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(A GEMCO KATI INITIATIVE)

Indian Mining & Exploration Updates

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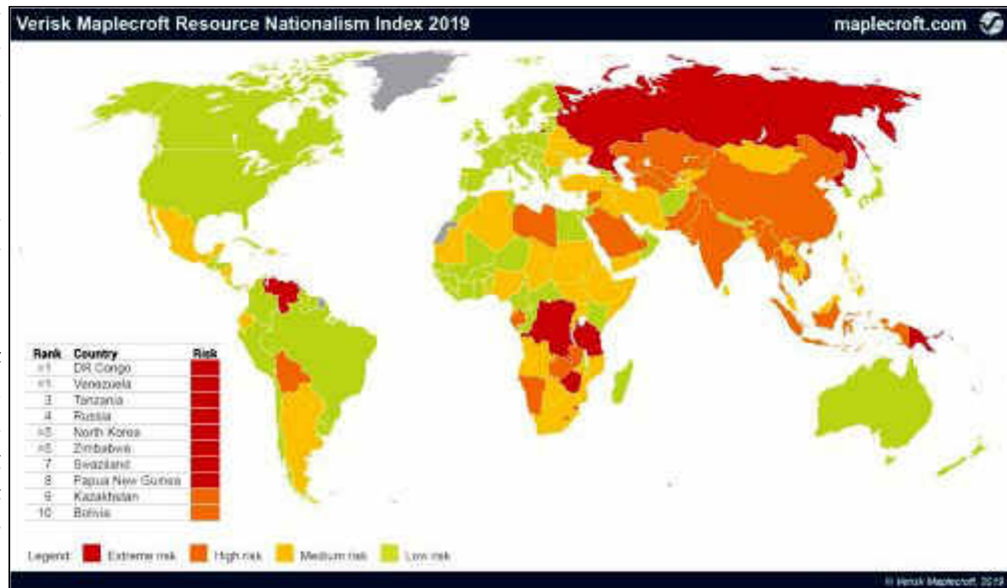
# RESOURCE NATIONALISM ON RISE — REPORT

According to global risk consultancy Verisk Maplecroft's latest Resource Nationalism Index (RNI) report, a total of 30 countries have registered a significant increase in resource nationalism risk metrics over the past year, 21 of which are considered major producers of oil, gas and minerals.

The RNI is aimed to measure the risk of expropriation, the imposition of more stringent fiscal regimes, and the pressure for companies to source goods and services from local providers. Countries are also rated and ranked based on these risk metrics.

Specifically, the RNI report names Russia and the Democratic Republic of Congo (DRC) as the two notable movers on the list, with both being downgraded to 'extreme risk' to indicate that the risk of governments taking greater control of natural resources is the highest. In DRC's case, the risk bump was mostly a by-product of its new Mining Code, which allowed more government interventions and oppressive fiscal terms for existing operators. Eight countries now have the 'extreme risk' rating (starting from highest risk): Venezuela, DRC, Tanzania, Russia, North Korea, Zimbabwe, Swaziland and Papua New Guinea.




### Government interference poses threat to operators

Although outright expropriation has become a less likely scenario than before, government measures such as tax pressures, changing contractual terms and strict regulations can still make countries difficult to operate in.

Africa has long been recognized as a high-risk jurisdiction. It has gotten worse over the past year as 10 nations experienced growth in risk factors, according the RNI report. Other countries such as Mexico, India, Malaysia, Turkey and Iraq also saw increased risks as governments took measures to erode the revenues of operators.

### Improvement in Zimbabwe, Ecuador

On the upside, the RNI report shows that 24 nations have seen improvements in their index performance, including Zimbabwe (joint 5th), Vietnam (25th), Ecuador (46th) and Guinea (94th). Even though Zimbabwe is still far away from what is considered a stable mining destination, its score has improved thanks to a new government regime that has been actively encouraging foreign investment. The country boasts the world's second largest platinum and chromium reserves, according to Verisk Maplecroft, and could attract meaningful investment from abroad and even shed its 'extreme risk' tag.

Ecuador has made more significant progress. Since President Lenín Moreno came to power in 2017, Ecuador has jumped from ranking 3rd and 'extreme risk' in the Resource Nationalism Index two years ago to 46th and 'medium risk' in 2019.

# INDIA APPROVES 'FIRST RIGHT TO REFUSAL' TO MINERAL RECONNAISSANCE PERMIT HOLDERS

The Indian government will grant reconnaissance permit (RP) holders a 'first right of refusal' in cases where a mineral block is put up for auction wherein the RP holder has established evidence of minerals.

The move is aimed at boosting sentiment among prospective investors, as RP holders would object to competitors bagging mineral blocks that they have established deposits on

The approval is part of the National Mineral Policy 2019, ratified by the Union Cabinet last week although details of the policy are yet to be put in the public domain.

The policy also provides for a window for the government to take back mineral blocks allocated to government-run mineral companies, which had either not explored the allocated block, or failed to develop the asset and start mining operations within a reasonable period of time.

This is in line with the oil and gas sector, where the government had already identified onshore and offshore fields allocated to national exploration and production majors like ONGC and Oil India, which would be taken back and put up for auction for private investors.

As for laying down government's intention, the policy dwells

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on the need for rationalisation of various taxes and levies currently applicable for the mining industry and to align it with global benchmarks ranging from around 12% to 15%. Current cumulative taxes on domestic miners range between 30% and 60%, including local levies, royalties and other mandatory contributions toward the District Mineral Fund and National Mineral Exploration Trust.

The official statement issued by the government, without the policy document per se, said: "The policy proposes to grant the status of 'industry' to mining activity to boost financing of mining by private sector and acquisition of mineral assets overseas by the private sector."

However, in the absence of details, a strategy paper prepared by the National Institute for Transformation of India Commission, the government's policy think-tank, as a background to the policy, provides some insights into efforts to increase private sector participation in the domestic mining industry.

"Prospective geology in India is broadly similar to that of Western Australia, especially in iron-ore, bauxite, coal, diamonds and mineral sands. But in India, of the area identified as minerals, only 10% has been explored, while it's 95% in the case of Australia, and even an smaller area of just 1.5% is currently mined in India," the think-tank paper noted, adding that this had lead to the present situation where Indian imports of minerals were seven times higher than domestic output.

Meanwhile, a section of industry remains unimpressed by the policy enunciations.

"The policy is just an extension of mining policy of 2015 with just few additional clarifications. It is unlikely to attract private investments into the sector without any changes in current auction rules," the Federation of Indian Mineral Industries (FIMI) said in a statement.

"Also the grant of 'industry status' to the mining sector will bring it under the purview of the Industrial Disputes Act adding to the plethora of laws and regulations already burdening the sector," FIMI said.

