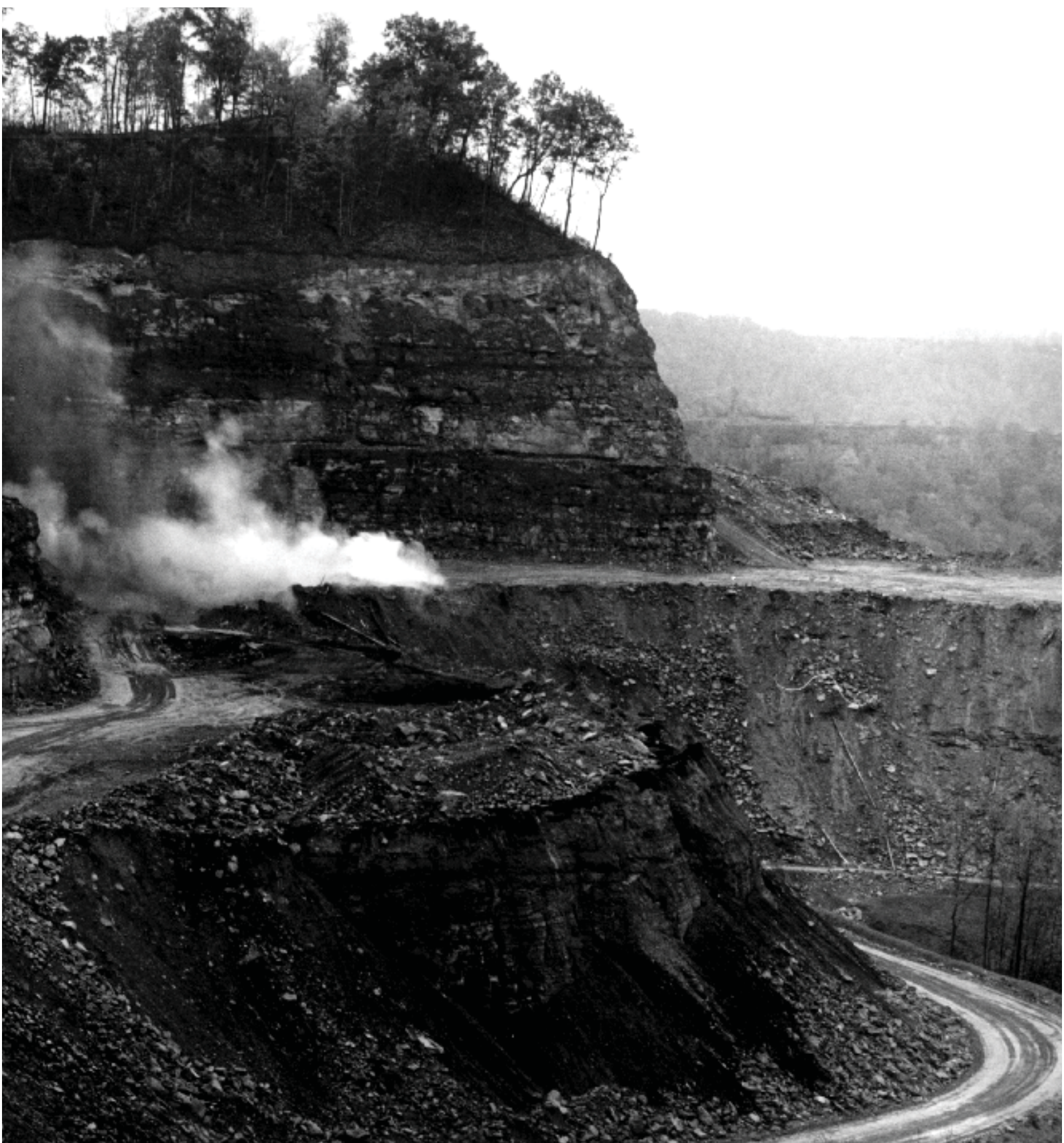
While the bill has undergone changes and a far diluted version in the perspectives of the communities, a number of issues and concerns raised in these articles are extremely material for the debate.

We gratefully acknowledge Frontline and the individual authors for enabling us to reprint this for wider circulation among people.

I particularly thank Mr Venkitesh Ramakrishanan and Mr Vijay Shankar for their support in the process. I thank Oxfam for their continued support in our endeavours.

We hope this publication provides an independent overview of the perspectives and will enable a deeper appreciation of the demands of the communities. We are confident that the Parliamentarians and other decision makers will be reflecting on these aspects before the bill is passed and ensure that the communities are not short changed.

R.Sreedhar
Chairperson
mines minerals & PEOPLE



1. MINES OF DISASTER

VENKITESH RAMAKRISHNAN

Indiscriminate and illegal mining, aided by the corporate-political nexus, causes extensive damage to livelihoods and the environment.

ON June 16, the Government of India constituted a Group of Ministers (GoM) to address the issues thrown up by the draft Mines and Minerals (Development and Regulation) Bill, 2010, formulated by the Ministry of Mines. The GoM was set up ostensibly to look into the sharp differences among key Ministries such as Law and Steel over the draft Bill, but the sequence of events that led to its formation brought into focus the myriad problems in the mining sector.

Experts and observers are unanimous in pointing out the contrasting perceptions and conflicting interests within the government and outside that dominate this sector, leading to lax or near-absent regulatory mechanisms, which in turn cause environmental degradation and large-scale displacement of people.

In this chaotic situation, corporates and other business-industrial entities thrive, pursuing legal, extralegal and illegal mining or a combination of all three. This context, characterised by the unbridled pursuit of wealth by a few individuals and organisations at enormous environmental, social and human cost, has also led to the growing alienation of tribal and other indigenous people in the mining areas and to extensive Maoist penetration of these localities.

It is a moot question whether the GoM will be able to address this overall context. For, instances abound where the very agencies responsible for bringing in regulation and ensuring its compliance have been found to dither either by design or on account of negligence.

Barely three weeks before the GoM was formed, the Naveen Patnaik-led Biju Janata Dal (BJD) government in Orissa was asked by the Supreme Court to explain why it had allowed 215 of its 341 working mines to operate without statutory government clearances or even a proper mining plan. The Central Empowered Committee (CEC) set up by the apex court to look into complaints about these mines was the one that came up with this piece of information in its report.

The Orissa government is not alone in this criminal negligence to ensure that rules and regulations are followed. A number of government agencies have estimated that there are about 15,000 illegal mines spread across the country as against 8,700 legal mines. In several parts of the country, the boundaries between legal

and illegal mining merge seamlessly. In such situations, an individual or a corporate entity engages both in legal mining with approvals and licences, and in illegal mining, more often than not with political and bureaucratic patronage.

A case of seamless merger of legal and illegal mining was unravelled when Madhu Koda, the former Chief Minister of Jharkhand, was arrested in connection with a Rs.4,300-crore scam. More blatantly, the Gali Reddy brothers – Karunakara Reddy, Janardhana Reddy and Somashekhara Reddy – of Bellary district in Karnataka developed their own political clout in the State and in Andhra Pradesh with the wealth gained from aggressive mining.

Karunakara Reddy and Janardhana Reddy are now Ministers in the Bharatiya Janata Party (BJP) government in Karnataka. They had tremendous influence over the Y.S. Rajasekhara Reddy-led Congress government in Andhra Pradesh, too.

Breach of obligations

A recent study by Amnesty International on the Vedanta group's operations in Orissa – the construction of the Lanjigarh alumina refinery and prospective mining of the adjacent Niyamgiri hills – asserted that both the State and the Central government had “breached obligations to respect and protect the human rights of the Dongria Kondh and other communities affected by mining and refinery projects”. It also pointed out that though the Orissa government and its pollution control board had undertaken regular monitoring of the refinery, they had failed to enforce laws to prevent the contamination or pollution of water and air, leading to violations of the right to water and health of the affected communities.

In Chhattisgarh, the Raman Singh-led BJP government is said to have scrapped in 2006 a proposal for an elephant reserve in order to facilitate coal mining by a number of industrial houses. The proposal was scrapped after it was found out that about 100 square kilometres of a coal block fell within the proposed reserve. Ironically, the elephant reserve was originally conceived to house elephants migrating from Jharkhand and Orissa on account of the increase in mining in those States.

The scale of political and bureaucratic assistance provided to mining corporates and their associates is perplexing in many cases. In Maharashtra's Ratnagiri district, which is a major producer of the Alphonso variety of mango, a government-sponsored study on the environmental impact of a thermal power station being set up by a steel major ruled out any hazard from the plant to mango orchards. It even stated that orchards near major roads with heavy vehicular

traffic seemed to be healthier than those situated further away and suggested that the emissions from the thermal plant may actually improve the plantations in its vicinity. The impact of wanton support to individual and corporate entities involved in mining throughout the country has been delineated at length in "Rich Lands, Poor People", a seminal report brought out by the Centre for Science and Environment (CSE) in 2008. The extensively researched report addressed the issue of mining in different States and its impact on the environment and people.

Devastation, displacement

The report presented a horrific picture of the devastation brought about by mining in the country. It pointed out that in the first four and a half decades of Independence mining had displaced about two and a half crore people and that not even 25 per cent of them had been rehabilitated. Of the displaced people, more than half were from tribal communities.

The report calculated that for every 1 per cent of the mining sector's contribution to the country's gross domestic product (GDP), the activity displaced three to four times more people than all development projects put together. The report also stated that increase in mining activity in recent years had led to an increase in the diversion of forest land. "An estimated 1.64 lakh hectares of forest land has already been diverted for mining in the country. Iron-ore mining in India used up 77 million tonnes of water in 2005-06, enough to meet the daily water needs of more than three million people. Mining of major minerals generated about 1.84 billion tonnes of waste in 2006 – most of which has not been disposed of properly. Coal is the main culprit: every tonne of coal extracted generates three to four tonnes of waste." The report also pointed out that air and water pollution is also on the rise in the mining hotspots.

According to Sanjay Bosu Mullick of the Ranchi-based Bindrai Institute of Research Study and Action (BIRSA) and the Jharkhand Mines Area Coordination Committee (JMACC), the spread of Maoist extremism in many parts of the country is the result of this large-scale ravaging of natural resources. This plunder is leading to growing conflicts in India's mining zones and informal estimates are that nearly 60 per cent of the country's mineral-rich districts are under the influence of Maoist activity, he says.

A number of bureaucrats and non-governmental activists involved in studying and observing mining-related activities pointed out that the socio-economic climate of liberalisation and globalisation had contributed to this excitement to help corporate players and their interests. "That is a factor that has to be looked at comprehensively," said a senior bureaucrat.

But according to Minister of Mines Bijoy Krishna Handique, the MMDR Bill is the product of comprehensive analysis and thinking and will address all the issues and problems relating to the mining sector. In his view, nobody can run away from the need for reform and modernisation in the mining sector and this, he believes, can be brought about only by encouraging investment. He adds that the social costs of the mining projects will be met by ensuring greater involvement of the local community in the projects and making it legally imperative for the miners to provide 26 per cent of the profits to the local community. He avers that the passage of the MMDR Act will strike a blow for sustainable mining (see interview).

