



Environmental Justice and Community Rights in India's Mining Sector

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ABSTRACT:

India's mineral wealth is almost exclusively located within its forest, tribal & ecologically sensitive areas which creates an ongoing tension between extractive development & the rights of those inhabiting these landscapes. The paper explores the application of environmental justice, the equitable distribution of benefits and costs associated with high economic value environmental resources, and the meaningful right to participate in decision-making that directly impacts their environment within India's mineral governance system. It argues that although India has an intentionally more progressive constitutional and statutory architecture, the Forest Rights Act, 2006, the Panchayats (Extension to Scheduled Areas) Act, 1996 which applies in tribal areas and a rich judicial doctrine, what remains of the lived experience of mining-affected communities is one characterized by displacement, ecological damage and marginal involvement. The study adopts a doctrinal and analytical approach to analyse constitutional provisions, major legislations and capital landmark rulings from *Samatha* to *Niyamgiri*, *Goa Foundation* followed by the *Common Cause* ruling. It finds a structural disconnect between rights on paper and their effective implementation, rooted in inadequate operationalisation, weakened consent processes and the imbalance of power between the state, corporations and local communities. We end the paper with recommendations for honest community involvement, resourced Gram Sabha empowerment, transparent environmental impact assessments and high-functioning rehabilitation to promote proper environmental justice being integral to lawful and sustainable mining in India.

Keywords: Environmental Justice, Mining, Community Rights, Forest Rights Act, PESA Act, Sustainable Development, Mining Governance.

1. INTRODUCTION:

As India has industrialised, mining gradually makes a larger impact with the country being one of the largest producers of coal, iron ore and bauxite in the world and also many other minerals used in steel, energy and infrastructure.¹ Mining and quarrying sector account for a much smaller proportion of national income less than five per cent of gross domestic product. But remains strategically vital, providing raw materials to basic industries and a significant contribution to state revenues, employment and export earnings.² A series of policy reforms followed, culminating in the auction-based system to allocate mineral resource assets by the Mines and Minerals (Development & Regulation) Amendment Act, 2015, which paved way for rapid mineral extraction as an engine for growth; coupled with National Mineral Policy, 2019.³ However, this economic importance comes at a significant environmental and social price. Mining contributes to deforestation, soil erosion, and pollution of surface water and ground-water resources; creates air pollution; and causes permanent changes to landscapes.⁴ India's richest mineral belts almost exactly coincide with its densest forests, and largest concentrations of Scheduled Tribes. This disproportionate burden falls precisely on those whom it would seem least equipped to bear.⁵ About half of India's leading mineral-producing regions are largely tribal and diversion of land for mining has destroyed ecosystems, compromised livelihoods and displaced millions of forest-dependent people.⁶ This unequal burden of harm leads to the idea of environmental justice. Emerging from late-twentieth-century struggles against the siting of polluting facilities in disadvantaged communities, environmental justice holds that (1) no community should be expected to bear a disproportionate share of environmental harms and (2) affected populations have a right to active involvement in decision-making processes affecting the environment they inhabit.⁷ In the Indian mining context, this idea resonates as powerful because, tribal and forest-dwelling communities have an intrinsic cultural, spiritual and economic relation to land that is cut off by mining.⁸ This is why the relevance of community rights is central to mining governance. Where local populations are discussed in terms of clearance and seen by law as obstacles, rather than rights-holders, we see conflict, litigation, and resistance. Mining will go ahead without so much ecological damage and more legitimacy where it recognises consent and stewardship.⁹

¹ Ministry of Mines, Government of India, *Annual Report 2022–23* (overview of India's mineral production and reserves)

² Pritha Ranjan et al., "Assessing the impact of mining on deforestation in India" (2019), noting that for India mining contributed less than five per cent of GDP, *Resources Policy* (ScienceDirect)

³ Mines and Minerals (Development and Regulation) Amendment Act, 2015 (No. 10 of 2015); National Mineral Policy, 2019, Ministry of Mines, Government of India

⁴ *Vellore Citizens' Welfare Forum v. Union of India*, (1996) 5 SCC 647, on industrial environmental degradation and remediation

⁵ Report of the High-Level Committee on Socio-Economic, Health and Educational Status of Tribal Communities of India (Xaxa Committee, 2014)

⁶ *Ibid.*, citing Centre for Science and Environment data that roughly half of top mineral-producing districts are predominantly tribal

⁷ For the conceptual origins of environmental justice, see Rio Declaration on Environment and Development, 1992, Principle 10 (public participation and access to information).

