

PRESS RELEASE

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INTEGRITY DUE-DILIGENCE NECESSARY TO CURB ILLEGAL MINING

If a bridge collapses soon after construction, the contractor would be blacklisted. If someone cheats a bank, they will not be allowed to manage public moneys, whether in a bank, mutual fund, insurer or even as a KYC processor. But if someone illegally mines our shared inheritance of mineral wealth, we wonder why there is no such prohibition.

India's National Mineral Policy says: *"Natural resources, including minerals, are a shared inheritance where the state is the trustee on behalf of the people to ensure that future generations receive the benefit of inheritance. State Governments will endeavor to ensure that the full value of the extracted minerals is received by the State."*

What does this mean? Put simply, oil, gas & minerals are inherited wealth, our family gold. States are merely trustees over the mineral wealth for the people and especially future generations. As custodians of this inheritance, it is our duty to ensure that our children inherit either the mineral wealth itself or its value. Mining / extraction is effectively the sale of this wealth. Royalties, auction premia, and the like are mineral sale proceeds, financial wealth in exchange for the family gold. And the miner is merely an outsourced service provider, converting our mineral wealth into financial wealth.

What then is illegal mining? As constitutional courts have held, illegal mining constitutes theft of public wealth, theft from the people and future generations of the mineral bearing state. It is the essence of managing wealth that the people involved must be upright persons.

Illegal mining has been documented in iron ore in Karnataka, Goa, Odisha, and Jharkhand, and in a variety of other cases of illegal mining across minerals and the country. And there are numerous illegal miners. Yet they are allowed to continue to manage our *jeydaad*. How is this possible? Why is it being permitted?

With the rise of illegal miners in the country, there are no adequate mechanisms to hold them accountable and undertaking stringent actions such as blacklisting them from any mining activity. Any one violation whether it is economic, environmental, or social by the entity must be a good enough reason to disqualify the miners on the basis of questionable integrity and they should be prevented from managing our shared inheritance of mineral wealth.

"The government instead of using a fit and proper person test to screen mining companies and pre-empting illegal mining in the first place has changed the definition of illegality. This has emboldened all illegal miners who have now the audacity to challenge the sovereign right of the government to even tax them. We have to stem the rot as the Shah Commission pointed out way in the past", commented Sreedhar Ramamurthi, Managing Trustee of the Environics Trust.

Saswati Swetlena of the Mineral Inheritors Rights Association (MIRA) said: ***"Last year, we had examined the record of all the bidders for coal blocks auctioned in mid 2020, and found significant violations by all 42 bidders. How can such entities be permitted to manage our collective family gold."***(Note: Report can be downloaded from <https://bit.ly/MIRACoalFPPT>)

“In 2014, the Supreme Court of India ruled that all mining in Goa after 2007 was illegal. 100% illegal. It is unthinkable that these same illegal miners can be involved in any way with mineral extraction in Goa or elsewhere in the country. That would be irresponsible and we strongly oppose it” remarked Claude Alvares, Director of the Goa Foundation.

A series of letters have thus been sent to different Ministries, Chief Ministers of mineral rich states and CAG by civil society organisations including MIRA, Goa Foundation, Environics Trust, Common Cause, Himalaya Niti Abhiyan and The Future We Need. Two sets of demands have been made:

First, as misappropriation of the shared inheritance of mineral wealth, anyone convicted for illegal mining should be disqualified under a variety of laws such as the PMLA, IBC and Economics Offences Act 1974.

Second, the extractives sector (oil, gas & mining) must follow best practices from other sectors that manage wealth, e.g., the financial sector. People of low integrity cannot be allowed to manage our shared *jeydaad*. In keeping with the practices in the financial sector, violators of significant laws, including economic and environmental laws, must not be permitted to manage our shared inheritance of mineral wealth. This must apply at grant of a prospecting licence or mineral lease, on an ongoing basis as well as prior to any change in control.

“We earn the right to extract resources by respecting nature's inherent value. Sustainability, integrity and due diligence are not just good ethics but also good economics. It is vital to apply global norms of ownership and background verifications of extractors, their past records, and conflicts of interest, etc. said Vipul Mudgal, Director of Common Cause. ***“We advocate maintaining complete transparency and accountability in the entire sector,”*** he said.

As per the [Government of Odisha Blank Tender Document Expired Lease Iron Ore and Iron Ore Manganese NIT 07 July 2021](#), bidders are required to submit a bid letter in the format specified in Annexure I of Schedule I. In Para 11 (e) of the bid letter, the bidder states *“I/We have not been convicted of illegal mining.”* There are companies who have been awarded mineral blocks despite having been convicted of illegal mining. A complaint has been filed by Lok Sakti Abhiyan in Odisha against the allocation of the Nadidih Iron Ore and Manganese Block and the Nadidih Iron Ore Block. ***“Vedanta, the parent company of Electrosteel Steels has been found mining illegally in Goa and other states. How can Electrosteel Steels be the preferred bidder for these iron ore blocks?”*** asked Prafulla Samantara of Lok Sakti Abhiyan.

“Integrity Due Diligence is required in all sectors that manage wealth,” remarked Rahul Basu, a member of The Future We Need. ***“We hope that industry associations such as FICCI and FIMI support our demands to exclude the corrupt from the mineral supply chain. Only if bad actors are blacklisted can honest enterprise be rewarded.”***