Forest Land Diversion in States - Orissa, Chhattisgarh and Andhra Pradesh lead in the race for diverting forestland for mining.

Andhra Pradesh	13532	14.24
Arunachal Pradesh	142	0.15
Assam	87	0.09
Bihar	414	0.44
Chhattisgarh	14421	15.18
Goa	1282	1.35
Gujarat	9664	10.17
Himachal Pradesh	1228	1.29
Jharkhand	9059	9.54
Karnataka	7558	7.96
Kerala	29	0.03
Madhya Pradesh	10058	10.59
Maharashtra	4057	4.27
Orissa	15387	16.20
Rajasthan	4996	5.26
Tamil Nadu	436	0.46
Uttarakhand	247	0.26
Uttar Pradesh	2110	2.22
West Bengal	277	0.29
Andaman & Nicobar Islands	20	0.02
	95004	100.00

While there is an acceptance that the Bill does seek to come up with new laws, it has been criticised as not being as comprehensive as Handique and his associates in the Ministry claim it to be. This criticism has emanated from within the government and outside.

Objections to Bill

The principal objections to the draft MMDR Bill have come from the Ministry of Steel. It has found fault with the proposal to do away with the need for prior approval from the Central government. The Ministry of Minerals is of the view that the prior appraisal as it exists today is a mere formality, with all the real powers of approval being vested in State governments. According to the Ministry of Steel, this stance will trigger serious trouble for the mining sector as the mineral-rich States will be at liberty to grant concessions on their own.

The Law Ministry, too, has expressed reservations and has suggested a change in the nomenclature of the Bill with the objective of highlighting the environmental conservation aspect.

A number of social activists and NGOs have questioned some of the basic premises in the Bill. The NGO Mines, Minerals and People

(MMP) has submitted a detailed proposal on the MMDR broadly following its charter, which has sought announcement of a complete moratorium on new mining projects in greenfield areas, legally enforceable right to natural resources to local communities, prevention of disinvestment of public sector mining companies in favour of private and multinational companies, ensuring the right to mining for indigenous people and their cooperatives, and prohibition on granting of lease to global mining corporates or their joint ventures.

It has also demanded that the issues of compensation and resettlement and rehabilitation be clarified with the formulation of specific rules with guidelines and manuals.

The CSE report, which conceded that mining and minerals were necessary, stated thus: "Mining cannot be sustainable or truly environment-friendly: one, because all ore bodies are finite and non-renewable and two, because even the best-managed mines leave environmental footprints."

The real issue is about how mining has to be undertaken in an environmentally and socially acceptable manner. There is little doubt that legislation alone will not ensure this as long as the nexus between politicians and corporate interests remains strong.

2. LIBERALISING LOOT

C.P. CHANDRASEKHAR

The mining sector is seen as one in which the worst features of capitalism as a profit machine combine with illegality and corruption.

AFTER being off the radar of public attention for long, the mining industry in India is now in focus. For example, the controversies surrounding the Posco and Vedanta projects in Orissa, involving the acquisition of large tracts of land for mining purposes, have drawn attention to the damage that could result to livelihoods and the ecology from mining. More recently, in distant Karnataka allegations of collusion between mining interests and politicians in power, leading to large and not always legitimate profits garnered at the expense of the local people and the state exchequer, have led to the resignation of the State's ombudsman.

The mining sector is increasingly seen as one in which the worst features of capitalism as a profit machine combine with illegality and corruption to provide a site for primitive accumulation based on plunder and unequal exchange. This is only partly because after economic liberalisation mining has delivered fortunes to those private interests that have been able to find a foothold in the industry. The

industry has also drawn attention because mining areas have become the sites of violent political opposition to both private capital and the state.

Analyses of the reasons for these developments point in many directions. Displacement, loss of traditional livelihoods of tribal populations and ecological destruction are, of course, prime among them. In addition, in some regions and States mining interests from "outside" reportedly rule the areas they exploit by maintaining private armies or by entering parliamentary politics to win influence and control the administration of mining areas and the framing and implementation of mining policy. Power at one pole, especially if violently exercised, generates dissent and opposition at the other, which too can turn violent.

This kind of "carpetbagger capitalism", in which wealth accumulation by "outsiders" who extract mineral resources occurs at the expense of local populations, whose traditional habitat and means of livelihood are damaged, is not specific to mining in India. It is true of all locations where the state has not either regulated mining firms or interests or even worked in their favour when resources are being mined.

Mineral resources are non-reproducible and, therefore, the duration for which they can be exploited is limited and the returns from mining dwindle as the best quality ores and the most accessible strains are exhausted. On the other hand, for geological reasons, individual mineral resources are concentrated in particular regions of the world and in specific areas within those regions and nations. Rising global demand, irrespective of where it emanates from, therefore, encourages the quick exploitation of available mineral resources from a few locations.

The difficulty is that in most cases mining, which requires "extracting" the resource, is destructive of the environment in which it occurs. Large swathes of land have to be excavated. If the area has forests, they have to be cleared. If it is inhabited, the local population has to be relocated and rehabilitated. If water is required for mining purposes, local water sources must be drained. And if the process of mining releases toxic material, ecological and human damage through pollution of various kinds will occur unless efforts are made to collect those materials and put them to use or they are disposed of safely.

The dimensions of the problem are not easy to understand. Consider the situation in India, for example. Taking a national view, mining does not seem to be an overwhelmingly important activity in the country. The mining and quarrying sector currently contributes only around 2 per cent to India's gross domestic product

(GDP). Further, more than 60 per cent of this value is due to fuels, a significant share of which is produced offshore, away from human habitation. Offshore areas accounted for 18 per cent of the value of mineral production in 2009-10. (Though, this seems to shift the problem away from where it affects us humans, the BP spill in the Gulf of Mexico should remind us that even this is not true.) The resulting seemingly minimal economic relevance of mining conflicts with the role it is increasingly playing in generating discontent and opposition within the country.

Mining & political conflict

However, the reasons why mining areas are the sites for political conflict are many. To start with, where the adverse effects of mining are inadequately remedied, the consequences for the affected can be dire. Secondly, though, according to the Ministry of Mines, India produces as many as 86 minerals, a few minerals account for a dominant share of non-fuel mineral production. These include coal, lignite and bauxite (in which India ranked third among the world's producers in 2007-08), iron ore (fourth) and manganese (fifth). Moreover, these resources are concentrated in a few contiguous areas.

During 2009-10, while mineral production was reported from 32 States and Union Territories, among onshore areas a few States dominated: Andhra Pradesh (with a 12.24 per cent share in production by value), Orissa (11.85 per cent), Chhattisgarh (9.18 per cent) and Jharkhand (8.79 per cent). Together with the offshore areas, they account for 60 per cent of mineral production by value. They also are home to large tribal populations. And they are among the States where violent political movements are on the rise.

It is nobody's case that no mining should occur. The case is clearly for restricting the extent of mining, keeping in mind the common good and taking into account immediate and long-term costs and returns. In fact, almost everybody swears by certain principles. While different mineral resources should be exploited to differing degrees, given the technological options and the benefits from production using mineral raw materials, the effort should be to minimise the social costs.

Ecologically sensitive areas should not be mined. Deforestation should be kept to a minimum. Compensation, relocation and rehabilitation must be organised in ways that are fair. And pollution should be minimal after abatement.

However, recognising all this is not enough. There must be laws, institutions and processes in place, which ensure that decisions on the extent and means of

mineral extraction in different locations are taken in ways that ensure social participation, especially of those who will be affected adversely. The fact of the matter is that while lip service is paid to such institutions and processes, they do not work in this country (and in many others in the world as well).

In fact, the complex division of labour between the Central and State governments with regard to the framing and implementation of mining policy obfuscates accountability to a substantial degree, only worsening matters.

This has become more of a problem in recent years because of the ways in which the post-1991 policy of economic liberalisation and "reform" have affected the mining sector. As noted above, mining is an area where most costs are social and fall heavily on those not directly involved in mineral extraction.

If in such an environment private producers operating purely for profit are given an important role, it generates the classic situation where private returns and social costs diverge substantially, especially when private returns are high and social costs are not required to be compensated for.

Preserve of state

This situation is relatively recent in India's post-Independence history. During much of that period mining was largely a preserve of the state. Under the Industrial Policy Resolution, 1956, the mining of major minerals such as coal, lignite, mineral oils, iron ore, copper, zinc and atomic minerals was made the exclusive preserve of the public sector.

It was only in the extraction of minor minerals that the private sector was allowed along with the public sector. As a result, much of the mining occurred within the ambit of the public sector. Even today, the public sector continues to play a dominant role in mineral production, accounting for more than 70 per cent of the total value of production.

It is of course true that the operations of the public sector, too, resulted in displacement, ecological damage and loss of traditional livelihood opportunities. But with the public sector under managements that were accountable to Parliament, the degree to which it could ignore social costs was limited.

Moreover, with the public sector not under pressure to privilege profit above all else, it was in a position to provide for compensation, rehabilitation and abatement. The system was not inherently biased towards discounting the social costs of mining operations.

Under that regime, therefore, the problem was largely one of inadequate investment to exploit effectively and safely the mineral resources of the country. In fact, even when shortages in some areas encouraged small-scale illegal mining, it was often more in the nature of petty production, sustained of course by the presence and exploitation of large trading capital.

Mineral policy

Matters began to change in the 1990s, with the post-liberalisation shift to the National Mineral Policy (NMP) of March 1993. Designed to encourage private investment in exploration and mining, the policy opened up 13 major minerals – iron ore, manganese ore, chrome ore, sulphur, gold, diamond, copper, lead, zinc, molybdenum, tungsten, nickel and platinum – for private investment. Further, the policy expressly provided for foreign technology and foreign participation in exploration and mining. Initially, foreign direct investment (FDI) was allowed, subject to clearance by the Foreign Investment Promotion Board (FIPB), up to 50 per cent of equity (with no limit for captive mines). However, additional FDI holding was provided for on a case-by-case basis. In 1997, FDI up to 50 per cent was taken out of the purview of the FIPB and put on the automatic approval route, and in February 2006 FDI up to 100 per cent was permitted in mining.

Though the initial response to liberalisation was lukewarm, there has been a rush of investment into the area in recent years. According to an estimate made by the Indian Institute of Metals in 2009, a sum close to \$300 billion is expected to be invested in the metals and mining sectors in eastern India over the next few years.

This is six times the aggregate investment made since Independence. Much of this investment is to occur in the mineral-rich States of Orissa and Jharkhand followed by Chhattisgarh and West Bengal.

The government has argued that this liberalisation, introduced to attract much-needed investment into the mining sector, has been accompanied by new rules, guidelines and measures to ensure that the benefits are distributed fairly. The opposition and civil society activists, on the other hand, argue that there is no tooth to whatever legislation is in place and little commitment to implementing many of the regulations that are available. The state is most often seen as colluding with private operators at the expense of local populations.