⁸ *Samatha v. State of Andhra Pradesh*, (1997) 8 SCC 191, on the centrality of land to tribal life

⁹ *Common Cause v. Union of India*, (2017) 9 SCC 499, on conflict generated by illegal and unregulated mining

This paper predominantly focuses on the chasm between the strong statutory recognition for community and environmental rights in India and their weak enforcement in mining contexts. The inquiry matters for the millions of citizens-in-need it touches, and on the constitutional promise to distributive and ecological justice. The objectives of the study are to (i) explain what mining builds fairness; (ii) find out legal and regulatory framework that guarantees rights of the community; (iii) critically analyse judicial activism through seminal verdicts; (iv) assess issues impeding implementation of justice, and (v) recommend reforms. The paper employs a doctrinal and analytical approach using primary sources: the Constitution, statutes, and reported judgments, supported by official reports and secondary literature. This study is limited to Indian legal system and case law. It is qualitative instead of empirical, and it does not perform fieldwork or quantitative effect assessment, which is still a gap and research future direction for this study.

2. Environmental Justice and Mining-Affected Communities

Environmental justice is founded on three interrelated principles: distributive justice an equitable distribution of environmental benefits and burdens; procedural justice giving those affected a voice in the decision-making process; and recognition, which requires respect for the cultural identity and dignity of communities who may value their relationship with land differently than market values would indicate.¹⁰ When applied to mining, such principles lay bare the systematic injustice of an industry and associated consumerism that benefits distant actors while consigning local communities to bear its costs.¹¹ Mining and environmental degradation have a direct link that is well established. The open-cast extraction that characterizes Indian mining strips vegetation, displaces overburden and leaves yawning pits; tailings and effluent are dumped into rivers and aquifers; dust and emissions foul air over huge landscapes.¹² Mining is likely to be a significant driver of deforestation due to loss or fragmentation of biodiversity-rich habitats since many of these activities take place in forest land.¹³

Different levels of harm are reflected in the local and tribal communities. Land is not only the base of economic resources for Adivasi but also a basis of social status, continuation of traditions and spiritual life, an aspect recognised by none other than the Supreme Court in accepting tribals' deep connection with their lands.¹⁴ As the contested Niyamgiri hills show, mining pre-empts subsistence farming as well as access to minor forest produce and ravages the sacred groves and hills that ground community identification.¹⁵ This damage is most visible in the shape of displacement and loss of livelihoods. Despite Scheduled Tribes forming about 8.6 of the population, around 40 of those displaced by development projects are among

¹⁰ Rio Declaration, 1992, Principle 10; Stockholm Declaration of the United Nations Conference on the Human Environment, 1972, Principle 1.

¹¹ Xaxa Committee Report, 2014 (uneven distribution of mining's benefits and burdens).

¹² Ranjan et al., "Assessing the impact of mining on deforestation in India" (2019).

¹³ T.N. Godavarman Thirumulpad v. Union of India, (1997) 2 SCC 267 (forest conservation and the broad meaning of "forest")

¹⁴ Samatha v. State of Andhra Pradesh, (1997) 8 SCC 191.

¹⁵ Orissa Mining Corporation v. Ministry of Environment and Forests, (2013) 6 SCC 476 (religious and cultural significance of the Niyamgiri hills to the Dongria Kondh).

them because they live in areas rich with resources.¹⁶ In the European Economic Community (EEC) for example, a commonly cited estimate in 1987 was that "based on reports and other studies. The number of people displaced by dams, mines, industries and protected areas during the first four decades after Independence is approximately twenty-one million" whose rehabilitation however was inadequate or non-existing.¹⁷ Most commonly, mining expropriates subsistence farmers and transforms them into impoverished casual workforce deprived of strong spatial and institutional roots.¹⁸

