

CONVERSATIONS: National Mineral Policy 2019 — balancing stakeholder interests and concerns

Editorial Note: Recognising Diverse Stakeholders in Mineral Policy — a Trajectory over Time

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Economic activity in India is supported by minerals extracted domestically. The significance of mining is also due to its impact on local livelihood opportunities — it generates some during extraction and transport, but it also puts a stop on many others; on some, forever. Once a mine is exhausted, it requires fresh efforts to generate new livelihood opportunities.

The need for remedial action to compensate for displacement, adverse impact on ecological and human health and other such is well recognised now. As it is well known, the Supreme Court in *Samatha vs State of Andhra Pradesh and Ors* (1997; Appeal (civil) 4601-02 of 1997) is a forerunner on this matter, calling for the creation of a ‘permanent fund’ to sustain local ‘development’. Churnings in the regulatory framework were certainly influenced by this and other decisions on mining, like *SPS & Ors vs State of Karnataka & Ors*. (2013; WP (civil) 562 of 2009), *Goa Foundation vs UOI & Ors*. (2014; WP (civil) 435 of 2012) just to name a few.

National Mineral Policy of 1990 considered mining to be the exclusive responsibility of the State; the 1993 policy, reflecting the changes initiated in 1991, paved the way for private sector participation. Mines and Minerals (Regulation and Development) Act, 1957, was amended accordingly. In 2005, the Planning Commission set up a High-Level Committee (HLC) to review and suggest changes in the policy and regulations to augment investment — both public and private — in the mining sector, in a changing climate. The preface of the HLC report recognised the difficulty

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in reaching a consensus among the stakeholders — “mineral-rich states and states not well-endowed with mineral reserves, manufacturing industries with captive mines and standalone miners, exporters of minerals, and domestic industry based on the mineral” (Planning Commission 2006, i). The report’s ‘Conclusions’ and ‘Recommendations’ recognised the need for “the Policy [to] [...] provide for environmental concerns and the needs of local communities to be fully taken into account in mining operations” (Planning Commission 2006, 183) — but to remain outside the list of stakeholders. National Mineral Policy of 2008 advanced this in recommending “[s]pecial care [...] to protect the interest of host and indigenous (tribal) populations through developing models of stakeholder interest based on international best practice” (section 2.3) and alluding to a framework of sustainable development. It even acknowledged the need for a “national consensus to fulfil its underlying principles and objectives” (section 11).

Mines and Minerals (Development and Regulation) Bill, 2011, introduced in the parliament, included a National Sustainable Development Framework with “systemic measures needed to be taken or built-in to increase sustainability of mining operations considering its entire life cycle, *inter alia*” (section 46(4)(iii))

[...] (j) consultative mechanisms with stakeholder groups right from pre- mining stages through the life cycle and up to post-closure stages to ensure stakeholder groups involvement and participation in identifying and addressing the sustainability issue.

A Standing Committee was set up by the 15th Lok Sabha on the 2011 Bill. “Considering the wide ramifications of the Bill”, the introduction note called “for soliciting the comments from the general public, stakeholders” (Lok Sabha Secretariat 2013: vi). The report includes responses from the ‘stakeholders’ on each section of the Bill and its recommendation.

National Mineral Policy 2019 (NMP 2019), while marking many departures from its 2008 avatar, continues to underscore the need to achieve “a national consensus among various key stakeholders and their commitments to fulfil its underlying principles and objectives”. This ‘Conversations’ captures some of the trade-offs across selected stakeholders.

Kumar and Ranjan share their anxieties on the availability of metals (including rare ones) as required by new technologies. Kumar and Basu differ on the interpretation of inter-generational equity. Jain and Basu shared their concerns on the extent of interests of the local population considered in the decision-making stages; it is a concern for the environment for Ranjan in the implementation stages. Kumar expresses

concern on incentives for the private sector to undertake exploration; for Jain, it is the creation of ‘exclusive mining zones’.

Kumar expresses concerns over the allocation of revenues from auctions of mineral rights to a state treasury instead of companies extracting minerals. He finds this reduces the probability of use of such revenues for local use, through CSR, etc. Auction-induced increase in costs of minerals will also impact the discovery of metals required for new technologies, increasing the import bill, he thinks. Kumar proposes to differentiate the minerals on the basis of costs of exploration based on existing information and costs of extraction based on ‘bulkiness’.

To Jain, ‘ease of doing businesses may receive priority over the other listed goals such as protection of the environment, conservation of ecosystems, the welfare of mining-affected local communities. He recommends setting up a Minerals Audit Agency.

Ranjan warns on the serious environmental impacts of mining, taking cues from the experiences in other countries. He proposes restoration costs in the cost-benefit analysis for a better-informed decision, as one of the ways towards this end.

For Basu, implementation of inter-generational equity requires a more serious engagement than what the policy holds. Among other suggestions, he calls for investing the entire rent as a corpus to yield income in perpetuity for the future generations as a dividend.

Admittedly, matters pertaining NMP 2019 traverse from vision to implementation, interspersed with institutional framework, technical knowhow, information gathering and availability, matters connected with finance, fiscal and foreign trade, besides balancing the interest of stakeholders — this ‘Conversations’ could address only some. Given the wide ramifications of the mineral sector — across sectors, people and locations — more conversations will surely follow.

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