

Suggestions on Draft Mining Policy

The draft Goa Mining Policy 2012 (which in another place in the same document is referred to as the “Goa Mineral Policy 2012”) has a handful of good points which need to be highlighted for praise at the outset:

- a) The policy promises to decide all pending renewal applications within 4 months. 98% of the mining leases in Goa are operating on the basis of applications for renewals filed 25 years ago in 1987-88!
- b) It declares that it will terminate and close down all those leases that were granted through illegal “condonation of delay” orders. This involves a total of 40 mines (30 condoned by Rane, 10 by Digambar Kamat), though these are not listed in the policy document.
- c) All concessions abolished by the 1987 Act will be finally abolished.
- d) The policy promises to make the ban on mining transportation from June 7th to September 2nd each year into a permanent feature and thus no longer dependent on individual Collector’s initiative, as happened this year in south Goa.
- e) Diversion of new forest areas for mining activity will no longer be permitted.

These are the only good points that one can find in a document 37 pages long, with 19 chapters. There are reasons for this: of the 90 points discussed in the document, 29 deal with the government’s new found love for “dump mining”. In fact, the policy should be renamed a “Dump Mining Policy” instead of a “Mining Policy.” Since the document itself admits that dump mining will become unviable by 2015-16, this means this policy is destined to have an extremely short life.

Unfortunately, the five points listed above do not salvage the draft policy document as a whole which otherwise is filled with mostly empty platitudes and lofty pronouncements. None of these leads to any specific measures listed in the document to achieve even the very little that one finds of use. There is complete lack of data to analyze the draft policy document. There should be some base data tabulated. Then many of the claims of the policy can be evaluated: how many mines, beneficiation plants, pig iron / sponge iron plants, loading jetties, trucks, truck drivers, barges? How much forest land has been used, how much land outside of mines has been used for dumps? How much revenues from royalties, export duties, barge tax, road transport cess, etc. Total employment in mines. There are no details or data provided.

The policy does not indicate how its proposals will solve serious problems that plague the industry and its regulation and most of which stem from the government’s inability or unwillingness to implement existing laws. Many of the policy features, like mine rehabilitation, are part of existing laws. Policies cannot substitute for existing laws. Neither can the government claim credit for announcing them, since they are already in force even if hardly implemented.

Serious issues completely ignored:

Several serious issues are completely ignored or swept under the mining carpet in the policy document and this gravely undermines the credibility of the document. These include:

- 1) The Preamble to the Draft Policy recognizes that mining in Goa has been dictated by “demand for low grade ore in the international market”, leading to the “most corrupt regulatory regime of the previous government” and a “peak of chaotic and unregulated mining without any concern for the fragile ecology and environment of the State.” Such strong words require a proper investigation as to why regulatory enforcement has completely failed in Goa. No penal action is proposed for the loot of mineral ore and its sale by the principal lease owners and companies, so well documented in the PAC report. Many of the same procedures, and Government servants implementing them, are still operating. It is inconceivable how a Draft Policy which purports to draw a line under the anarchy of the past five years can proceed without giving concrete proposals based on how such wholesale illegality can be avoided in the future. In fact, it does not show how sustainable mining can be done by the same group of mining lobbies that did unsustainable and unprincipled mining in the last 5 years. Thus the Draft Policy has missed an opportunity to provide a proper framework for a regulated and sustainable mining industry in Goa. In fact, the policy does not propose any features that one would even remotely find associated with “sustainable” mining practice.
- 2) The policy does not address the most important issue of the distribution of the wealth generated by mining. At the moment, only two or three companies are reaping windfall gains from the exploitation and sale of what is a public resource. The policy has nothing to say about this, even though only two companies between them exported more than 35 million tonnes, mostly by operating leases not owned by them and in violation of specific provisions of law. In our opinion, the solution to this can only come from handover of all the mining leases to a public sector firm so that total income from sale of ore will accrue to the government (instead of mere royalties as at present).
- 3) We also add here that Government of India PSUs, National Mineral Development Corporation worked more efficiently than private mining companies and lease holders in Goa. This is substantiated from the fact that despite selling ore to domestic steel makers at subsidized rates, NMDC earned a high net profit margin of 65% during 2011-12. And this was achieved after payment of all royalties, duties & taxes to the government exchequer. Sesa, on the other hand, during 2011-12 earned net profit margin of mere 43%. A private sector company working less efficiently than a PSU raises eyebrows as to whether under-invoicing is rampant in this industry as published in various news reports. Under-invoicing means theft of our resources. Only handover to a government corporation can control such practices.
- 4) In line with the thrust of the draft policy – which appears to be to promote the interests of private interests – the government has in fact announced that it will be using public resources for the construction of bypass roads and for the rehabilitation of mines. In the case of both the above projects, public resources

are being diverted for private convenience of the mining industries already well-endowed and cash-rich after their unprincipled plunder of mineral ore during the past five years.

