

COMMUNITY RESOURCE GUIDE

A Guide to understand mining Life Cycle, its impacts and remedies

2013



DRAFT FINAL

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About Community Resource Guide

Each mine opened in different parts of the country brings several externalities with it, be it forest loss, displacement, polluted environment, illegal activities, impacts on women and children, cultural and social changes. Mines are opened to extract resources i.e. minerals, what actually happens before opening a mine or during the process of operation or after the mineral is exhausted remains as a knowledge with a few. Yes, there is lot more to these stages of mining, which we believe, if known can make some change. This resource guide's objective is to create awareness among civil society organisations and communities to know mining in its different contexts i.e. different stages of mining and use the learning's in their specific contexts and educate others. An attempt has been made to make this as simple as possible keeping in mind that organisations can use it to reach a certain point from where it would be easier for them to take appropriate steps or enable a community to become aware and vigilant! In a way, this cannot be a solution in itself but an enabling exercise, to explain the complexities involved in processes in a manner that can be understood at a larger civil society level / domain of citizens. But an effort to know more about mining and assist users to make various stakeholders responsible, transparent and accountable seems to be the only solution. The state is custodian of resources, thereby it has an equal responsibility in managing the affairs - protecting the rights of its citizens, ensuring regulation, compliance and taking decisions which are constitutionally correct and make the miners abide by the law of the republic. The need for this guide emerges from the very fact that mining is a spread out activity in different geographic conditions, cultures and economies and there exist those communities who need such assistance. As people, the need is to become more aware and informative to enable a situation which corresponds to better governance and equitable living

In short, it's a guide to create awareness and make a point that wisdom of communities be given first space and enable better monitoring and compliance.

Note:

The intent of this guide is to correlate and link various informative and crucial aspects that are important for the community, there are several web sources from where images have been adapted to use at the appropriate sections. Provisions in law, circulars, and notifications have been used and explained at several place for explanation in simpler terms with no intention to drift away from the subject. We acknowledge all these sources which we have used in this guide.

ACRONYMS	
AA	Appellate Authority (RTI)
AMD	Acid Mine Drainage
APIO	Assistant Public Information Officer (RTI)
CAMPA	Compensatory Afforestation Fund Management & Planning Authority
DC	District Commissioner
DM	District Magistrate
DMG	Directorate of Mining and Geology
DGMS	Directorate General of Mines Safety
EAC	Expert Appraisal Committee (MoEF)
EC	Environment Clearance
EIA	Environment Impact Assessment
EPA	Environment Protection Act
FAC	Forest Advisory Committee (MoEF)
FC	Forest Clearance
FDI	Foreign Direct Investment
FMCP	Final Mine Closure Plan
FPIC	Free Prior Informed Consent
FRA	Forest Rights Act (common name)
FRC	Forest Rights Committee
GDP	Gross Domestic Product
IBM	Indian Bureau of Mines
MCDR	Mineral Conservation and Development
MCR	Mineral Concession Rules
ML	Mining Lease
MMDR	Mines and Minerals (Development & Regulation) Act
MOEF	Ministry of Environment and Forest
MOM	Ministry of Mines
MP	Mining Plan
NBWL	National Board for Wildlife
NCSC	National Commission for Schedule Caste
NCST	National Commission for Scheduled Tribes
NGT	National Green Tribunal
NMP	National Mineral Policy
NOC	No Objection Certificate
PA	Protected Area
PESA	Panchayats (Extension to the Scheduled Areas) Act 1966
PF	Protected Forest
PH	Public Hearing
PIO	Public Information Officer
PMCP	Progressive Mine Closure Plan
POA	Prevention of Atrocities Act

RF	Reserved Forest
RF	Representative Factor (refer to scale)
ROM	Run of Mine
RTI	Right to Information
SPCB	State Pollution Control Board
ST	Scheduled Tribe
TOR	Terms of Reference
u/s	under section (refer to a section in law)

SYMBOL	
<	less than
≤	less than equal to
>	greater than
≥	greater than equal to
=, &	equal to, and

Distance / length / depth, area, volume symbols	
mm or MM	Millimetre
cm or CM	Centimetre
m or M	Metre
Km or KM	Kilometre
Bgl	Below ground level
Sq. mor m ²	Square metre
Sq. Km or Km ²	Square Kilometre
Hec. Or Ha.	Hectare
Cu. mor M ³	Cubic metre

Distance Units Relation and Conversion	
mm & cm	10 mm = 1 cm
cm & m	100 cm = 1 m
m & km	1000 m = 1 km
m & foot	1m = 3.28 feet

Area Units Relation and Conversion	
1 Acre	4048 sq. m.
1 Hectare	2.47 acres
1 Square Kilometer	100 Hectares

Volume units relation and conversion	
Kilolitre	1000 litre or Cubic Metre

Other Conversions, relations	
1 million	10 Lakh
10 million	1 crore
1 Ton	1000 Kg or 10 quintal

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1.1 IMPRINT OF MINING IN INDIA

Let's see how the mining sector looks like in a nutshell!

- The facts indicate that most of the mining (non-coal) is carried out by the private sector, and one would be amazed to know that 95%¹ of mining leases over an area of 3850 km² is with private sector. So profit is the prime mover, it is quite clear.
- 3758.75 km² of forest land was diverted² by the Government for mining activities from the enactment of Forest Conservation Act in 1980 till August 2011! However, There are only 3236³ reporting mines (2011-12) in India (figures keep changing from Year to Year), whereas the mining leases are 11,456⁴ in numbers (as on 31.03.2012) spread over an area of more than 5302 sq. kms.
- As on 31.01.2010, the total funds available in adhoc CAMPA⁵ (Compensatory Afforestation Fund Management and Planning Authority) were to the tune of Rs. 13,066 Crores (rounded off)
- The Government of India earned a royalty of Rs. 4368 Crores whereas the production value of minerals was Rs. 97,820 Crore [IBM], the value of exports amounted to Rs. 95022 Crores (2007-08) which rose above 1 lakh Crores in 2008-09. Value of exports of metals and alloys in 2007-08 was 66 Lakh Crores which rose to 82 Lakh Crores in 2008-09.
- The country liberalised its economy in 1991, subsequently a National Mineral Policy was brought out in 1993 and now reframed in 2008! All the mining legislations are some 40-50 years old. Only in 2010 a newly amended MMDR bill was proposed but there are host of allied rules, legislations particularly related with mining that remain in the waitlist! DO WE NEED MORE LAWS OR NEED MORE WILL TO IMPLEMENT THOSE LAWS WHICH ARE ON THE PLATTER!
- FDI in mining was opened up by the Government in subsequent to the NMP, 1993 and further liberalised it in 1997, thereby allowing 'automatic approval' route for investments (foreign equity participation) upto 50% in mining projects and 74% in services incidental to mining. FDI in mining sector for all non-atomic and non-fuel minerals have now been fully opened up to 100%.

¹ Sector wise distribution of leases as on 31.03.2010, <http://ibm.nic.in/mldistribution.pdf>

² As per records with the Monitoring cell in Forest Conservation Division of MoEF

³ http://ibm.nic.in/msmpmar12_25_Mineral-Wise%20and%20State-Wise%20No.%20of%20Mines.pdf - (Excluding Atomic Minerals, Petroleum (crude), Natural gas (utilised) & Minor Minerals)

⁴ <http://ibm.nic.in/mldistribution.pdf>

⁵ <http://envfor.nic.in/sites/default/files/fellowships/CAMPA-annex-1.pdf>

- Lakhs of Crores of mining scams were unearthed during the recent times. The number of illegal mining cases⁶ identified by the Government outnumbers the legal mines present in the country. In 2012, the Ministry of Mines introduced definition of 'illegal mining in MCR 1960 (amended 26.07.2012)
- There are 297 mines in the country identified by Indian Bureau of Mines, Government of India as abandoned/ orphaned mines and left unclaimed.
- The GDP contribution of mining sector remained a little over 2%, consistently over the last decade. The Schedule V states were the major contributors of royalty to the exchequer (ranging from 75% to 85%)⁷, Rs 1989 Crores for 8 Schedule V states for 2008-09! Almost 74 % of tribal or indigenous population (of the total 8.16% as per 2001 Census) belongs to these 8 states.

These facts provide an overview of mining sector to the reader to get acquainted with the broader 'State of Mining'.



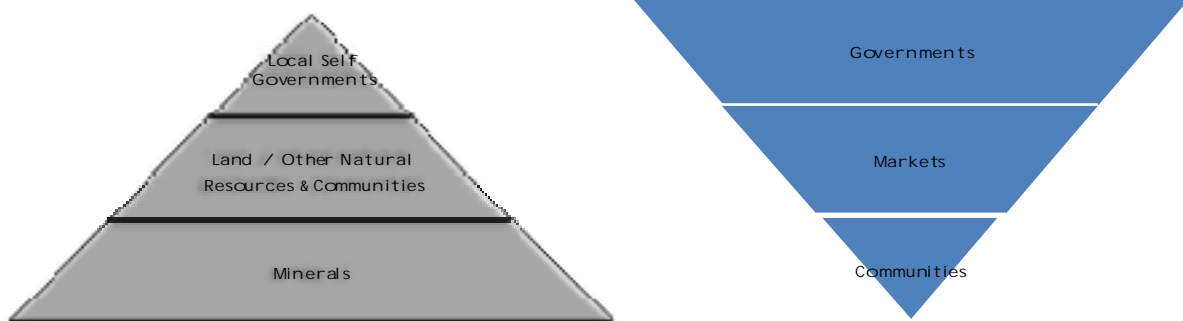
With such a vast arena, there is nothing like understanding different aspects, participating and collectively learning. Let's see what and how you can do

⁶ 98,597 illegal mining cases (2012-13), an increase of 20,408 cases from 2010-11, Unstarred Q.No. 2391, Monsoon Session of Lok Sabha

⁷ As available For years 2008-09, 2009-10 (provisional), 2010-11 (upto december)

1.2 THE SITUATION: GOVERNMENTS, MARKETS & COMMUNITIES

Country's economy was liberalised in 1991, meaning India formulated policies to attract foreign investment by opening its market to the world (investment, deregulation, initiation of privatisation, tax reforms etc.). The reforms allowed diversification of economy but provided a much greater role to market mechanisms and foreign policies impacting the socialist approach towards development and swindle away the balanced Constitutional approach. The shift in development paradigm is twisted more towards investments, thereby impinging hard on the natural resources, environment and its people. Briefly it is mentioned below;



The closest loop at the local level where we can see minerals and other resources and communities attached to it. The caretaker governments or the decentralised governance institutions are the nearest to the communities but there is lack of awareness and information percolation in a proactive manner, thereby keeping the situation with not much intention to change

Government decisions affect markets as well as communities. In mining context, creating suitable policy environment facilitated foreign as well as local investments whereas communities have no clues and remains at the bottom of all decision making without any gain from it. So the questions remain unanswered?

Can markets be treated as private is often confronted as a question? Yes, markets enable a trading space for raw materials and products to be used, exported and imported across boundaries - rest is only voluntary but not duty bound. But markets need the policy environment to enable the actors to negotiate and ensure supply and demand; this role is played by the policies of Government. Markets through different instruments create an environment to enable exchange of finance with resources! But can the market ensure compliance with the activities the players or actors do for any specific activity is another question?

See, the sectoral departments or activities are controlled by respective legal and policy regime but markets do not play a constructive role in ensuring compliance to the prevailing policies and laws but it acts in softening the policy environment in its favour. You can realise this how markets have penetrated into our daily lives by simply visiting a kirana store where you find scores of products every now and then, if you remember between a decade ago and now, you can see a clear change in the number of products that you see in front of your eyes, be it small, medium to large size toothpastes, shampoos, matchsticks, milk, potato chips, comb, recharge coupons etc.

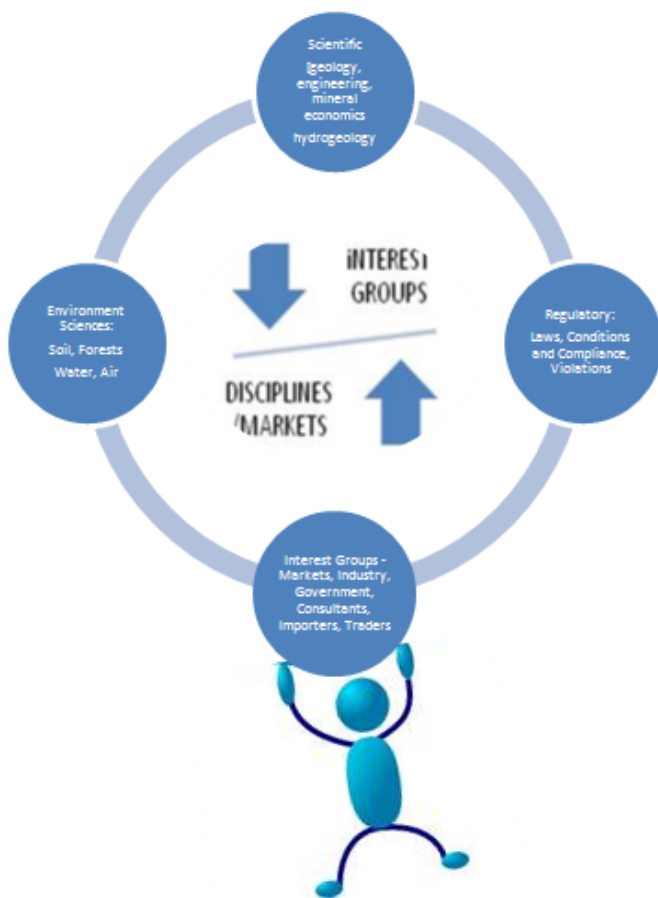


Figure 1 - Interest Groups, Disciplines, Market

Mining is no different where liberalised economy helps investors to invest their monies in the country. Mining is a multi-disciplinary sector, its interest groups, disciplines and markets are diverse, and processes are opaque. But with the increasing interest groups in the mining sector creating a demand for disciplines to promote mining, a combined pressure group bends the balance in its way, by attracting markets to respond and vice-versa!