As a result, argue critics, in a State like Orissa the rapid pace of mineral exploitation has contributed little to the development of the State. According to a study by Banikanta Mishra (Economic & Political Weekly, May 15, 2010), from 1993-94 to 2003-04, the extent of mineral exploitation increased by 10.3 per cent

a year, with the value of minerals extracted rising at 12.8 per cent per annum. Much of this was for export, with the quantity of mineral exported out of the state rising by 15.7 per cent a year. On the other hand, the number of workers employed in mining fell by 4 per cent annually, even while ecological damage and livelihood loss worsened standards of living.

That there is reason for cynicism is illustrated by the delay in formulating and approving appropriate alternative legislation to replace the Mines and Minerals (Development and Regulation) Act of 1957. The Ministry of Mines is pushing for legislation that mandates, among other things, the sharing of profits from mining with the local population and State governments.

The new law seeks to make sharing of at least 26 per cent of profits with the local population mandatory. According to reports, the Law Ministry, influenced by other sections in government, is opposed to these changes. Union Minister of Mines B.K. Handique, who has been vocal on the matter, has reportedly received no response to his efforts to get the draft legislation cleared and taken to Parliament.

Clearly then, the ethos of liberalisation, which privileges private sector production and celebrates profit-making, is one in which an appropriate mining policy will prove difficult to formulate, let alone implement. Public control over mining rights and mining activity in the pre-liberalisation period was not driven by socialistic motives but by the recognition that a sustainable mining strategy cannot be evolved when the activity is undertaken privately. The retreat from an interventionist policy, the evidence suggests, delivers the kind of outcomes that enhances the wealth of some while increasing the deprivation of the majority in India's mining belt, leading to violent forms of protest.

The message is clear. Liberalisation is not a means of increasing the efficiency of the system. It is a policy that facilitates a process of primitive accumulation that leads to social disruption.

3. THE WAY AHEAD

R. SREEDHAR

A moratorium on new mines until the contentious issues relating to the mining sector are resolved is the need of the hour.

THE impact of mining spreads across all aspects of the environment – biophysical and psycho-cultural – and is largely by virtue of the geological and ecological conditions of mining. Therefore, accepting the nature of the impact, the industry

Impacts of Mining on Water
Open cast mining/quarrying /excavation not intersecting ground water table
Affecting natural surface water regime Affecting ground water recharge regime
Open cast mining/excavation intersecting ground water table
Pumping of ground water Declining of water table Affecting natural surface water regime Affecting ground water recharge regime Affecting natural springs
Underground mining
Affecting ground water recharge regime Shallow aquifers Deep aquifers Affecting ground water flow direction Affecting ground water recharge
CBM/ Underground Coal Gasification
Ground water resource/potentials-drying of upper aquifers

needs to evolve mitigation measures to contain the damage, and the regulatory authorities are duty-bound to ensure that the sector and the specific industries comply with the highest standards. However, the expectations, both from the industry, of genuine efforts to mitigate the impact, and from the state, particularly the regulators, of enforcing the rule of law are misplaced in the current context.

A look at the biophysical environment around mining from across a section of mines in the country is instructive. As an illustration, take the case of water. Mining is one of the major industrial activities impacting the availability and quality of water. Mining, from small-scale quarrying to deep underground mining, and in the new area of coal bed methane extraction, impacts water. The proposed underground coal gasification will also have an impact.

The impact is far-reaching, but the governance processes still come from a state of

denial. Mining and allied industries are the biggest destroyers of natural water storage capacity and the most important cause for the deterioration of water quality. The future of water resources is seriously at stake.

The Central Ground Water Board (CGWB) suggests that intersection of the water table by the mining industries may be taken seriously as in several places the major resources lie beneath the water table. The breaching of the water table must be subject to stricter regulation than there is at present as the very basis of survival of local communities is sacrificed at this stage. Merely to say that mine water is put to "gainful" use misses the point that such use can lead to unsustainable management of the aquifer. While this may include supplying water to adjacent areas, local communities and water distribution agencies, besides utilisation for dust suppression and other purposes by the industry and for artificial recharge, it will be tantamount to mining water.

Neyveli in Tamil Nadu is a good example of how mining has impacted regional water resources and also induced the threat of seawater incursion. The surface topography and drainage have been obliterated and the accompanying power plant, too, adds to the impact on water resources.

It is an irony that people from an area where water occurred in an artesian condition and water swelled over land before the initiation of lignite mining are today forced to depend upon the State government and the mining company for water, and that too water supplied at very low pressure and intermittently.

However, despite the practise of "precautionary principles" being touted by the government and even the courts, the giant Jayamkondan lignite mining project in Tiruchi district in Tamil Nadu is on the anvil without any serious research or effort to understand the impact and formulate adequate precautionary measures.

At the other extreme is the fact that at no mine in the country the issues of resettlement and rehabilitation (R&R) have been completed even to some degree of satisfaction of the oustees. The dispossession, impoverishment and trauma attached to displacement can probably never be captured with the level of sensitivity that any mitigation demands. In between lies a whole range of impacts such as pollution from the mining activity and from transportation, which is largely by road.

The real concern over the environmental and social impact, whose neglect led recently to the classification of over 70 locations as critically polluted, prominent among them being the mining-industrial complexes, and the often non-violent and

sometimes violent protests of the community, with over 200 locations being locked in conflicts, is the scale of expansion being projected in the near future.

The massive increase in the power production targets will require the mining of almost twice the amount of coal that is mined at present in the country. The regulators, who are not able to manage the 561 mines at present, will, in the next decade, need to be equipped to handle at least twice as much work. Considering the shortcomings of the entire process, from the prospecting stage to the closure, it can be surmised that more places will come into the category of severely polluted zones.

As a corollary to this, more and more States are being linked inextricably to this destructive enterprise for their economic sustenance, and any reversal from it will only add to the worsening quality of life of the people around the mine. While the problems of the legally operating mines themselves look insurmountable, India has the dubious distinction of having more illegal mines than legal ones. There are around 8,784 major mineral leases spread across the country, apart from thousands of leases for minor minerals and quarries.

A Parliamentary Committee on Illegal Mining identified 14,504 illegal mines in 2005. Its report states: "The government in its efforts to promote and develop mining sector had taken a number of steps and commissioned studies from time to time under the National Mineral Policy, 1993. But, the impact thereof has been far from satisfactory and the exploration and development of mineral wealth of the country remained unproductive both economically and socially."

It adds: "The conservation as well as systematic and scientific harnessing of mineral resources is the bedrock of economic development of a nation. However, unscientific and unlawful mining has been thriving endlessly causing not only immense loss to the national exchequer but destruction of natural environment."

Figures released recently by the Ministry of Mines estimates the number of illegal mines for major minerals at 2,496 and for minor minerals at a whopping 28,055. The proposed new mining Act will enhance the scale of impact as the limit for a single lease area is sought to be raised to 100 sq km. While the largest mine lease currently is of the order of 2000 hectares, a fivefold increase in the area of lease will have widespread regional ramifications.

In the interest of the long-term conservation of the environment and respecting the laws already in place to protect the environment and the community, Mines, Minerals and People (MM&P), an alliance of mining-affected communities,

demands a moratorium on new mines. New leases could be given when illegal mining is removed; the closed, abandoned and orphaned mines are restored; strict compliance is sought at the unit level; and brownfield expansion is encouraged as against greenfield mining. These activities, if undertaken seriously, will not diminish economic growth significantly and will pave the way for a more systematic utilisation of non-renewable resources.

This calls for a rationalisation of the management of natural resources, stricter due diligence during the grant of lease and accompanying environmental and forest clearances, and a vigilant society to be able to stem the abysmal state of affairs.

R. Sreedhar is Managing Trustee, Environics Trust, and Convener, mines, minerals and PEOPLE.

4. POLITICS AND THE PITS

PRAFULLA DAS

Illegal mining, often with political patronage, is making the state lose revenues and millions of tribal residents their habitats and livelihoods.

Miners' paradise

ILLEGAL mining in Orissa was never before as hotly debated as it has been in recent months. Successive governments were always so eager to protect the interests of the companies engaged in mining that reports about illegal mining and smuggling of minerals were never taken seriously. Little action was taken against those who violated mining and forest laws and jeopardised the well-being of the millions who have for generations lived in the mineral-rich regions of the State.

It was in the 1960s, when Biju Patnaik headed a Congress government, that an expressway was built between the mineral-bearing region and the Paradip port, and this road, over the years, has provided the main route for minerals mined in the State to leave the country. Illegal mining caught public attention after opposition parties raised the issue in the State Assembly with some genuine concern in July last year. Before that, scant attention was paid even to the findings of the Comptroller and Auditor General about illegal mining.

In the latter half of 2009, opposition parties sent teams to the areas where illegal mining was rampant. It soon became clear that illegal extraction and smuggling of iron ore, manganese and other minerals had been going on for several decades and had assumed serious proportions from the mid-1990s. The past decade saw

further escalation in mining activity as the demand for iron ore and other minerals grew in the international market. It also became evident that various departments of the State government had been turning a blind eye to the virtual loot. In the process, the State exchequer suffered immense losses and the local population derived no benefits. Indeed, for the tribal people who had lived on the land for many generations in Keonjhar and other mineral-rich districts, mining destroyed their forest-based economy. "In terms of indicators of overall welfare, villages closer to the mines have poorer health, education and production assets," said an independent study.

The State government initially refused to admit that illegal mining was going on in many backward regions of the State where Maoists had gained a stronghold in recent years. But the growing criticism forced Chief Minister Naveen Patnaik to order a Vigilance Department probe in July 2009. After that, skeletons started tumbling out of the cupboards of government departments.

Immediately after the probe was ordered, a few government officials and mining company officials were arrested. But by August, vigilance sleuths stopped all arrests despite registering a dozen cases. However, several months after the scam was unearthed, the Keonjhar district police started arresting small mine operators and those involved in illegal mining, storage and transportation of minerals.

The State government's formal admission of illegal mining came only when the Central Empowered Committee (CEC) of the Supreme Court started its hearings in the case in December 2009. It admitted to the CEC that a large number of mines had been running illegally for years together and that many mining companies had violated mining and forest rules. The admission did not reflect too well on Naveen Patnaik's slogan of transparency.

The CEC hearings, held on December 16, 2009, and then again on February 22 and April 5 this year, came in response to a petition filed in the Supreme Court in October 2009 by Rabi Das, a senior journalist and president of the civil society organisation Odisha Jana Sammilani. (Incidentally, five public interest petitions, filed in the Orissa High Court by concerned individuals seeking a Central Bureau of Investigations (CBI) probe into illegal mining, are pending.)

Rabi Das approached the Supreme Court with the plea that the apex court direct the CEC to conduct a fact-finding study of the illegal mining in Keonjhar, Sundargarh and others districts. He sought the appointment of a commission to investigate and study the modalities of illegal machinations to fix responsibility on individuals in the government and outside it and recommend remedial measures

that could be implemented immediately by the Centre and the Government of Orissa. He also requested the apex court to direct the respondents to take effective steps to stop the illegal mining and prosecute the perpetrators, who had been violating the Mines and Minerals (Development) Act, 1957, Forest (Conservation) Act, 1980 and other relevant laws.