## RESOURCE NATIONALISM AND THE IMPACT ON JUNIOR MINERS

The Institute of Race Relations recently commented that: "South Africa's neighbours have thrown aside resource nationalism. It has to be asked why the South African government is not able to accept the good-practice lessons of these experiences and do the same?"

The neighbours referred to here are Namibia, Botswana and Zimbabwe whom have all abandoned compulsory state carry provisions in the mining sector.

Instead of focusing on restrictive measures, we would suggest that the South African government should follow the lead of its neighbours and rather concentrate on policies that encourage investment in the mining sector, whether this is foreign investment or local investment.

An increase in restrictive government regulation of the sector and participation in the sector will most likely lead to a decrease in new investment, and this will in time lead to a reduction in employment levels.

Mining constantly needs new investment, even in maintaining existing operations.

The investment to maintain existing operations is called "stay-in business" capital expenditure, and it can be described as expenditure that maintains the mine's existing production capacity at a certain level.

This expenditure is required to develop new areas of production as the old areas are mined out and these investment decisions need to be made on an ongoing basis, so investment in the mining sector is also concerned with these "brownfields" expansion projects, as well as completely new projects which are "Greenfields" projects.

If a prospective project is sufficiently large, then the investors may be prepared to invest in the cost of applying for all the various government approvals required.

The Junior Mining Sector in South Africa is at a big disadvantage when it has to fund these costs, as well as the actual exploration costs.

New investment decisions to expand existing production will be negatively affected if the cost of compliance with the regulatory environment affects the investment hurdle rate at which these projects are approved.

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The Chamber of Mines (now called the Minerals Council South Africa) has established an Emerging Miners Desk and they assist the emerging miners on a variety of issues, but the assistance is advisory in nature, and the compliance costs are still a big factor. In a report entitled "Developing a viable emerging and Junior Mining Sector in South Africa" by the Chamber of Mines dated 6 September 2016, the following comment was made

"At virtually every workshop with emerging miners the DMR is raised as a challenge in the development of mining projects. The key issues raised are delays in issuing mining rights, misinterpretation of the law and in some cases duplicating mining rights."

These barriers have been recognised and lobbied for some time now. Bernard Swanepoel, Chairman of the Small Business Initiative, in a Business Day report on 18 April 2018 asked for junior companies to be excluded from provisions in the charter, sending a document outlining the reasons to the participants in negotiations around the formulation of a new charter.

**The document said the following:**

"The cost of compliance, red tape, lack of finance, the time it takes to get a mining permit and lack of infrastructure makes it difficult for junior miners to enter and stay in business."

There have been some encouraging signs that the regulatory burden is being eased, such as the recent withdrawal of the Mineral Resources Development Amendment Bill and the earlier draft of the revised Mining Charter.

A policy review in the sector could be designed to ease the barriers to investment in key areas, especially those that constitute barriers to entry, such as the issuing of exploration permits and the transfer of mining rights.

In particular, the discretionary power to transfer a right should be removed, as the delays in transferring rights delays transactions, creates uncertainty and inhibits investor appetite for these deals.

There have been calls for more state participation in the mining sector, such as the setting up and expansion of a state mining company.

South Africa's recent experiences with state owned enterprises in terms of governance and procurement issues are well documented and this does not bode well for the idea of launching large-scale state funded mining ventures.

Decisions around capital allocation decisions are difficult ones for state owned enterprises, bearing in mind that the investments have long lead times to produce returns and state-owned enterprises may not have the long-term time horizons required for these types of ventures.

The capital allocation decisions of a state-owned enterprise are likely to be skewed towards financing decisions that favour the creation of employment and this will result in balance sheet strain if investment in stay-in-business-capital is compromised.

This could in turn result in their ability to fund the ongoing capital required to sustain the current level of production being compromised.

This will also apply to the investment required for the expansion of "brownfields" projects which in turn will lead to pressure being exerted on employment levels.

What South Africa needs is a completely new mind-set to be developed in mining policy formulation, and we need to develop policies which create an environment that frees up the sector in such a way that positive actions are encouraged, rather than ones which impose regulatory hurdles that are difficult and costly to attain.

This will require a big shift in the current debate that government is engaged in, and will have a political dimension, especially amongst those that are lobbying the government to impose more state control and participation in the sector.

The focus of the regulatory environment needs to change from creating an environment that deters investment to looking for ways to encourage investment.

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# MINING: SQUEEZING THE GOOSE THAT LAYS THE GOLDEN EGGS

Fair deals will mean balancing the legitimate interests of both African governments and mining companies.

African countries are claiming a bigger slice of the revenues from their natural resources from mining companies. Is this good and can it work?

Nana Akufo-Addo, president of resource-rich Ghana, told last month's African Mining Indaba in Cape Town that in the past African governments, often unstable, corrupt and incompetent, had made bad deals with mining companies. They'd offered the companies too many tax and royalty incentives in order to invest.

Now a better-governed Africa had 'come of age' and it was time to review those contracts to give Africa a fair deal. Mining companies should no longer 'expect to make extraordinary profits on our continent', he warned. But what is a fair deal between an African resource-rich country and a mining company?

Akufo-Addo cited Ghana's recent deal for AngloGold Ashanti to return to the rich Obuasi Gold Mine after a five-year absence as a good example of a fair deal. It includes fiscal concessions by the government and significant commitments to local procurement and skills transfer by the company.

But the story doesn't always have such a happy ending. The term 'resource nationalism' has recently been coined to describe a surge of unilateral measures by governments in countries like Tanzania, Zambia and Democratic Republic of Congo (DRC), to get a bigger share of proceeds from their countries' natural resources.

These measures include higher royalties, stiffer taxes and new or larger compulsory minimum ownership quotas for the host state or local citizens. This is according to mining law expert and co-chair of Herbert Smith Freehills's Africa practice Peter Leon, speaking at the mining indaba.

Resource nationalism could also include compelling extractive companies to contribute to local beneficiation, procure goods and services locally, recruit and train local personnel, and retain their earnings in local financial institutions.

Last year, the DRC increased the state's stake in all mining companies from 5% to 10%, plus a further 5% on the renewal of each company's mining right. It also required at least 10% shareholding by Congolese citizens, raised royalties on most minerals, and introduced a new 10% royalty on "strategic substances" (including cobalt). A 50% tax on "super profits" was introduced and 60% of mining companies' earnings must now be kept in local banks.

In Tanzania, President John "Bulldozer" Magufuli accused foreign mining companies of "stealing". In 2017 he started squeezing them for a bigger share, including a minimum 16% free equity stake for the state in mining companies. This could be increased to 50% to compensate for previous tax incentives.

The companies also had to cede at least 5% ownership to locals and royalties on minerals were raised to 6%.