The person far in the village has to bear the burden of the decisions or interactions between the markets, interest groups and disciplines. One can refer back to the section Black & White to see for itself how the mining scenario has shaped up after the liberalised economy. But mind it, a person being burdened with this vicious cycle is supposed to be a stakeholder and is normally not engaged or aware which keeps him guessing his role within the life cycle of mining or within the services and governance development cycle.

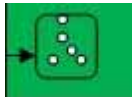
Now we have an overview of linkages between markets, disciplines and interest groups. Now you will be introduced to the key terminology of mining and related aspects to make yourself aware about the meanings as well as their outlook to a layman.

1.3 GLOSSARY OF TERMS:

It is essential to know different terminologies used with respect to mining, natural resources and concurrent laws. These may be helpful in understanding mining, its process and impact reports prepared from time to time by public authorities or private persons / companies for project(s).

ORE: An ore is a rock which contains minerals with important elements including metals.

Ore body and Mineral deposits



MINERALS: It literally means every substance forming the part of the crust of the earth, other than or possibly even including the layer which sustains vegetable life - present on and under the land surface formed during the long years of geological and evolutionary processes, these are called ores i.e. a material having potential of being converted into a product through industrial applications. We also consume a host of dietary mineral nutrients through food intake. Minerals are ores which may be metallic or non-metallic but one thing is sure, these are non-renewable. A non-renewable resource is a natural resource which cannot be produced, grown or generated. These resources often exist in a fixed amount and are consumed much faster than nature can create them.

INDUSTRIAL MINERALS: Industrial minerals are geological materials which are mined for their commercial value. They are used in their natural state or after beneficiation either as raw materials or as additives in a wide range of applications.

METALLIC MINERALS: Those minerals which can be converted to a metal. e.g, Iron Ore. There are 11 metallic minerals

NON-METALLIC MINERALS: Those minerals which are other than metal minerals and also not fuel minerals. e.g limestone. There are 52 non-metallic minerals.

Fuel Minerals: Those minerals whose end use is for meeting energy requirements, like Coal. There are 4 fuel minerals.

GREENFIELD MINING- Any new venture of extracting minerals is normally called Greenfield mining or extraction of minerals from virgin landscape where no such extraction has been done ever in that particular place.

BROWNFIELD MINING- This term is coined where already existing mines are seeking expansion of their activity in terms of increase in lease area, increase in extraction rate. E: g expansion of any mine in terms of its area and enhanced mineral production.

LEASEHOLD AREA: Mining is done in an identified area called the leasehold area. It is an area demarcated for the purpose of mining. *No activity can be carried outside this leasehold area unless and until an extension is sought.*

MINING LEASE: A legal document for the right to work a mine and extract the mineral or other valuable deposits from it under prescribed conditions of time, fee, taxes and royalties. The document may contain maps and lease boundary demarcated. The area of lease differs from one lease to other, normally the units used in expressing the lease area is Acres or Hectares. However, the reconnaissance and prospecting licences are expressed in square kilometres as they cover larger area for arriving at specific economic mineral demarcation.

CORE ZONE: A portion within the leasehold area where actual mining operations are carried out by the miner

BUFFER ZONE: Land within the leasehold area which surrounds the core zone.

MINING: Mining is a process of extracting or winning over minerals both from above the ground (hills, plateaus), below the ground (underground), on the ground (on surface or at shallow depth) with the help of machines and labour.

Category A Mine: A mine which is fully mechanised or most of its operations like deep hole drilling, excavation, transport and loading is carried out using heavy machinery or employing more than 150 workers (average daily employment) in all or 75 workers in underground mines.

Category B Mine: A mine not employing more than 25 persons daily and not using explosives.

OVERBURDEN: Overburden is usually a material which gets accumulated when the mineral is extracted from the ore bodies. Overburden can be top soil, grasses, vegetation, hard or inert materials. Overburden is assumed to have no economic value but its management is an environmental issue. *Each mineral from the ore has different ore to overburden ratio, larger the ratio, larger the overburden, larger land required, larger management issues!*

ANGLE OF REPOSE: it is that angle or slope from horizontal at which a given material will rest without sliding or rolling. *Normally, overburden is stacked around the mine site but safe angle has to be maintained to avoid any damage to surroundings or its stability in rainy season to avoid it being flowing like slurry! Every mineral has an angle of repose, unless the material is stacked at this*



particular angle, the risk of its sliding down increases.

SURFACE RIGHTS: The right of a person or government over a piece of land for which mining lease is applied. Before the mining operation is executed, the statement of consent obtained from surface right holders to allow mining has to be submitted to department (can be after execution but before entry upon land to operate a mine).

LESSEE: One who holds the lease.

LESSOR: One that lets out the land under a lease

ROYALTY: An amount paid by the leaseholder or miner to the government in lieu of minerals extracted from the land. It is a tax based on amounts or percentage mentioned in the second schedule of MMDR Act. Different minerals have different royalties.

ULTIMATE WORKING DEPTH: The deepest level to which a mine will excavate to exploit minerals of economic value. The depth is expressed in meters or in reference to ground level, e.g; x meters bgl (below ground level). *Sometimes the ultimate working depth intersects water table and breaches ground water*

LIFE OF A MINE: The time in years up to which the mineral reserves are exhausted or a period after which a mine is closed. *In case of extension of a mine, it is important to know the life time of a mine, however the lessee may change from one ML to other.*

MINING PLAN is a document (with illustrations) depicting how the mining should be done and prescribes methods and technology for the same. This has to be approved by Indian

Bureau of Mines or State Directorates. Normally mining plans are prepared before the granting of Environment clearance, unless a mining plan is prepared, EC is not likely to be granted, and else it is violation. These documents can be obtained using RTI Act.

MINE CLOSURE: Closure of a mine after the minerals are exhausted or due to some other reasons which may be environmental, social, economical.

MINE CLOSURE PLAN: A plan suggesting steps, as per guidelines issued by government, to achieve closure of mine. There are two types. Progressive mine closure is one which is prepared every five years proposing subsequent closures. Final mine closure corresponds to closure before the miner determines the lease and leave. *Not every mine proposing final closure means that the mine life is over; neither does it mean that the mine cannot be revived back or given on lease later.*

RUN OF MINE (RoM): Material in its raw form from the mine i.e. not crushed or screened. Crushing and screening may mean additional equipments and space required at the mine site or at a distance.

"TEMPORARY DISCONTINUANCE" means the planned or unplanned suspension of mining operations in a mine or part thereof and where the operations are likely to be resumed after certain time

ACID MINE DRAINAGE: Acidic runoff water from waste dump and mill tailings ponds
HABITAT: includes the area comprising the customary habitat and such other habitats in reserved forests and protected forests of primitive tribal groups and pre-agricultural communities and other forest dwelling Scheduled Tribes (FRA)

containing sulphide minerals. Acidity can promote the solubilisation of heavy metal contaminants and must be treated before release into the natural environment.

DUST SUPPRESSION: Water sprinkling the mine site and roads to curb fugitive dust emissions.



A Dusty road in mining region The effect of water sprinkling

Definitions from Forest Rights Act

COMMUNITY FOREST RESOURCE: means customary common forest land within the traditional or customary boundaries of the village or seasonal use of landscape in the case of pastoral communities, including reserved forest (RF), protected forest (PF), and protected areas (PA) such as Sanctuaries and National Parks to which the community had traditional access;

FOREST DWELLING SCHEDULED TRIBES: means the members or community of the Scheduled Tribes who primarily reside in and who depend on the forests or forest lands for bonafide livelihoods needs and includes the ST pastoralist communities (FRA)

GRAM SABHA: means a village assembly which shall consist of all adult members of a village and in case of States having no Panchayats, Padar, Tolas and other traditional village institutions and elected village committees, with full and unrestricted participation of women (FRA)

Definitions (RTI Act)

"INFORMATION" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data

material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

(h) "PUBLIC AUTHORITY" means any authority or body or institution of self- government established or constituted—

- (a) by or under the Constitution;
- (b) by any other law made by Parliament;
- (c) by any other law made by State Legislature;
- (d) by notification issued or order made by the appropriate Government,

and includes any—

- (i) body owned, controlled or substantially financed;

- (ii) non-Government organisation substantially financed, directly or indirectly by funds provided by the appropriate Government;

Definition of PERSON in NGT Act:

"person" includes –

- (i) an individual
- (ii) a Hindu undivided family
- (iii) a company
- (iv) a firm,
- (v) an association of persons or body of individual, whether incorporated or not,
- (vi) trustee of a trust,
- (vii) a local authority, and
- (viii) every artificial juridical person, not falling within any of the preceding sub-clauses

Chapter 2

2.1 MINING AS A SUBJECT IN OUR CONSTITUTION

Entry 54 & 55⁸ under the Union List (list I) is about regulation of mines, mineral development and labour and safety in mines. Similarly Entry 23⁹ (List II, State List) is about regulation of mines and mineral development subject to the provisions of List I with respect to regulation and development under the control of the Union.

Similarly there are other Constitutional provisions like Fundamental Rights (article 19 - 22 under Right to Freedom), (Right against exploitation, article 23 & 24 dealing with forced labour & employment of children in factories); Directive Principles of State Policy (Article 39. Certain principles of policy to be followed by the State), (39A. Equal justice and free legal aid), (40. Organisation of village panchayats), (48A. Protection and improvement of environment and safeguarding of forests and wild life); Article 244¹⁰ (Fifth Schedule) and many others are relevant in the context of functioning and exercising rights in mining and other areas.

2.1.1. MINING AS A STEPWISE PROCESS IN LAW

For the purpose of regulation, the principal Act is the Mines and Minerals (Development & Regulation) Act, 1957. There are rules / procedures prescribed for mineral concessions which are called Mineral Concession Rules, 1960 and for scientific mining and mineral conservation there are Mineral Conservation and Development Rules 1988. The Mines Act 1952 deals with safe working conditions in a mine and is administered by the Ministry of Labour and Employment. Environmental regulations stipulated under EP Act also apply to mining and Pollution Control Boards at state level and regional offices of MoEF need to regulate and monitor activities towards protection of environment, forests and securing public health through pollution control.

For the purpose of mining sector's overall administration there is a Ministry of Mines (Union) which brings in amendments, mineral administration guidelines, administration and management of institutions attached to it. At the zonal and regional level there are offices of Indian Bureau of Mines (a regulatory arm of Ministry of Mines) with a primary role of inspection, regulation and oversight institution as far as regulation is concerned. Remember, these are at a broader geographical scale and these bodies in turn have proximity to the state level institutions i.e. the Directorate / Department of Mines and Geology. These directorates and departments in turn have representatives / officials at the district level too. So a chain of institutions¹¹ is already available,

⁸ 54. Regulation of mines and mineral development to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest.

55. Regulation of labour and safety in mines and oilfields

⁹ 23. Regulation of mines and mineral development subject to the provisions of List I with respect to regulation and development under the control of the Union

¹⁰ Part X, The Scheduled and Tribal Areas dealing with Administration of Scheduled Areas and Tribal Areas

¹¹ See Annexure III

the point is to make use of these institutions and make them respond to their duties if some change is expected in the fabric of mining administration.

2.1.2 BASIC MINING CONCESSIONS

There are three types of concessions, licences that exist, these are¹²;

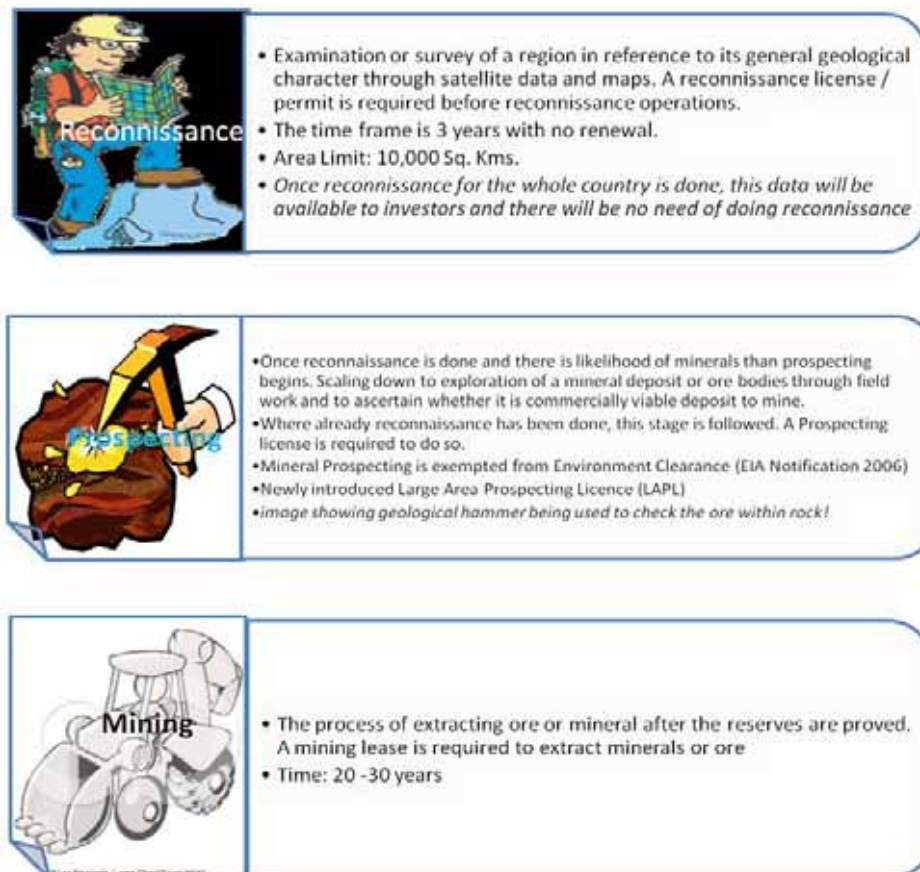


Figure 2 - Types of Mineral Concessions

How do I know if my village or area will witness mining?

