Mining in Bellary – A Policy Analysis

> *"When I submitted my first Mining Report, I hoped that illegal mining would be reduced in the Districts of Bellary, Chitradurga and Tumkur. But I am sorry to note that, the same has been increased very much after my first report, mainly because of the failure of the Government to implement that report…After this Minister took over as Minister in charge of the District, the Bellary District came to be referred to as "Republic of Bellary".*
>
> Justice Santhosh Hegde,
> Second Lokayukta Report, 2011

In light of the recent report by the Lokayukta on mining, this article explores the history of the iron ore mining industry in the Bellary region of Karnataka. It analyses the facts uncovered by the State Lokayukta in light of the policies and political pressures at play in the state in the last decade. It also examines mining policy decisions in front of the State today, and further makes suggestions on how policy gaps allowing large scale iron ore theft can be avoided in the future.

There are 266 iron ore mines in Karnataka, out of which 134 are located in forest areas. In the Bellary District, 148 mines (out of which 98 are in forest areas) cover 10,598 hectares of land. The Indian Bureau of Mines in 2005 estimated the total iron ore mineral reserves to be about 1148 million tonnes.[1] The Supreme Court Central Empowered Committee has assessed that even at conservative estimates, at the present rate reserves in the State will be exhausted in about 20 years.

Iron ore mining in Bellary took off in 1999, paved by the 1993 National Mineral Policy that began encouraging private players to participate in iron ore mining.[2] It received a further push when the Karnataka State Mining Policy in the year 2000 outlined a policy of "Export Oriented Development". Finally, in March 2003, the state government de-reserved 11,620 square km for private mining that was formerly marked for mining by state entities alone.[3] The changes in mining policy went hand in hand with increasing demand from China due to the Beijing Olympics that caused iron ore prices to soar. From around Rs. 1,300 per tonne in 2000 it crossed Rs. 4,500 per tonne in 2005-06.[4]

In March 2007, the Karnataka government, then a coalition between the BJP and the JD(S) asked the Lokayukta, Justice Santhosh Hegde, to probe allegations of illegal mining in Bellary. It was asked to "fix responsibility and initiate action against all public servants, including ministers, whether in office or otherwise", beginning from 2000.

In December 2008, Hegde submitted his first report, which stated that at the present rate of extraction iron ore reserves in Bellary would last not more than 20 years. It also commented on the minimal rates of royalty paid to the State at the time (between Rs. 16 and Rs. 27 per tonne) compared to the high profits being made by the private mining companies (around Rs.1000 per tonne).[5]

The report also pointed out a number of failures in adhering to the due process of law, including irregularities in process followed for de-reservation of land, grant of lease, encroachments into forest areas, benami transactions and grant of temporary transport permits not permitted by law. Also documented were improper orders passed by the Department of Mines and Geology, irregularities in grant of stock yard licence and transportation of ore as well as the damage caused to

environment. Certain actions taken by the then Chief Minister, N Dharam Singh, who held the portfolio of the Department of Mines, also came to light in the report.[6]

Following the submission of the first Lokayukta report, the state government claimed reforms to curb illegal mining, such as the transfer of the Bellary Deputy Commissioner, Deputy Conservator of Forests, Superintendent of Police, and Director, Mines and Geology in 2011. However, the failure of these efforts was indicated by this time through incidents such as the Belekeri port theft in 2010. In Belekeri, forest officials seized eight lakh metric tonne of iron ore being illegally transported, of which 6 lakh metric tonnes disappeared after seizure, making it clear that reform measures were limited at best.

There are multiple other examples of the lack of attention paid to the first Lokayukta report. For example, the report stated that 39 mining leases had been transferred to other companies by way of 'raising contracts' that are not permitted under law. Notices were issued asking for explanations to 37 companies. 31 lessees furnished replies stating that they had not entered into raising contracts. However, as discovered by the CEC, no action had been taken by the State Government to verify the Lokayukta report regarding raising contracts, and no further investigation were made into the details of payments recorded by the Lokayukta. Instead, as of 23.03.11, the file was still under submission to the Chief Minister seeking approval for necessary action.