The CEC has submitted an interim report after examining the matter in the three hearings, during which former Advocate-General Jayanta Das, counsel for the petitioner, presented the findings of a study conducted by Jana Sammilani, which had found that 155 mining leases in Orissa had no valid authority.

The CEC's interim report said: "Mining activities were going on in a large number of mines in Orissa without requisite approvals under the Forest (Conservation) Act, 1980, environmental clearances, and Air and Water Acts. The mining activities also exceeded the production limit as approved under the mining plans. ...A large number of mines have remained operational for long periods of time after the expiry of the lease period because of the delays in taking decisions on the renewal applications filed by the respective mining lease holders and consequently the mines becoming eligible for 'deemed extension' as provided under Rule 24 (6), MCR, 1960." It also said: "A large number of mines are operating in Orissa (also in other parts of the country) after the expiry of the mining lease period. This is being done under the provision of 'deemed extension' of mining leases provided under Rule 24 A (6) of the MCR, 1960 and is happening because the applications filed for the renewal of the mining leases remain undecided for a considerable period of time after the expiry of the mining lease period. ...The 'deemed extension' clause is primarily meant to deal with contingency situation and to ensure that the mining operations do not come to an abrupt end because of administrative delays in deciding on the renewal applications. This provision is not meant to be availed indefinitely. Moreover, continuing mining over a long period of time without renewal of the mining lease becomes a potential source for serious illegalities and irregularities."

Counsel for the petitioner submitted that there was a need for a detailed investigation by an independent and competent body as the State Vigilance Department lacked the competent jurisdiction and reliability, especially since the political leadership was involved.

The State government, in its submissions before the CEC on the action taken against those engaged in illegal mining, mentioned the arrests made by the Vigilance Department and said that it had constituted a State-level enforcement squad, and the squad had detected 213 cases since July last year.

The government said that with effect from August 2009, it had introduced newly designed transit passes for use by those transporting minerals from the mining areas to other places in the country and abroad. The government told the CEC that a total of 596 mining leases had been granted to various companies so far, 351 of which had expired. It informed the CEC that mining activities in 163 mines had been suspended because of the non-compliance of the statutory clearances and other violations. Guidelines regarding the renewal of mining leases had been issued on October 1, 2009. A total of 682 trade and storage licences had been suspended.

However, the State government seems to believe that extraction of minerals drives economic growth and creates jobs for local populations. That unregulated mining benefits only a few is still not accepted by the mandarins in the government who keep sending recommendations to the Centre for grant of mining leases.

In the rush for acquiring mining leases, many new companies were born in the past few years. Many companies, which already had mines in their possession, signed memorandums of understanding (MoUs) to set up new steel plants. Many of these companies continue to export iron ore and other minerals while their plans for industrial projects remain on paper. Orissa has already signed 49 MoUs for setting up steel plants and MoUs for over 20 coal-based power plants, a few alumina refineries and a port. But the government should realise that those who have come forward to invest lakhs of crores of rupees in these projects are primarily miners whose chief interest will be in extracting minerals.

The Chief Minister has promised action against illegal mining, but many believe that it is now up to the courts to take a final view of the matter and ensure that those who have been looting the State's mineral reserves are punished.

As for the judicious use of the mineral wealth, both the Centre and the State government need to take a fresh look at the mining sector. Those in the government should ask themselves why the vast majority of people living in the mining areas still live in abject poverty.

5. POLITICAL CLOUT

PARVATHI MENON

The lid blew off illegal mining in Orissa in 2009 after the opposition alleged that a Bihar-based company was illegally mining manganese ore in Keonjhar district.

THE hold of the mining lobby on politics and government is nowhere as unconcealed as it is in Karnataka, a State that occupies the fourth place in iron ore reserves and production after Bihar, Orissa and Chhattisgarh.

The resignation in Bangalore on June 23 of N. Santosh Hegde, the Lokayukta of Karnataka, over "non-cooperation" from the State government in his fight against corruption, has put the spotlight once again on the nexus between the mining lobby and the government, and the culture of corruption, political patronage and illegality that it has spawned. For the Bharatiya Janata Party (BJP) government, led by Chief Minister B.S. Yeddyurappa, the disclosures by the Lokayukta, coming on the eve of the second anniversary celebrations of the State government, could not have been more embarrassingly timed. In the face of the stinging indictment of the government's record on curbing mining-linked corruption, the achievements that it would like to highlight now sound somewhat unconvincing.

Santosh Hegde pulled no punches when he explained the reasons for his resignation. He said that the Lokayukta police had seized 99 lorries that were illegally transporting iron ore from Bellary to Belekeri and Karwar ports with bogus documents. He had asked the Deputy Conservator of Forests, Karwar, to search the port after taking permission from the jurisdictional police. The DCF followed the instructions, seized eight lakh tonnes of ore, and followed this up by filing cases under the Prevention of Corruption Act against the companies that owned the ore and the port officials involved. However, a senior Minister interceded on behalf of the companies and had the official suspended, the Lokayukta said. "I realised that I could not protect officials who discharge their duties on my directions. I decided that I should not continue in the post as I was already fed up with the continued non-cooperation of the government," he said. Coming from the author of a comprehensive and authoritative report on mining irregularities, this is a serious indictment of a government that appears helpless against the clout of an aggressive mining lobby.

Despite public protests, political pressure, media exposures, court directives, a well-documented report on mining irregularities in Bellary district by the Karnataka Lokayukta in 2008, and, more recently, a series of Supreme Court

directives, irregularities in the mining sector abound. Neither the State nor the Central government has been able to stop them. These include unauthorised ore extraction, encroachments, violation of statutory provisions, and massive environmental destruction.

Although all mainstream political parties in the State, including the Congress and the Janata Dal (Secular), have in different degrees been funded by mining profits, it is the BJP that has been responsible for the legitimisation of the mining-politics nexus. It brought many mining barons with suspect business ethics into the fold and, once it came to power in Karnataka in 2008, into active politics. The “Bellary billionaires”, G. Karunakara Reddy, G. Janardhana Reddy, G. Somashekhara Reddy and their confidant B. Sriramulu, have a direct share in political power. Three of them are Ministers in the Yeddyurappa Cabinet, while Somashekhara Reddy is the Chairman of the powerful Karnataka Milk Federation.

Karnataka's mining boom, which started in the late 1990s, is centred in Bellary district, which is said to have reserves of about 1,000 million tonnes of iron ore. In 2001-02 and 2002-03, the production of iron ore from the Bellary zone was 12.4 million and 13.9 million tonnes respectively, just about 1.2 per cent of the total reserves. The mining frenzy of the last decade in one of the poorest districts of Karnataka was the outcome of two factors. The first was the opening up of the mining sector to private exploitation in 1999, while the second was the steady and steep increase in the global price of iron ore from 2003, driven by the demand in a steel-hungry China.

According to the Lokayukta report, between 2000-01 and 2005-06, the production of iron ore increased from 12.09 million tonnes to 184.05 million tonnes. Exports in the same period went up from 6.19 million tonnes to 90.76 million tonnes. The price of iron ore rose from Rs.274 per tonne to Rs.1,061 per tonne, and the total export value increased from \$184.09 million to \$5,216.39 million.

A total of 196 iron ore mining leases had been granted until 2000. In the years of the “China Boom”, only 11 new leases were granted by the State government in Bellary.

The decade of the 2000s saw the transformation of Bellary from a district known for its green cover and wildlife into a centre of uncontrolled mining which accounted for nearly 20 per cent of the country's iron ore production. The area was denuded of its forest cover as hills were blasted and flattened for their ore. With greed reminiscent of the phase of primitive accumulation that accompanied early

capitalism, Bellary was stripped of its wealth and resources by a clutch of companies whose owners became billionaires overnight, even as mine labour (including an army of child labourers) toiled in shocking conditions of work. Soon, the demand for the regulation of mining grew – from political parties, labour unions and non-governmental organisations.

In response to this popular demand, and because the large-scale illegalities taking place in Bellary could be ignored no longer, the JD(S)-BJP coalition government led by H.D. Kumaraswamy asked the Karnataka Lokayukta in March 2007 to investigate the allegations of profiteering from illegal mining and large-scale corruption in political and public life resulting from it. In a government order, the Lokayukta was asked to “fix responsibility and initiate suitable action against all public servants including Ministers whether in office or otherwise....” In December 2008, Santosh Hegde submitted a 274-page report, with five annexures. It is the most comprehensive survey and investigation so far of the structure and evolution of the mining sector. The report fixed responsibility on those who were responsible for illegal or irregular acts and recommended that action be initiated against former Chief Minister N. Dharam Singh, who held the portfolio of the Department of Mines and Geology, for contravening the law.

The State government responded with an action-taken report running into 11 volumes. It impressed no one, least of all Santosh Hegde, who dismissed it as an “action to be taken report”. For the Reddy brothers, directors of Obulapuram Mining Company (OMC), which held mining leases across the border in Andhra Pradesh, the Lokayukta report did little more than marginally tarnish their image. Such was their influence with the party's Central leaders, notably Sushma Swaraj, that they even received tacit support when they raised the banner of dissidence against Yeddyurappa in November 2009, a revolt that petered out soon enough but served to show a chastened Chief Minister who called the shots.

It is not as though there has been no action taken by the State government against illegal mining. Following the Lokayukta report, cases were booked by the Karnataka Department of Forests, Mines and Geology, against 16 mining companies and their operations were shut down. The companies, however, got the High Court to stay the orders, and mining operations were resumed. In December 2009, a special task force of the Indian Bureau of Mines inspected 25 mines and issued orders for the suspension of mining operations in 12 of them on the grounds that they violated the approved mining plan. In April-May 2010, the task force issued similar orders against another 18 companies. While on paper the order stands, there have been allegations that secret and illegal movement of ore is still taking place from these mines.

The Reddy brothers, too, have emerged victorious from a string of court cases against them by the Andhra Pradesh government. In November 2009, the State government suspended mining operations of OMC on the grounds that it was transporting ore on an illegally constructed road through reserved forest area. The company appealed the order in the Andhra Pradesh High Court, which issued an interim stay. The Andhra Pradesh government then went to the Supreme Court, which remitted the case back to the High Court in February 2010. The State went again in appeal to the Supreme Court, which in May once again revoked the stay saying that OMC could mine in "undisputed areas". The Supreme Court also asked the Survey of India to conduct a fresh survey of the area. Both Andhra Pradesh and Karnataka governments have alleged that OMC has shifted the inter-State boundary, while adjacent mining companies have alleged widespread encroachment by OMC into their lease areas.

If the state is not seen to be fulfilling its duties as the guardian of the valuable mineral and forest resources of the district and as a fair arbiter in the conflicts over mining rights that have intensified among mining companies in the area, then it is only strengthening the perception that has already gained credence in the public mind that the "mining lobby" is so powerful that it can subvert the process of justice and use the administration to serve its business and political ends.