Companies were given high quotas for local procurement and recruitment and were banned from using foreign banks and from suing the government in courts or tribunals outside Tanzania. They were also forbidden from exporting raw materials, Magufuli said, to stimulate local beneficiation.

Leon believes this surge of resource nationalism is being driven by a feeling among authorities in resource-rich African countries that they didn't get enough out of the last commodities boom when multinational mining companies appeared to make windfall profits.

And African attitudes have hardened since 2015, after the African Union High-Level Panel headed by former South African president Thabo Mbeki reported that from 2000 to 2010, African states collectively lost at least $50-billion a year in revenue through "illicit financial flows". Mbeki calculated that 56% of these illicit flows came from mining and other extractive companies.

Leon believes that countries highly dependent on natural resources are sensitive to commodity price cycles and therefore particularly prone to resource nationalism. In DRC, for example, copper and cobalt provide some 70% of export earnings. When these prices crashed in 2016, DRC's GDP fell from over 7% per annum over the past five years, to 2,4%. Zambia, also dependent on mining for about 70% of forex, suffered a similar fate.

Leon feels Tanzania resorted to resource nationalism for purely political reasons, to shore up waning support for the Chama Cha

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Mapinduzi party which has ruled since independence. Others suggest that some countries opt for resource nationalism when they've squandered their natural resources through corruption and incompetence, and are seeking a bigger cut to make up the shortfall.

Although Leon used the term "resource nationalism" negatively, not everyone does. In a panel discussion at the mining indaba, Botswana's mineral resources minister Eric Molale noted that his government had a long-standing joint venture with South African diamond producer De Beers. The government took 81% of diamond revenues and De Beers, 19%. "If that's resource nationalism, I'm all for it," he said.

Though semantics kick in here, it seems that resource nationalism can be a positive. When it promotes national development and even, with luck, beneficiation and industrialisation, it's a blessing. If it's a desperate grab for dwindling resources by a failing government – think oil-rich Venezuela – it's a curse.

Clearly, some balance must be found between the legitimate interests of both sides. Leon said the Organisation for Economic Cooperation and Development (OECD) had drafted Guiding Principles for Durable Extractive Contracts which offered advice on how this could be done.

For starters, mining and other extractive companies should align themselves with the long-term vision and strategy of the host state. They should share financial and technical data about the risks and opportunities with governments. Put more bluntly, that would demonstrate to host states that they are not being ripped off.

Governments should create a "sound investment and business climate", including the rule of law and transparent regulations and fair rewards to mining companies. The OECD guidelines stress that contracts should include enough flexibility to allow governments to adapt to changing circumstances – without renegotiating entire contracts.

The OECD guidelines are implicitly critical of the likes of the DRC and Tanzania for opportunistically imposing heavy windfall taxes or other drastic measures when prices are high. "Chasing the price of commodities" usually strains relationships between host governments and investors, says the OECD. It can even lead to disinvestment.

In other words, by all means, take your fair share of the golden, platinum, copper or cobalt eggs. But try not to kill the goose that lays them.

## WILL THE NEW NATIONAL MINERAL POLICY ENSURE RESPONSIBLE MINING?

The NMP 2019 misses out on providing necessary guidance on some fundamental things that would have made it a guiding document to ensure environmentally and socially responsible mining.

In March 2019, the Indian government has come up with a new National Mineral Policy (NMP) that replaced the earlier 2008 Policy.

The latest mineral policy, which pertains to non-coal and non-fuel minerals, says that a major outcome expected from the policy proposals is to "increase the production of major minerals by 200 per cent in 7 years". The target is tied to the current Government's Make in India initiative and to boost India's economic growth.

While the main outcome envisioned from the new policy is a massive increase of domestic mineral production and reducing trade deficits in the mineral sector in the next 7 years, the development of a new Policy was sought to address many fundamental problems associated with mining activities, than fulfilling the sector's economic mandate.

A direction of the Supreme Court (SC) issued in August 2017 prompted the development of the new NMP. The top Court, while delivering its judgement on "rapacious" mining in Odisha's top mining districts (Keonjhar and Sundargarh), observed that such mining activities has destroyed the environment and forests and caused much misery to local communities (the tribals in the area).

The Court noted that there is no effective check on mining operations nor is there any effective mining policy to guide so. It said that the NMP 2008 "seems to be only on paper and is not being enforced perhaps due to the involvement of very powerful vested interests or a failure of nerve".

It was also observed that the 2008 Policy was too dated to deal with the challenges of the day including "rapacious mining in several parts of the country". The Court therefore, asked the Indian government to revisit the NMP of 2008, and "announce a fresh, more effective, meaningful and implementable policy".

The mining sector has long been mired with issues of unscientific mining, poor track records of environmental and social performance, and high instances of illegal activities. The regulatory environment, and capacity and accountability of our authorities, have also sustained this.

Given this, the need to develop a new NMP was a timely

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proposition. It was a crucial opportunity for the government to come up with a policy document that would guide the mining sector to function with utmost environmental and social responsibility, besides economic considerations.

The question is will the NMP 2019 ensure so?

A business-friendly policy

In August 2017, following the SC direction, a 29-member Committee chaired by K Rajeswara Rao, Additional Secretary of the Union Ministry of Mines, was set up by the Ministry to come up with a new NMP.

In one-and-a-half years, the Policy that has finally been developed, is actually one that is a win- win for mining companies and investors. While the document mentions that mining should be environmentally sustainable and equitable, there remain serious questions on how effective this Policy will be to ensure environmental protection, ecological conservation and protect people's rights in the mining areas.

With a focus to ramp up mineral production massively, the new Policy is largely guided by the penchant for 'ease of doing businesses' and attracting investments. A number of mechanisms have been proposed to ensure this.

Creating exclusive mining zones and simplifying clearances

A key proposal that has been introduced in the NMP is the creation of 'Exclusive Mining Zones'. These 'zones' will come with approved, in-principle clearances to "curtail delay in commencement of mining operations".

In-principle clearance is tied to forest land diversion for non-forestry purposes. As most major mining activities involve such land diversion, this will help to open up huge tracks of forest land to multiple companies and investors for mining in one go.

The proposal will also create major loopholes in obtaining successive clearances and permits by mining companies who will be part of the exclusive mining zone, and also in compliance of clearance and permit conditions. All in all, serious concerns arise about the impact of this proposal on forest ecology, wildlife corridors and forest-dependent communities.

n fact, making the clearance process simpler and faster for the commencement of mining operations has been repeatedly emphasised in the Policy. So much so, that the Policy mentions that in case of delay, there shall be provisions for the project proponent to "generate triggers at higher level" in the online portal of clearances.