Similarly, before the intervention of the Supreme Court, in the 2 years since the first Lokayukta report was released, only 7 of the 99 Bellary iron ore leases had been surveyed by the Government, and violations of the borders of the mining leases had been recorded in 6.

In 2009, the Supreme Court took up the issue of illegal mining in Bellary through a PIL filed by an NGO called the Samaj Parivartana Samudaya. A Central Empowered Committee (CEC) was appointed to look into the matter. The CEC after several site visits concluded that the state government had not acted on the recommendations of the Lokayukta. In summary, CEC stated:

> "Unfortunately, hardly any perceptible follow-up action and corrective measures were taken on findings of the Lokayukta, Karnataka. Meanwhile, the mining leases, found to be involved in illegal mining, continued with their activities…The illegal mining not only continued but, in fact, increased manifold... The forest cover in these areas, as seen from the satellite imageries, has been wiped out. Illegal mining on massive scale took place particularly during 2009 and 2010 in the forest area falling in ML No.2010 even after the filing of the Report by the Lokayukta, Karnataka" [7]

The CEC made several suggestions, including a ban on exports from Bellary. Also suggested were revocation of mining leases granted to certain mining companies where discrepancies in operations and encroachments were found. The CEC further said "After the Lokayukta filed a report, practically for two and a half years no effective action has been taken by the state of Karnataka...It has taken more than two and half years for even seeking legal opinion...This is simply not acceptable and indicates the extent of the rot and the hold vested interest (sic) have on the government".

In a second and final report on illegal mining released in August, 2011, the Lokayukta put the loss to the exchequer at ~Rs. 16,085 crore between 2006 and 2010. The immediate outcome of the report was the resignation of Chief Minister B.S. Yeddyurappa, which was followed by the arrest of

Janardhana and Srinivasa Reddy by the CBI. Also named for misconduct in the report were a hundred companies and 787 public officials. At the time of writing this article, the state government has appointed a committee to study the Lokayukta report in a two month period before coming up with recommendations.

The second Lokayukta report documents instances of bribes paid to the tune of Rs. 2.46 crores that accompanied the transportation of iron ore in excess of permits. The documents reveal information about a group of companies owned by Janardhana Reddy and his associates, including the Obulapuram Mining Company Private Limited, Anantapura Mining Company and Associated Mining Company. Also named was Basaveshwara Minerals whose Managing Partner BV Srinivasa Reddy was Managing Director of the Obulapuram Mining Company.

This group would identify mines which did not have permission to operate or were engaged in boundary disputes and then take control of such mines though "raising contracts". This was in violation of the law as permission is needed from the Government whenever there is any change in the control of a mining lease. They then involved transporters and middle traders to supply ore in excess of permit from these mines to exporters and domestic consumers through front companies. The total estimate of iron ore mined in this manner is 73,99,314 MT of iron ore, amounting to around Rs 1850 Crores.

This also involved the recorded payment of bribes amounting to Rs. 2.46 crores to 617 officials of various rank and cadres of all connected departments, for favours such as non-checking of overload and trip sheets, allowing lifting of waste dumps from all type of lands, allowing extraction of floating ores from *patta* lands and forest land, excess removal of ore from regular leases and allowing transportation without payment of royalty and forest development tax.

Documented bribes included the payments made by Adani Enterprises at Belekeri ports, proof of which was seized during an Income Tax raid. The Lokayukta reports bribes paid to customs and police officials in the following, systematic manner:

Table 1: Payments made by Adani Enterprises

Designation at Belekeri Port	Amount paid (Rs.)
Port Director	50,000 (per ship sailed)
Port Officer	25,000 (per ship sailed)
DPC-Deputy Port Conservator	5,000 (per ship sailed)
Port staff	5,500 (per ship sailed)
AC – Customs	1,00,000 (quarterly)
Superintendent of Police	1,00,000 (bi-monthly)
Addl. Superintendent of Police	25,000 (monthly)
Deputy Superintendent of Police	10,000 (monthly)
Circle Inspector of Police	14,000 (monthly)
Outpost	5,000 (monthly)

Source: Second Lokayukta Report, pg. 53-54.