- 5) For a government which claims to rely upon professionals, it is unclear why the reports of three expert committees on capping of mining production have been ignored. Recommendations for capping the output of Goa mining to 20 or at the most 25 million tonnes have been made by the Gadgil Panel report, the Task Force on Regional Plan 2021 and the Mashelkar Committee report. In fact, these expert committees (two of them appointed by the Goa government) have recommended cancellation of several mining leases and progressive closure of the mining industry as well. None of these recommendations are discussed or dissented from in the draft policy document. Why has the government wasted the time of these important people by setting up these committees in the first place?
- 6) The capping proposals of the draft policy as a whole are quite vague and meaningless. First and foremost, government of Goa has no power to cap production since the limits are laid down by the Ministry of Environment & Forests in its environment clearance orders. Any proposal for capping will therefore have to go officially from the government of Goa to the MoEF which will then have to recall the environment clearances issued and lay down fresh (i.e., lower) limits.
- 7) When one reads the section of capping in the draft policy document, one soon discovers that it is not talking of a cap on production or on export of ore. It is only seeking a cap on dump exploration. It appears that primary extraction will be restricted to 20 million tonnes, and dump mining will be allowed to raise 25 million tonnes, making a total of 45 million tonnes. There is no indication of how the extraction limit of 25 million tons is to be distributed among nearly 90 working mines nor is any idea available on each one's share in the lifting of dumps. As stated earlier, this is in any case the MoEF's prerogative. It finally emerges that the cap is related to the capacity of the existing roads which the government feels can take 45 million tonnes. What is the basis for this calculation has not been disclosed in the document. However, the policy nicely provides two escape routes for illegal or excess mining: one, if more ore is transported by barges, this will be outside the cap. How does the government calculate this, since all final movement of ore in any case is by barge? If the capacity of the road increases, the cap again goes. There will be no capping if the transport is done by private roads. Thus the cap is not related to sustainability of the environment but due to the limitations of infrastructure. This is completely contrary to the statements made in the first page of the draft policy.
- 8) The document mentions the capping of ore production in Bellary district to 25 million tonnes. Consider the differences between Goa and Bellary and see how atrocious the capping proposal of 45 million tonnes for Goa really is:

Bellary District	Goa State
District Area 8446 sqkm	State Area 3702 sqkm (Area wise Goa is 2.28 times smaller than Bellary district)
Mining over entire district	Mining concentrated in 4 talukas out of 12
90 mines under operation	105 mines under operation and 94 more have completed PH. (Total 199 leases have completed PH)
Only 5 rivers flowing	11 rivers are flowing across the leases with 42 tributaries.
Tunga Bhadra Reservoir	Selaulim Reservoir supplies drinking water to 55% of population but is now contaminated with manganese above permission limits

At the moment Goa is contributing around 50% of ore to the country's total export production. However, when compared to the rest of the country, the geographical area of Goa is 888 times smaller than the rest of the country. Thus the exploitation of Goa is 460 times more than its geographical capacity.

9) Thus there is a display of bravado of the capacity of the Goa government to take action to regulate mining even though the power to administer the MMDR Act, 1957 and the rules under the Act are squarely with the central government acting through the Regional Controller of Mines. In fact, there is no scope for the Goa government to regulate any mining activity on leases as its officers are not empowered and have no jurisdiction. However, the entire draft policy makes no mention of the IBM! As of date, there is neither sharing of information or even simple communications between the Department of Mines & Geology and the IBM. Such is the state of affairs.

