



## **Asia-Pacific Centre for Environmental Law Report 1904**

### **Changing Political Economy Of Coal Mining, The Rights Of Forest-Dwellers And India's Climate Change Commitments**

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Uploaded October 2019

## **CHANGING POLITICAL ECONOMY OF COAL MINING, THE RIGHTS OF FOREST-DWELLERS AND INDIA'S CLIMATE CHANGE COMMITMENTS**

### **Introduction**

"Our land has been banned, we are unable to build houses over land that has historically belonged to us and we are surrounded by the expanding coal mine"<sup>1</sup> said a villager in Tumulia in the Himgiri coal block in Sundergarh in the eastern Indian state of Odisha. The land is muddled in many legal contestations. The land on which the coal mine is operational by the state-owned Mahanadi coalfields is categorized as a scheduled area. Scheduled areas are a protected legal category recognized in the constitution where land cannot be alienated to anybody apart from a scheduled tribe. In a landmark judgment by the Indian Supreme Court in 1997 recognized this legal protection and ruled that land in scheduled areas could not be alienated to a private mining company.<sup>2</sup>This legal protection is backed by other laws that protect the rights of forest-dwelling communities to their lands and resources like the Panchayat Extension to Scheduled Areas Act,1996 and the Forest Rights Act,2006. Most coal mines are located in India's forest areas, these areas are rife with conflict as the competing interests of the rights of forest-dwellers to land and resources and the acquisition of land for coal mines.

Coal mining in India was nationalized in 1971 with the passing of the Coal Mines (Nationalization) Act,1973, coal mining was exclusively operated by the state-owned Coal India and its subsidiaries. The nationalization of coal was initiated in response to bad labor conditions in private coal mines before 1971. The acquisition for land in coal blocks is governed by the Coal Bearing Areas Act,1957, where land acquisition process is different in comparison to land acquired for other purposes which are governed by the new Land Acquisition Act,2013. In coal-bearing areas, local communities have a small window to oppose the acquisition of land in comparison to land acquisition processes for other purposes. In 2009, under the Forest Rights Act, a notification was passed the then Ministry of Environment and Forests to obtain the consent of the village assembly before the acquisition of forest land<sup>3</sup>. This provision was strengthened by the Supreme Court judgment in 2013, where a private mining company was prevented from beginning mining operations over a sacred hill Niyamgiri as they failed to obtain consent from the local community. This provision has become an arena for the articulation of dissent by forest-dwelling communities to either prevent the acquisition or negotiate better terms for relief and rehabilitation.

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<sup>1</sup> Interview conducted during fieldwork in July 2018

<sup>2</sup> Samatha V State of Andhra Pradesh Appeal (civil) 4601-02 of 1997

<sup>3</sup> Orissa Mining Corporation V Union of India and Others W.P.(C) No.180/2011

## Changing Political Economy of Coal

In an unprecedented decision, a high-level committee within the Department of Economic Affairs recommended the privatization of coal mining to increase efficiency and the introduction of newer technologies in the mining process.<sup>4</sup>This decision was recently accompanied by another move to open up the sector to a hundred percent of foreign direct investment.<sup>5</sup>These changes were not welcomed by forest-dwelling communities on the ground as they fear an increase in coal mining and labor unions protested as they are concerned about worsening of labor conditions. Uncertainty remains in the air with these drastic transformations in coal mining.

"When land is acquired for coal mining, it is an exercise of compulsory land acquisition" stated a land officer at Mahanadi Coal Fields <sup>6</sup>This is the bureaucratic perception of land acquisition for coal, despite the need for consent of local communities, it is seldom implemented or complied with meaningfully. As a community leader in Tumulia reflected, " They never obtained our consent for the expansion of the mines, we instead passed a resolution from the village assembly stating that we reject such a proposal and have submitted it to the local authorities"<sup>7</sup>Whether this resolution will be adequately considered in decision making or not is yet to be seen. In many instances, however, the land is provided for coal mining even though communities are opposed to it. The priority for acquisition for coal is because, India continues to remain dependent on coal for its electrification, despite India pursuing an ambitious project on renewables. This project of the energy transition will take more time and coal will remain the primary source of electricity.