It's an established fact that wherever there is an economical potential, the market or the economic instruments will reach to gain profits. Where there is a mineral it is likely to be tapped during your generation or in the generations to come. As exploration progresses as a continuous process, awareness has to progress as well!

School or College exams are scheduled as per fixed time frames but mining doesn't follow any fixed schedule, it will happen as and when the prospect is good or the area is notified. It will catch you unaware, with little time before a final decision is reached. This stage becomes important as most of the preparatory work is required, it is thus important to know what and where the information is available. Without any reliable information, the actions would not be possible. Let's discuss few of these issues here;

¹² Reconnaissance and prospecting are pre-mining licences where no actual mining takes place but a narrowing down to a good mineral deposit is being ensured.

2.2 WHAT IS A PRE-MINING STAGE?

It's a stage when no mining activity or operation is ongoing, only potential for mining is being explored or prospected? Even if someone has applied for ML but hasn't got EC/FC is said to be a pre mining stage as no activity can start before Environment or Forest Clearances. But the process to initiate mining has definitely advanced.

2.2.1 HOW TO ENSURE YOU ARE INFORMED?

The intention to start a project does not follow the principal of FPIC (Figure 3) or simply saying the project is not conceived in consultation with the people or communities. This is missing but is relevant as individual, community resources and rights are at stake. Although there is a provision to register application for PL / ML in a register, there is no proactive dissemination of this information so it remains between the department and the proponent. One has to be aware, observe and keep in mind the following;

- See if pits, bore holes are dug out for taking samples from different places, sometimes heavy machinery for digging bore hole is also used.
- Enquiry about entry into the forest of private land as permission is required to enter the forest from Government and from the owner of private land
- STOP and enquire if your land is being worked upon as the same cannot be worked upon unless there is consent from land owner to grant surface right.
- The surveyor (private¹³ / tehsildar-revenue department) may carry cadastral maps, mark area-land, initiates the process of identification of land.
- People may be approached with land schedule that the lease or licence in question requires land for enabling transfer / surface rights of land.
-

As a continuous process, you can keep check through,

- Newspapers or Gazette (notifications by State Geology & Mining Department),
- register of applications and mining leases in the District Mining office
- own observations as mentioned above
- You are approached by district administration (land surveying, equipments transport etc.)

Remember this: Prospecting is exempted from EC.

¹³ It's not that all private or even government instrumentation or survey or testing is for mining purpose, it should be ensured, it may be for some other purpose too.

EXERCISE I

This is also a time to check your respective governance tiers like Gram Sabha, Panchayat, Intermediate Panchayat (Tehsil), Zilla Panchayat and District Administration. In PESA areas, the governance guidelines or rules pertaining to powers and functions to gram sabhas is important. Similarly in relation to Forest Rights Act (as most minerals are in conjunction with forests, tribal areas, rich biodiversity and community resources), the functioning of Forest Rights Committees or their roles, formation can be discussed.

Few Tips;

1. Form three groups of people from village (minimum 4-5 people) - ex-functionaries of gram sabha / panchayat, present functionaries; group of elderly women and men, group of working men and women
2. Choose three places to sit and discuss about the issues mentioned above. It is not necessary to discuss it in one day, take your time you are comfortable with. Each group can record in brief the points shared.
3. Choose a day when cross learning; sharing can take place among the groups.
4. Finalise a day when you would like to share your observations coinciding with date of calling the Gram Sabha or otherwise

CHECKLIST

Consider yourself to be in a situation of pre mining stage i.e. when there is no mining operation but the mining life cycle is about to begin. This may be

1. reconnaissance or exploration of minerals
2. prospecting,
3. mining lease is granted but not executed
4. Lease execution is held due to want of Environment & Forest Clearance (pending)

These are preliminary stages before actual mining begins. So what is important to gauge here;

For 1&2, prepare for the following; (few initial observations we discussed earlier)

- Assess participatory regime, discuss in Gram Sabha about knowing the project (FPIC, see **Figure 3**) and possible interaction with upper tiers, role under PESA.
- Access Information from the nearest decision makers - DMG / DC or DM
- Engagement on the progress and plan of exploration / investigation from time to time by proponent in the field.
- Know about the minerals to be prospected, future plans and impacts usually caused by mining of such minerals - You can take example of nearby area where problems were faced by the community
- Ensure the issues perceived as problematic by the Gram Sabha / community are adequately put across to the authorities (DM/DMG) as the proponent has to adopt professional approach for exploring or prospecting the area, it is also duty bound to leave the area without environmental harm or damages. Any damages on individual, community land should be brought to the notice of District Administration through Gram Sabha and be adequately compensated

For 3&4, prepare, explore, and collate the following;

- TOR for the project (if ML has not received Environment & Forest Clearance) i.e. Scoping may provide you an overview as to what the EIA report has to address.
- Access information from the nearest decision makers - Ascertain whether the Department of Mining and/or the District Collector have given a Letter of Intent or Identified land. This will reveal about other clearances which are required from other departments.
- Identify Whether the land under question for mining lease is a private land, common land or government land (take stock of Rights, FRA, Consent, Lease deed)
- Don't confuse Consent with Public Hearing (PH). PH is to be conducted to get objections / views from public on the Environment Impact Assessment Report, whereas consent as a principle if followed at Gram Sabha level or at right holders level (surface rights) may change the scenario in which final decisions emerge.
- Consent required from persons / owners regarding Surface, usufruct and traditional rights. The question arises if the forest dwelling community has forest rights impacted due to mining (forest diversion), this is a separate process and covered under the Forest Rights Act.

- Land Acquisition is again a state subject and also under PESA? With the new Land Acquisition Act in place, the compensation for damages caused will have to be worked out on current mechanism. Please note if no land acquisition award has been made or compensation has not been received or no possession is taken from five years after acquisition, the proceedings have to be done afresh as per the provisions in newly enacted Law¹⁴. Here too, Public Hearing on the Social Impact Assessment¹⁵ has to be done in the affected area to hear the views of affected people.
- Look for the dates of public hearing and your right to ask questions [Figure 5]. You can participate in a better way once you are vigilant and following the issues from the beginning.

Be prepared to scan newspapers as Environment Clearance may be on the anvil!

Why your consent is important at this stage?

If you are the owner of the land where PL has been applied for, your consent is needed by the proponent to obtain surface rights and enter upon the area. He has to furnish a statement in this context to the government. This becomes a point where you can use the principle of FPIC, as consent is given once; it is not required to take consent once again for the renewal of PL. Similar is the case with ML. This consent becomes evidence in case operations start or operations are not started due to non-consent of owners. **Kindly refer to section 3.4**

If the land belongs to government, no such consent is required. So what to do if there are rights or access issues involved in it.

Rule 9 (MCR) - (g) a statement in writing that the applicant, where the land is not owned by him, has obtained surface rights over the area or has obtained the consent of the owner for starting prospecting operations:

Provided [] that the consent of the owner for starting prosecuting operations in the area or part thereof may be furnished after execution of the prosecuting licence but before entry into the said area.

[Provided further that no further consent would be required in the case of renewal where consent has already been obtained during grant of the licence.]

Similar conditions apply for Mining Lease too.

¹⁴ The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 got the assent of the President on 26.09.2013

¹⁵ Exempted if Land Acquired under Urgency provisions u/s 40 of the Act

Free Prior Informed Consent

Useful laws in this context: PESA, Scheduled Tribes and Other Traditional Forest Dwellers
(Recognition of Forest Rights) Act, 2006

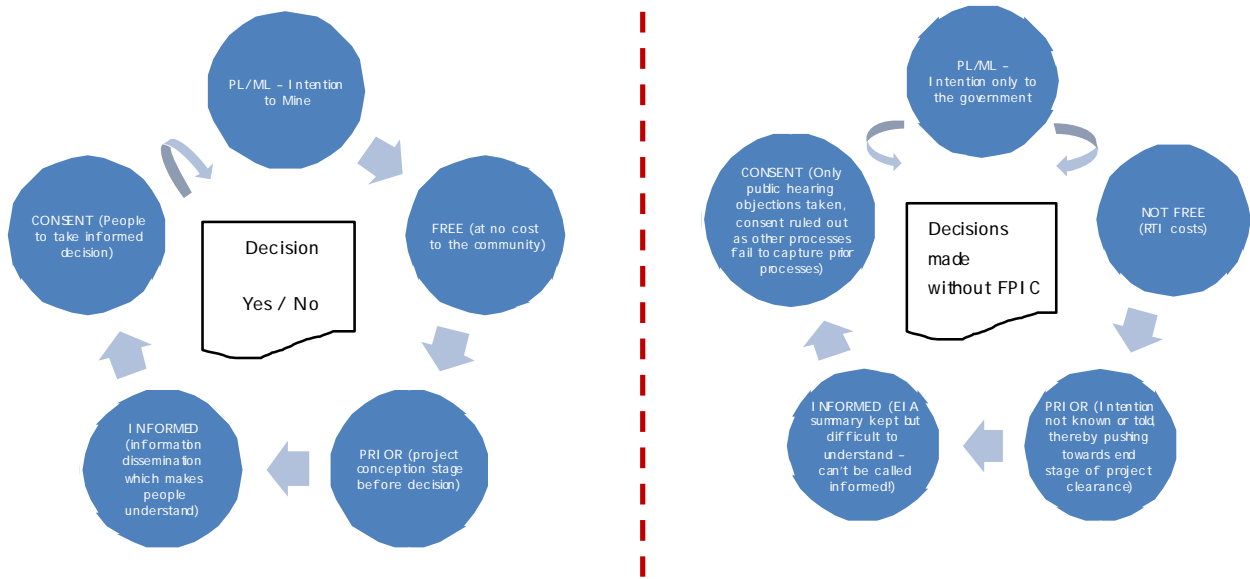
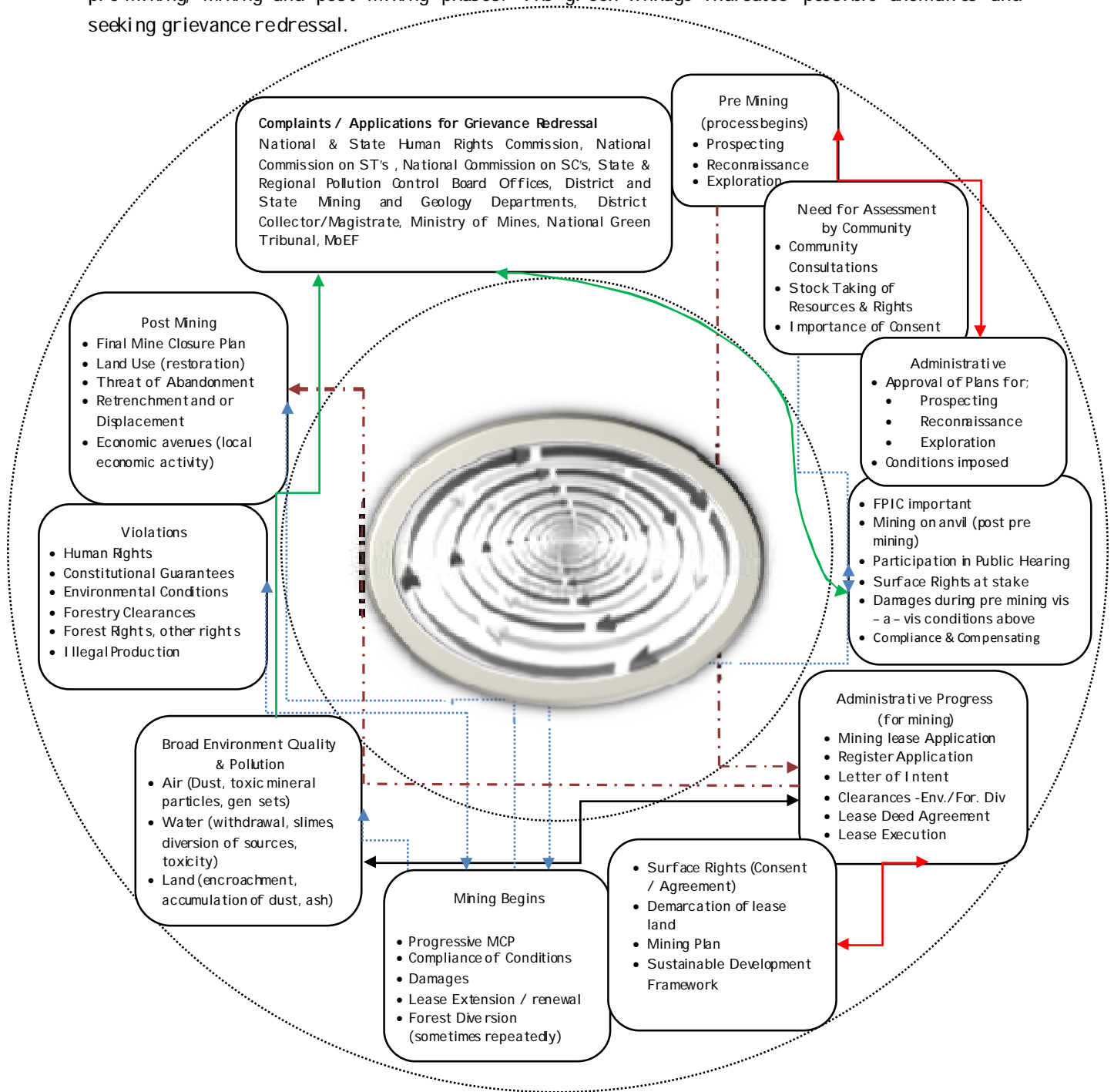


Figure 3 - With & Without Principle of Free-Prior-Informed-Consent

FIG. 4, RECAPTURING: Representative diagram of issues for community in the Mining Life Cycle

This is a representative diagram of issues arising in a mining cycle i.e. from start to end. Many of these are explained thoroughly in the forthcoming chapters. The blue dotted lines indicate interlinkages of issues which community always confronts with. The brown dashed lines indicate the pre-mining, mining and post mining phases. The green linkage indicates possible anomalies and seeking grievance redressal.