6. STRANGE BONDS

K. VENKATESHWARLU

POLITICS makes strange bedfellows, all the more so if business interests are involved. Gali Janardhana Reddy, mining baron, BJP benefactor and now Karnataka's Tourism Minister, enjoyed a special relationship with die-hard Congressman and former Andhra Pradesh Chief Minister Y.S. Rajasekhara Reddy. The bonding was widely believed to be underpinned by mining and business interests. Why else would a Chief Minister go out of his way to defend an iron-ore-mining entrepreneur facing serious charges of encroaching not merely upon areas held by other lessees and upon reserved forest areas but into neighbouring Karnataka, disturbing inter-State border posts and blasting the historically significant British-era Great Trigonometrical Survey station and an ancient temple. The relationship raised questions about mining policy and the state's role in a situation where mines are milked dry by individuals without contributing any substantial revenue to the treasury. Is it not time to revise antiquated royalty laws that fetch all but a pittance? In the name of attracting investments, should the state forget its role of regulator who has to rein in rogue elements in the mining industry who violate every law using political influence?

Several well-meaning committees have brought out the irregularities committed by the iron-ore-mining industry in general, and OMC owned by Janardhana Reddy and his brother, G. Karunakara Reddy, in particular. The report of the CEC, appointed by the Supreme Court on a petition against illegal iron-ore-mining and encroachment upon forest areas by OMC in Obulapuram and H. Siddapuram villages of Anantapur district, is an eye-opener. In Anantapur, a drought-prone and impoverished district that has rich reserves of high-grade hematite, OMC holds three mining leases. The first, for a site measuring 25.96 hectares, was transferred from G. Ramamohan Reddy in February 2002 and renewed in 2005 until 2017. The other two leases, for areas measuring 39.50 hectares and 68.52 hectares, were granted in October 2006 and June 2007, respectively, by the Rajasekhara Reddy government for a 20-year period. The CEC did not agree with the Andhra Pradesh government's stand that OMC was not involved in illegal mining in forest areas outside its mining lease. It said the claim "suffers from serious defects and inconsistencies and is not at all in conformity with the approved mining leases". The boundaries of these leases should have been demarcated and laid on the ground as per the length and bearings of the boundaries of each of the mining leases, it felt. Instead, the boundaries of these leases had been determined on the basis of the interpretation of the inter-village boundary between H. Siddapuram and Obulapuram villages falling in the reserve forest. Citing "substantial differences and serious discrepancies in mining lease boundaries", the CEC pointed to the difference of about three hectares between the mining lease as it stood at the time of approval and later, after the determination of boundaries, in the case of a mine adjoining that of OMC. The Andhra Pradesh government had concluded that OMC's mining activity did not transgress into un-allotted forest area as the six leases in question, including three belonging to Bellary Iron Ore Private limited, Y.M. and Sons and Anantapur Mining Corporation, were in a compact continuous block. The CEC said this was "totally erroneous". "The objectivity, fairness and impartiality which is expected from a State government is shockingly lacking here and does not inspire confidence," the CEC report concluded. It called for the suspension of all mining operations until an independent agency determined their lease boundaries. The granting of the leases itself had triggered a row as OMC was preferred over other competitors, even as the public sector Visakhapatnam Steel Plant was scouting for a captive mine. The government ruled out foul play and stoutly defended its decision, saying mines leased to OMC would serve as captive mines for Janardhana Reddy's ambitious Bramhani Steel project planned in Kadapa, Rajasekhara Reddy's home district. The project is proposed to be set up at a cost of Rs.4,500 crore (first phase) and spread over 10,675 acres (one acre is 0.4 hectare), land that was allotted by the government for a pittance. OMC, however, has already started extracting ore from these mines and exporting it, though the commissioning of the steel plant still

looks remote. The government's defence was that OMC was raising resources to fund the steel project.

The government's flip-flops gave a handle to the main opposition, the Telugu Desam Party (TDP), which continues to run a concerted campaign against OMC and its links with Rajasekhara Reddy's family, often stalling the Assembly proceedings. "It is like the government giving a free licence to OMC to loot and scoot. OMC extracted the ore and ferried it to the coast in lorries and rail wagons for export to other countries, while the State remained satisfied with nominal royalty," said TDP leader Nagam Janardhan Reddy. Dismissing the charges as politically motivated, Congress leaders contend that mining deals should not be looked at from the angle of royalty alone but in terms of the mining industry's development and employment generation.

The State government, however, has also faced charges of favouritism in respect of the mining of bauxite and the world-famous black galaxy granite. Bauxite mines in the ecologically fragile zone of the Eastern Ghats in Visakhapatnam district were granted to Jindal group owned by a Congress MP's family and the Ras-al-Khaima group despite strong objections raised by environmentalists and the tribal people who live in the area. The government used the fig leaf of AP Mineral Development Corporation (APMDC) to hand over these mines to the two groups. The allotment of a black galaxy granite mining lease to Rajasekhara Reddy's supporter, Raghava Reddy, invited criticism from the Opposition and the Comptroller and Auditor General. Chimakurthy in Prakasam district is the only place in the world where this type of granite is available and there has been persistent demand from civil society groups to preserve it for posterity. In a patently one-sided deal, the APMDC exchanged its granite-rich land for land with virtually nothing in it owned by Raghava Reddy's Victorian Granite Company. The CAG found that the loss to the exchequer in this deal was Rs.56 crore.

Critics point to basic flaws in the mining policy that give the advantage to entrepreneurs. Is it prudent to allow indiscriminate mining and export of a metal ignoring the future requirements of a still developing country? And what about the politician-mining lobby nexus that seems to grow in power by the day, as witnessed in the recent political developments in Karnataka?

7. HISTORY OF ABUSE

HARTMAN DE SOUZA

GOANS once used the Konkani word "mandkulem" to refer to Goa, a word also used to denote a baby just beginning to discover the world. The tiny region, barely

100 kilometres in length and some 40 km at its widest, was full of promise when India freed it from the Portuguese on December 19, 1961. However, in the past 25 years their mineral-rich mandkulem, bordered by high ghats on the east and the Arabian Sea on the west, has seen irreversible environmental damage.

It must be said that Goans themselves played a crucial part in spreading the myth that mining was the backbone of the State's economy. Over the years they invested in trucks and barges and shares in the mining industry, believing that Goa's forests and biodiversity would remain, like the infamous mining leases doled out by the Portuguese in the years before they left, "in perpetuity" – a "fact" Goa's first Chief Minister, a mine-owner, ensured when the State got its first elected government. Everyone, from mining magnate to Minister to road transport officer to police constable, with a stake in mining officiously proclaims that mining is their constitutional right. Senior Goans have not failed to see the vast degradation of the Western Ghats at the hands of the mining industry.

One mining pit in Maina in Quepem taluk in South Goa is barely 300 metres from the government secondary school. Rumour has it that the mining industry has offered to build a new school. That is nothing new: the schools in Adavpal and Sonshi in North Goa are already surrounded by mining operations, and petitions against them have resulted in legal wrangling over whether the mining is legal or not.

In the interiors of Collomb village, a new mining pit has opened, barely half a kilometre from the waterline of the Selaulim dam, which provides half of Goa with drinking water. In collusion with various complicit authorities, old dumps in sanctuaries have been reopened; the cases as usual are still to be heard.

One tract of mining, after Sanquelim, stretches for 12 km at the base of which is the infamous Sirgao pit. Some concerned citizens have now started taking Sunday morning tours of young Goans to this place so that they can see just how rapacious the mining industry is and what harm it has done to the Western Ghats. The Sirgao pit is about 37 metres below sea level, but functions even after being indicted by a National Environmental Engineering Research Institute (NEERI) report.

Right through its long history of occupation and subservience, Goa has been there for others, to be used and abused. Referring to the Portuguese dictator Antonio de Oliveira Salazar's determination to hold on to the territory, Jawaharlal Nehru is said to have famously referred to Goa as "a pimple on the face of India". And, how much this has been squeezed!

The first traces of iron and manganese ore were discovered in Goa by Japanese prospectors in 1905, around the same time that the Belgians were digging the earth in Karnataka. In the next 40 years or so, a fledgling mining industry developed, and upwardly mobile Goan families, supporting the fascist war by venturing into the ore industry, exported 100 tonnes.

By 1954, cashing in on the post-War boom, the same families shifted allegiance to the Allies and raised this to one million tonnes. Given their new nationality, things got only better. This figure rose to 10 million tonnes by 1971 and close to 15 million tonnes in the 1980s, ensuring the wealth of a hegemonic industry that, well before the cowboys of Bellary, was raising its own sun in Goa and getting set to pull the strings. Today, thanks to Vedanta entering the race, that figure is in excess of 40 million tonnes and destined to grow bigger.

The larger picture is that growth rates and infrastructure mean more than any irreversible environmental decline. Knowing that 85 billion tonnes of mineral reserves lie waiting to be "exploited" in the ghats off both the shores, the pundits in New Delhi have set a target to increase foreign investment to \$20 billion over the next few years.

Union Environment Minister Jairam Ramesh is adamant in not wanting "theology" to colour the debate on which trees must be cut and which water source must be wilfully destroyed. Why not, when his government preaches "pragmatism", a view of the world where truth is defined by what "succeeds". To the high priests of growth rates, the American-Indian Cree has a saying that bears repeating: "Only when the last tree has been cut; only when the last river has been poisoned; only when the last fish has been eaten; only then will you know that money cannot be eaten."

When the infrastructure industry puts up the 16-odd energy projects planned in the Western Ghats; when the 300-odd permissions to extract ore awaiting clearance from the Ministry of Environment and Forests have been procured in Goa; when the word "activist" becomes a common term of abuse and concerned citizens are forced to seek recourse in a system of justice where they will be thrown in the long grass; when mobs of disgruntled "villagers" surround various politicians and government functionaries, all of whom will throw the ball to each other regardless of political ideologies and affiliations if it means making money, what will Goans be told before the troops are called out? "Go and drink bottled water"?

Hartman de Souza is a theatre director, teacher and writer who is now involved in the movement to save the Western Ghats.

8. GOLD RUSH

VENKITESH RAMAKRISHNAN

ALMOST all the maladies afflicting the Indian mining industry have manifested themselves forcefully in the mineral-rich State of Jharkhand. Indiscriminate exploitation of natural resources, large-scale displacement of tribal people, and the rise of a mining lobby with immense political clout are only a few of these.

Of course, in the last decade the State has also witnessed the rise of a number of people's resistance movements against displacement and environmental degradation caused by mining companies. But the balance of power has always been with the mining lobby, mainly on account of the political clout enjoyed by it. Mining in Jharkhand, where coal and iron ore are abundant, dates back to the 19th century when the region was part of Bihar.

The story of displacement too begins then. In the early years of Independence, the prestigious Damodar Valley dam project dislodged about one lakh people from over 300 villages. Many of them are yet to be rehabilitated. The story continued over decades and even after the formation of the separate State of Jharkhand in 2000.