The environmental clearance (EC) and forest clearance (FC) process over the past five years has been streamlined and simplified (making it single-window) for the convenience of the project proponents.

But what has not been done is making the clearance process robust and comprehensive to improve the quality of assessment before projects are cleared. Neither has post-clearance monitoring been strengthened. The clearance mechanism continues to suffer from a fragmented approach. The process has largely become a bureaucratic paperwork, with little focus on protecting environment and community.

Instead of repeated emphasis on simplifying clearances for mining projects, the policy should have provided guidance for strengthening it. It should have laid emphasis on synergising the EC and FC processes to remove a fragmented approach while evaluating project impacts.

Guidance should have been provided for developing one comprehensive impact assessment report that evaluates the impact of mining on environment and the forest habitat. This would have helped in strengthening assessment before clearing projects, improved monitoring, and minimised possibilities of controversial decisions.

In all these, the only exception that the Policy makes is for 'critically fragile ecological areas', which it says should be declared as 'no-go' and 'inviolate', to keep out from mining. For all other areas, 'easing development' is the prerogative.

Weak on controlling environmental pollution

Environmental pollution from mining activities is a major problem in most mining areas. This arises from unscientific and rampant mining (and related) activities, poor pollution standards and pollution monitoring, and improper mines management and mine closure practices. Air, water and soil pollution problems in almost all key mining districts of India have severely affected people's health and their livelihood. However, the Policy provides little effective guidance to improve this.

For instance, there is no specific standard on environmental pollution from mining under our umbrella environmental legislations — the Environment (Protection) Act (1986), the Water Act (1974) and the Air Act (1981). Among non-coal minerals, pollution standards have only been developed for iron-ore mining under Environment Protection Rules, 2010. Also, baseline pollution monitoring data in most mining areas is nearly non-existent or extremely poor.

Considering this, the new policy should have given guidance for specifying standards and outlining mechanisms for pollution monitoring in mining areas under the concerned laws. This should have at least been suggested for minerals which are slated to have significant production, and have higher potential to cause environmental pollution.

However, what the Policy only mentions is to use "renewable sources of energy at mining sites" to reduce pollution, carbon footprint and operational costs.

The Policy also falls short in providing necessary guidance to ensure effective mine closure practices. A key impediment for proper mine closure in India is that the current financial assurance for this is insufficient. For instance, as per the Mineral Conservation and Development Rules (2017), it is just Rs 3 lakh per hectare for A category mines and 2 lakh per hectare for category B mines, which have been granted on a non-auction basis. These include

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most mines that are currently operating. This is very low in global comparison, where the costs are at least five to six times higher. However, the Policy does not give any clear guidance to improve this. It only mentions that financial provisions for the costs incurred in mine closure should be given high level of priority by the government.

Community concerns addressed well, but cannot lie as postscript

Ensuring welfare of mining-affected communities is one aspect that the policy refers to in a more articulate manner. Three things have been emphasised in this regard — relief and rehabilitation of displaced and affected persons, devolution of mining benefits to project affected persons through District Mineral Foundation (DMF), and ensuring welfare of tribal communities.

The Policy also emphasises on implementing all the provisions of rehabilitation and resettlement as outlined in the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act, 2013.

However, given the penchant for easing mining and attracting investments, ensuring the welfare of communities can only become postscripts of such activities. If the government is serious about ensuring welfare of people in mining areas and securing their rights, it must improve mechanisms of giving clearances, management of environmental pollution and preservation of natural resources, with which the lives and livelihoods of these people are intricately related.

What essentially stands is that the NMP 2019, misses out on providing necessary guidance on some of the fundamental things that would have made it a strong guiding document to ensure environmentally and socially responsible mining as the Supreme Court had intended. However, the hope now is that our policy makers will work on the prescriptions cautiously.

**Key proposals of the National Mineral Policy 2019**

- Proposes to increase the production of major minerals by 200 per cent in seven years, and reduce trade deficit in mineral sector by 50 per cent in seven years.
- Aims to attract private investment through incentives like financial package, right of first refusal at the time of auction etc. or any other appropriate incentive according to international practices.
- Introduces the concept of Exclusive Mining Zones which will come with in-principle statutory clearances for grant of mining lease.
- Emaphasises on simplifying the clearance process and making it time-bound for mineral development and commencement of mining operations.
- Proposes to identify critically fragile ecosystems and declare such areas as "no-go areas"/ "inviolate areas".
- Encourages merger and acquisition of mining entities, and transfer of mining leases that have been granted in a transparent manner to ensure seamless supply of ores and scaling up of business.
- Focuses on a long term export-import policy for the mineral sector to provide stability for investing in large scale commercial mining activity.
- Proposes harmonising royalty and all other levies and taxes with mining jurisdiction across the world.
- Emphasises on ensuring welfare of mining-affected people / communities and ensuring rehabilitation and resettlement, by suitable implementation of all relevant Acts / Rules.
- Introduces the concept of Inter-Generational Equity in mineral resource exploitation.

Proposes development of an over-arching inter-ministerial body, under the aegis of the Ministry of Mines, to institutionalise mechanisms of sustainable mining. The body will also advise the Government on rates of royalty, dead rent etc.

## A DELAY IN MINING AUCTIONS COULD DISRUPT A THIRD OF INDIA'S IRON ORE SUPPLY

Nearly a third of iron ore supplies to domestic steel mills could be disrupted if the auction of 33 mines whose leases are slated to expire in March next year are not held in time. These mines contribute about 28 percent of the country's total production of iron ore, a key raw material used in steelmaking, according to a report by the Ministry of Mines. The majority of these are located in Odisha (16 licences set to expire), followed by Karnataka (eight) and Jharkhand (five)

Among the 16 working licences of India's largest iron-ore producing state of Odisha, Serajuddin and Rungta mines produced 6 million tonnes and 11 million tonnes, respectively, last year, a report by SteelMint said. Overall, these two miners have 2.9 percent and 11.65 percent share, respectively, of India's total iron ore market, it said.

What Sparked Fears Of Delay The Odisha government was set to auction the 16 mines by March this year but deferred the timeline as the state awaits clarity on the maximum area a lessee can hold, according to a Business Standard report. But the bigger worry is that the new lessee has to apply afresh for environment and forest clearance after the re-allocation of an expired mine. This process could take two to three years before the mine can be made operational. To avoid the potential disruption, the central government advised the states to start auctions by July 1 this year so that the incoming miner has enough time to make the mine functional, according to the Ministry of Mines report.