EXERCISE II

Can you analyse in which situation or condition you are in. This will create a primary understanding among you and you can make community aware about basics. You can feed your learning from Exercise I & Figure 4 here. Try to learn from each other but don't forcefully enforce your understanding over a point of disagreement.

You? The Reader, the community! Diverse participation, better points!

List points of disagreement and try to seek more information

(You can do this over a plain paper, in any case you can write back over a post card, e-mail, letter to the address given at the beginning of this guide, these will be responded to)

Analyse the Situation

3.1 MINING AND REGULATORY PROCESSES

Transformation from a pre-mining stage to mining stage will require awareness and knowledge you have gained from the earlier sections. Actually there is a very thin line between the processes of pre mining and mining, for example, there may be prospected areas already available (which may have been done earlier or not in your knowledge), the Government department can straightaway allot mining leases by inviting applications. That's why the pre-mining checklist has been elaborated which will eventually help while going through this & forthcoming Chapter.

Mining

One should see mining in its life cycle (Figure 4), minerals once exhausted will require the mine to be closed. Mine closure will be dealt with in the next chapter. The other nodal ministries like the Ministry of Environment and Forests looks at mining from the environment and forestry angle.

While prior permission is required from Ministry of Mines w.r.t 10 principal minerals (Part C of First Schedule under MMDR 1957), any mine irrespective of the size of mining lease requires environmental clearance¹⁶ from MoEF through its Central EAC or State level EAC. If there is a forestry angle, the FAC looks into the issue and if there are issues pertaining to wildlife, the standing committee of NBWL is mandated to review the process of clearance and provide its opinion / expert remarks on whether the project stands the merit for clearance or not. The case is prepared and vetted by the State Forest & Wildlife departments and the final decision rests with the Central Government. Monitoring and information sharing is yet another aspect which is lacking, circulars issued by MoEF from time to time on a specific issue should be checked at envfor.nic.in. A circular¹⁷ issued on 27.05.2009 regarding Mining projects stipulated key parameters to be monitored by project proponent & display on the display board and website. Have you noticed implementation of such an order in your region. (see annexure V 'Who Monitors Whom (i)').

Environment Clearance process is important as there is a scope for participating in public hearing where you can ask for clarifications and information about the project. The process of Environment Clearance is indicated in Figure 5.

¹⁶ Supreme Court Order dated 27.02.2012 in Deepak Kumar Vs State of Haryana and Others

¹⁷ No. J-20012/1/2006-I A.I I (M) issued by MoEF

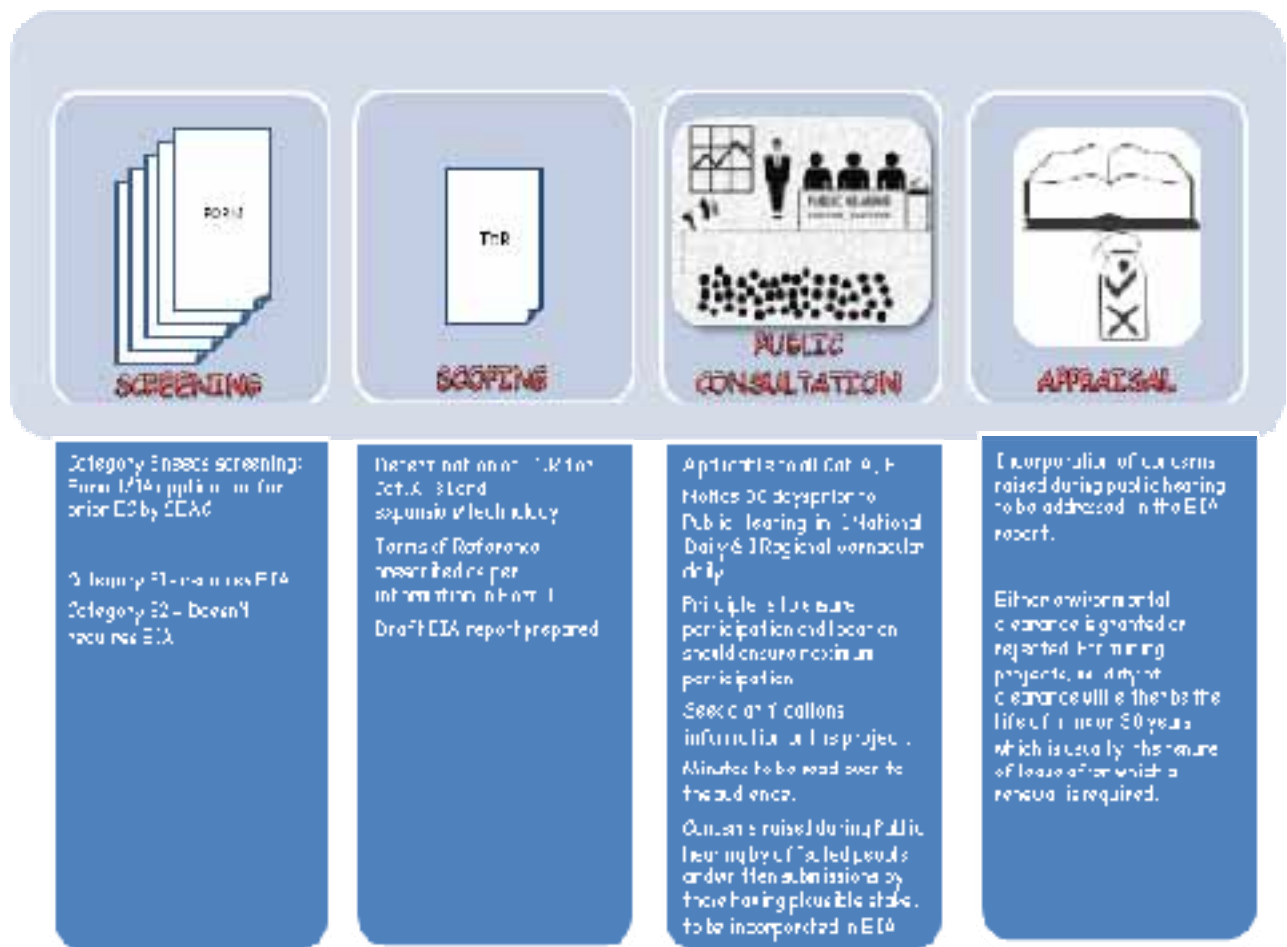


Figure 5 - Environment Clearance Process

48 Hours! EMERGENCY

- Under the urgency provisions of 'The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013' the collector to give the occupier atleast 48 hours notice for intention for taking possession over buildings or part of building or such longer notice as may be reasonably sufficient for the occupier - Section 40, Clause 2
- Section 7 of the RTI Act provides for Disposal of Request within 48 hours of receipt of request if the information sought concerns the life and liberty of a person!

Category A	Category B	Conditions
<ul style="list-style-type: none"> • > 50 ha of mining lease area in respect of non-coal mine lease • > 150 ha. of mining lease area in respect of coal mine lease • Asbestos mining irrespective of mining area • All projects 	<ul style="list-style-type: none"> • < 50 ha of mining lease area in respect of minor minerals mine lease; and • ≤ 50 ha ≥ 5 ha of mining lease area in respect of other non-coal mine lease. • ≤ 150 ha > 5 ha of mining lease in respect of coal mine leases 	<ul style="list-style-type: none"> • General conditions shall apply except for project or activity of less than 5 ha of mining lease area for minor minerals: • Provided that the above exception shall not apply for project or activity if the sum total of the mining lease area of the said project or activity and that of existing operating mines and mining projects which were accorded environment clearance and are located within 500 metres from the periphery of such project or activity equals or exceeds 5 ha. • Note: <ul style="list-style-type: none"> • (j) Prior environmental clearance is required at the stage of renewal of mine lease for which an application shall be made up to two years prior to the date due for renewal. Further, a period of two years with effect from the 4th April, 2011 is provided for obtaining environmental clearance for all those mine leases, which were operating as on the 4th April, 2011 with requisite valid environmental clearance and which have fallen due for renewal on or after 4th November, 2011: • Provided that no fresh environmental clearance shall be required for a mining project or activity at the time of renewal of mining lease, which has already obtained environmental clearance under this notification

Figure 6 - Framework of EIA Notification¹⁸ for Mining Projects Categorisation and Conditions thereof

Note: table above for Project Activity i.e. 1(a) Mining of Minerals as per EIA Notification 2006

Category B¹⁹ treated as Category A if located within 10kms²⁰ from the boundary of Protected Areas notified under the Wild Life (Protection) Act 1972, Notified Eco Sensitive Areas, Critically Polluted Areas as notified by the Central Pollution Control Board, Interstate & international boundaries (leaves out Scheduled Areas). Category B projects are appraised by State Environment Impact Assessment Authority²¹ where State Expert Appraisal Committee (SEAC) receives applications and process them.

¹⁸ Notification no. S.O. 2731(E) issued by MoEF on 09.09.2013

¹⁹ Further classified as B1 & B2, depending upon the nature and location specificity of project [Stage1-Scoping, 7(i), EIA Notification, 2006].

²⁰ Projects located within 10km radial distance from the national parks, sanctuaries, biosphere reserves, migratory corridors of wild animals the project proponent shall submit the map duly authenticated by Chief Wildlife Warden with comments

²¹ Constituted at State Level by Gazettee notification by MoEF under the EPA Act. The authority exercise such powers and follow such procedures enumerated in EIA Notification 2006

3.2 CORRELATIVE CHECKLIST

But following are few points which should be kept in mind; while you read; please keep in mind the following legend:

	Process of Mining Lease and where you need to be aware
	Parallel / overlapping process of Environment Clearance
	Processes / stages useful at the initiating stage
	Useful to know as mining goes along or ongoing mining
	Relevant at all stages in the Mining Cycle

Application for ML	To the respective state government where the lease is expected, in case of 10 principal minerals, prior approval of Central government is required. Form I MCR 1960. The government may notify areas or issue Letter of Intent for concessions with conditions given in it	Register maintained of ML application and leases with state government in Form L & M respectively.
Consideration	Also if the mining project (lease area) is >50 hectares it is termed as Category A project (MoEF), and if it is <50 but >= 5, it is Category B	See figure 6, for category of mining project. Now all mines irrespective of size require environment clearance.
Order for Grant of ML	A lease deed in Form K (MCR, 1960) to be executed within 6 months of the order.	Can it be challenged? Yes, if you determine that your resources are at stake and have not been given any attention Write complaint to DMG, DM, MoM & Department of Environment (state)
Mining Lease Demarcation	Each mine is required to overlay cadastral maps with lease area to bring clarity and avoid disputes in future. This will also depict whose surface, usufruct & traditional rights are at stake. At this stage, it is essential to know whether FRC at revenue village is formed and forest rights process initiated. You can also prepare your sketch map (in Chapter 4) to locate physical, social, religious, cultural and livelihood spaces	CIC Order requiring cadastral and lease map overlays (Circular No.2/2010 dated 6.4.2010 by Chief Controller of Mines, Indian Bureau of Mines)

	with reference to your village.	
Mining Plan	<p>Mining plan is prepared and approval to be obtained before granting environment clearance. Mining Plan is a comprehensive document like a Master Plan at lease level with technical, scheduled and time bound activities of mining in a particular lease.</p> <p>Sometimes MP is revised to enhance production within the lease area, meaning the resource will exhaust at a faster rate.</p>	<p>Order on Public Disclosure of Mining Plan by Chief Information Commissioner dated 7.6.2010 (refer annexure IV)</p> <p>Circular no. 4/2010, 27.8.2010 by Chief Information Commissioner</p>
Lease Execution - THESE (GRANT-EXECUTION) ARE IMPORTANT STEPS TO INTERVENE AS THIS IS ALL DONE BY STATE/DISTRICT ADMINISTRATION	Lease can be executed before furnishing an agreement of consent is given by the right holders but it cannot be worked upon before surface rights are obtained through consent (see box at pg 14 & section 3.4)	Correlate with Forest rights and the process of formation of FRC and assess situation before agreeing for consent.
Progressive Mine Closure Plan (PMCP)	In an attempt to implement Mineral Conservation and Development Rules, 1988, the applicant requires to submit a PMCP after grant of mining lease. This is important because it is a component of mining plan and forms part of restoration and reclamation of land so destroyed by Mining.	<p>Regional Controller of Mines (Indian Bureau of Mines) or State Government</p> <p>Mine closure rules were framed in year 2003. The post mining land use is critical. Panchayat in consultation with affected Gram Sabha should make a plan to advise and incorporate in the FMCP.</p>
Final Mine Closure Plan (FMCP)	<p>To be submitted one year before the proposed closure of mine.</p> <p>The same needs to be submitted to MoEF 5 years in advance of closure of mine with details of corpus funds.</p>	