The loss is compounded by health and environmental concerns. The exposure to dust, as well as the waterborne disease caused by contaminated supplies and the potential for heavy-metal pollution exist near any mine a problem especially well documented in chromite-mining regions.¹⁹ These harms are typically underreported in clearances, where census response and economic systems dominate over cumulative health burdens.²⁰ In this context, community participation in environmental decision-making is a prerequisite for justice. True participation requires (not shallow consultation but) informed consent, access to information, and the power to affect outcomes, the very conditions that have rarely been fulfilled by the public-hearing component of environmental clearance.²¹ Environmental justice concerns at the mine site thus reach far beyond mess and metaphor into issues of voice, recognition and democratic legitimacy over the reshaping of entire ways of life.²²

3. Legal Framework Governing E-Commerce and Consumer Protection

The Indian Constitution which provides the fundamental protections. The right to life guaranteed under Article 21 has been judicially expanded to include the right to a clean and healthy environment.²³ The Directive Principle in Article 48A enjoins the State, as far as possible, to protect and improve the environment and safeguard forests and wildlife while Fundamental Duty in Article 51A(g) casts an obligation on every citizen of India "to protect and improve the natural environment including forests, lakes, rivers and wildlife."²⁴ The right to equality guaranteed under Article 14 is one of the pillars of Environmental Justice, with Fifth Schedule, read together with Article 244(1) conferring special protection for Scheduled Areas and prohibiting the transfer (or alienation) of tribal land without approval, even as Governor given location-based quasi-judicial powers.²⁵

¹⁶ 2011 Census of India (Scheduled Tribes at 8.6% of population); Xaxa Committee Report, 2014 (disproportionate share of displacement)

¹⁷ Walter Fernandes and V. Paranjpye estimate (1997), cited in the Xaxa Committee Report, 2014, of approximately 21 million persons displaced by development projects in four decades.

¹⁸ Mining-induced displacement among Particularly Vulnerable Tribal Groups, study of Sukinda chromite belt, Odisha, *Environmental Science & Policy* (ScienceDirect, 2025).

¹⁹ *Ibid.* (health and precarity in mining regions).

²⁰ Environment (Protection) Act, 1986, s.3, on the State's duty to assess and prevent environmental harm.

²¹ Environmental Impact Assessment Notification, 2006 (S.O. 1533(E)), public hearing requirement.

²² Orissa Mining Corporation v. Ministry of Environment and Forests, (2013) 6 SCC 476 (community voice in decision-making)

²³ Subhash Kumar v. State of Bihar, (1991) 1 SCC 598 (right to a wholesome environment under Article 21)

²⁴ Constitution of India, Articles 48A and 51A(g).

²⁵ Constitution of India, Articles 14 and 244(1) read with the Fifth Schedule.

Table 1: Key Constitutional & Statutory Provisions

Legal Instrument	Key Feature	Year
Article 21	Right to life & healthy environment	1950
Article 14	Right to equality	1950
Fifth Schedule	Protects Scheduled Areas & tribal lands	1950
Mines & Minerals Act, 1957	Governs mining leases & regulations	1957
Forest Rights Act, 2006	Grants tribal forest rights & Gram Sabha powers	2006
PESA Act, 1996	Gram Sabha consultation mandatory for mining	1996
Environment Act, 1986	Environmental clearance requirement	1986
MMDR Amendment, 2015	Auction system & District Mineral Foundation	2015

This table consolidates India's constitutional architecture and statutory instruments designed to protect community and environmental rights in mining-affected areas. The framework spans fundamental rights under Article 21, equality principles under Article 14, and special protections for Scheduled Areas through the Fifth Schedule. Statutory enactments including the Mines and Minerals Act (1957, amended 2015), Forest Rights Act (2006), PESA (1996), and Environment Protection Act (1986) operationalize these constitutional mandates. Together, these provisions create theoretically robust protection for mining-affected communities.

The primary law dealing with mineral extraction is the in force Mines and Minerals (Development and Regulation) Act, 1957, which governs mining leases, royalties and mining conditions.²⁶ However, its amendments in 2015 introduced competitive auctions and also created the District Mineral Foundation under Section 9B to channel share of mining revenue back into communities affected by mining through the Pradhan Mantri Khanij Kshetra Kalyan Yojana.²⁷ Recovery of the value of illegally extracted or removed minerals, Section 21(5) further strengthens the hand of the State to recover the value of illegally extracted minerals, a provision that has been at the heart recent enforcement litigation.²⁸ The Forest Rights Act, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is by contrast a paradigm shift, granting rights both individual and collective to lands and resources used by communities for generations that they could not have claimed under pre-1950 colonial forest law.²⁹ Community forest resource rights (U/K) are recognised in Section 3, while Section 4(5) disallows eviction pending the recognition process and Section 6 endows the Gram Sabha with powers to determine the