Adherence to the July timeline is very essential and sacrosanct to

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the iron ore auction process and the (mines) ministry is in talks with the Environment and Forest Ministry to allow new lessee to operate till it acquires the clearance, a process which usually takes two to three years," Anil Mukim, secretary at Ministry of Mines, told Bloomberg Quint. greed former Steel Secretary Aruna Sharma. "It's important to adhere to the timeline at a time the fifth round of coal auction has been deferred," she said, adding that in case of a delay the central government may extend approvals for leases to avoid any potential disruption. She suggested that the new miners shouldn't be mandated to acquire fresh environment clearances as this would increase the their production period by two years. An email sent to Deepak Kumar Mohanty, director (mines), Odisha, remained unanswered.

Iron Ore Mining Leases Set To Expire Next Year

| States | Working Licences | Production In 2016-17 (MT) |
|---|---|---|
| Odisha | 16 | 53.06 |
| Karnataka | 8 | 1.41 |
| Rajasthan | 1 | 0.08 |
| Goa | 0 | 0.00 |
| Andhra Pradesh | 1 | 0.02 |
| Jharkhand | 5 | 0.28 |
| Maharashtra | 2 | 0.37 |
| Total Production | 33 | 55.22 |

NMDC Stands To Gain

But the potential disruption in iron ore supply will have one beneficiary: state-run NMDC Ltd., India's largest producer of iron ore, since its lease will continue to be operational, according to Niteen S Dharmawat, co-founder at Aurum Capital. NMDC currently produces 22 million tonnes of the raw material against its capacity of 29 million tonnes.

TRK Rao, commercial director at the state-run miner, is confident of meeting any shortage in supply of iron ore as he expects demand to grow by 4-5 percent next year. Non-integrated steelmakers such as JSW Steel Ltd. will continue to source the raw material as expanding the capacity of steel mills will ensure additional requirement from the company, he said. Integrated steel producers such as Tata Steel Ltd. and Steel Authority of India Ltd.—that produce their own raw materials—will remain relatively better off if iron ore prices increase due to lack of supply. Besides, Tata Steel will benefit if it manages to win an iron ore block in Odisha that will cater to the needs of Tata Steel BSL (erstwhile Bhushan Steel Ltd.)

**Who Will Be Impacted**

Non-integrated steelmakers like Jindal Steel & Power Ltd. and JSW Steel will be impacted by the iron ore shortage if they fail to receive any mine in the auction, according to Edelweiss Research.

"JSW Steel will be impacted the most due to higher iron ore requirement," said Amit Dixit, assistant vice president (institutional equities) at Edelweiss Research. "Nevertheless, if these companies win the bid, iron ore will come at higher prices given the steep bid for the blocks at Karnataka, which may impact their impact their margins."

JSW Steel is expected to ramp up its captive iron ore capacity from 3-3.5 million tonnes to 5.2 million tonnes by 2020. Despite that it will continue to source the raw material as it plans to expand its steel capacity to 23 million tonnes by next year, which will require 36.8 million tonnes of iron ore, according to BloombergQuint's calculations., Seshagiri Rao, joint managing director and group chief financial officer at JSW Steel, said its Dolvi unit procures a significant portion of iron ore from Odisha. The company, therefore, will actively participate in the auctions in Odisha either for Dolvi or to supplement the needs of Vijayanagar plant in Salem, he had said during the steelmaker's third quarter earnings conference call.

Another worry for non-integrated steelmakers is lack of resolution for NMDC's Donimalai mine in Karnataka. The public sector miner in November suspended the production of iron ore after the state government imposed 80 percent premium on the ore sales from the mine. If the production doesn't resume, steel players may face additional raw material shortage, especially since leases are set to expire in Odisha and Karnataka, Dharmawat, co-founder of Aurum Capital, told BloombergQuint.

**Mines In Odisha Whose Leases Are Due To Expire**

| Mines | Location | Iron Ore Production In 2018 (Million Tonnes) |
|---|---|---|
| Feegrade & Co. | Nadidih | 3.01 |
| B.I.C.O | Nadidih | 3.13 |
| B.I.C.O | Teherai | 0.37 |
| Rungta | Jajang | 11.04 |
| Serajuddin & Co | Balda | 6.01 |
| KJS Ahluwalia | Naugaon | 5.41 |
| Kaypee Enterprises | Thakurani | 4.06 |
| KN Ram | Roida II | 1.97 |
| Kalinga Mining Corporation | Khanbandh | 0.55 |
| Aryan Mining & Trading | Koira | 3.80 |
| RP Sao | Guali | 4.50 |
| Essel Mining & Industries | Jilling | 4.47 |

Counterpoint

Not everyone agrees that the auction of mines, even if delayed, will have an impact. Analysts from CARE Ratings and Crisil

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expect the delay in mine auction, if any, to have limited impact on iron ore production as a surplus will be generated before the licences expire. "It is too early to see any disruption in the iron ore industry since these mines are unlikely to shut down as the government might give a moratorium period to private miners to operate after the expiry of their leases," Ritesh Shah, research analyst at Investsec, said.

CARE Ratings expects production in Odisha and Karnataka, barring the Donimalai mine, to increase 10 percent next year. Also, according to Crisil, the merchant miners are expected to raise output before the deadline, adding to the existing stockpile of 150 million tonnes.

# SUPERCYCLE IN COMMODITIES IS COMING TO AN END?

The use of commodities correlates well to an S-curve which inflect rapidly at key milestones relative to GDP/Capita of around $3-5k. While China's urbanisation is a well-known story, there are burgeoning sources of demand in other emerging markets at these important inflection points.

We also think there are important and overlooked demand sources in the developed world related to grid investment for stability and advances in mobility technology that are essential to modern lifestyles. In short, the digital era does not displace the need for copper but enables it.

On the supply side, we see trends that serve to dramatically arrest any supply response and extend the cycle. Mining majors were priced for mass default not long ago and the priority has been to de-leverage rather than invest. Upstream capex across several key base commodities has fallen over 70% from peak levels, for instance.

The shift of ownership of equities from active to passive vehicles prohibits investment in early stage enterprise owing to their risk and volatility. Passive investors also prioritize return of cash through share repurchase and dividend irrespective of the merits of investment and thus depress reinvestment rates. These vehicles did not exist in the previous cycle and we don't think the market has incorporated their pernicious impacts on supply and demand.

There is limited appetite for non-producing enterprises as much speculative capital is now directed to Crypto or Cannabis which has shut traditional ports of call for these embryonic companies. Streaming and royalty capital is expensive and in shortage which makes those avenue meagre substitutes. The exploration companies help renew pipelines and offset mineral depletion, their suffocation today may have an impact on supply tomorrow.

Commodity prices are informed by marginal costs. These are subject to intermittent disruptive forces that may be deflationary or inflationary. Good examples are electrification and high-volume capital equipment which lowered unit costs and depressed prices in the past century.

Today, we see limited low-hanging fruit in productivity any more, and resource depletion leading to grade declines forcing production to more expensive underground locales, a limited number of technological leaps in mining engineering, and resource nationalism as inflationary forces that solve for higher prices.