The transportation to the port would occur though a system known as the 'risk' system. The transporter would collect money from the miners at the rate of Rs. 75 to Rs. 200 per MT based on the risk involved. This was known as the risk amount. The transporter would then pay any bribes if

caught. Based on documents seized during Income Tax raids, one such risk transporter K. Mahesh had a documented collection of Rs. 40.92 crores. This risk amount collected was then drawn as cash, and proved in the report to have reached "Sri G.J. Reddy Sir". Part of the risk amounts would ultimately make its way in the shape of regular payments to all officials concerned, who would provide necessary permits and assure unimpeded transport – a system that came to be known as the 'zero risk system'.

In his final report on mining in Bellary, the Lokayukta summed up his numerous findings of irregularities and malpractices of companies and firms in the region in the following manner:

> "Since last 2 to 3 years, it is observed that due to a big margin of profit in this illegal trade a mafia type of operation have started with the full connivance and support of Politicians, Officials of the Department of Police, RTO, Mines, Forest, Revenue, Commercial Taxes, KSPCB, Labour, Weight and Measurement department and others."

It is clear from the multitude of documented instances in the Lokayukta and CEC reports that a study of mining operations in Bellary cannot be limited to specific instances of legal violations. It must rather take the view that there has been a complete breakdown of government machinery in the region, leading to a devastation of the environment and indiscriminate looting of the country's resources. The next section takes a look at the policies such as royalty collection, transport of iron ore and exports, etc. that enabled such practices through both their design and their operational weaknesses.

Royalty collection by the Government

The policies that have served to regulate iron ore mining in Bellary have received intense scrutiny in recent times due to the publication of the Lokayukta reports, particularly in the case of royalty collection. Initially, the royalty for iron ore was levied at a flat rate of Rs. 16 to 27 per metric tonne depending on the quality. This averaged to a rate of Rs. 25 per metric tonne, at a period when the export price reached a peak of Rs. 5000.

From 2004 a need was felt for the overhaul of the system. This was due to a global increase in prices causing a substantial decrease in the amount of royalty accruing to the States vis-à-vis the margin to the miner per tonne of mineral produced (from an average of 15% of sale prices in 2000-01 to around 5% in 2005-06). Ultimately a revision to the system of royalties was introduced only in August, 2009 and a 10% rate was levied on iron ore on the ad valorem sales value as calculated by the Indian Bureau of Mines (IBM)

The IBM published sales price is not linked to international benchmarks or export prices, and has worked out to an average of about Rs. 1700-1800 per metric tonne in 2009-2010. This is calculated according to the weighted average price per tonne of Pit Mouth Value (PMV) of iron ore as reported by the top ten non captive producers in State. The royalty paid, therefore, works out to about Rs. 175-180 per MT. Actual collections, however, work out to a much lower royalty collection per metric tonne (around Rs. 63 in 2009-2010) as shown in Table 1.

Table 1: Export and royalty collection data for iron ore mining in Bellary

Year	Production (Crore MT)	Despatch (Crore MT)	Domestic (Crore MT)	Export (Crore MT)	Percentage of	Collection (Rs. Crore)	Average royalty collected per MT (Rs.)
2000-01	1.71	1.19	1.16	.03	2%	20.47	17
2001-02	2.32	1.60	1.56	.05	2%	25.34	16
2002-03	1.78	1.67	0.66	1.06	59%	27.89	17
2003-04	2.51	2.46	0.99	1.46	58%	42.09	17
2004-05	3.14	3.38	1.46	1.91	61%	67.90	20
2005-06	3.45	3.62	0.96	2.66	77%	75.54	21
2006-07	NA						
2007-08	4.42	3.92	1.59	2.32	53%	83.37	21
2008-09	3.77	3.77	1.75	2.02	54%	84.03	22
2009-10*	.08	.06	.09	0.06	85%	3.83	63