Abandonment	A lessee cannot abandon a mine without giving notice to the Government and reasons for abandonment. He is liable to take ameliorate measures to restore and implement the Mine Closure Plan before determining the lease.
Mining Lease Renewal	<ul style="list-style-type: none"> - Environment clearance is not required during renewal of the mining lease (refer figure 4, Conditions) - Any fresh consent is not required during renewal of mining lease.
Consent or NOC from SPCB's, CGWB ²²	Annual or a specific period of time – Consent conditions are outlined by SPCBs. NoC from CGWB in case mine intersects water table.
Role of Gram Sabha & Right holders <i>Remember, exercise 1 you did earlier, somehow this aspect needs to be consistently strengthened.</i>	Under the 73 rd Constitutional Amendment among 29 functions, Land improvement, implementation of land reforms, land consolidation and soil conservation is one among them. Under PESA provisions, Gram sabhas have a primary role in approving plans, programmes for social, economic development; mandatory recommendations before acquiring land in scheduled areas, prospecting and mining licences
Terms of Reference (TOR) Issued	Ministry of Environment and Forests provides TOR (similar process at state level, refer figure 5) based on which the proponent prepares Environment

Article 243G, 11th Schedule to Constitution. Gram sabha can discuss powers/ functions devolved to them

Based on Environment Impact Notification of 2006 which is amended from time to time

²² Central Ground Water Authority - constituted under Section 3 (3) of the Environment (Protection) Act, 1986 to regulate and control development and management of groundwater resources

	Impact Assessment (EIA) Report.
EIA	Draft EIA prepared
Public Hearing	A public hearing is to be conducted before final clearance to the project. A notice for public hearing is given 30 days prior to the date of public hearing. Although the period is short but if a conscious effort is done as explained earlier, right questions can be asked during the public hearing.
Appraisal & Environment Clearance	After the public hearing, the appraisal process is done, here the points raised during public hearing need to be adequately addressed. It has to be kept in mind that the immediate result after appraisal is either according environment clearance to the project or further information is asked from proponent if the points raised during public hearing were adequately taken on board. The EIA should comply to the TOR
Environment Clearance Issued <i>Recall, pre-mining stage, where lease was held up due to want of Environment Clearance, now the clearance is being issued</i>	The clearance letter stipulates specific and general conditions and a six monthly compliance report is mandatory. The respective regional offices of MoEF will monitor. There is a mention in the EC that any appeal against EC lies with the National Green Tribunal within 30 days u/s 16 of the Act.
Mining Operation Begins	To comply with Environment clearance conditions, lease conditions, mining plan,

During mining operations, there would be several kind of compliance mechanisms but most of them are not known to the people in the affected zone. Eg expansion of a project requires certified copies of Compliance report by Regional office of MoEF to be submitted for consideration for expansion

	mine closure plan, consent norms, Sustainable Development framework (SDF)	SDF should be monitored as the framework may set a trend for mining life cycle i.e. from mining to closure, suggestions or complaints to set it right should begin early (DMG, IBM)
Environment Clearance Copy	As per directives, the EC copy should be publicised in newspapers, State Pollution Control Boards (notice board), Tehsildar office, District Collector, Proponent to send copy to respective Panchayats, Upload on company's website as well as on MoEF's website (environmentclearance.nic.in).	
Forest Clearance <i>NOCs may also be required here in the process of forest clearance from line departments.</i>	As environment clearance, forest clearance is also mandatory in case the project involves use of forest land for non-forestry purposes. The FAC has to also discuss project specific scenario and take stock of Forest Rights recognition and whether this diversion impact the rights of people (community, individual and habitat rights)	Section 4(5) of FRA protects eviction of forest dwelling ST or other traditional forest dwellers till the verification and recognition process is complete.
Forest Rights Assessment ²³ (see annexure V 'Who Monitors Whom (ii)')	If practice over forest land is there, the forest dwellers cannot be ignored, the process of recognition and determination of such rights is pre-requisite before operationalisation of lease.	If the project involves forest and non-forest land, work should not begin in non-forest land till approval. If ignored, Gram Sabha can send a resolution to the Chief Secretary of the State, State level monitoring committee or the Ministry of Tribal Affairs in New Delhi about violation

While you have known the preliminary aspects which should be kept in mind, assess what kind of interrelations you see, what information you have. It should be remembered that all the public authorities are covered under the Right to Information Act, 2005. Each Public Authority has a Public Information Officer (PIO) to whom an application can be made. (see Annexure I)

²³ <http://envfor.nic.in/divisions/forcon/3rdAugust2009.pdf> [Circular No. F.No.11-9/1998-FC(pt)]

3.3 RISKS FROM MINING TO LAND, ENVIRONMENT AND PEOPLE

Overburden dumps: Every mine to win over mineral removes top-soil, hard strata and dump it at a place which has to be demarcated in the mining lease. The angle at which it maintains stability is the angle of repose i.e. 28° . Every material has such an angle depending on nature, slope and water content. Like coarse sand will have a larger angle than fine sand. Dump failure can cause damages to adjoining land as these dumps are most often are located at lease periphery to avail better circulation & access to ore bodies. In monsoons, the problem may get aggravated.



Tailings: These are waste rejects with finer particles mixed in the form of slurry and disposed in a dedicated area. The processing of minerals in a mining facility like beneficiation will generate such waste streams. These are generally stored at surface level, hence the problems of occupying large areas, vulnerable to air and water erosion, leaching, breaching of wall under excess pressure are few common threats.

Acid Mine Drainage (AMD): As the term suggests, the acidic formation from the rocks, say iron ore, the waste rocks and pits excavated. Toxic elements drain from mine or seep into the ground creating problems of contaminated water. Decontamination is an expensive and sometimes irreversible process so better to make authorities accountable in the initial stages of mining life cycle.

Dust: There are several sources of dust pollution, also containing traces of finer metallic elements. The sources are crushing, drilling, blasting, loading (worker level), heavy machinery, transportation (haul roads), conveyer belt (one which carries ore over a mechanical belt). Large volumes of ore is required to reach the processing facility through trucks, the dust and more specifically finer dust particles have a tendency to spread in a larger area say, houses, water bodies, agricultural land. Deterioration in occupational and Public health may be noticed - respiratory and skin diseases are common but may take chronic shape over time.



Diversions: Several ground features like nullahs, streams, roads may get diverted from within the lease boundary thereby altering the behaviour and dependence on these. Forests, if any are also diverted for non-forest use; certain of these have intrinsic links with the surrounding community.

Breaching Water table: Most of the surface mines intersect the water table, depth of which varies from area to area. It depends whether the aquifer is confined or unconfined and the level at which water is intersected. Communities wholly dependent on ground water in certain situations will have issues with potable water availability & quality. In certain circumstances, wells getting dry have also been witnessed. Ground water pollution spreads through the aquifer systems and may reach beyond the buffer zone of the mine, in many cases where mining intersects ground water, the excess water in the pit has to be pumped out which is freshwater whereas the value loss is never calculated.

Surface Water Pollution: Rivers, streams, nallahs flow over long distances. Water consumed in different processes of mining eventually results in wastewater generation which has to be treated at par with surface water quality as many physical and chemical parameters get altered due to chemicals, reagents, rock formations. The outfall of wastewater will provide an estimate of the colour, odour and volume released in the surface water. Any new discharge or channel will require permission from the pollution control board

Remember, there are point sources of pollution like the waste discharge outlet discharging wastewater at a particular point which is also called outfall and it may lead into a river. Other non-point sources of pollution is as discussed above as leaching to subsurface, waste dumps encroaching upon or damaging land.

Socio-Cultural: A mine or a cluster of mines results in in-migration of labour, labour colonies, ancillary market, truckers or a kind of ribbon development where the communities, particularly adivasi communities in surroundings find this as encroachment into their social and cultural values.

Damages to structures due to ground vibration: It is often noticed that cracks in houses appear owing to blasting activities but it is a very contentious issue. MCDR in rule 35 mentions scientific investigations to check damage due to ground vibrations. DGMS and State government should be informed of any such damage and request for scientific investigation on urgent basis.

3.4 GOVERNMENT MACHINERY, INFORMATION SEEKING AND GRIEVANCE REDRESSAL

1. As you know, the District Administration through its various line departments will be the nodal entity in terms of points of contact for any development or extractive activity like providing land records, ascertaining land ownership, vetting of information, status of disputes pertaining to land, clearances required etc. These departments and subjects are more from administrative management and aid the process of NOC for various activities like land clear of all encumbrance, certified copies of documents etc. The schedule of land for which people hold surface rights is bound to be prepared / facilitated by the DC, so be cautious to procure maps overlaid with lease boundary and communicate about disagreement, if any. Compensation, if any has to be worked out and paid to the right owners.

Keep the DM / DC informed and seek redressal!

2. With land records with the revenue department, consent agreement should be entered into carefully. Firstly, ascertain if the process of FRC (FRA) is settled or under process and the land in particular whether private or government needs attention. The Gram Sabha should take note of it. While consenting, surface, usufruct and traditional rights should not be disturbed and adequate care to be taken while drawing the agreement; the District Collector should be informed about the externalities so that adequate protection is provided to exercise the rights and fair compensation provided for the land, if granted for lease. There are forums like NCST, NCSC where dispossession from land or wrongful occupation of land can be complained under the PoA Act, 1989²⁴, similarly negligence in implementing PESA Act 1996. Disputes pertaining to transfer (illegal) of tribal land to non-tribal should be tackled by authorities, commissions & Gram Sabha.
3. Any encroachment over land by mining under the jurisdiction of the respective Gram Panchayat should be brought to the notice of the district authorities and the respective district mining officer. Remember, the lessee is bound to contain the operations within the demarcated lease boundary and anything beyond the lease boundary would mean contravening the provisions of agreement / rules and Act. District Collector is the supreme authority who can initiate action upon receiving information from the Gram Sabha or the person(s) affected. Be Objective to enable implementation of rules which are laid in the rule book.
4. Similarly the State pollution control boards operate at the regional level and each region takes care about particular districts. As the name suggests its mandate is 'pollution control', under the Acts like Water, Air, Hazardous waste formulated under the Environment Protection Act, 1986. A NOC²⁵ from SPCB's enables a person / company to climb further steps for a particular project.

²⁴ Section 3 of the Act gives a list of offences which are termed 'atrocities' and are punishable

²⁵ Consent to Establish and Consent to Operate are accorded by SPCBs activity must be put to operation only after valid consent to operate, any violation in this regard is a criminal offence. Consent conditions and the time period for consent may be revised from time to time.

- a. Many boards have complaint mechanisms like 'grievance redressal (WBPCB)' 'help desk (JHARKHAND)' 'toll free no.' Under the Water and Air (Prevention and Control of Pollution) Acts, the provision to Appeal has been provided under section 28 of Water (Prevention & Control of Pollution) Act, 1974 or in short Water Act & section 31 of Air (Prevention & Control of Pollution) Act, 1981 or in short Air Act. While the Air Act provides for appeal under section 31 against any orders passed by board, section 28 of the Water Act allows appeal against orders passed u/s 25 (deals with restrictions on new outlets and new discharges), u/s 26 (deals with existing discharge of sewage or trade effluent) and u/s 27 (deals with refusal or withdrawal of consent by State Board). Any person having genuine interest in protecting environment or getting affected by harmful impacts due to pollution can complaint with regard to pollution and / or appeal against the orders of the board. As 'person aggrieved' has not been defined in the Water and Air Acts, the board on receiving a complaint or appellate authority receiving an appeal should communicate with reasons for allowing / disallowing or taking action on the complaint or appeal.
 - i. Section 51 of the Air stipulates requirement of Maintenance of Register to record consent issued and particulars mentioned thereto alongwith emission norms. The register is open to public for inspection by any person interested. The same is provided under Section 25(6) of Water Act.
 - ii. Section 43 provides scope for involvement of third party to make a complaint before the competent court. The same is provided under section 49 of Water Act.

5. The National Green Tribunal (NGT)

The National Green Tribunal Act, 2010 came into being on 2nd June, 2010 for effective and expeditious disposal of civil cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right in relation to environment. The most important aspect being that the tribunal looks into the process of decision making and resultant outcome of such a decision which harms or jeopardises environment and communities protecting and depending on it.

The Tribunal applies the principle of sustainable development, the precautionary principle and polluters pay principle. Mining for that matter is an activity which portrays challenge to all these principles as resources are limited and regulatory regime is weak.

The terms 'substantial question relating to environment' refers to addressing violations that occur due to non-adherence of statutory environmental obligations in implementation of enactments as specified in Schedule I²⁶ by a person²⁷ (see definition of person in Glossary of terms from NGT Act). The tribunal u/s 14 has the jurisdiction to settle such disputes but substantiality issue has to be clearly spelt out (impact on larger community, substantial damage to environment, damage to public health) and time frame of six months

²⁶ The Water (Prevention & Control of Pollution) Act, 1974; The Water (Prevention & Control of Pollution) Cess Act, 1977; The Forest (Conservation Act), 1980; The Air (Prevention & Control of Pollution) Act, 1981; The Environment (Protection) Act, 1986; The Public Liability Insurance Act, 1991; The Biological Diversity Act, 2002

²⁷ see definition of person in Glossary of terms from NGT Act

from the cause of action of such dispute first arose. Importance here is about being vigilant and taking due steps to make authorities act upon such issues, ongoing mining and ancillary facilities (read industries) in such an instance is thus one of the crucial stages to be kept in mind

For the first time, an Act provides for relief, compensation and restitution. These again relate to enactments under Schedule I where victims of pollution & other environmental damage who find themselves in a situation where they are at loss owing to loss of tangible and intangible benefits they receive from natural resources and within the definition of 'environment which includes water, air and land and the inter-relationship, which exists among and between water, air and land and human beings, other living creatures, plants, micro-organisms and property'. Although in the Mining legislations, there are provisions for compensating loss or damages through mutual agreed amounts or by the government officials but the Tribunal can take an objective view based on the principles laid by it – sustainable development, precautionary principle and polluters pay. Important again is the crucial factor of time, within a period of five year from the cause for such compensation or relief first arose. The impact of mining may be beyond the core and buffer zone so a causative relation with respect to time and nature of damages thus caused becomes an important element.