In the case of some commodities, wide-spread bankruptcy has converted distressed debt positions into equity. Sponsors who now own that equity have board representation and also prioritize return of capital to investment.

Outlook for commodities through 2019
We see differing supply and demand balances for differing commodities, so it is difficult to answer this question succinctly.

Presently, we see a very interesting trade-off in Uranium where both sides of the supply and demand equation have conspired to tighten the market. The importance of nuclear energy in the global production mix is large at 10% while listed miner count has plummeted by 90% due to exits forced from the extremely low pricing regime post Fukushima. The accident cratered prices which has discouraged investment due to a short-term surplus of Japanese stockpiles, and these are finally being worked off.

We are also positive on copper owing to the lack of supply response for new production which may cause a shortage in the medium term.

Though coal is perennially out of favour, incredibly high hurdles rates have disincentivized investment to a point that supply itself is shrinking more rapidly than demand is shrinking which conspires to create a positive backdrop for investment.

Following fads or what is fashionable leads to return purgatory and so feel more comfortable running away from herds then following them.

Michael Alsalem is head of London office of Azvalor Asset Management

# GOING, GOING… GONE FOREVER?

Only a handful of lawsuits in the Supreme Court stand in the way of one of India's richest forests in Chhattisgarh being handed over to mining companies looking to strip the verdant hills for coal

Hasdeo Arand is one of central India's last biodiversity rich forests that is home to elephants. It also acts as a wildlife corridor. The region has a coal seam running under the hills spread over 1,70,000 hectares of rich tropical forests. When the thermal power policies were revised in the new millennium to meet India's

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rising power needs, it was decided that state electricity boards, then the major power producers, would be given the deposits.

States like Delhi and Rajasthan which did not have any coal resources were allotted captive coal blocks in Chhattisgarh, Jharkhand and Bihar on a revenue/power sharing basis. But later, the private players jumped into the thermal power business in a big way around 2001-02 and ultra mega power projects were identified and signed. These power projects were given to big players like Reliance and Tata.

Eventually, the state governments got wise and floated their own mega projects of 600-2,000 MW for which they also reserved some of the identified coal blocks.

For those willing to take the risk, power projects were the next big thing—subsidised land, assured water and captive mines, and in most cases, an established infrastructure network. The players had to generate power and sell it to state electricity boards at rates determined by tariff commissions and usually agreed to by state governments.

Things ran smoothly for a while for the mining industry till the noise over environment damage reached a crescendo by 2010. That year, the environment ministry under UPA II classified nine "no-go" areas for mining and rejected proposals seeking clearance to open and operate coal mines.

The Hasdeo Arand region had 30 coal blocks, and despite all of them being included in the "no-go" areas, the then environment minister, Jairam Ramesh, overruled an expert committee and gave clearance to mining in three blocks, which he claimed would be "the first and the last".

Two of the blocks, Parsa East and Kanta Basan, which received environmental clearances, had been allocated by the coal ministry in 2007 to the Rajasthan Vidyut Utpadan Nigam Limited, the state's power generation company. However, private players entered through the back door—as mine operator or Mine Developer and Operator (MDO). The state electricity boards formed joint ventures with private players—in this case Adani—to operate mines and supply them with coal at a predetermined cost and quantity. Adani Mining holds a 74 percent stake in the joint venture company with Rajasthan Vidyut Utpadan Nigam Limited for these blocks.

Strangely, this shareholding pattern has remained intact even after the Supreme Court judgment in 2014 cancelled all coal block allocations—including those allocated to public sector firms—and the centre passed a law in 2015 that restricted private ownership in such joint ventures to 26 percent. Adani has bagged mining contracts for four of the 30 coal blocks in the region.

The coal ministry had originally allotted these coal blocks to state government-owned electricity companies for captive use, which meant they could mine the coal strictly for consumption in their own power units. Apart from Parsa East and Kanta Basan, two other blocks—Parsa and Kente Extension—were freshly allotted in 2015 to Rajasthan Vidyut Utpadan Nigam Limited. A third block in the adjacent Gare Palma coalfields—Gare Palma III—was allotted to Chhattisgarh State Power Generation Company Limited.

The state electricity companies, however, had signed up the Adani Group as mine developer and operator to start and run the mines and supply coal to them at predetermined prices. These contracts are not available in the public domain and not accessible under the Right to Information Act. Therefore, it is no wonder that experts have expressed concerns over private companies being favoured over public interest.

Stage II mining permissions in Parsa Block were given to Adani on February 21 as the date for the announcement of the model code of conduct for the Lok Sabha polls was nearing. It had already been given the first stage of clearance on February 16 and five days later came the stage II clearance. It is not yet clear whether the gram sabha has given its consent to mine the 841-hectare Parsa Block.

Environmental Assessment Committee (EAC) has examined the case three times last year . In its meeting on February 15, 2018, the EAC had raised two important issues. One, it had asked the state government to furnish details of how mining will impact the local tribal population, and two, whether all permissions from the gram sabha had been obtained as required under the Forest Conservation Act. At the same time, it also asked the state wildlife warden to provide details about elephant corridor in the area.

In two other meetings in July 2018, and September 2018, the Chhattisgarh government under pressure, as the assembly elections were round the corner, provided details of wildlife corridors and the impact of mining on tribal life. But the EAC was still silent on the consent of the gram sabha. It seems that Adani was quickly granted the final clearance for mining Parsa Block which has an estimated capacity of five million metric tonnes of coal annually.

There are other issues regarding Adani becoming the MDO. Activist Sudeep Shrivastava of Bilaspur has already filed a case in the Supreme Court to annul the agreement between Rajasthan Vidyut Utpadan Nigam Limited and Adani. There is also a legal view that the permission given in the past to open Parsa East and Kanta Basan blocks was on the basis of an understanding that the Parsa Main Block in the Hasdeo Arand area will not be open to mining. But Adani pressure seems to be working otherwise.

Now all that remains for the Adani Group to start mining in the area is a final clearance by the forest department which usually follows the Stage I and II clearances. There is, of course, the small matter of the gram sabha consent being forged. But for now, it appears that only the Supreme Court can stand in the way of one of India's richest forests falling prey to private greed.

## INDIAN CONSORTIUM PLANS EV BATTERY PLANT LINKED TO OVERSEAS LITHIUM ACQUISITIONS

The newly formed joint venture (JV) of Indian government mineral companies has entered into a lithium-ion battery manufacturing business, linked to its plans to acquire lithium and cobalt mineral assets overseas.

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The other government companies that are part of the Kabil JV are Hindustan Copper Limited (HCL) and Mineral Exploration Company Limited (MECL).