According to Sanjay Bosu Mullick, who is associated with the Bindrai Institute for Research Study and Action (BIRSA) and the Jharkhand Mines Area Coordination Committee (JMACC), the political instrument of exploitation has several dimensions. "This ranges from the stated government policy that aggressively pursues private participation with the ostensible objective of modernising the mining sector to the corrupt practices of politicians seeking to fill their individual and organisational coffers. These have been at work right from the formation of the State and have only got stronger in the past decade," he said.

The recent history of the State bears testimony to Mullick's contention. Even those who came to power saying that they would clean up the mining sector have succumbed to its allurements. When Madhu Koda took over as Chief Minister in September 2006, he promised to clean up the sector and even ordered a review of 44 MoUs that the State government had signed between 2000 and 2006. These MoUs included those with corporate giants such as ArcelorMittal, Tata and Jindal and amounted to Rs.2 lakh crore. But in a matter of months Koda himself started using the "mines route" to amass wealth.

According to the investigating agencies probing the Rs.4,300-crore scam involving Koda, he and his associates amassed most of this by facilitating mining contracts for iron ore and coal. This, they say, was done by formulating 26 MoUs

sanctioning mining to various companies and over a 100 recommendations granting mining leases to individuals and companies. These were given using the powers of ministerial discretion, which the Chief Minister, and in specific cases the Minister for Mines, possessed, according to the agencies.

The rise of Koda, an independent legislator who did not have the backing of a large political organisation, to the Chief Minister's position and his continuance in office for 23 months itself signifies the power of the mining lobby. He had formed a group with three other MLAs but this "gang of four", it was thought, was no match for the Jharkhand Mukthi Morcha, the Congress or the Bharatiya Janata Party, which were well entrenched in the State. Yet Koda and his associates stayed on for nearly two years. Many of his former associates, including his personal assistant Harinder Singh, have told the investigating agencies that many bigwigs in other parties were in collusion with Koda.

Koda is in jail and his case is being investigated without much tangible progress, but the signing of MoUs for fresh mining leases and industrial activities relating to it has continued unabated in the last two years. According to the government's own admission, the number of MoUs signed by different departments has crossed 300. More than 100 of these are reportedly in the mining sector.

There are also reports from different parts of the State that those who have been given mining leases engage in large-scale mining in open violation of rules. This is because the booty probably is shared with politicians, bureaucrats and Maoists, who charge a levy for allowing any commercial and industrial activity in the State.

The net result of this is the all-round degradation of the forest areas where most of the minerals are concentrated. According to the State Forest Report of 2003, Singhbhum district has the maximum range of forests in the State – 17 per cent – and studies have shown that 99 per cent of Jharkhand's iron ore is deposited here. Extraction of iron ore by any means, legal, extralegal or illegal, thus causes widespread depletion of the forest.

Resistance movements launched by organisations such as the JMACC have led to positive results in some villages like Horomocho in Hazaribagh district and Tentoposi in Seraikela district. At Horomocho, villagers have formed a cooperative which religiously pursues sustainable mining. Tentoposi residents have organised stiff resistance to the takeover of their land for mining. But these are stray developments that do not have a widespread or long-ranging impact.

For such an impact the overall development policy needs to change along with the priorities of the political class. But things are a far cry from that now.

9. FDI VS TRIBES

AJOY ASHIRWAD MAHAPRASHASTA

THE Indian Bureau of Mines, in its Indian Minerals Yearbook–2005, notes that Chhattisgarh has 28 different types of minerals, with coal and iron ore being the most abundant. The Centre for Science and Environment (CSE), in its comprehensive book *Rich Lands, Poor People: Is 'Sustainable' Mining Possible?*, says that around 16 per cent of India's coal reserves, 10 per cent of its iron-ore reserves, 5 per cent of its limestone deposits, 5 per cent of its bauxite, and 88 per cent of its tin reserves lie in Chhattisgarh. One-third of the country's diamond deposits, too, are in the State.

It is no surprise then to see that international mining companies such as Vedanta and Jindal Steel are making a beeline for the State. Significantly, a Vedanta hoarding says 'Mining happiness'. But the reality seems to be far from it. People's movements against the mining companies have been gaining strength in the State in the last few years. The State is a hotbed of naxalism, with the extremists organising people against mining activities. Ramanna, a Maoist leader, has said that his organisation will intensify its armed struggle until the State government nullifies the 102-odd MoUs with mining and steel companies.

The reason for the widespread protests is not far to seek. The mineral-rich areas of the State lie in dense forests that have been home to its tribal population for centuries. Around 90,000 hectares is already under mining for major minerals and coal. The topmost mining districts in the State are Korba, Surguja, Raigarh and Durg, with mostly employment-intensive public sector mining. But ever since the Central government relaxed its rules to allow 100 per cent foreign direct investment in mining in 2006, thousands of tribal people in the mineral-rich northern and southern Chhattisgarh had to leave their forest homes where they had lived for years.

The first serious attack on tribal sovereignty was in December 2001. When Sterlite, the subsidiary of the Vedanta group, took over Bharat Aluminium Company Ltd (BALCO)'s shares from the government, the employees of the company moved the Supreme Court to stop the privatisation, saying that it violated the Samata judgment as the land was under the Fifth Schedule of the Constitution. (In the Samata judgment, the Andhra Pradesh High Court in 1997 protected tribal people's lands against indiscriminate mining that is not approved by the local people.) However, the case was dismissed. The court reversed the Samata judgment saying that the judiciary would be transgressing into the field of policy decisions and further said that the application of the law in Chhattisgarh was not the same as in Andhra Pradesh.

Large-scale land acquisition will have its fallout. As much as 31 per cent of the total population of Chhattisgarh belongs to the Scheduled Tribes. In Dantewada, tribal people account for 79 per cent of the population; they constitute 55 and 44 per cent respectively of the populations of Surguja and Koriya, two other districts that are attractive for mining. Since only 36 per cent of the total land in these areas is under cultivation, the rest of the area are up for grabs and it is the tribal people who depend on forest resources who face the brunt. These districts have very low human development indices. Malnutrition is very high in these areas.

The Bailadila hill range in Dantewada is rich in iron ore. Since 1961, the National Mineral Development Corporation (NMDC) has been mining these deposits. Consequent industrialisation in the area has left the forest cover depleted and local waterbodies such as the Shankhini and Dankini rivers contaminated. A remote sensing study conducted by the Madhya Pradesh Council for Science and Technology in 1997 found that iron-ore mining had endangered the flora and fauna of the area drastically. It also found that if mining activities were to continue, there would be irreversible denudation of the forest and it would affect the livelihood of the people there.

Essar Steel won the mining licence for the Bailadila deposits after the NMDC lease expired. This led to huge protests as the local population had not benefited at all after years of mining. Similarly, in the Bastar region, the NMDC has transferred its licence to set up a steel plant to Essar. Local people are opposing this too.

There have been violent clashes between the police and the tribal people in the Lohandiguda region of Bastar against Tata Iron & Steel Company (TISCO), which is planning a Rs.1,000-crore steel plant in the area. A survey by the CSE says that the land in question (2,000 hectares), belonging to 10 villages in Lohandiguda, is a Fifth Schedule area and one of the few places in the country where wild buffaloes and the tribal culture of the Maria Gond survive. Most of the land that is to be acquired by the State for facilitating the private company here are cultivable lands and even the ruling BJP legislators are opposed to any such move.

Another controversy is brewing in Dhurli and Bhansi, two villages in the naxalite hotbed of Dantewada district in the southern Bastar region. In June 2005, Essar Steel signed an MoU with the State government to bring in an investment of Rs.7,000 crore here.

The State also has large deposits of diamonds in the Mainpur region, which is beset with illegal mining. Most of the farmers who mine diamonds from the Kimberlite stones are paid not more than Rs.100 a day by the illegal mine owners,

who sell the diamonds for huge sums to traders in Mumbai (Maharashtra) and Gujarat. The State government has plans to stop this and take up large-scale mining here.

Another issue of environmental importance is limestone mining for the large number of cement plants in the State. The fact-finding mission by a team from Environics Trust to various cement plants in the Durg-Raipur-Bilaspur (central Chhattisgarh) region in the second week of June brought out many revealing facts.

Its report says, "There are nine major cement plants located in Chhattisgarh between Durg and Bilaspur.... There are 13 cement plants proposed in the region, out of which environment clearance has been given for five plants despite severe villagers' protests, and land acquisition has started. Kolkata-based Imami Cement has proposed to set up its plant with an investment of Rs.16 billion with a capacity of 4.05 million tonnes, and has identified 406 hectares of land, while Jindal Steel has applied for 80.90 hectares. Shree Cements Ltd has proposed a plant in Simradhi village of capacity 5.2 million tonnes with clinker production of another 3.0 million tonnes. Monnet Cement, part of Monnet Ispat & Energy conglomerate, has proposed to set up a three-million tonne cement plant in Chhattisgarh, close to its existing sponge iron and steel melting facilities in Raipur, with a total investment of Rs.1,400 crore."

It adds, "The facility will use limestone from 220 MT mine that has been allotted to the company by the State government. Besides, ash and slag generated from its existing and upcoming units in the State will also be used as basic feed for the cement plant."

All these factories and mines have been set up on the promise of material wealth, direct/indirect employment opportunities, modern amenities, and better health and educational facilities for the local population. But the reality is that the open-cast mines are causing serious environmental damages and there is little benefit to the people in terms of jobs. Blasting is done daily to break the rocks into transportable sizes. Limestone is transported to the plant using either huge dumpers or conveyor belts, depending on the distance between the plant and the mine, the report says. It says uncontrolled blasting has cracked the walls of several houses, which makes them vulnerable during the rains.

The State government has been saying that most of these mines and factories were set up officially after public hearings. But journalists and activists note that they are all a sham; not even 1 per cent of the population in the affected area attends these hearings. The hearings are mostly done without proper notice or are conducted at a place far from the actual site so that people fail to reach there.

But most of all, mining has not improved the lot of the people. About 40.5 per cent (official figures) of the people are still below the poverty line. Of the seven key mining districts in the State, Dantewada and Bastar are among the most backward districts in the country. They have no facility for even safe drinking water.

10. FOR A NEW LAW

V. VENKATESAN

The Draft Mines and Minerals (Development and Regulation) Bill, 2010, faces an uncertain future.

THERE are times when changes in the objects and reasons of a statute necessitate the replacement of the law itself because amendments to it are inadequate to reflect the changes. The most recent example of this is the Draft Mines and Minerals (Development and Regulation) Bill, 2010, which has all the ingredients to replace the existing law. The 1957 Act has outlived its utility despite the several amendments made to it up to 1999. The many stages passed in the process of formulating the new law is a pointer to the tortuous road travelled and to the fact that the days of comfortable and easy law-making are over, at least in the area of regulation. The Mines and Minerals (Development and Regulation Act, 1957, came into force at a time when governments required much discretionary power to regulate a nascent mining sector. The rise of the market economy in the early 1990s brought about a fundamental change in the government's attitude to mining.

The National Mineral Policy, 1993, recognised the need to encourage private investment, including foreign direct investment (FDI), and to attract state-of-the-art technology in the mineral sector. But these objectives remained largely unfulfilled in the absence of a favourable investment climate.