²⁶ Mines and Minerals (Development and Regulation) Act, 1957 (No. 67 of 1957), ss.4–9

²⁷ MMDR Act, 1957, s.9B (District Mineral Foundation), inserted by the 2015 Amendment; Pradhan Mantri Khanij Kshetra Kalyan Yojana, Ministry of Mines (2015)

²⁸ MMDR Act, 1957, s.21(5); applied in *Common Cause v. Union of India*, (2017) 9 SCC 499.

²⁹ Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (No. 2 of 2007), Preamble and Statement of Objects

nature and extent of claims.³⁰ The Act would give an estimated 150 million forest-dwellers access to over 170,000 villages.³¹

The Panchayats (Extension to Scheduled Areas) Act, 1996 extends self-governance in Fifth Schedule areas and stipulates that the Gram Sabha must be consulted before land is acquired or prospecting licences or mining leases granted for minor minerals.³² PESA is the law that, along with the Forest Rights Act, established the Gram Sabha as a key decision-making body of communities.³³ The umbrella framework is formed by the Environment (Protection) Act, 1986, which gives power to the Central Government under Sections 3 and 6 to take action on and formulate rules towards environmental quality protection.³⁴ Exercising this power, the 2006 Environmental Impact Assessment Notification talks of prior environmental clearance for mining projects after a public hearing meant to record the concerns of affected populations, along with clearances under the Forest (Conservation) Act, 1980 and consents under air and water pollution statutes.³⁵

One major example is the decisive thrust given to the Gram Sabhas' rights in mining projects in Niyamgiri litigation where the Supreme Court ruled, prior to granting forest clearance, it must be assured that the Gram Sabha had decided on questions affecting its religious, cultural and customary claims.³⁶ On paper, then, the cumulative legal safeguards available to impacted communities constitutional rights, statutory consent mechanisms, adjudication processes and assurances of rehabilitation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 are considerable.³⁷ However, their actual efficacy depends on how they are implemented.

4. Judicial Approach to Environmental Justice in the Mining Sector

Most influential is of course the judiciary, especially the Supreme Court and the High Courts, both of which have significantly shaped environmental justice through public interest litigation often relaxing conventional standing rules to allow action on behalf of those who speak for communities without a voice.³⁸ Starting from effectively shutting down profitable and ecologically ruinous quarries in the Dehradun limestone-quarrying case, and having found by corollary that an effective right to life cannot but include environmental protections, the judiciary has proven willing to embrace pro-environment decision-

³⁰ Forest Rights Act, 2006, ss.3, 4(5) and 6.

³¹ "IDR Explains: Forest Rights Act," *India Development Review* (2025), estimating coverage of about 150 million forest-dwellers and 170,000 villages

³² Panchayats (Extension to Scheduled Areas) Act, 1996 (No. 40 of 1996), s.4(i) and 4(k).

³³ Orissa Mining Corporation v. Ministry of Environment and Forests, (2013) 6 SCC 476 (Gram Sabha empowered under PESA and forest legislation)

³⁴ Environment (Protection) Act, 1986 (No. 29 of 1986), ss.3 and 6.

³⁵ EIA Notification, 2006, issued under the Environment (Protection) Act, 1986; Forest (Conservation) Act, 1980, s.2; Water (Prevention and Control of Pollution) Act, 1974; Air (Prevention and Control of Pollution) Act, 1981

³⁶ Orissa Mining Corporation v. Ministry of Environment and Forests, (2013) 6 SCC 476

³⁷ Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (No. 30 of 2013).

³⁸ Subhash Kumar v. State of Bihar, (1991) 1 SCC 598 (liberalised standing in environmental PIL)

making.³⁹ The Court has a sewn in certain woven set of normative principles into Indian law. Sustainable development, as per Brundtland formulation and international declarations must be ensuring that the needs of present are met without compromising the ability of future generations to meet theirs.⁴⁰ The precautionary principle, which the Supreme Court laid out in *Vellore Citizens' Welfare Forum*, is that environmental harm must be prevented even if scientific uncertainty exists and should not justify inaction; the same decision also propounded polluter pays rule under which those who cause damage to environment shall bear the cost of remedying it.⁴¹ They would later bolster this requirement, moving the onus off developers to prove their activities are environmentally benign.⁴² The public trust doctrine, articulated in *M.C. Mehta v. Kamal Nath*, holds that natural resources are held by the State in trust for the public and cannot be diverted to private profit in disregard of that trust.⁴³ A look at the principles that guide major mining decisions confirms these ideas.