The move to enter electric battery manufacturing is significant since Kabil, floated in January, has been mandated to scout and acquire suitable lithium and cobalt mineral assets with particular focus on the so-called "Lithium Triangle" Latin American countries of Bolivia, Argentina and Chile, an official in the Mines Ministry said.

According to sources in the Ministry, it is likely that a mining company based in any of these three Latin American countries will be invited to join as a strategic partner in the electric battery manufacturing plant.

Media reports here have suggested that Kabil is looking to sign a memorandum of understanding with the Bolivian government-owned Yacimientos del Litio Bolivianos (YLB) for setting up the battery plant, although this could not be confirmed from government sources.

However, officials did confirm that a delegation of Nalco, HCL and MECL officials visited the Latin American countries over the past few months and had even visited various mineral assets of YLB, as well as having several round of meetings with government officials of these nations.

The location of the electric battery making plant was yet to be decided as it could face challenging negotiations between Indian partners and raw material sources in any of the likely Latin American countries, the officials acknowledged.

It is learnt that Nalco was keen to locate the battery manufacturing plant in India. But in government-to-government negotiations between India and Bolivia held over the past several months on collaborating in developing lithium assets, the latter has clarified that the Latin American nation would be willing to open up its mineral assets for joint development but investments in downstream value-added manufacturing would need to be based in the raw material host country with India having the option of shipping back finished products.

As reported by *Mining Weekly Online* earlier, the Bolivian delegation which visited India last year had stated that YLB would be willing to offer lithium mines for development by Indian government mineral companies but would not be interested in being a mere exporter of lithium mineral to India, without downstream investments committed by the latter.

The Bolivian government has also suggested a speedy conclusion of a free trade agreement between India and Bolivia to facilitate bilateral investments across the entire spectrum of lithium and lithium-based products and the free flow of products between the two countries.

# GOA MINING LANGUISHES AS REVIVAL ATTEMPTS REMAIN IN LIMBO

The brakes have been put on the once-flourishing mining sector in Goa, following litigation on illegal mining of iron ore and manganese in the state.

Plans to revive the sector has so far yielded no results and the fate of 6,000 workers hangs in the balance.

Ironically, the deadly impact of mining on surrounding areas is such that it kills agriculture, and leaves farmers dependent only on mining and other ancillary occupations.

On February 26, this year, mining unions, workers, truck, river barges and machinery owners staged a shutdown in major mining towns in Goa. Their demand: governments at the Centre and state must take legislative steps to restart the iron ore mining industry in the state in "public interest", at the earliest.

Once a major earner of gross domestic product (GDP) – Goa's iron ore comprised 40 percent of the sector's low grade ferrous exports from India before it sputtered to a stop due to a slew of litigations by environmentalists and the M.B. Shah Commission Report on illegal mining of iron ore and manganese in Goa. In February 2018, the Supreme Court quashed the Goa government's second renewal of 88 leases, ordering established firms out of the sites they had mined for decades. It left the Goa industry shell-shocked.

Over the past year, industry stakeholders – from mine owners, mining firms and ore exporters to workers' unions and river barge, truck and machine operators – have been rallying together to exert pressure on the central and state governments and elected representatives for a legislative solution to revive the sector.

However, numerous delegations to central ministries and even the Prime Minister, have failed to yield results as have numerous other protests, including a sit-in in New Delhi. With the 2019 elections around the corner, stakeholders, backed by the industry, have amped up pressure on the ruling Bharatiya Janata Party (BJP) in the state, which is keen to retain its two Lok Sabha seats. Facing the heat are BJP's North Goa Member of Parliament (MP) Sripad Naik and South Goa MP Narendra Sawaikar.

BJP MPs and Members of Legislative Assembly (MLAs) have kept alive the hope among increasingly restive stakeholders that the Centre would intervene on Goa's behalf with an ordinance or legislative relief. But as that prospect dims, with the election code of conduct now in place, the spin from political managers in the BJP has increased – to offset the electoral damage it could face.

"I am confident that the Centre will come out with a solution," said BJP power minister for Goa Nilesh Cabral, an active spokesman for mining and an MLA from Curchorem in South Goa – the heart of the mining area, now affected by the shutdown. The opposition, Congress, who are hoping the backlash will singe the BJP in the upcoming critical by-elections for two seats and then the general election, are making the most of the situation. "They have fooled the people in the past one year," said state Congress president Girish Chodankar.

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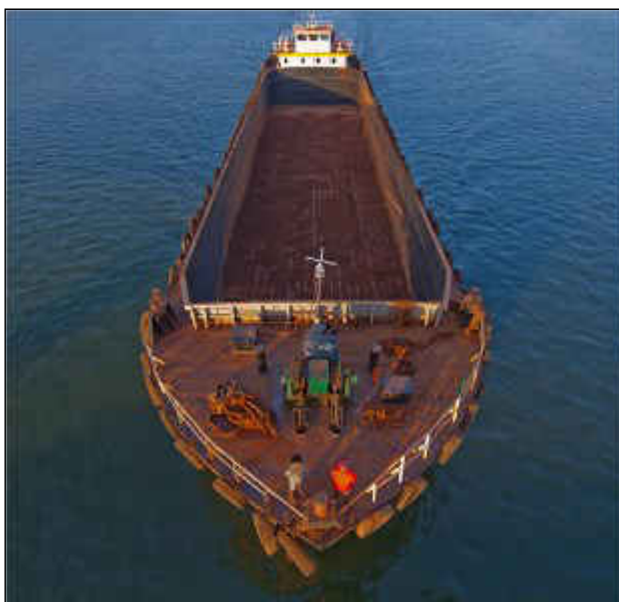
**State-Centre tussle over mining leases**

Both the opposition and ruling parties in Goa have politically endorsed restarting mining. On August 3 2018, the Goa Assembly passed a unanimous resolution backing early resumption of mining in public interest. Former Goa chief minister, late Manohar Parrikar met Prime Minister Narendra Modi on August 7, 2018 to discuss the situation and wrote twice to Union Minister of Mines Narendra Singh Tomar since September 2018.

Goa is seeking the Centre's legislative intervention on the 2015 Mines and Minerals (Development and Regulation) or MMDR Amendment Act's new auction regime. One contention is that the Goa leases ought to qualify for the deemed 50-year period granted to mining leases under section 8 A (3) of the MMDR (Amendment) Act 2015, and be valid until 2037 and not come up for auction prior to that year. This arises from several disputed legal positions.