To enable quick land acquisition process for coal, A committee of secretaries met earlier in September 2019 to recommend that compliance with safeguards within the Forest Rights Act,2006 will not be required.<sup>8</sup>This proposed de-linking of the FRA to create an enabling environment for private players to enter the sector will shrink the democratic space available to

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<sup>4</sup> <https://economictimes.indiatimes.com/markets/stocks/news/govt-committee-recommends-privatisation-of-coal-sector/articleshow/71111721.cms>

<sup>5</sup> <https://www.downtoearth.org.in/news/mining/government-allows-100-fdi-in-coal-mining-66406>

<sup>6</sup> Interview conducted during my fieldwork in July 2019

<sup>7</sup> *Ibid* 1.

<sup>8</sup> <https://www.financialexpress.com/economy/eye-on-coal-govt-to-ease-forest-land-usage-guidelines-to-boost-mining/1718906/>

forest-dwelling communities to articulate their interests in this changing political economy of coal.

### **India's climate change commitments**

Under the Paris Agreement, India has committed to reducing its emissions by 30-35% and to increase the share of non-fossil fuel-based energy resources to 40% of installed electric power capacity by 2030. There seems to be doublespeak, however, in India's commitment to non-fossil fuel-based energy and the opening up of coal mining.<sup>9</sup> These emission reduction targets will be difficult to achieve if even a marginal increase in emissions from coal mining is experienced. This begs the question of whether the rhetoric of energy security trumps considerations of climate change. India has made efforts to increase its reliance on solar power with its national solar mission and the launching of the international solar alliance. These efforts, however, may remain in vain if dependency on domestic fossil fuel increases.

If one is to adopt a climate justice perspective in unpacking the changing political economy of coal in India, what emerges is an important question of how to balance the rights of forest-dwellers, meeting the set climate change targets and ensuring energy security. A recent report by the intergovernmental panel on climate change on climate change and land it recognized the need to recognize the community land tenure of indigenous communities to be able to effectively meet climate change targets.<sup>10</sup> If India was to adopt an aggressive climate action policy it would demand that energy transition be accompanied with better implementation of the Forest Rights Act, 2006 where community land tenure is recognized. Instead, implementation of the Act has been poor and is subject to many dilutions.

### **Can Deliberative Democracy be a pathway out of this bind?**

Deliberative democracy stems from Habermas's work on communicative action where he argues for the need for citizens to be integral to decision-making on how public good is defined. It requires that consensus or confluence of competing claims are discussed and an agreement is eventually reached.<sup>11</sup> An alternative I would like to place to navigate the need for a delicate balance between the rights of forest-dwelling communities, climate change commitments, and energy security is active deliberation. The consent provision within the Forest Rights Act, 2006 should be implemented meaningfully instead of being diluted so that decisions on coal mining can be subject to scrutiny and discussion. Environmental governance in India has offered spaces where such deliberation can take place but has not been adequately implemented. If these avenues like the need for consent can be harnessed to better manage these competing interests.

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<sup>9</sup> <http://www.amphibiousaccounts.org/#!/en/publicacion/privatization-of-coal-in-india-threats-to-the-rights-of-local-communities-and-climate-change-commitments>

<sup>10</sup> <https://www.ipcc.ch/report/srcl/>

<sup>11</sup> Jurgen Habermas, *The Theory of Communicative Action* (Beacon Press Books, 1987).

Deliberation can enable local level problem solving and restrict the expansion of coal mines where local communities suffer from pollution and other challenges. While opening up coal mines cannot be entirely banned as India is yet to be entirely electrified, deliberative democracy can usher an understanding of the imperfect alternatives where it accounts for the competing claims and interests. This would require a responsive forest bureaucracy, strong village level institutions and most importantly flexibility in finding ways to meet energy demands which can allow for bureaucratic thinking to move beyond the interpretation of these laws like one that provides for compulsory acquisition. Deliberative democracy relies on reasoned arguments to form the basis of decision-making and if such reasoning can begin at the village level, it can potentially change the nation's approach to this difficult bind that it finds itself in.

## **Conclusion**

India finds itself in a difficult spot in reconciling these conflicting priorities, however doing away with legal protections of the rights of forest-dwelling communities will increase the incidence of land conflicts on the ground. Deliberative democracy can be a pathway out of this bind if meaningfully implemented where local communities are seen as an integral part of finding a way out of this muddle. A step in this direction would as I have argued elsewhere to strengthen the legal structure that supports deliberation than shrinking such spaces. Thus, this move of privatizing coal mining should be backed by legislative amendments that extend the application of the FRA and LARR to coal-bearing areas as well as binding laws that address the climate change commitments. This set of legislative amendments will ensure that the privatization of coal mining takes place in a regulatory environment where energy security is balanced with the rights of local communities and climate change.<sup>12</sup>

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<sup>12</sup> *Ibid* 9