On what the government of Goa has the powers to do, there are no policy proposals:

- 1) For example, clear statement on closure of mines within the Selaulim dam catchment is missing. The water in the reservoir is now polluted with manganese, a toxic heavy metal, in excess of permissible norms. (The dam supplies water to half of the population of Goa.) Apparently, the wealth of a handful of mine owners is a greater consideration for the government of Goa than the health of half its population.
- 2) Clear statement on buffer zones considered necessary for protection of wildlife and wildlife sanctuaries is completely lacking.
- 3) Clear statement on mining going below or intersecting the water table is missing. We cannot sacrifice our water systems simply because some people want to get rich and do not mind destroying ground water aquifers in the process. The policy should forbid any mining below the water table.

- 4) Declaration on auction of leases (instead of renewal) is not proposed even though this is now the law of the land after the judgement of the Supreme Court of India in the 2G scam case.
- 5) There is no discussion of actions that need to be taken after the Goa government came to the conclusion that the Ministry of Environment & Forests had issued environment clearances without adequately studying individual mining proposals.
- 6) There is no discussion of what the Goa government is doing to implement the conditions laid down in the environment clearance orders issued to the various mining companies or lease owners. No actions have been taken against mining companies involved in mining in excess of environmental limits imposed on individual mines.
- 7) Large scale violations of existing laws and conditions are daily brought to the notice of the Goa government. Nothing is done in response to these complaints except making site visit reports and then having them filed.
- 8) No mine till today has been able to prevent pollution of water bodies in Goa from mining operation especially during the rainy season with huge run off silting the rivers and water bodies.
- 9) There is no policy on the 100% occupation of many public roads by the mining industry. A mining policy should consider the impact of such transport on the health, safety and equanimity of the public and should announce a sharp reduction in public road usage by mining trucks. However, it does nothing of the sort. The policy should advocate that the right to ply a truck on these routes shall be auctioned off in a permit system, even by village panchayats, to ensure that the maximum value is actually collected in compensation for the disturbance and inconvenience created.
- 10) No mining activities should be permissible in areas covered under the Forest Rights Act, 2006. Mining activities must be approved by gram sabhas.
- 11) No mining leases can be approved in lands owned by comunidades. This is not only illegal since it is contrary to provisions of the MMDR Act, but contrary to the Supreme Court's judgement on common lands.

More observations on specific clauses:

- a) Of the 14 objectives listed in the policy only one (1.1.9) makes a casual mention of ecology and environment, 7 deal with exploration. This means that Goa will be under the permanent threat of mining till every bit of environment has been exhumed, disturbed and unsettled.
- b) A policy that talks on geological mapping of mine resources (1.1.4) does not talk of the need to map a more important mineral i.e., water in the form of ground water aquifers, streams, rivers, etc., which are vital components of Goa's ecology. There is no discussion of the incompatibility between mining and drinking water needs of the

local population. Several villagers like Pissurlem and Sirigao are now bereft of drinking water as well.

c) The claim of the policy to generate employment for locals (1.4.6) is vague and without quantification. There is significant unemployment in Goa. However, analysis shows that employment of Goans in mining and related transport is very low. It should be a requirement of mines to increase this radically. However, as any one even remotely connected with the history of mining in Goa will testify, employment in mining has come down rapidly over the last 15-20 years. Bulk of the persons involved are now in the transportation of ore and the vast majority of these are non-Goans. Senior level management in all firms are not Goan as the state government, despite the long history of mining in Goa, has never bothered to take up the setting up of a mining institute for training local persons for higher level employment and management. Managers imported from outside the State have little emotional concern for the natural environment as they return to their home states after employment ends.

e) The discussion in No.2.6 about minerals being conserved for future generation is 100% pure hypocrisy in view of the fact that the government now wishes to promote even the lifting of mining dumps stabilised under earlier EMPs and MPs which were to be used for backfilling and restoration of the mine areas, and to bring them back to their original condition. The entire thrust of the policy is on export and revenue, so that future generations have neither.

f) The funniest observation is at No.2.9 which talks of utilisation of existing pits for water conservation and harvesting crops when the same pits have been emptied of all the ground water by day and night pumping, causing drought in many areas. The statement should be viewed in the context of the Goa Ground Water Regulation Act 2002 which has systematically kept the ground water in the mining leases out of its ambit. This is typical Goa Government bluff. Allowing pits for harvesting of water provides adequate justification for government to justify the sale of mining dumps.