Three-stage operation

Mining is a three-stage operation, involving regional exploration, detailed exploration, and actual mining. Regional exploration is mainly a survey activity to identify areas bearing deposits. Detailed exploration can involve close-distance drilling (depending on the mineral) and substantial testing to establish commercially exploitable ore bodies. Mining projects, therefore, have a long gestation period and require large investments in exploration and other development activities before commercial production can begin. Predictably, mining projects are high-risk ventures because a prospector's investment may or may not result in finds of commercially exploitable deposits. In India, investment

has been lacking in such high-risk ventures and work done by the Geological Survey of India (GSI) continues to be the main basis for investment in mining. In fact, the full potential of India's mineral deposits, including iron ore, bauxite, limestone, base metals, noble metals and diamond, are not known because of inadequate survey and exploration activities.

Meanwhile, the growing global demand for metals and minerals has pushed up continuously the prices, both domestic and international, of minerals. The country's accelerated growth rate warranted a rapid development of the mining sector because most of the basic industries in the manufacturing sector are dependent on assured ore supply. Besides, investments in mining and exploration flow into countries where the regulatory regime is investor-friendly.

Procedural delay

India, like other developing countries, felt the need to reorient its mining law and policy to attract global investment. In the federal scheme, the States are the owners of the minerals. The Centre is responsible for preparing and standardising the legislative framework by providing a single mining law. Thus, the Constitution gives States jurisdiction over the regulation of mines and the development of mineral resources, while Parliament makes the laws for such regulation and development.

Procedural delay was identified as one of the impediments in encouraging the flow of private investment and in the introduction of high-end technology for exploration and mining. The Anwarul Hoda Committee, constituted by the Planning Commission in 2005, in its report submitted in 2006 made specific recommendations on the legal framework to avoid procedural delay. The New Mining Policy (NMP) 2008, while reflecting these recommendations, also sought to develop a sustainable framework for optimum utilisation of mineral resources for industrial growth and for improving the life of people living in the mining areas.

Accordingly, the Ministry of Mines in the second United Progressive Alliance (UPA) government, which was formed in 2009, initiated an exercise to prepare a new mining law in consultation with all stakeholders, including State governments, industries, Ministries/departments concerned of the Central government and civil rights groups and non-governmental organisations. It drafted the new Act and consulted all stakeholders in seven rounds of meetings and a two-day workshop. Subsequently, the Ministry uploaded on its website, six progressively modified drafts, the latest of which was on June 3.

From micromanagement to good governance, is how a background note prepared

by the Ministry put it. The proposed Act makes significant departures from the existing Act in areas that were seen as instances of micromanagement.

“Prior approval” clause

First and foremost is the Ministry's decision to give up its “prior approval” power in grant of concessions for minerals in Part C of the First Schedule. In the proposed Act, Part C includes 74 major minerals, while Part A includes coal and lignite and Part B atomic minerals. Part C of the First Schedule of the existing Act includes only 10 metallic and non-metallic minerals.

The existing Act requires that a State government has prior consultation with the Central government before undertaking fresh reconnaissance, prospecting or mining operations with respect to any mineral specified in the First Schedule in any area within the State. Similarly, a State government cannot grant a reconnaissance permit, prospecting licence or mining lease to any person in respect of any mineral specified in the First Schedule without the previous approval of the Central government.

However, the Act permits State governments to authorise the renewal of a mining lease in respect of minerals in Part C for a further period of 20 years beyond the first renewal for 20 years without the previous approval of the Central government. It also enables State governments to renew prospecting licences in respect of Part C minerals after the initially granted period of three to five years without such approval. These dilutions in the existing Act convinced the government of the irrelevance of prior approval.

The background note, therefore, states that the question of prior approval does not arise until a case is recommended by the State government, and that it does not address delays by the State government. Prior approval does not give the Centre the power to recommend concessions in favour of a person other than the one recommended by the State government, neither is it a mere Central government stamp for the action of State governments. The Ministry of Mines also feels that the prior approval process erodes the power of revision by making the Central government a party to the original decision and to all possible litigation as a result of that.

National mining tribunal

The proposed Act envisages the setting up of a national mining tribunal, which can check independently decisions as also indecision and delays. It gives more teeth to the Indian Bureau of Mines to regulate the mining plan and mine closure

and empowers the Central government to enforce disclosure through databases and websites.

The proposed Act seeks to ensure transparency by assuring the first applicant for a reconnaissance permit of a mining lease as well. The existing Act does not give such assurance, and this, according to the Ministry, is a source of great inhibition for FDI in exploration.

The Chhattisgarh government has sought powers to override the principle of first-in-time even where a prospector has found minerals. The Ministry of Mines, however, has rejected this, saying that notifying an area after applications have been made will destroy investor confidence. Secondly, the Ministry says royalty is the principal method of revenue sharing and as the State regulatory mechanisms develop, a profit-based royalty system can be introduced. The draft Bill allows the setting up of a national mineral royalty commission with State governments as members, for progressive solutions for revenue-sharing through royalty.

However, in known areas of mineralisation, the proposed Act aims to maximise returns to the State by awarding the mining lease to applicants through auction. In the proposed Act, the detailed procedure for assigning weightage in criteria for competitive bidding is to be found in the rules.

The proposed Act provides for stringent measures to prevent illegal mining. It empowers State governments to detect, prevent and prosecute cases of illegal mining, set up special courts to try such cases and declare those convicted as ineligible for grant of mining concessions. It enables the Central government to direct the determination of mining lease on the basis of investigations by the Central government.

One of the consistent demands of the steel industry has been the reservation of mineral-bearing areas for public sector undertakings. The proposed Act rejects this demand, consistent with the Hoda Committee's recommendation that reservation goes against the principles of providing a level playing field. According to the Ministry, reservation will encourage the blocking of large mineral-bearing areas for long periods and promote the back-door entry of operators in these areas through poorly regulated joint ventures.

Therefore, in order to meet partly the steel industry's demand, the draft Bill provides for giving techno-economic weightage for PSUs and existing industries whose captive capacity is likely to be exhausted, and for any intended use for providing long-term linkages with domestic industries.

According to the Ministry's background note, the governments of Himachal Pradesh, Kerala, Uttarakhand, Punjab and Rajasthan and small miners have opposed fixing a minimum area for grant of mining lease for minor minerals and have sought the minimum area for major minerals to be fixed at four hectares. In the opinion of the Ministry, however, a minimum size of lease is necessary for viable, sustainable and scientific mining. The draft Bill provides for small deposits to be mined as a cluster, with a cooperative approach.

Rather than the regulatory aspect, it is the social content of the draft Bill that has appealed to large sections of stakeholders, including landlosers. The draft Bill guarantees assured annuity to the local population as a percentage of profits (26 per cent) earned by the miner, resettlement and rehabilitation of the local population through employment and skill enhancement, compulsory consultation with gram sabha/district panchayats in tribal areas before notification of the area for grant of concessions, and preference to tribal cooperatives in the grant of concessions over small deposits.

The draft Bill's emphasis on sustainable development is another salient feature in it. The Hoda Committee held that mining should be done with least damage to natural resources such as air, water, soil, biomass, and also to human community and life forms. The draft Bill, for instance, provides for mine closure during mining, and on closure, restoration of mining land to cultivability. Sections 45 to 48 of the draft Bill carry various provisions to enforce the principles of sustainable development and conservation of minerals.

Whereas the existing Act only provides a mechanism for licensing, the draft Bill aims to deal with the development of mining and the areas around mines. While the Ministry of Mines braces for resistance to the draft Bill in Parliament, the tougher task will be to satisfy all stakeholders, many of whom still nurse misgivings.

11. MINING TUSSLE

AJOY ASHIRWAD MAHAPRASHASTA

The Environment Ministry's attempts to impose stringent checks on mining provokes strong reactions in the government.

MINING for important minerals is a major thrust area in the drive to sustain the proposed 8 per cent growth rate in the next 10 years. This, however, has led to a bitter tussle between the Coal and Power Ministries and the Ministry of

Environment and Forests (MoEF) over mining rights in the dense forests of Indian tribal lands.

It is an old story of conflict between two power groups in the Union government. While the MoEF seeks more regulations in privatised mining in the light of large-scale illegal mining across India, which causes environmental hazards, the Coal and Mines Ministries seek fewer regulations in order to boost the economy over the next 10 years. Each side has its own economic logic.

The Coal Ministry has stated that the production of coal should be doubled in 10 years to sustain the growing manufacturing sector. Around 70 per cent of India's power supply comes from coal. According to the Ministry's official estimates, a sustainable growth rate of 8 per cent over 10 years will require the production of 90,000 megawatts of thermal power. To reach this target, the Ministry plans to open another 500 coal mines, in addition to the existing 600 running coal mines, over the next 10 years.

Since the 1990s, when the Indian economy started opening up, the Coal Ministry has been allocating "coal blocks" to companies. The idea is that the companies, which might be producing different products, will meet their power requirements by mining coal. It works like this: a company chooses a "coal block" and gives in an application to the Ministry to mine there. This is called "linkage", following which the Coal Ministry allocates mining rights to the company after getting an environmental clearance from the MoEF.

The practice got a jolt when the MoEF released the first set in a series of maps of coalfields superimposed over forests on its website, identifying 'go' and 'no-go' zones for mining. It showed 35 per cent of the area of nine coalfields in six States, including Chhattisgarh, Jharkhand and Orissa, as no go. These areas are mostly dense forests where mining is unviable because of the environmental damage it would cause. The remaining 65 per cent of the coalfields are in forests that can be mined, but only if environmental and forest clearances are obtained. This has led to the cancellation of many proposed mining areas by the Coal Ministry. There are some 'no-go' areas where the Coal Ministry had already allocated coal blocks to some companies.

This has led to a furore in the Union government. Minister for Environment and Forests Jairam Ramesh has been under severe criticism both from the Coal Ministry and from the companies that seek to benefit from mining in the no-go areas. Jairam Ramesh says his Ministry is only trying to "balance conservation and development".

The mapping of coalfields, a joint exercise of the MoEF and the Coal Ministry, continues despite the spat. However, Jairam Ramesh, stung by the criticism, has left it to the Prime Minister to take a final decision on the go and no-go areas. Though he initially stood his ground against the other Ministries, the MoEF seems increasingly pushed to a corner following the PMO's intervention.

The MoEF had arrived at its formula through some empirical surveys that computed weighted forest cover (WFC). The Ministry has suggested that areas that have a WFC higher than 10 per cent would be Category A, and an "application for forest clearance will not be entertained in such areas". The remaining areas will be in Category B. These will be open to applications for mining, which will be evaluated under the Forest (Conservation) Act, with the condition that the areas should not form part of any national park, wildlife sanctuary or important wildlife corridor and should not be an island of disturbance in an otherwise unfragmented landscape.

Steel, power and cement projects linked to coal blocks have been hit by the move: an estimated 267 billion tonnes of coal reserves are under dense forests (now in no-go zones). The Power and Coal Ministries have been protesting with the PMO. If the 8 per cent growth projected by the Prime Minister is to be achieved, they argue, these mines must be unlocked.