Evidence gathering is a strenuous exercise but a rewarding one!

The Tribunal has appellate jurisdiction over key laws and various procedures prescribed under them. The decisions or orders issued under them (laws, procedures like Environment Clearance process) by authorities, governments must reflect that these serve the objective and intent of law, any person aggrieved by such orders and decisions can prefer an appeal to the Tribunal. These key laws are those mentioned earlier under Schedule I whereas there are specific sections pertaining to these enactments under which an order or decision passed can be appealed against.

Water (Prevention and Control of Pollution) Act, 1974	Order or decision by the appellate authority u/s 28 of the Act	See section 4 of this Chapter
	Order passed by the State Government u/s 29 of the Water Act	Revision and / or checking legality or propriety of any existing order by board on its own motion or application made to state
Air (Prevention and Control of Pollution) Act, 1981	Order or decision by the appellate authority u/s 31 of the Act	See section 4 of this Chapter
Forest (Conservation) Act, 1980	Order or decision by the State Government or other authority u/s 2 of the Act	Order for Diversion of forest u/s 2(A), appeal u/s 16(e) of NGT Act
Environment (Protection) Act, 1986	Order granting environment clearance in the area in	Emanating from the process of Environment Clearance

	<p>which any industries, operations or processes or class of industries, operations and processes shall not be carried out or shall be carried out subject to certain safeguards under the Act</p>	<p>under EIA Notification, 2006 where the process to arrive at final decision is not legally maintainable. (see figure 5)</p>
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First emphasis should always be to resolve the issue, dispute pertaining to environment, damages at the local level by means of grievance redressal channels (also refer **Annexure III** on Overview of Grievance Redressal & Procedure Under Department of Administrative Reforms and Public Grievances), letters of complaint, resolution request or making authorities aware of non adherence of regulations to act upon.

4.1 COMMUNITY MAPPING

Background to Understanding Maps

Maps have been produced over several centuries as their utility is relevant to micro and macro levels. It provides an integrated view of features, geography, settlements and provides a correlative sense of seeing features in totality. Maps of different kinds depending on the purpose are produced. A map can provide or cover a much larger area as one unit on map depicts multiple units on ground, say 1cm over a map can depict 1 km which indicates details are macro. A map without scale is a sketch but it can give indicative distances with local knowledge and help build correlations. Let's first understand what scale means in a map. Each map is to the scale (if not, it should be written 'not to scale'). To depict the scale, follow these steps;

Read the map to find the ratio or representative factor (RF); e.g 1:10000, (in words it should read one in ten thousand) indicating how many units on ground equal one unit on map and a word description is also given. This is still a ratio, so using the metric system, use centimetre as unit which will show like this;

RF	Scale	Description	Units
1:10000	<p>A Centimeter and inch scale</p>	You can also see in the figure 1cm=10mm And 1 inch = 2.54 cm (see dashed line for clarity)	mm - millimeter cm - centimetre m - meter km - Kilometer
Equate cm on either side of the RF (above) as this is the most easily measurable unit.		This situation will emerge: 1cm (on map):10000cm on ground	1cm = 10mm 1 meter = 100cm 1 Km = 1000m
Now you already know that each cm on a map depicts 10,000cm on ground but since the distance is large, you need to convert either to m or km			
Form	The result will be 1cm = 100m	Because 1 m = 100cm	So each cm you measure over map depicts 100 m on ground.

Note: read from left to right (row wise)

You can take any other RF, say 1:100,000 and do the same exercise as above
1cm = 100,000 cm or 1cm = 1000m (as 100cm = 1m) 1cm = 1 km (as 1000m = 1 km)

A correlation can be drawn, in 1:10,000 we saw, each cm indicates 100m on ground whereas 1:100000 indicates 1000m or 1 km - a ten times increase. You can follow the same technique for different RFs.

Most of the EIAs take an aerial distance of 10kms for doing impact assessment which means all areas within the 10km radius

Procedure and Activity to Draw Village Sketch, Resources and Rights in a Participatory Manner

What you need;

1. Community members
2. Chart papers, Pencil eraser, Scale, Pencil Colours
3. Coloured Bindis (to mark different features as explained below) or coloured thumb pins

Procedure:

- 1.P Stick a chart paper from where everyone can see it, on a board Or if not available lay it on ground but visibility will be less
- 2.P Marking should be done with coloured bindis (which women put on their forehead) or use coloured thumb pins, like one coloured bindi can be used for marking community resources, another colour for buildings structures and so on (you can also refer to Annexure II, Resource Inventory Sample)
- 3.P Lines (for roads etc.) can be drawn with pencil initially
- 4.P No colouring before you finish the first draft of map
- 5.P Once you have drawn the first draft, copy it to another chart paper using sketch pen and give names, numbers to different features marked.
- 6.P Legend is another important element of maps which is a key to read map. Like, if you mark all houses (say a square box with nos. within it), you can give it yellow colour. In legend make similar box with same colour and write along with (outside box) Residential. Repeat for other features.

Activity

1. A gathering of people collectively choose a central point (consider trijunction of village if possible) so that it becomes a starting point of map making
2. Firstly, correlate community resources / common lands / water bodies (ponds, wells, washing areas etc.) in a direction and place with respect to the central point and mark with symbol (you can discuss what are community resources make a list) – it may also include protected or reserve forests, individual occupational rights.
 - a. This list will help in marking these resources in direction w.r.t. central point
 - b. Mark the North on the map with arrow; you will very well know the directions from your knowledge.
3. Mark village or settlement like houses, community hall, panchayat ghar, other structures in relation to central point and community resources you have just marked. You can also number them too. Use different numbers for each category, like for residential use R1, R2.....and so on whereas for public/community buildings you can write their names instead.
4. Now you can mark the roads, pathways again in relation to all features you have marked till now.

You are now through with the first stage of draft map preparation. Now review the map once with all features marked to remove any doubts and errors. Review in a group and change / update wherever required.

5. You can broadly depict forests and agricultural land (you can go into as much detail like type of forest, community forest, community land etc.). You can delineate customary boundaries of

community forest resource with elders and / or those who are well versed with such boundaries and access.

6. You can now discuss about the rights you have by pointing the area in the map.

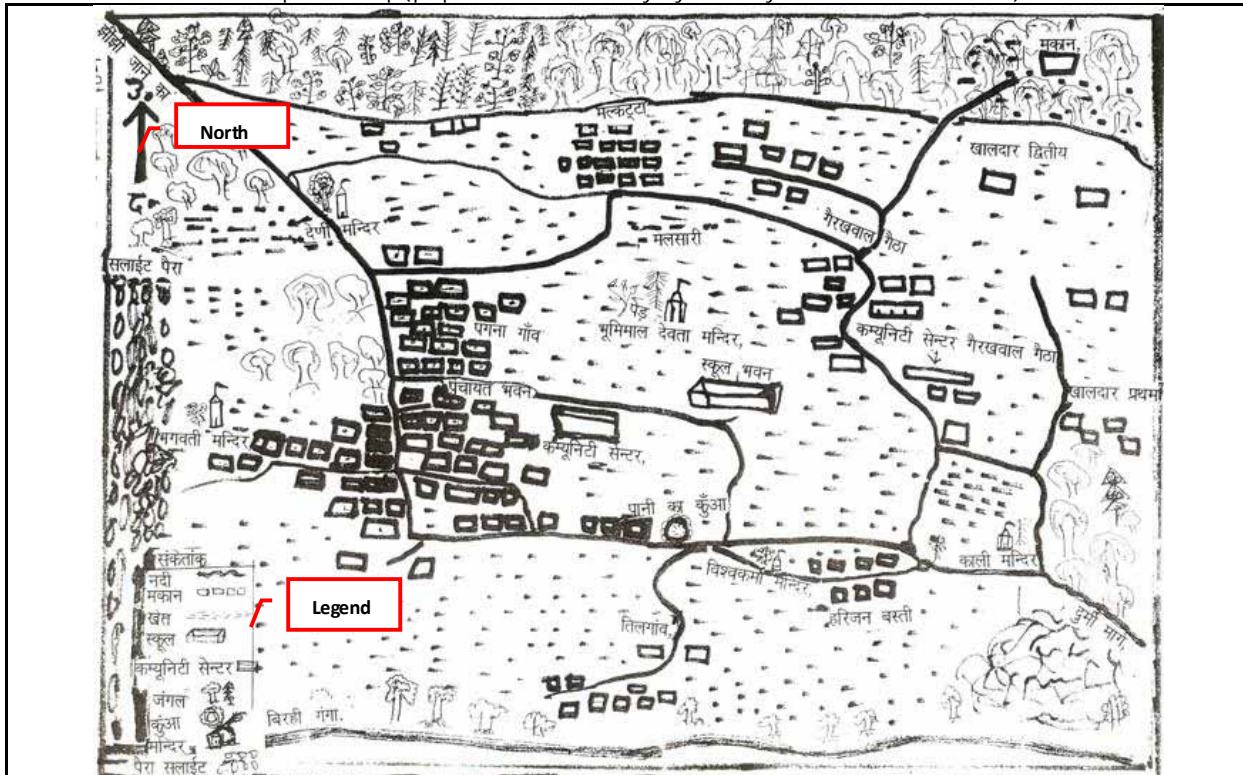
This is a basic sketch that emerges for own understanding and seeing village set up in totality. But it is your decision as to what should be indicated in the map and what should not be indicated.

7. You may mention the distance and direction of adjoining villages. Some resources may have a common usage among different villages.

8. Now you can discuss and mark those areas, points in the village on the map which are vulnerable, sensitive due to natural factors; say water stagnation, slope failure-landslide, soil erosion and any other external factors affecting the environment & health.

You can make copies of the sketch map you prepared, the original map can be used to add features over time. Any change in the map should be done, again in a group.

Example of a map (prepared with community by Academy for Mountain Environments)



5.1 MINE CLOSURE

This is the end stage of mining but it cannot be taken lightly as the communities surrounding it have to live there. As you may be aware that mining brings with it some satellite activities (services) around a mining hub or mining area so closure of mine will not only affect the workers but also those engaged in these satellite occupations & many of them are no strangers but part of adjoining community.

Land use is another important factor which needs to be designed in a manner that it best serves the purpose of the community at that stage as the time period when closure²⁸ happens may extend into decades and community needs may also have changed.

Reclamation and restoration of the mine through instruments of Progressive and Final Mine Closure plans should be proactively discussed with the Mining Department, District Collector by the Panchayat and Gram Sabha (pl refer **Section 3.2**, page 22). One must also be careful about choice of flora suggested as these may not be useful and may promote monoculture. These should be close to self-sustained ecosystem.

Final Mine Closure Plan (FMCP) is to be submitted 1 year prior to the closure (to IBM, State Mining Directorate or Department) and to MoEF 5 years prior to closure with the details of corpus fund envisaged for closure. The Progressive mine closure plan (PMCP) is a continuous process every five years over the life of mine and included in the mining plan itself.

Be Careful:

You can know about the life of mine from the Environment Clearance letter that is issued for the mining operation to start, the life of mine tentatively will depend on the rate of extraction vis-à-vis reserves over the mining period which should be an indication for you to start discussing about nature of impacts (socio-cultural, economical, environmental) that closure may have.

Progressive Mine closure should comply with the activities and one can notice if these activities are meaningful for the community and environment. All such situations in **section 3.3** about damages / impacts should be kept in mind so that you can specifically point out the issues that need to be addressed. The water quality may have deteriorated so the plan should reflect to address that and ensure potable water supply as it supports life forms and is additive to livelihoods.

²⁸ Notification No. GSR 329 (E) dated 10.04.2003 and No. GSR 330 (E) dated 10.04.2003 amended the Mineral Concession Rules, 1960 and Mineral Conservation and Development Rules, 1988 respectively and Mine closure guidelines were issued in 2003 where existing mining leases have to prepare PMCP and FMCP.

There are several instances where mines have been abandoned (abandonment of mines) and it may cause apprehension whether it is closure of operations or mineral has been exhausted.

²⁹(5) The leaseholder shall not abandon a mine or part thereof unless a final mine closure plan duly approved by the Regional Controller of Mines or the officer authorized by the State Government in this behalf, as the case may be, is implemented. For this purpose, the lessee shall be required to obtain a certificate from the Regional Controller of Mines or the officer authorized by the State Government in this behalf to the effect that protective, reclamation and rehabilitation work in accordance with the final mine closure plan or with such modifications as approved by the competent authority, have been carried out before abandonment of mine.]

³⁰[29A. Provision for closure. - (1) The lessee shall not determine the lease or part thereof unless a final mine closure plan duly approved by the Regional Controller or the officer authorized by the State Government in this behalf, as the case may be, is implemented as per the approval.

(2) For the purposes of sub-rule (1), the lessee shall be required to obtain a certificate from the Regional Controller of Mines or officer authorized by the State Government in this behalf, as the case may be, to the effect that protective, reclamation and rehabilitation work in accordance with the approved mine closure plan or with such modifications as approved by the competent authority have been carried out by the lessee.]