Table 2: Landmark Court Judgments

Case Name	Year	Key Decision
Samatha v. Andhra Pradesh	1997	Mining in Scheduled Areas prohibited; tribal land protection mandatory
Niyamgiri (OMC v. MoEF)	2013	Gram Sabha veto power over mining; community consent binding
Goa Foundation v. Union	2018	Illegal mining suspended; intergenerational equity principle applied
Common Cause v. Union	2020	100% recovery of illegally extracted minerals; tribal welfare fund created

This table documents seminal Supreme Court decisions that have incrementally established environmental justice principles within India's mining jurisprudence. Beginning with *Samatha* (1997), which prohibited non-tribal land transfers in Scheduled Areas, the timeline progresses through *Niyamgiri* (2013), which vested Gram Sabhas with decisive authority; *Goa Foundation* (2018), invoking public trust doctrine to suspend illegal extraction; and *Common Cause* (2020), compelling remediation of widespread illegality. Each precedent strengthened procedural safeguards, though enforcement gaps persist between judicial pronouncement and ground-level implementation.

In *Samatha v. State of Andhra Pradesh* [1997] 8 SCC 191, the Court ruled that since mining in Scheduled Areas was prohibited under the Fifth Schedule (concluding that all transfers of tribal land for this purpose were void) non-tribals (including the State) could not use Section 166 to justify transfer but minerals development could still take place provided it benefited tribes.⁴⁴ The *Niyamgiri* case, *Orissa Mining Corporation v. Ministry of Environment and Forests*, the Court vested twelve Gram Sabhas with the authority to decide whether bauxite mining that would affect Dongria Kondh should go ahead, all twelve

³⁹ *Rural Litigation and Entitlement Kendra v. State of Uttar Pradesh*, AIR 1985 SC 652 (Dehradun limestone quarrying case).

⁴⁰ World Commission on Environment and Development, *Our Common Future* (Brundtland Report, 1987); *Goa Foundation v. Union of India*, (2014) 6 SCC 590 (intergenerational equity)

⁴¹ *Vellore Citizens' Welfare Forum v. Union of India*, (1996) 5 SCC 647 (precautionary and polluter pays principles).

⁴² *A.P. Pollution Control Board v. Prof. M.V. Nayudu*, (1999) 2 SCC 718 (burden of proof and precaution).

⁴³ *M.C. Mehta v. Kamal Nath*, (1997) 1 SCC 388 (public trust doctrine).

⁴⁴ *Samatha v. State of Andhra Pradesh*, (1997) 8 SCC 191.

rejected it, affirming one community consent principle rule.⁴⁵ Mine-producing areas were caught up in this thick web of oversight with the problem being that 'the definition of "forest" was widened, through continuing mandamus' passed down from *T.N. Godavarman* litigation itself.⁴⁶

In *Goa Foundation v. Union of India*, the Court found that iron-ore leases had expired and that subsequent mining was illegal, invoking intergenerational equity and the public trust to suspend operations, cap annual extraction, and create a permanent fund for sustainable development.⁴⁷ In *Common Cause v. Union of India*, confronting rampant illegal mining in Odisha, the Court ordered defaulting lessees to pay one hundred per cent of the value of illegally extracted minerals and directed the creation of a special purpose vehicle for tribal welfare.⁴⁸ Collectively, these decisions demonstrate a judiciary willing to subordinate extraction to ecological and community rights, even as enforcement of its orders remains uneven.⁴⁹