* Information only for part of 2009-10

Source: Information issued by Karnataka Mining and Geology Department under RTI

The methodology followed by the IBM in arriving at prices has been criticised[8] as it does not take into account the actual sales price of the iron ore question and is subject to underreporting by the mine owners. The actual domestic sales prices fall within the range of Rs. 2500-3500. Neither does it take into account the fact that, up until the banning of iron ore export in 2010, more than half the iron ore in Karnataka would be exported at prices ranging between Rs. 5000-7000 per metric tonne,[9] with the profit realised by mining companies for exported iron ore estimated at around Rs. 1000 per MT.[10]

A more realistic assessment of royalty would be on the basis of actual transaction value taking into account the profit element. This is implemented in countries such as Australia, and was recommended by an Indian Central Government commissioned report by the Study Group to Review Royalty and Dead Rent in 2007. This system values the mineral for the purpose of royalty on the basis of transaction value/sale price (FOB value) after deducting transportation and handling charges.[11]

In an attempt to rectify the situation, the government has proposed a National Mineral Royalty Commission in the draft Mines and Minerals (Development and Regulation) Bill, 2011 to review royalty rates and dead rent rates and recommend revisions. It will also suggest actions against leaseholders who fail to pay royalty.

Royalty policies in other jurisdictions

Globally, most countries have shifted from a flat rate of royalty to one that is calculated on an ad valorem basis. Countries such as China which were levying flat rates on a per tonne basis are now piloting a tax rate of 5% of sales value in select regions. A majority of the advanced mining countries calculate royalties on the actual profits of the company or on a fair market value. Therefore the tax base in those countries differs significantly as it is based on real market prices of the taxed entity.

In the United States, minerals are taxed at both the county and the state level, on an ad valorem basis. States impose severance taxes on extraction of certain minerals which varies by state law.

Percentage depletion deduction varies from 5% to 22%, depending on the mineral mined. In Texas, for example, royalty is levied on a Fair Market Value calculated as pro-rata share of the total future recoverable reserves, discounted to reflect their present worth.

In contrast, countries like South Africa tax mining companies based on the company's earnings before interest and tax rises with profitability. Different regimes are then applied on refined and unrefined minerals. Similarly, in Canada each province imposes its own mining tax and the tax base is typically revenue less most expenses except financing and property acquisition costs.

Even where mineral royalties are based on sales prices, such prices are linked to the international market prices (for example, in Peru, where international market prices minus indirect taxes, insurance, freight, etc. are calculated before taxes are levied), so that a more realistic picture of the actual profits made by a mining company are taken into account.[12]

Loss to the State exchequer due to undeclared iron ore

In addition to limited royalty collections on declared iron ore, there is the much larger quantum of iron ore which go undeclared. The official estimation by the Karnataka State Government of undeclared iron ore export between 2003 and 2010 amount to 307 lakh MT (equal to almost one-third of India's annual exports). The value of this taking a price of Rs. 5000 per metric tonne comes to Rs. 15,340 crore.[13] For the same estimation, the Lokayukta has arrived at a figure of 298 lakh MT of undeclared iron ore amounting to Rs. 12,228 crore as shown in the table below:

Table 2: Quantity of iron ore exported from Karnataka

Year	Quantity of iron ore export permitted (Lakh MT)	Quantity of iron ore exported in excess of permit (Lakh MT)	Average sale rate for iron ore export (USD)	Average Rupee value of USD (Rs.)	Rupee value of Iron ore exported in excess of permit (Rs. Crore)
2006-07	183.3	31.8	56.71	45.11	814.57
2007-08	268.5	37.1	115.7	40.12	1,724.33
2008-09	241.0	53.6	94.28	45.89	2,317.13
2009-10	206.5	128.0	76.38	47.42	4,635.86
2010 (till Dec)	60.1	48.1	124.7	45.65	2,736.25
Total	959.3	**298.6**			**12,228.14**