KEY ISSUES TO BE CHECKED REGARDING MINE CLOSURE

1. Keep in mind any earlier communication / complaint to statutory authorities like Pollution Control Boards, MoEF, Indian Bureau of Mines, State Department of Mining & Geology, District Collector and line departments regarding the impacts on environment and make mine closure accountable to address issues in complaints.
2. Assess damages to public property, land and other resources which should be compensated & restored and include in post mining land use planning. (refer Chapter IV)
3. Improper closure may result in disaster (mine level, surroundings), so effective correlative assessment alongwith elements which can trigger disaster like high flooding areas, heavy rainfall, improper stacked or backfilled areas.
 - a. Embedded with this aspect is risk to safety and security of public, the Directorate General of Mines Safety, Indian Bureau of Mines (Regional Controller of Regional office) and State Government (Chief Secretary and Department of Mines and Geology) should be adequately informed.
 - b. Areas of subsidence noticed during the course of mining operations should be brought to the notice

²⁹ Substituted by G.S.R 330(E) dated 10.4.2003 in MCDR 1988

³⁰ Substituted by G.S.R 329(E) dated 10.4.2003 in MCR 1960

Annexure I: Sample RTI letter

(to be treated as example / guideline only, use fresh sheet to write with specific details)

RTI APPLICATION u/s 6 of RTI ACT 2005

Date:

To

Public Information Officer Or Appellate Authority (for filing an appeal)

Public Authority Name & Postal Address

Sub: Information requested u/s 6 of RTI Act

Sir / Madam,

Write here the subject matter of information required by you. If possible mention the period for which the information requested

Mention the application fee you send along with this application (most often Rs. 10/- is the application fee and it is exempted for BPL population but you need to give the proof). E.g, mention Indian Postal Order No.

Sign here...

(Your Name)

Your Address

Note: Only black font should be retained while writing a fresh application, rest of it should be entered as per requirement. You can send the application by post.

You need not mention the reason for information requested. The information requested may be provided with cost (photocopying charges, so be careful when you ask for information, you may end up paying high amounts, the request should be specific to avoid unwanted and irrelevant information) and if rejected, reasons have to be given in the reply by PIO. You can also appeal to the appellate authority in the same department mentioning the reasons for appeal.

Annexure I I: Resource Inventory Sample

- What are the common property resources? Where do people have rights?
- Revenue Forest/Van Panchayat/Community protected Forest (details)
- Grazing lands of the village:
- Water Resources
- Roads:
- Buildings:

WATER

- Village Water Uses and met from sources
 - Drinking water – Tubewell, pond, piped water supply
 - Irrigation – Gul/Canal/Tubewell/River
 - Other uses (pl list)
- Point Sources of water (what is the number and location) – Tubewell, Standpost, Pond, traditional water bodies, rain harvesting structures
- Line Sources of Water (what is the number and path) – Streams, Pipelines, River, Canals
- Which areas (points/localities) in village have quality problems?
- What are the water scarce months in the village w.r.t. all uses – please list them with experiences
- Can you distinguish seasonal issues w.r.t water in a year?
- *Need to know: What is the source of water for mine?*
- *Will the streams or other sources come within the lease boundary? Yes/No*
- *Distance of Mine from the village*

WIND

- What is the wind direction w.r.t. your settlement
- Need to know: where the mine's core area is located.
- *How it would impact the air quality of village – trucks plying, dust from mine, chimney?*

SOIL

- What kind of soil is it? What do you call it locally
- What agriculture crops does it support
- Do you use fertilizers or perform organic farming
- *Where would be the dumping site? Will it impact the adjoining lands (what are these lands)*

LIVELIHOODS

- Sources of Livelihoods: Agriculture, Trees, Forests (NTFP)
- Can you quantify and explain (along with listing) about these sources of livelihoods
- *Need to Know: Are these going to be impacted?*
- Are your livelihood rights protected (recorded) or it's a customary practice? Yes these are protected (recorded)/No, these are customary
- List of native tree species (fruiting, shady)

CULTURAL / RELIGIOUS

- Pahar/Mountains/Religious importance
- Sacred Groves
- Burial Grounds

Aspect	Observations based on local situation		
Frequency of trucks for ore transportation	High frequency throughout day	Low frequency at particular times	Medium frequency throughout day
If any diversion of public utilities like roads, water channels is there	Will this cause any impact		Will this be misused Diverted utilities must first be restored alternatively
If there would be migrant workers and related facilities for them and cause of cultural discomfort	Will they have specific space allocated for them	Who will provide them services like health, amenities etc.	
Methods and precautions for dust control	Dust follows wind direction. Who will monitor wind direction	What are the plans to monitor dust pollution, water pollution, air pollution	What would happen if pollution damages crops which are outside lease area?
Pressure on village resources like ponds / water sources / forest due to mining operations and human resources deployed for the operation	Taking stock of resources that are meant for residents	Right of gram sabha to discuss about issues outlined in FRA, PESA Alternate, if any suggested should be sustainable without cost implications over gram sabha	

Note: Grey font is only for guidance, you can do it over a chart paper also.

Annexure III – Overview of Grievance Redressal & Procedure Under Department of Administrative Reforms and Public Grievances

A common man is confronted with several bottlenecks to find a resolution regarding a problem arising out of third party activities, say mining in mineral rich regions. People who seek redressal under the framework of Constitutional duties, rights and various laws are seen in various forms viz whistleblowers (individual or institutional), activists seeking information (for redressal and for making aware communities), affected people wanting justice and redressal.

In the mining regions, the primary authority to grant mining leases is the District Administration as well as the State Department of Mines and Geology and its other line departments which facilitate the process of grant of lease like the Revenue Department, Forest Department, Pollution Control Boards & its regional offices, Department / Directorate of Mines & Geology & its District offices, Central Authorities like Central Ground Water Authority & Board, Regional offices of MoEF, Zonal and Regional offices of Indian Bureau of Mines, Ministry of Mines, Welfare Departments including Tribal Welfare Department, Transport Department which gives permits for plying heavy duty vehicles, Urban Local Bodies like Municipality etc on public utilities like water, wastewater, roads. The Sub-Divisional Magistrate (SDM) of the respective sub-division is also a key official, DM of course is the prime authority to deal with affairs of law & order and other administrative matters of the District including activities causing public nuisance; along with Secretary at Government level to inform him / her about the offence, dereliction of duty, pollution at a particular location.

- A combination of departments will need to be reached out to as work distribution and functions are divided among them.
- Written communication with receipt of complaint is always useful as a record.
- Sometimes there is no particular designated Grievance Redressal Cell in all Departments or Authorities concerned but the subject line of complaint may mention 'Request for Seeking Grievance Redressal pertaining to _____' and mark relevant authorities in the complaint.

Restoring constitution in mining areas is yet another challenge and bodies like NCST / NCSC / NHRC³¹ / SHRC are available for filing complaints on variety of issues from atrocities, alienation to discrimination, human rights violation. There are civil (government) and police departments nodal persons notified by NHRC at state level for the purpose.

The underline is that unless the local administration is made accountable, people will have no immediate or least cost remedies, if any, available to them because the decision makers in the Central ministries rely on the information provided by the state.

³¹ See suggested guidelines by NHRC on filing complaints, Annexure VI

Centralized Public Grievance Redress And Monitoring System (CPGRAMS³²) is one process where grievance can be lodged online³³, by post or by hand which is a Portal for Public Grievances (Department of Administrative Reforms and Public Grievances).

Grievances received by post or by hand: For sending grievances by post or giving them by hand, no format is prescribed. A citizen may send the grievance on a Post card / Inland letter or any sheet of paper. All grievances received by post / by hand are also lodged on to the CPGRAMS (Centralized Public Grievances Redress And Monitoring System) by PG Division on behalf of the citizens. Acknowledgements are generated on CPGRAMS and issued by post, and final redress response obtained through CPGRAMS, is also sent by post in all such cases.

CPGRAMS in States: The system has been customized with local language interface and inaugurated in the Government of Haryana and Government of Orissa in 2010, and in Government of Rajasthan in May 2011.

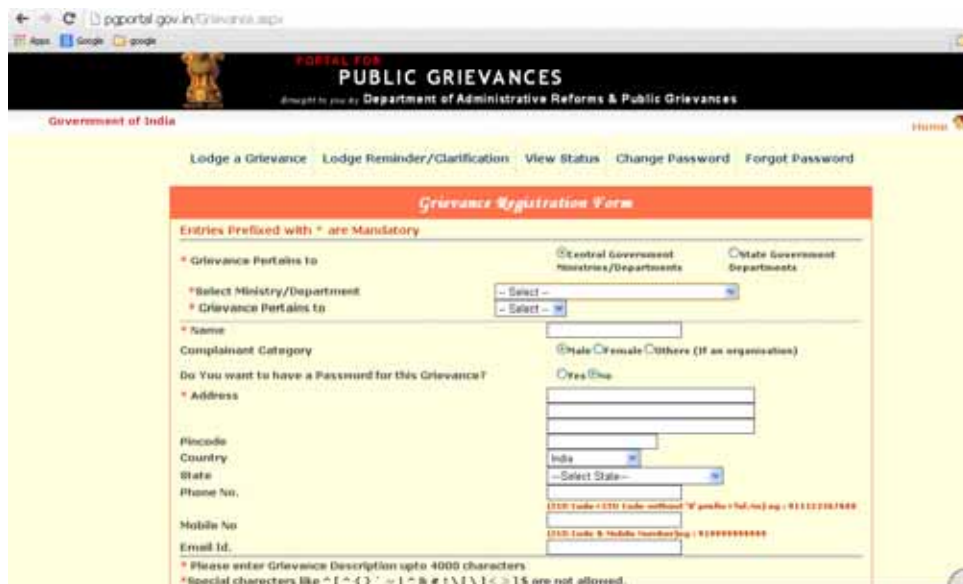
The Joint Secretary in Ministry of Mines is the nodal person on Grievance Redressal and the upper time limit is 2 months but in case it will take more time, an interim reply is required to be sent to the complainant.

Procedure for Registering Grievance

Step 1	Registration of Grievance by Citizen (online, post or by hand)
Step 2	Director, Public Grievances assesses the grievances and forward it to Subordinate Department / Organisation for prompt redress
Step 3	Ministry / Department of Subordinate office examines to redress / prepare a reasoned reply
Step 4	With approval of Competent Authority action taken reply sent to Department of Administrative Reforms and Public Grievances (DARPG) / Complainant
The entire process takes not more than 2 months. If more time for redress / settlement of grievances is anticipated, interim reply is to be issued.	

³² <http://pgportal.gov.in/> (see screen shot)

³³ <http://pgportal.gov.in/Grievance.aspx> (see screen shot)



Address : Sardar Patel Bhawan
Sarsad Marg
New Delhi - 110 001

Public Grievances Officers				
S.No.	Designation	Dealing with grievances related to	PhoneNo.	Fax No.
1.	Under Secretary	Central Govt. Ministries/ Departments/ Organisations	23401467	23741006
2.	Under Secretary	State Govts.	23401474	23741006
3.	Under Secretary	Central Govt. Ministries/ Departments/Organisations	23401468	23741006

Director of Grievances, Department of Administrative Reforms & Public Grievances
Deputy Secretary (PG), Telefax. : 011-23741006

Head of the Department, Department of Administrative Reforms & Public Grievances
Secretary, Telefax. : 011-23741006

Annexure IV – Chief Information Commission on Bringing Certain Components of Mining Plan in Public Domain

In an order dated 07.06.2010, the Chief Information Commissioner made it clear that certain portions of the Mining Plan can be brought into the public domain and rejected the apprehension of the lease holders that these portions compromise the commercial confidence and upheld the RTI applicant's plea that mining of mineral resources of the country could not be a matter exclusively between a commercial entity and the public authority. It was a matter of national resources and the citizens in general have had the right to know all about it. The Ministry of Mines also advised that except certain parts of the Mining Plan – which had elements whose disclosure would be prejudicial to commercial / competitive interest of a third-party (Mining Lease Applicants) – the following parts of the Plan could be disclosed-

- (i) 'General Information' and 'Location and accessibility' in Chapter 1 & 2 in introductory Notes of the Mining Plan
- (ii) 'Mine Drainage', 'Skating of Mineral rejects and Disposal of waste', 'Use of Mineral' and 'Other Information' in Chapters 6, 7, 8 and 9 respectively of the Part 'A' of the Mining Plan
- (iii) 'Environmental Management Plan' in Chapter 11 of Part 'B' of the Mining Plan

Annexure V – Who Monitors Whom?

- (i) The point to make is this:

Any piece of information generates curiosity to know more about it and regularly revisiting it imprints a trend map in mind. As per circular information like lease area, production, lease duration and commencement of work to be displayed. e.g, if the lease is expiring on a certain date, one may have the curiosity to know, what next, what happens to area, to consent, to environment. The qualitative information on dynamic parameters like air quality, quality of discharged water, area under plantation and vibration due to blasting (peak particle velocity) to be displayed.

What it indicates is, even if the parameters are under permissible limits of norms, there may be still impacts like blasting is often encountered with complaints about cracks developing in houses / buildings in the vicinity, it nullifies the claim of controlled blasting or shows insensitivity about structural forms and quality available in the vicinity and how to avoid risk to those. Similarly one may start to know and correlate more about discharge points & visual impression of discharge if the quality parameters are difficult to understand.

If this is not being implemented (the circular), the focused observation to assist governments in regulation and compliance gets no credible public input.