5. Challenges in Protecting Community Rights in Mining Areas

Despite this framework, formidable challenges obstruct the protection of community rights. The foremost is the weak implementation of environmental laws. The first of these is the ineffective enforcement of environmental laws. Robust statutory provisions are consistently compromised by practioners underfunded regulators, slow monitoring processes and the inherent conflict of interest that arises when agencies that lobby for mineral development also regulate it.⁵⁰ Echoing this point of view, the Court in *Common Cause* noticed that the National Mineral Policy of 2008 was perhaps only draughted on paper and prompted itself to review the policy.⁵¹ Also associated with this limited local community participation Even though both PESA and the Forest Rights Act make Gram Sabhas essential players, consent is often only a procedural exercise poorly promoted meetings held without adequate information or with a pre-arranged sense of approval.⁵² The promise of participatory democracy the law made has been undermined by dilution of consent requirements, and attempts to bypass Gram Sabha authority for certain projects deemed as being in national interest.⁵³

The problem is compounded by the issues in the environmental clearance process. Public hearings hardly take place at suitable locations, impact assessments are often written by consultants retained by the project proponent and clearances could be issued based on incomplete or contested data.⁵⁴ The litigations by *Goa Foundation* and *Common Cause* both unearthed decades of illegal mining done without the necessary

⁴⁵ Orissa Mining Corporation v. Ministry of Environment and Forests, (2013) 6 SCC 476.

⁴⁶ T.N. Godavarman Thirumulpad v. Union of India, (1997) 2 SCC 267.

⁴⁷ Goa Foundation v. Union of India, (2014) 6 SCC 590.

⁴⁸ Common Cause v. Union of India, (2017) 9 SCC 499.

⁴⁹ Indian Council for Enviro-Legal Action v. Union of India, (1996) 3 SCC 212 (polluter pays; difficulties of enforcement).

⁵⁰ Lafarge Umiam Mining (P) Ltd. v. Union of India, (2011) 7 SCC 338 (environmental governance and regulatory deficiencies).

⁵¹ Common Cause v. Union of India, (2017) 9 SCC 499 (National Mineral Policy, 2008 "only on paper").

⁵² Forest Rights Act, 2006, s.6; "Forest Rights Act Implementation in Jharkhand: Promise and Performance," Oxfam India (2018).

⁵³ *Ibid.* (gaps between statutory consent and field practice).

⁵⁴ EIA Notification, 2006; deficiencies discussed in Goa Foundation v. Union of India, (2014) 6 SCC 590.

clearances.⁵⁵ At the heart of these failures lies a deeper tension: the friction between development and environmental protection. Policies that prioritize mineral production as an engine of growth incentivize the speeding up of approvals and framing local resistance as a hurdle to be overcome.⁵⁶ This tension is especially acute in the context of land acquisition and displacement, where monetary compensation is almost always insufficient, rehabilitation weakly realised, and the cultural or community losses that are non-monetary equally wholly uncompensated.⁵⁷

Challenges with compliance and monitoring remain throughout the entire mining lifecycle. As the scale of illegality documented in Goa, hundreds of millions of tonnes mined illegally attests, illegal mining outside lease boundaries, underreporting of extraction and poor mine closure and restoration remain rampant.⁵⁸ Finally, the socio-economic vulnerabilities of mining-affected communities, these often include low literacy levels, limited legal awareness and little political representation or authority and economic dependence on the very same projects that are damaging them make it nearly impossible for them to successfully assert their rights, all of which contributes to the great asymmetry of power between communities, corporations and the State.⁵⁹

6. Strengthening Environmental Justice in India's Mining Sector

Reform should begin by promoting more meaningful participation in communities instead of the symbolic kind. It means early disclosure of project details and using languages accessible to all, independent facilitation of consultations and an honest commitment to addressing community concerns rather than just documenting them.⁶⁰ Strengthening Gram Sabha Engagement is the focus area. The precedent of Niyamgiri should be generalised such that, free, prior and informed consent of the Gram Sabha is a mandatory precondition for mining in Scheduled and forest areas, with proceedings independently monitored from coercion.⁶¹ This is consistent with participatory principles embodied in major international instruments on indigenous rights.⁶²

Environmental impact assessments must be more effective both to minimize ecological damage and to improve the capacity of projects to meet social goals such as food security. Independent, publicly funded assessment, cross-project cumulative impact analysis, and credible monitoring post-approval would restore integrity to the process.⁶³ Discretionary powers are enablers of illegality and capture, thus greater

⁵⁵ Goa Foundation v. Union of India, (2014) 6 SCC 590; Common Cause v. Union of India, (2017) 9 SCC 499.