Source: Second Lokayukta report, 2011

Government stake in mineral enterprises

Globally, mining sectors in most countries were either open to private sector participation throughout their history, or were opened up in the 1980s and 1990s. However, with the exception of a few countries such as the United States, ownership of mineral rights remain vested with the State, and private players have to pay some form of royalty or tax for the privilege of mining specified minerals. Only those entities holding some form of valid lease can legitimately discover and develop such resources in these countries.

In the major mining states of the world, private mining companies as well as state owned corporations play a role in the production of minerals. Increasingly, however, there is a trend in developing countries towards reliance on joint venture arrangements between public and private sector companies. State minority holdings in otherwise privately-owned companies are also employed. Especially in the case of foreign mining presence, the Government of the host country may participate in equity as a shareholder, or by law acquire a claim on after-tax profits. In India, while public sector companies undertake the bulk of mineral development, other instruments such as joint venture arrangements are yet to take hold in regions like Bellary. Joint ventures would allow profit-sharing, in addition to royalty collection, as a tool to ensure that there is public sharing of the benefits reaped from exploitation of the country's resources.

In Ghana, the Government, by law, acquires at no cost a 10% interest in any mineral operation. It also has the option to acquire an additional 20% interest on negotiated terms. Similarly, in Philippines, the State has a Constitutional right to participate by entering into "co-production" –joint venture or production sharing agreements with entities where 60% ownership is by Filipino citizens.[14]

Post liberalisation of most economies, debates have started on the best way to ensure public sharing of benefits derived from the mineral resources of a nation. In most developed countries this debate has led to the drafting of new policies on community participation and benefit sharing, as well as levying of economic rents that take into account 'windfalls' by mining companies.[15] In Australia, for example, the proposed federal Minerals Resource Rent Tax ("MRRT"), expected in 2012 if the government is re-elected would tax super-profits at 40%, addressing the fall in share of royalty for the government. Both Chile and Ghana also have an Additional Profit Tax that is specifically levied on mining companies.

In a few other States such as Bolivia and South Africa, however, various policies have proved unsuccessful in ensuring that the benefit of mining is enjoyed by the community. In these countries, debates are underway about the advantages of nationalizing private mining companies and limiting the exploitation of natural resources to State owned entities alone. While there has been considerable opposition to such suggestions, the existence of these debates indicate an urgent need to address the issue of greater public share of economic benefits from natural resources.

One of the ways of ensuring benefit sharing of the mining industry is the requirement of captive iron ore processing. Captive iron ore mines results in domestic steel production generating 7-10 times more value and 5 times more direct employment, according to the Expert Group Report on Preferential Mining Leases.[16] For example, in Canada, all ores and minerals removed from any lands acquired under the Mining Act must be treated and refined in Canada, unless the Lieutenant

Governor in Council issues an exemption.[17] This ensures that the basic industries of the country benefit from the natural resources that are found within its territories. In India, however, no such law exists, and in certain years almost 80% (See Table 1) of the iron ore produced is exported in unprocessed form.

Steps towards greater community sharing of mineral profits has been introduced in the draft Mines and Minerals Development and Regulation Bill, 2011 (MMDR). At the time of writing this article, the draft has been approved by a Group of Ministers and is likely to be tabled at the next session of Parliament.[18] The provisions in the Bill have been welcomed by environment groups[19] while being derided by coal and iron ore mining companies.[20]

According to the Bill, the mine leaseholder also has to pay an annual amount into a District Mineral Foundation an amount equal to 26% of profit or a sum equivalent to the royalty paid during the year, whichever is higher. Apart from transfer of money, the leaseholder has to transfer at least one non-transferrable share to the families of all affected persons in the region. The District Mineral Foundation is to provide assistance as well as provide employment as per the rehabilitation and rehabilitation package of the state government. This thus represents the first time that profit sharing has been introduced in the Indian system.