- (ii) Observation was made that forest diversion proposal are being received stating that the settlement of rights under Forest Rights Act, 2006 will be completed later on. The important point being the conditions, monitoring and compliance strictly followed at the initial stage

(Stage I) will hold importance rather than giving a token certificate at the final stages of forest clearance (Stage II). Evidence required from the States to ensure due process prior to final diversion of forest has been followed and have initiated and completed the process of settlement of Rights under FRA.

Simply put, it lays emphasis on the Free-Prior-Informed-Consent where the concerned Gram Sabhas either pass resolution of consent to the proposal of diversion or a resolution rejecting the proposal. A resolution for or against diversion can be made with prior and informed impact, compensatory and ameliorative measures, Since the proposals are forwarded (forest diversion) by the State to the Centre; State to certify that people were well informed before arriving at the decision, to certify that all process has been carried out for identifying, recognising and settlement of Forest Rights; certifying that the quorum of Gram Sabha members followed while taking decisions.

The Gram Sabha can also send its resolution to State Level Monitoring Committees if the prescribed process of identification and settlement of Forest Rights is not followed which affects them to access forests, make them prone to eviction, impact livelihoods, socio-cultural and religious rights, impacts traditional practices of conservation and many others which are intrinsically linked to the community.

Annexure VI - Guidelines on how to file complaint with the NHRC³⁴

1. Complaint may be made to the Commission by the victim or any other person on his behalf.
2. Complaint should be in writing either in English or Hindi or in any other language included in the eighth schedule of the Constitution. Only one set of complaint needs to be submitted to the Commission.
3. Complaint may be sent either by Post or Faxed at Nos. 91-11-23382911/ 23382734 or through e-mail covdhrc@nic.in
4. No fee is chargeable on such complaints.
5. The complaint shall disclose i) violation of human rights or abetment thereof or; (ii) negligence in the prevention of such violations, by a public servant.
6. The jurisdiction of the Commission is restricted to the violation of human rights alleged to have been committed within one year of the receipt of complaint by the Commission.
7. Documents, if any enclosed in support of the allegations in the complaint must be legible.
8. Name of the victim, his/ her age, sex, religion/ caste, State and District to which the incident relates, incident date etc. should invariably be mentioned in the complaint.
9. Please submit the complaint preferably in the enclosed format.
10. Following types of Complaint(s) are not ordinarily entertainable:
 - Illegible
 - Vague, anonymous or pseudonymous;
 - Trivial or frivolous in nature;
 - The matters which are pending before a State Human Rights Commission or any other Commission;
 - Any matter after the expiry of one year from the date on which the act constituting violation of human rights is alleged to have been committed;
 - Allegation is not against any public servant;
 - The issue raised relates to civil dispute, such property rights, contractual obligations, etc;
 - The issue raised relates to service matters;
 - The issue raised relates to labour/industrial disputes;
 - Allegations do not make out any specific violation of human rights;
 - The matter is sub-judice before a Court/ Tribunal;
 - The matter is covered by judicial verdict/decision of the Commission.
11. As far as possible complainants are encouraged to make use of the format given above to file their complaints. The guidelines indicate the kind of information, which would facilitate in processing a complaint.

³⁴ Guidelines suggested by NHRC in Public Interest

Annexure VII – List of Few Public Authorities and Contact Details

No.	Public Authority / Ministry / Department	Address & Contacts ³⁵
1	Ministry of Environment & Forests	Paryavaran Bhavan CGO Complex, Lodhi Road, New Delhi - 110 003 I&F ³⁶ Counter: +91-11-24362064
2	Ministry of Mines	Secretary, 'A' Wing, Shastri Bhawan, New Delhi - 110001 I & F Counter: 011-23070396
3	Ministry of Tribal Affairs	Secretary, A' Wing, Shastri Bhawan, New Delhi - 110001
4	RTI Link	rti.gov.in or refer Annexure I. Each public authority has to appoint a Public Information Officer, Appellate Authority. Every State has a State Information Commission for resolving appeals at state level. For Central Government Departments, Ministries, there is Central Information Commission
5	Central Information Commission	August Kranti Bhavan, Bhikaji Cama Place, N Delhi - 110066 & Old JNU Campus, New Delhi - 110 067. Phone: 011-26161137 Fax: 011-26186536
6	Indian Bureau of Mines (IBM)	Controller General 2 nd Floor, Indra Bhawan, Civil Lines, NAGPUR- 440 001 Phone + 91 712 2560041, Fax + 91 712 2565073
6.1	Controller of Mines (IBM), Central Zone	6 th Floor, Block 'D', Indra Bhawan, Civil Lines, Nagpur-440001
6.2	Controller of Mines (IBM), South Zone	29, Industrial Suburb, II nd Stage, Tumkur Road, Yeshwantpuram, Bangalore-560022
6.3	Controller of Mines (IBM), North Zone	Type-IV, Block B/9, IBM Colony, Adarsh Nagar, Balupura Road, Ajmer-308 002
7	National Commission for Scheduled Tribes (NCST)	Chairperson, 6th Floor, 'B' Wing, Loknayak Bhawan, Khan Market, New Delhi -110003
7.1	NCST Regional office,	Assistant Director, Room No. 309, Nirman Sadan, CGO Complex, 52-A, Arera Hilla, Bhopal - 462011

³⁵ Addresses Contacts have been taken from the respective website of particular Department, Ministry. In case any error in address or contact or both due to change of address or contact will require enquiry at state level only.

³⁶ Information and Facilitation Counter

	Bhopal	[Jurisdiction of Regional Office over Madhya Pradesh, Maharashtra, Karnataka, Kerala, Goa & Union Territories of Dadra and Nagar Haveli & Lakshadweep]
7.2	NCST Regional Office, Bhubaneswar	Research Officer, N-1/297, IRC Village, Bhubaneswar - 751015 [Jurisdiction of Regional Office over States: Andhra Pradesh, Odisha, Tamil Nadu, West Bengal & Union Territories of Andaman & Nicobar Islands & Pondicherry]
7.3	NCST Regional Office, Jaipur	Director, First Floor, Block - A, Kendriya Sadan, Sector - 10, Vidyadhar Nagar, Jaipur - 302023 [Jurisdiction of Regional Office over States: Chandigarh, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Punjab, Rajasthan, Uttarakhand & Daman & Diu]
7.4	NCST Regional Office, Raipur	Assistant Director, R-26, Sector - 2, Avanti Vihar, P.O. Ravigram, Raipur - 492006 [Jurisdiction over Chhattisgarh only]
7.5	NCST Regional Office, Ranchi	Research Officer, 14, New A.G. Cooperative Colony, Kadru, Ranchi - 834002 [Jurisdiction of Regional Office over States: Bihar, Jharkhand and Uttar Pradesh]
7.6	NCST Regional Office, Shillong	Assistant Director, Rabekka Villa, Temple Road, Lower Lachumiere, Shillong - 793001 [Jurisdiction over States: Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura]
8	National Commission for Scheduled Castes, New Delhi	(Headquarters Toll Free No.) 1800118888
8.1	NCSC State Offices	Toll Free Number 1800 1800 345
9	National Human Rights Commission (NHRC)	Manavadhikar Bhawan, GPO Colony, INA Block-C, New Delhi, DL 110023; Telephone: 011-24651330 Fax No. 011-24651329 (There are State Human Rights Commissions at State Level and List of State Level Nodal Officers - Civil & Police; There is also a Madad Desk (see 9.1) - a Information & Facilitation Counter where enquiries can also be made)

9.1	MADAD (For complaint filing, status & General queries)	91-11-24651330 : +919810298900 (mobile) 91-11-24651332 (Law Division) For Complaints-filing
10	Directorate General of Mines Safety (DGMS), Ministry of Labour & Employment	Directorate General of Mines Safety, Dhanbad - 826 016, Jharkhand (DGMS has 8 Zonal Offices and several regions within each Zone)
	Pollution Control Boards³⁷, Statewise Contacts of Head Offices	
11	Central Pollution Control Board (CPCB)	Member Secretary, Parivesh Bhawan, CBD-cum-Office Complex East Arjun Nagar, DELHI - 110 032, INDIA
12	West Bengal	1800-345-3390 (toll free number)
13	Jharkhand	H.E.C.,Dhurwa,Ranchi-834004, Phone: 0651-2400894
14	Chhattisgarh	Commercial Complex, Chhattisgarh Housing Board Colony, Kabir Nagar, Raipur (C.G.); Phone :0771-2970070; Fax: 0771-2970074
15	Gujarat	Paryavaran Bhavan, Sector-10A, Gandhinagar-382010. Phone: 079-2323 2152; Fax: 079-2323 2156
16	Odisha	Parivesh Bhawan, A/118, Nilakantha Nagar, Unit - VIII, Bhubaneswar - 751012, Odisha Phone: 0674-2560929; Fax: 0674- 2562822
17	Karnataka	"Parisara Bhavan", #49,4th & 5th Floor, Church Street, Bangalore-560001 Help Desk: 080-25589114; Complaint SMS: 9449049049
18	Rajasthan	4,Jhalana Institutional Area, Jhalana Doongri, Jaipur - 302 004; Phone: 0141-5159600, 5159699, Fax: 0141-5159697
19	Andhra Pradesh	A-3, Prayauaraana Bhavan, Industrial Estate Sanath Nagar, Moosapet, Moosapet Hyderabad, AP 500018 Phone: 040-2381 5630
20	Tamil Nadu	76, Mount Salai, Guindy, Chennai - 600 032 Tel: 22353134-141 Fax:044-22353068

³⁷ Each board is represented by the Member Secretary

21	Kerala	Plamood, Pattom P.O., Thiruvananthapuram - 695 004. Phone: 0471- 2318150
22	Madhya Pradesh	E-5, Arera Colony, Paryavaran Parisar, Bhopal - 462 016. Phone: 0755 -2464428/2466191
23	Maharashtra	Environmental Information Centre, Kalpataru Point, 3rd and 4th floor, Opp. CineMax Theatre, Sion (E), Mumbai -400 022
Directorate / Departments of Mines and/or Geology at State Level		
24	West Bengal	Directorate of Mines and Minerals, Commerce & Industries Department, 5, Council House Street, 2nd Floor, Kolkata - 700 001; Phone: 033-22624940; Fax: 033 22624940
25	Jharkhand	Department of Mines & Geology, Nepal House, Doranda, Ranchi - 834002
26	Chhattisgarh	Directorate of Mines & Geology, Sonakhan Bhavan, Ring Road No.1, Village Purna, Post Ravigram, Raipur- 492006 Phone: 0771-2412840; Fax: 0771-2412841
27	Gujarat	Commissioner of Geology and Mining, Industries & Mines Department, Block 1, 7th Floor, Udhyog Bhavan, Sector - 11 Gandhinagar Illegal Mining and Transportation Complaints: 1800 233 4640 Technical Support Helpline: 079-23254034
28	Odi sha	Directorate of Mines, Head of Department Building Unit - V, Bhubaneswar - 751001 Phone: 0674 -2391537; Fax - 0674 -2391684
29	Karnataka	Department of Mines & Geology, No.49, Khanija Bhavan, Race Course Road, Bangalore-560001 Phone: 080- 22269632
30	Rajasthan	Department of Mines & Geology, Khani j Bhawan, Shastri Circle, Udaipur
31	Andhra Pradesh	Directorate of Mines & Geology, 8 th floor, BRKR Bhavan, Tank Bund, Hyderabad- 63 Phone: 040-23221250; Fax; 040-23225519
32	Tamil Nadu	Directorate of Mines & Geology, Thiru. Vi. Ka. Industrial Estate, Guindy, Chennai - 600 032

		Phone: 044-22501873; Fax: 044-225 01158
33	Kerala	Directorate of Mining and Geology, Kesavadasapuram, Pattom Palace P.O., Thiruvananthapuram -695004 Phone & Fax: 0471- 244742
34	Madhya Pradesh	Directorate of Geology and Mining, 29-A, Khani j Bhawan, Arera Hills, Bhopal - 462002 Telephone : 0755-2551795; Fax : 07 55-2551795
35	Maharashtra	Directorate of Geology and Mining, Old Secretariat Building, Civil lines, Nagpur - 440 001 Phone: 0712 - 2560554; Fax: 0712 - 2565586

About Samata

We are a social justice organization working for the rights of the tribal "Adivasi" people of Andhra Pradesh, India and for the protection of the natural resources and ecology of the Eastern Ghats (hills).

Samata started working in a small tribal hamlet in 1987 with a group of tribal and rural youth, to mobilize tribal communities against exploitation by outsiders and by government. Samata was formally registered as a non government organization in 1990.

Our Vision

Our vision is to help build an India in which tribal and scheduled castes, adivasi groups, the poor and other disadvantaged minorities can fully participate in a healthy Indian democracy, enjoy the benefits of economic development and retain their rights, their culture, and their history.

Our Mission

Our mission is to advocate for the voiceless, to hold government accountable to its promises, to enable minorities to fully achieve and exert their rights, to promote sustainable development while defending against environmental abuses and to aid the human development of the disadvantaged. We believe the best way to achieve our mission is through adherence to nonviolence, community empowerment and adherence to the democratic process.

We believe in

We believe in the possibility for development that advances the cause of social justice instead of undercutting it; in the ability of communities to develop and interact with the environment sustainably instead of exhausting natural resources and destroying ecological systems; in the capacity of tribal communities for self-government and their right to control their own land and resources; in the power of an organized and informed community; in the wisdom and the necessity of pursuing our mission through peaceful and democratic means.

Main Office: Visakhapatnam

Samata

Dabbanda Village, Gandigundam Post, Mamidilova Panchayat, Anandapuram Mandal,

Visakhapatnam - 531173 Andhra Pradesh, India

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