⁵⁶ National Mineral Policy, 2019, Ministry of Mines (emphasis on accelerated mineral production).

⁵⁷ Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; Xaxa Committee Report, 2014 (inadequacy of rehabilitation).

⁵⁸ Ministry of Mines data on illegal iron-ore mining in Goa during 2007–2012, cited in Ranjan et al. (2019); Goa Foundation v. Union of India, (2014) 6 SCC 590.

⁵⁹ Study of Birhor precarity in the Sukinda mining belt, *Environmental Science & Policy* (ScienceDirect, 2025).

⁶⁰ Rio Declaration, 1992, Principle 10 (access to information and participation)

⁶¹ Orissa Mining Corporation v. Ministry of Environment and Forests, (2013) 6 SCC 476

⁶² United Nations Declaration on the Rights of Indigenous Peoples, 2007, Articles 19 and 32 (free, prior and informed consent), referenced in the Niyamgiri judgment

⁶³ M.C. Mehta v. Union of India, (1997) 2 SCC 353 (Taj Trapezium case, on rigorous environmental scrutiny).

transparency and accountability in mining governance, especially through public disclosures of clearances, lease data, compliance reports and revenue flows.⁶⁴ The effective implementation of the Forest Rights Act and PESA requires that rights recognition precede, rather than follow, the grant of mining clearances, that community forest resource rights be actively recorded, and that the District Mineral Foundation funds be deployed transparently for the benefit of affected populations rather than diverted to unrelated ends.⁶⁵

The strengthening of rehabilitation and compensation mechanisms is indispensable. Compensation time for price of neighborhood, however complete social and cultural cost of displacement must be compensated; rehabilitation have to be scheduled, financed and verified beforehand without delay before displacement with benefit-sharing styles giving communities a sustained stake in mineral wealth.⁶⁶ Finally, policy and legislative reform should reconcile the conflicting provisions at work in mining, forest, environment and tribal-rights statutes and enshrine environmental justice as an explicit governing objective of mineral law so that its constitutional promise of distributive and ecological justice is a reality rather than merely rhetoric.⁶⁷

7. Conclusion

This research has illustrated that India's mining sector is trapped between extreme economic aspirations but also extremely vulnerable environment and social conditions, with Indigenous and forest-dwelling communities bearing the brunt of extraction on their lands that house most of the mineral wealth within India. The main findings are that India boasts a uniquely elaborate legal framework constitutional protections, the Forest Rights Act, PESA, the environmental clearance system and an articulate judicial doctrine. However, most of this protection is routinely undermined in practice. Assessing the effectiveness of existing legal safeguards yields a sobering conclusion. The judiciary, through *Samatha*, *Niyamgiri*, *Goa Foundation*, and *Common Cause*, has articulated principles of sustainable development, precaution, polluter pays, public trust, and community consent that place Indian environmental jurisprudence among the most progressive in the world. Yet the gulf between these rhetorical statements and their actual implementation is significant, seasonably maintained by poor implementation practices, attenuated consent processes, inadequate assessments with established power imbalances.

This gap is precisely what environmental justice in mining governance works to bridge. In this realm, justice is not an obstacle to development but rather a requirement for it to be legitimate: mining that goes forward without the explicit consent and proper treatment of impacted communities loses legitimacy, generating conflict, legal battles, and environmental destruction. This entails a moral and practical

⁶⁴ *Common Cause v. Union of India*, (2017) 9 SCC 499 (transparency and accountability directions).

⁶⁵ Forest Rights Act, 2006, ss.3 and 6; MMDR Act, 1957, s.9B (District Mineral Foundation).

⁶⁶ Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, ss.31–32 (rehabilitation and resettlement entitlements).

⁶⁷ *State of West Bengal v. Kesoram Industries Ltd.*, (2004) 10 SCC 201 (interaction of mining law with constitutional allocation of powers); Constitution of India, Articles 21, 48A and 244(1).

necessity for this stronger protection of community rights, which must be based on Gram Sabha consent valued by law, standalone assessment, transparent governance and genuine rehabilitation. The way forward for India, therefore, is to change course from a clearance-based, extractivist/first model towards a rights-based and participatory sustainable minerals governance heritage. Only by treating affected communities as rights-holders and partners rather than problems, can India reconcile its mineral ambitions with constitutional commitments to equality, dignity and a healthy environment for both current and future generations.

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