Apart from monetary benefits, the draft Bill also sets out certain rights of communities. For example, notifications for bids on mining or prospecting licenses, or approval for a mine closure plan have to be done in consultation with the gram sabha or gram panchayat. Additionally, in a Vth or VIth Scheduled area (tribal areas), the gram sabha must be consulted before a mining lease is granted.

The Draft MMDR Bill also makes provisions for a number of funds to be set up for sustainable development of mineral resources. The first of these is the National Mineral Fund (NMF) for purposes of research in sustainable mining, developing capacity of the Indian Bureau of Mines and detecting and preventing illegal mining. Similar State Mineral Funds may also be set up for these purposes such as funding of the Panchayat system and rewarding whistle blowers on illegal mining, etc.

Transportation policy for iron ore in Karnataka

One of the major reasons of large-scale excessive mining in the Bellary region is the fact that checking of iron ore transports is weak, with low infrastructural and technological support. For example, while permits are issued to miners mandating the quantity of iron ore to be transported, these were created manually and in bulk, making them easy to forge. Trucks carry far more than the permitted quantity of 16 MT per trip. There are no weighbridges and checkpoints. That means there is no connection between the trip sheet and the actual iron ore being carried. Information regarding permits is not shared with other concerned departments such as Forest and Customs. Poor stockyard control is another weak area, since stockyards amounts are not mapped to permitted quantity of a lease. In summary, the Lokayukta reports that there are “no checks anywhere on the legitimacy of the iron ore”. [21]

To address these issues, the Lokayukta, based on Dr. UV Singh’s report,[22] recommends the creation of a centralised database to view permits issued. Trip sheets and forest permits with unique ID numbers should be generated only after checking the permits issued by the Mines and Geology

Department. This would ensure that trip sheets are not issued for materials in excess of the permit quantity. Permits should be issued only from starting to end point, not intermediate destinations or other leased areas.

Similarly, stockyards and ports should be monitored with trucks entering being electronically marked in the online database and the trip sheet against the truck should be electronically cancelled. Check posts also should be strengthened with electronic surveillance recording license plates, and operated in an integrated manner by all departments. Stockyards should be operated only by mining lease holders, and within leased area as far as possible, instead of being held by middlemen and traders.

Some of these issues are sought to be addressed in the new Karnataka (Prevention of Illegal Mining, Transportation and Storage of Minerals) Rules, 2011 notified in February, soon after the export ban imposed by the Supreme Court. The rules state that only those holding mineral dispatch permits will be allowed to transport minerals, and vehicles transporting minerals will have to be mandatorily fitted with GPS. In keeping with the Lokayukta suggestions, permits are valid only from the mine to the destination, for a maximum of eight days.[23] Further, new penalties have been added for overloading of vehicles and manual permits have been recently replaced by e-permits.

However, instead of the Lokayukta's suggestion that only lease holders be allowed to license stockyards, the rules state that all new stock yards will have to register with the Mining Department. This therefore does not serve the Lokayukta's attempt to eliminate middle men who engage in illicit mining without leases, and who are not registered with any department. The rules also allow, although they do not mandate, the setting up of check posts, weighbridges etc., therefore leaving the issue at the discretion of the Mining Department which has already proved to be lacking in this regard.