These Ministries had been banking heavily on the proposed ultra mega power projects (UMPPs) of 4,000 MW to meet the power crisis through these mines. The Eleventh Five Year Plan had made recommendations to meet an additional power production target of 78,577 MW by 2012 through these UMPPs. So far, a generation capacity of only 23,000 MW has been added in the current Plan period. Total coal production in 2009-2010 was 532 million tonnes against a demand of 604 million tonnes.

Hasdeo-Arand in northern Chhattisgarh is the region most severely hit as a result of being declared a no-go zone. The coal blocks there were supposed to support 20 steel, power and cement projects. The coalfield has five billion tonnes of coal reserves; 18 blocks in it with a projected capacity of 120 million tonnes per annum can support a thermal production of 20,000 MW.

Union Coal Minister Shri Prakash Jaiswal said mining these coal blocks was vital for meeting the current Plan target. The governments of Gujarat and Chhattisgarh have supported his stand and have been urging the Prime Minister to intervene.

The Coal and Power Ministries have been pushing for open-cast mining, which

allows the maximum exploitation (85 to 90 per cent) of reserves as opposed to underground mining (10-20 per cent), but leads to degradation of the land and forest. The Ministries of Steel, Mining, Road Transport and Defence have also complained that their projects are being delayed because of the MoEF's stance.

Responding to these concerns, T.K.A Nair, Principal Secretary to the Prime Minister, has written to the MoEF saying the PMO does not agree with the definition of no-go areas. In a subsequent meeting called by the PMO, the Coal Minister asked Jairam Ramesh to allow mining in another 30 per cent areas.

The PMO said the no-go areas could be a breeding ground for naxalism and could cost the Central and State exchequers several thousand crores. On May 21, Nair told MoEF officials that 48 per cent of the area in nine major coalfields fell in no-go areas, "which is not agreeable". "The implication of this categorisation is that about 619 million tonnes per annum of coal production capacity is getting affected," the PMO pointed out.

"Unbroken forest is not a justified word for Hasdeo-Arand coalfields as these areas are surrounded by highways, irrigation projects and other economic activities. There is a need to review the approach to coal blocks in this coalfield as this includes more than five billion tonnes of coal reserves and the potential of 18 allocated blocks are estimated to be 120 MTPA, which could support thermal power generation capacity of 20,000 MW," the PMO told the MoEF.

The PMO also suggested that the MoEF relax the definitions of WFC and Gross Forest Cover (GFC) so that more coal blocks could be brought under Category B. It recommended measurements of the WFC and GFC that would make for 473 go areas against the 383 projected earlier. Similarly, 132 blocks should fall in Category A (no go) against the 222 projected earlier.

Jairam Ramesh, in a press statement on May 31, said that releasing more than 5 per cent dense forests could not be justified ecologically. However, in response to the PMO's suggestions, the MoEF said in a note that the suggested criteria would release two-thirds of the proposed coal blocks in "relatively less problematic zones".

The MoEF requested other Ministries and project proponents to appreciate the spirit of the forest clearance guidelines, which were meant to conserve the remaining forest and natural habitats in the country and safeguard the water and soil resources on which millions of poor people depended for their existence.

In a letter to the PMO, the Ministry said, "The MoEF is in active dialogue with the

Ministries of Coal, Steel, Mining, Power, Irrigation, Road Transport and Defence, and issues of mutual concern are being reviewed regularly at highest levels and appropriate actions are being taken up by respective Ministries."

In a meeting on June 18 between the MoEF and the Coal Ministry, it was decided in principle to re-induct a representative from the latter in the Environmental Appraisal Committee (EAC). It was decided that the existing guidelines for exploratory boreholes in forest areas should be revisited.

Three pilot sites are to be taken up in Chhattisgarh, Jharkhand and Madhya Pradesh to ascertain the impact of such exploration activities on the local flora and fauna. It was also decided that the Ministry of Coal would submit plans of coalfield areas superimposed with digitised maps of the forest cover to take a decision on go and no-go areas for coal exploitation. Both the parties agreed to expedite environmental clearance of coal projects.

Environmentalists have hailed the MoEF's formulations but they fear that such progressive steps might get undone by the pressure from commercial lobbies deeply engaged with other Ministries.

R. Sreedhar, a geologist working with the non-profit consortium Mines, Minerals and People, said the Coal Ministry had 99.5 per cent approvals. "If you look at the minutes of the February meeting of the expert appraisal committee on thermal power and coal mine projects, you will see they take less than half an hour to approve a particular mining project. In such a context, we need a proper monitoring mechanism, for it is well known how much these mining projects ruin the environment and the local economy."

The agenda for the February 12-13 meeting accessed by Frontline clearly shows that 27 mining approvals had to be discussed in a day, and each of these took not more than half an hour. In such a context, the MoEF's strict recommendations would have provided better checks and balances, an area that has been long ignored. At present, the Ministry of Mines, too, faces strong opposition from the corporate lobbies against the new Mines and Minerals Bill (which does not account for coal mining), which proposes 26 per cent profit sharing by the companies with local communities.

In a recent meeting with the Ministry, the Federation of Indian Mineral Industries (FIMI) made its opposition to the Bill quite clear. It said the existing Mines and Minerals (Development and Regulation) Act of 1957 should be allowed to continue because the proposed piece of legislation was too stringent on the enforcement of sustainable mining conditions. Small mines, accounting for 90 per

cent of the industry, would not be able to meet these conditions, it said. It also said that the taxation regime in the draft Act was too steep.

"The provisions of cancellation of concession and the stringent penalties prescribed are too draconian and may be utilised for political reasons rather than in the interest of scientific mining," the minutes of the meeting quote FIMI officials as saying.

Amid all this conflict of interests, the government must realise that it is not the absence of mining in forest areas that breeds naxalism, as the PMO has said. On the contrary, indiscriminate and exploitative mining wins support for naxalites in tribal lands. At present, an estimated 1.64 lakh hectares of forest land has been diverted for mining. A system of checks is not only welcome but also necessary.

12. AN EXERCISE AT REFORM

VENKITESH RAMAKRISHNAN

Interview with B.K. Handique, Union Minister of Mines.

BIJOY KRISHNA HANDIQUE, Union Minister of Mines and Development of North Eastern Region (DoNER), says he is of the firm view that the Indian mining sector requires some cleaning up and course correction. To facilitate that, he has undertaken the task of drafting the new Mines and Minerals (Development and Regulation) Bill and pushing it within the United Progressive Alliance (UPA) government and through Parliament. "I knew right from the beginning that this would not be an easy job. But we have made a beginning, we have travelled some distance and we hope to complete it in good time," he told Frontline in an interview.

Excerpts:

As the Minister of Mines for the past one year how do you analyse the sector as a whole, and what are the changes you want to bring about?

There are a lot of changes we want to bring about and at different levels. At the centre of all this is the change in the policy framework of the Ministry itself. A lot many cosmetic changes were attempted in the past. We analysed all these and came to the conclusion that only new legislation can address the new issues and challenges. And we went about that process with utmost seriousness. We had consultations at various levels; eight or nine rounds of consultation. Ultimately, we formulated the draft Bill and circulated it for the opinion of other Ministries. We are still getting responses and the debate is on. A Group of Ministers [GoM] has been formed and the Prime Minister's Office [PMO] is also keeping track of the process.

Could you explain the new issues and the challenges.

Central to the thinking on this are the 2005 Anwarul Hoda Committee's recommendations. The committee analysed how the mining sector's dimensions have changed over the years and how technology and investment have become key to its overall development. As an industry, mining needs fresh induction of capital and new technology. To attract capital and technology we have to bring in certain reforms. So, this is an exercise at reform and is aimed basically at seeing how to enhance investment, how to push up business confidence. With this objective in mind, several clauses have been included in the [new] MMDR Bill, which facilitate transparency in the allotment of mineral concessions [MC], reduction of delays in the issuing of the MC, assured right to the next stage of MC for the prospectors, and transferability of the MC. Prospecting is a costly operation. So, in order to build investment there has to be measures to boost the confidence of the investor.

All these proposed changes have invited criticism that the new MMDR is loaded heavily in favour of the private sector and towards protecting and promoting the interests of the mining corporates.

See, mining has always been in the private sector. There are people who advocate nationalisation of mines, but after sixty-three years of independence that does not seem to be a practical proposal. What is required is sustainable development of mines and sustainable development of the mining areas. The thrust of the revised MMDR is towards that. It stipulates compulsory consultation with the gram sabhas and district panchayats in the tribal areas before the notification of an area for grant of concessions and makes it necessary to include employment and skill enhancement of the local population in the resettlement and rehabilitation package. Over and above this, the draft Bill suggests assured annuity and equity to the local population, as also a percentage of the profits earned by the miner. These type of practices aimed at sustainable development are there all over the world and our effort is to take the best principles from the global experience.

What exactly will be the mechanism to give equity to the local population? There is widespread apprehension that a viable structure may not be found at all.

We will come to the question of mechanism and structure at the appropriate time. The most important thing now is to move the Bill through all the appropriate forums and get it passed. What you have to see is that our emphasis on local development and involvement of the local population is relevant in many ways. It will also help bring down illegal mining. The new MMDR Bill proposes to prohibit

for life anybody found to be involved in illegal mining. The said miner's existing licences will also be cancelled. Fifty special courts are being set up to speed up the judicial process in such cases.

But the experience across the country has been that a miner with muscle power can block all complaints against illegal mining. It is said that nobody may come forward to file a complaint against powerful miners.

This is not entirely true. Empower the people properly and they will respond. There are people who have complained against illegal miners across the country. Still, there is a huge quantum of illegal mining in the country. The new Bill will certainly help State governments to move against that because it seeks to empower the local population.

In spite of the professed positive dimensions of the new Bill, some sections of the Central government itself, including the Ministry of Steel, are opposed to it. In fact, it is evident that there is a running battle between your department and the Ministry of Steel on key provisions of the Bill.

These things come up in the course of democratic governance. Discourse is certainly a part of it. That is exactly why we have a GoM to go into the nitty-gritty of the Bill and evaluate it from all sides. The Ministry of Steel has its reservations and we have our standpoint. The discourse within the Ministry and later in Parliament and the Standing Committee should ensure a Bill that is in the best interests of the country.

Mining is also considered to be one of the most corrupt sectors of the economy. What steps does the Ministry plan to take to address this?

That is a totally one-sided perception. There is corruption all right, but that is there in all sectors. The scale may be a little higher because of the general scale of operations.

There is a view that the concessions being accorded to big mining companies and the exploitation of mining areas in the tribal regions by these companies have led to the rise of extremist forces such as the Maoists.

That is an argument that one needs to address carefully. It is true that the Maoists have concentrated in areas where exploitation occurs in one form or the other. That was their pattern in earlier times too. But mining alone is not responsible for their growth. The lack of overall development in these areas has contributed to it. That is why the new MMDR Bill seeks to build a sense of ownership in the local population about the mines.



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