

## Mining and Mineral Laws

<b>Course title:</b> Mining and Mineral Laws			
<b>Course code</b> MPL 154	<b>No. of credits:</b> 2	<b>L-T-P distribution:</b> 10-18-0	<b>Learning hours:</b> 28
<b>Pre-requisite course code and title (if any):</b> None			
<b>Faculty</b>	Department of Policy Studies (Centre for Postgraduate Legal Studies)		
<b>Course coordinator</b> (s) Dr. M P Ram Mohan	<b>Course instructor (s)</b> Dr. M P Ram Mohan		
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<b>Course type</b>	Core		
<b>Course offered in</b>	Semester 2		
<p><b>Course Description</b></p> <p>Minerals play a significant role in the economic development of a state. Therefore the state has a larger role in regulating the extraction of minerals, which is particularly important for developing countries. Broadly there are three phases in the nature of policies and regulation of the mining sector in developing countries. First, the colonial polices on mining, which favoured private companies from the colonial state. Second, post-World War II policies, which were adopted by most states of the Asia and Africa after their independence in a trend of nationalisation and the involvement of State Owned Enterprises. Third, post globalization neoliberal policies, which aimed at attracting foreign direct investment in the sector. Presently, India, a state rich in minerals, has a federal set-up for regulation of mining and minerals. Its regulatory structure and trajectory closely resembles to that of other developing countries. This course examines the laws and policies relating to the mining sector in India. Since mining is an activity that has externalities, mining law does not stand in neglect of issues relating to environment and tribal rights, setting an epistemological connection between mining law and law relating to environment and tribal rights. Hence the course has a substantial scope for critically understanding such issues.</p>			
<p><b>Course objectives</b></p> <p>The course aims to:</p> <ol style="list-style-type: none"> <li>1. provide an overview of the legal and policy framework on the mining sector in India</li> <li>2. understand the causal forces which have been transforming the laws and policies on the sector</li> <li>3. survey and appraise the major reformative efforts in the sector</li> <li>4. analyse the impact of mining on the environment and tribal rights and the possibilities of legislation/regulation/policy on mining and minerals in mitigating the externalities caused to environment.</li> <li>5. provide the participants an inside-out view by familiarizing them with decision-making, enforcement, and dispute settlement/avoidance.</li> </ol>			
<b>Course content</b>		<b>L</b>	<b>T</b>
<b>Module 1: Introduction and Legal Framework</b>		<b>4</b>	

An introduction to the mining sector in India Allocation of jurisdiction over minerals and mines under the Constitution Minor minerals and other minerals An overview of Policies: National Mineral Policy, 1993; National Mineral Policy, 2008; National Mineral and Exploration Policy, 2016. Overview of laws: Indian Mines Act, 1952; Mines and Minerals (Development and Regulation ) Act, 1957; Atomic Energy Act, 1962; Oilfields (Regulation and Development) Act, 1948 Proprietary rights over minerals: Articles 294 and 297 Coal Nationalisation laws			
<b>Module 2: Laws relating to Prospecting and Mining</b>	<b>2</b>	<b>4</b>	
Mines and Minerals (Development and Regulation) Act, 1957; Mineral Concession Rules, 1960; Mineral Conservation and Development Rules (MCDR) 1988 Powers of Central and State Governments; Reconnaissance permit, Prospecting and Mining licenses/lease, Composite License: Duration, termination etc. Method of grant of license: Auctions Amendments to the MMDR Act Captive mines Royalty: Different types: Unit based, ad valorem, share of profit Character and legal nature: Whether tax or not. 2015 Amendments: District Mineral Foundation, National Mineral Exploration Trust Role of Indian Bureau of Mines, State Departments of Mines and Geology			
<b>Module 3: Mining and Environmental Issues</b>	<b>2</b>	<b>6</b>	
Environmental laws and their applicability to the mining sector, Water and Air Pollution, EIA, Forest and Wildlife Clearance Illegal Mines: Justice Shah Commission Report on Illegal Mining in the State of Goa Role of NGT Sustainable Development Framework, Sustainable mining Initiative			
<b>Module 4: Mining and Laws relating to Scheduled Areas and Tribal Rights</b>	<b>2</b>	<b>2</b>	
Article 244, Schedule V and VI Areas, Restriction on Transfer of Land Panchayats (Extension to Scheduled Areas) Act, 1996 Impact of 2015 Amendments FRA			
<b>Module 5: Conflicts and local communities</b>		<b>6</b>	
Causes, Role of governments, civil society organisations, courts Case studies			
<b>Total</b>	<b>10</b>	<b>18</b>	
<b>Evaluation criteria</b>			
• Class participation	: 10		
• Assignment	: 25		

- Presentations : 25
- Major Test : 40

### Learning outcomes

The course will provide the students:

1. familiarity with the normative legal framework on mining in India
2. the ability to appreciate policy-shifts and policy-decisions on mining in India
3. knowledge on dispute settlement in the mining sector and ability to imagine dispute avoidance in the sector
4. ability to understand externalities cost and propose solutions, particularly in the context externalities of mining like environmental damage and threat to the life and livelihood of tribal population

### Pedagogical approach

Lectures and discussions will be the prominent mode of teaching. The topics under each module will be introduced through an introductory lecture, followed by discussions by students. Students are expected to come prepared and initiate discussions on topics that have been assigned beforehand.

### Materials

Suggested Readings

#### Cases:

1. *Thresiamma Jacob v. Geologist, Department of Mines and Geology* (2013)
2. *In re: Natural Resources Allocation* (2012)
3. *Manohar Lal Sharma v. Principal Secretary* (2014)
4. *India Cement Ltd. v. State of Tamil Nadu* (1990)
5. *State of West Bengal v. Kesoram Ltd.* (2004)
6. *Mineral Area Development Authority v. Steel Authority of India* (2011).
7. *Goa Foundation v. Union of India* (2014)
8. *Samatha v. State of Andhra Pradesh* (1997)

### Books and Articles

1. Seth, D. D. (2012), *Encyclopaedia of Mining Laws*, Fifth Edition, Lucknow: Eastern Book Company.
2. Khanna, Arpita A. (2013), "Governance in Coal Mining: Issues and Challenges", *TERI – NFA Working Paper*, New Delhi: TERI.
3. Szablowski, David (2007), *Transnational Law and Local Struggles: Mining Communities and the World Bank*, Oxford: Hart Publishing.
4. ISID (2012), *Sustainable Development: Emerging Issues in India's Mineral Sector*, New Delhi: Planning Commission.
5. Sreejith, S. G. (2015), "Vedanta and the philosophy of international law: From human sociality to ahuman reality", *Indian Journal of International Law*, 55 (1): 3-38.

### Additional information (if any)

### Student responsibilities

Course Reviewers

1. Dr. S. G. Sreejith, Associate Professor, Jindal Global Law School, Sonipat.

2. Dr. Nupur Chowdhury, Center for Law and Governance, Jawaharlal Nehru University, New Delhi.