Environmental policies governing iron ore mining

There have been devastating environmental consequences of the unbridled iron ore mining in Bellary – the largest hit being to agriculture, with once-fertile lands turning red with iron ore silt and bore-wells drying up across the entire region. The Supreme Court CEC report also states that nearly 45% of the forest cover in the region has been lost to mining - "As a result of mining and associated activities, what was once an area with green, scenic, undulating hilly terrain, today presents a barren and dismal picture akin to a war-ravaged zone with huge ugly scars".[24]

In spite of repeated cautionary statements from agencies such as NEERI,[25] the CEC and the Lokayukta in 2008, there has been no pause to consider environmental concerns. Suggestions on how to minimise dust from mining, safe storage and transportation, safe disposal of mining waste, banning of surface mine digging and restoration of abandoned mines land were never implemented. Instead, mining permits were increased: the Associated Mining Company owned by Janardhana Reddy, for example, received an increase in mining permits from 1.5 lakh tonnes to 10 lakh tonnes in a year. Currently, with the blanket ban on Bellary mining, the Supreme Court has ordered a comprehensive Environmental Impact Assessment to address these concerns after a decade of heedlessness.

Another issue with respect to iron ore mining and the environment is that in India there are no limits placed upon the kind of land that may be mined. Iron ore mineral rights can be leased out over all forest lands, including reserved forests. Internationally, however, there has been a move to designate 'no-go' areas where minerals rights cannot be leased out and countries such as Australia and Philippines have adopted laws based on international conventions[26] to this effect.

Additionally, one of the major causes for environmental degradation is lack of adequate rehabilitation of abandoned mining sites. It is common in a number of jurisdictions to require a closure plan for the rehabilitation of the mining site once the lease has expired. In Ontario, for example, a plan must be submitted which includes a financial assurance for carrying out the rehabilitation work, as well as a public consultation process for notifying and providing information to parties directly or indirectly affected by a mining project. There is also a separate Code concerning Mining Rehabilitation all mining companies must comply with. In South Africa, miners are required to physically set aside rehabilitations costs as a trust.

In India, there is a requirement by law to provide financial assurance for rehabilitation costs after a mine is closed down. This, however, is limited to Rs 25,000 per hectare, with no pay-out required if miner reports that he is carrying out the rehabilitation himself.[27] It has also been reported that such closure plans are seldom, if ever, implemented by the miners.[28]

The draft MMDR Bill takes a different approach to the issue of mine closure, by including compensation to the surface rights owners. After the closure of a mine, the government is to determine the compensation payable to the person holding traditional or occupational rights to the land, who are to be consulted in determining the compensation. Failure to comply with the mine closure plan will be considered an offence under the Act.

Additionally, the MMDR Bill provides for the creation of a National Sustainable Development Framework (NSDF) in order to ensure scientific development of minerals as well as environmental protection. The NSDF will mandate measures such as public disclosure of environmental protection measures, consultations with stakeholders and indicators for sustainable development. A similar State National Development Framework is also provided for.

Further, if the Indian Bureau of Mines (IBM) or similar authority forms the opinion that a mine poses a threat to the conservation of the environment, it may suspend operations of that mine. Such opinion, however, is currently supposed to come from the IBM, rather than a government body responsible for environment protection such as the Pollution Control Board.

Conclusion

While there has been some scrutiny of mineral policy and implementation of mining laws as an outcome of the Lokayukta reports, so far the consequences have largely been political. One of the welcome results has been the expediting of the draft MMDR Bill which would introduce new concepts such as profit sharing. Crucial questions, however, remain unanswered. Chief among these are the methods of royalty collection, stricter norms regarding transportation of iron ore, and greater environmental protection of mining areas. In this, the Supreme Court blanket ban on Bellary mining sends a strong signal to all parties concerned that the degradation of the district has gone

too far, and must be halted. Whether comprehensive steps are taken in this regard as an outcome remains to be seen.

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[1] Interim Report dated 15.04.2011 of the Central Empowered Committee of the Supreme Court in WP Civil No. 562 of 2009 by Samaj Parivartana Samudaya regarding illegal mining and other related activities in forest areas of Karnataka, pg. 15, (Hereinafter referred to as CEC report)

[2] The National Mineral Policy, 1993 paved the way for removal of restrictions on foreign equity holdings, such that any company could apply for mineral concessions irrespective of foreign equity.