The Centre and the state of Goa have long tussled over mining leases. Since Goa's liberation from a Portuguese colonial government in 1961, the Centre had repeatedly attempted to cancel the concessions given under a 1906 decree in perpetuity to mine owners, and turn them into leases under the then MMDR Act, 1957. The protracted tussle led to the Goa Daman and Diu Mining Concessions (Abolition and Declaration as Mining Lease) Act, 1987, that came into force that year. Another contention is that the 1987 Abolition Act – currently pending challenge before the Supreme Court – was retrospectively applied to the leases from 1961 onwards, rather than prospectively from 1987.



Replying to a 'calling attention' motion in January 2019, then Chief Minister Parrikar had said that the Goa government had, even before the February 2018 Supreme Court order, made this position clear to the mines ministry. In a meeting in 2015, shortly after the MMDR Amendment Act was passed, he said the Goa government had notified the central mines minister that the "deemed leases in Goa, as per Abolition Act, 1987, need special attention to bring them at par with the leases protected for 50 years in the rest of the country. The said demand is not negated so far by the central government explicitly in any of the communication received by the state government till date".

With the upcoming elections in the country, the ruling party has made conflicting statements to balance both its electoral prospects and central policy of auctioning mining leases. Mines minister Tomar was quoted saying that "the Centre can't intervene" while Suresh Prabhu, Union Minister for Commerce and Civil Aviation, assured people in Goa that "the central government wants to find a solution and (is) working with Goa to find a joint solution."

In 2018, all state governments were asked to prepare an action plan to effect a smooth transition to the auction regime under the MMDR Amendment Act 2015, for mining leases due to expire in March 2020. The Goa government's reply to the mines ministry's request is not conclusively known and bureaucrats have refused to comment on this aspect. "We have told the ministry that no mines will come up for auction," said Cabral, who is often seen to oscillate between pressurising the government and defending it. Cabral recently said that 110 leases, including the 88 renewed last, were not open for auctions, and he would oppose his government if it went ahead. Of the concessions originally given out on land free from habitation, some 110 are considered working mines, spread along the state's eastern interior taluks of Bicholim, Sattari, Ponda, Quepem, Sanguem and Dharbandora.

**Mine workers' future at stake**

Loss of employment and revenue to the state and loss of business for truckers, barges, machine operators, workers and ancillary downstream sectors are the key factors behind the demand of a speedy resumption of mining. "We have already been shut for a year. Thousands have lost jobs. If mining is not resumed quickly, nearly 6,000 workers who are still on the payrolls will also be laid off, while the existing inventory of 7,000 trucks, 220 machines and 150 barges will rust and rot. All the market towns in the interior regions have developed around mining and the economy is hit badly," said trade union leader and Goa Mining People's Front (GMFP) leader Puti Gaonkar. Over the past year, several mining companies have retrenched workers, retaining only a skeletal workforce.

Gaonkar also echoes the anti-auction stance. "Auctions will take a long time. And mine owners will challenge it and not give up easily. Mining in Goa is different from other states, where the government owns and leases the land. Here the land and surface rights belong to the mine owners. They will litigate and demand adequate compensation and that will hold up the entire industry," said Gaonkar. Apart from holding regular protests, the GMPF has filed an appeal in the Supreme Court in the lease renewal matter. In February 2019, the GMPF also filed an interlocutory application seeking early hearing of a batch of matters pending in the Supreme Court, related to appeals and challenges by Goa's mine owners to the conversion of their concessions into mining leases by the 1987 Abolition Act. The miners have challenged the constitutional validity of the Abolition Act. Reportedly, on March 13, 2019, the Union Mines Ministry has also filed an IA seeking a hearing in the matter, pending before the court for the

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past 20 years."

Politically, negotiations over the central government's intentions to redress Goa's mining industry situation may well be deferred to after the elections. In the interim, the state government, in efforts to retain its vote bank, had granted subsidies to mining dependents to clear bank dues. However, the ruling BJP might find the going tougher for the upcoming poll, given the anger across the sector, especially since the promised "legislative cure" from the Centre has not come through. Late CM Parrikar had told the Assembly that the state government was in ongoing discussions with the Centre for resumption of mining and that a "legislative solution" was preferable.

**No turning back**

Environmental action group Goa Foundation initially argued that auctions would fetch Goa optimal price for its ore. It advocated setting up of a Permanent Fund with the monies to benefit the state and to offset the damage. The Foundation now feels the state government ought to set up a mining corporation and grant bidding firms excavation contracts for ore that could be sold through the Metals and Minerals Trading Corporation (MMTC) of India. This follows increasing concerns in the state that far from providing any succour, auction of mine leases could land Goa's fragile environment from the frying pan into the fire, if new and more powerful companies entered the mining space.

A mining cap of 20 million tonnes per annum has been applied to the state to restrict the disastrous consequences of over-mining. "But we have sought a further reduction in this cap. We feel that a maximum of 12 million metric tonnes a year is what is possible, and if you take the 200 year apportionment for inter-generational equity (concept that future generations have an equal right to inherit as much opportunities and resources as has the current generation), then it should ideally be capped at 5 million metric tonnes per year," said Dr. Claude Alvares, director of the Foundation.

Open cast iron ore mining in Goa has left a devastating environmental footprint in Goa. All vegetation is cleared before excavating out tonnes of ferrous rich red laterite soil to sift out the ore. Reject mud piled onto adjacent land into artificial unstable mounds have leached into neighbouring fields, rendering them useless, while mining pits that spiral down to deep pits suck out ground water from the area's water table into the pit. This renders neighbouring wells springs and wells dry. It's a double whammy for farming villagers when the water that has to be regularly pumped out of working mine pits floods fields with mining silt. An estimated 764 million tonnes of waste dump mountains, some over 30 metres high and cover around 27.96 square kilometres of surrounding land area.

Ironically, the deadly impact of mining is eventually what creates a situation where mining becomes indispensable. "Mining undermines all other natural resources in the area except for iron ore. It dries all water sources and creates water logging the fields. No other occupation is possible. It kills agriculture and, therefore, farmers take recourse to providing trucking, machine operation, labour and other services to mining. This is why people clamour for it to restart, even though the industry has completely destroyed their villages," said long time anti-mining environmental campaigner Ramesh Gauns. At the height of the mining boom in 2010, when dead non-working leases were illegally revived, farmers in the new mining areas had protested, but the money power of the sector has brought all opposition to its knees.

"Now, people want mining back. Nobody wants to do agriculture – the soil is dead from all the mineral pollutants," rues Gauns.

In the heart of the mining belt, once green villages, now brown after 50-60 years of mining, are languishing from the dust-laden air, perennial truck movement and water scarcity. "In good years, mining returns can be huge. Villagers who made money plying mining trucks have built their bungalows in other towns, while those who don't have money have to stay back," said Gauns. Among those left behind, life has become a trade-off between the pollution and the perks (like jobs, contracts, school buses and water tankers) that mining companies once provided. And the only respite is bringing mining back.

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