[3] The Government through orders vide notification No. CI 16 MMM 2003 and No.CI 33 MMM 1994, dated: 15.03.2003

[4] Part 1 of Lokayukta Report on Karnataka Mining dated 18.12.2008, No. Compt/LOK/BCD/89/2007/ARE-2, pg. 29 (hereinafter referred to as First Lokayukta Report)

[5] First Lokayukta Report, pg. 263

[6] The Report highlighted that the Chief Minister was involved in the issuing of transport permits for moving iron ore from agricultural (patta) lands, to individuals who did not hold mining leases. While ostensibly this was being done to allow removal of iron ore deposits from farm lands, in truth huge quantities of iron ore were being mined and transported under these permits, without valid mining leases.

[7] CEC Report, pg. 19-20.

[8] Second Lokayukta Report, page 243.

[9] Avendus India Equity Research Report on Mining Industry, July 4, 2011

[10] Rs. 1073 per metric tonne in 2008 in the first Lokayukta report and as Rs. 975-1037 by Avendus India Equity Research Report on Mining Industry, July 4, 2011

[11] The second Lokayukta report suggests that the IBM include factors such as FOB prices from Customs, FOR copies from Railways, copies of sales invoices and buyer agreements and benchmark prices from NMDC and JSW before arriving at the ad valorem sales price. Second Lokayukta report, pg. 245.

[12] Price Waterhouse Coopers, "Income Taxes, Mining Taxes and Mining Royalties - A Summary of Selected Countries, 2011", available at http://www.pwc.com/en_GX/gx/mining/pdf/global-mining-tax-comparison-Dec2010.pdf

[13] CEC report, pg. 6-7

[14] Centre for Energy, Petroleum and Mineral Law and Policy, Mirian Kane Omalu et al, "Key issues in mining policy: A brief comparative survey as a background study on the reform of mining law"

[15] For more information see report by Centre for Science and Environment titled "Sharing the Wealth of Minerals", available at www.cseindia.org/userfiles/profit_sharing.pdf

[16] Report commissioned by the Ministry of Steel, titled, "Report of the expert group on preferential grant of mining leases for iron ore, manganese ore and chrome ore," available at steel.nic.in/GRANT%20OF%20MINING%20LEASES.pdf

[17] Eva Liedholm Johnson, "Mineral Rights – Legal systems governing exploration and exploitation", Doctoral Thesis available at http://www.kth.se/polopoly_fs/1.131782!/Menu/general/column-content/attachment/FULLTEXT01(2).pdf

[18] While the latest version is not available publicly, the following comments are based on the last public version and the comments made by the Centre for Science and Environment on the latest version.

[19] See "Sharing the Wealth of Minerals: A report on Profit Sharing with local communities", Centre for Science and Environment, available at www.cseindia.org/userfiles/profit_sharing.pdf

[20] "Draft mining Bill: Coal India net profit to get eroded by Rs 2,200 cr", The Hindu Business Line, July 10, 2011.

[21] Second Lokayukta Report pg. 444

[22] Part I of the Lokayukta report released in 2011 consisted of the findings and recommendations of Dr. U. V. Singh, Chief Conservator of Forests, Karnataka.

[23] For distances beyond 500 km by road only.

[24] Report of CEC dated July, 2011 based on which the Supreme Court ordered blanket ban of mining in Bellary.

[25] Rapid Environmental Impact Assessment of Mining in Bellary-Hospet region by NEERI, 2004.

[26] For example, International Union for Conservation of Nature, Recommendation 2.82 of the 2nd World Conservation Congress in Amman, 2000 recommends 4 categories of protected lands where mining should not be permitted.

[27] Rule 23F, Mineral Conservation & Development Rules, 1988

[28] Centre for Science and Environment, "Rich Lands, Poor People: Is sustainable mining possible?"