g) Any document which in present circumstances and experience promises to improve the standard of living of those residing in mining areas should be seen as completely divorced from reality. Mining has created hell for people in the villages, destroyed the quality life, created huge inconvenience on public roads, destroyed ground water aquifers permanently and destroyed agricultural areas and forests. For doing this, it has ensured that the standard of living of half a dozen mining families has improved for the next 50 generations. It would be most appropriate if the Mines Department office is located in the midst of the mining area if that is the only way it can be exposed to the realities of mining.

h) The emphasis on social responsibility schemes and mineral related tourism is no substitute for a properly regulated and sustainable economy. The proposal for 3% CSR is ridiculous if we consider that the new Mines and Minerals Bill being drafted by the central government talks of 26% of profits to devolve to village communities affected by mining. There is in fact no obligation on the mining company to continue with social welfare programmes after it has stopped mining. Communities will be left economically and socially devastated, following the closure of mines, which could happen whenever a mining company feels it is not longer profitable. Mining has a detrimental effect on the State's tourism through depletion of water and destruction of natural habitat.

i) Government cannot claim it does not know of the negative impacts of mining on the social, economic, health and environmental fabric of Goa. A large number of studies are already available on the impact of mining in Goa on the environment from the TERI Report of 1997, the NIO Report, Swaminathan Eco Development Plan, Regional Plan 2021, Mashelkar Report. However this government which proclaims dependence on experts has decided to ignore all of them in its single minded policy of protecting the mining industries atleast for another generation to come.

In conclusion, it appears:

- a) The Draft Mining Policy is largely a justification for the mining lobby to undo the ban on dump mining by the Congress government. This is a retrograde step in view of the fact that till now government is unable to regulate or otherwise control any mining activity in the mining areas.
- b) Much of so-called dump mining in the past five years is excess mining indulged in by the companies. Several excess ore dumps were created in the past five years. If dump mining becomes legal, more excess mining will take place with impunity.
- c) The manner in which this policy has been quickly drafted and laid on the floor of the house is indication that the government is keen on removing the moratorium on new environment clearances installed by the Ministry of Environment & Forests, as the moratorium is linked to approval of the State's Mining Policy.

For the above reasons, the draft mining policy document of the Goa government is being rejected by civil society and all persons affected by mining. Since the mineral ores are part of the wealth belonging to the people of the State and not to the government of the State, a policy which reflects the following principles and thrusts should be drawn up in place of the draft circulated by government.

We demand that the new mineral/mining policy should be based on the following:

- 1) As per the Constitution of India, sub-soil minerals are the property of the State of Goa. If these iron ore assets are extracted, then the highest value needs to be generated from them since the cost is also huge. Further, the money generated needs to be used towards creation of fresh assets so that the overall wealth of the State of Goa increases as a result of these mineral assets.
- 2) In view of considerable environmental damage already done by mining to the ecological endowments of the State, and in view of inability of the government to deal with private actors in mining operations, all mining leases shall be terminated and reassigned to a government corporation after being cancelled under Section 4A of the MMDR Act, 1957. At no time will the government corporation extract more than 10 million tonnes per annum. Mining being incompatible with Goa's ecology will be brought to a complete halt by the year 2021. No lease shall be renewed. No new lease shall be granted.

- 3) Till the handover to a government corporation is completed, these mineral assets should be auctioned for limited periods to maximize value to the state, after geological data is collected by the state.
- 4) As a corollary, any illegal mining is theft from the State of Goa, and should be prosecuted as such.
- 5) As a corollary, money generated from mining should be invested (and not frittered away in subsidies). The most important use is to restore services that may be destroyed by mining, such as water filtration and storage and forest services. Of almost equal priority is to mitigate impacts on the environment, from health impacts all the way to carbon generation.
- 6) After this, an obvious use is to reduce the State government debt. Other options are to spend on education, entrepreneurship, promote sustainable industries. Ideally, we can do all three in a coordinated fashion through education-industry clusters (eco-tourism, heritage tourism, biopharmaceuticals).
- 7) All mines in the Selaulim reservoir catchment are to be closed forthwith and the leases terminated.
- 8) All mines within a 5 km radius of the boundaries of wildlife sanctuaries and national parks and within wildlife corridor areas to be closed forthwith and the leases terminated.
- 9) Government will appoint an advisory panel to advise on how to restore the colossal damages done to the environment by mining in different areas of Goa.
- 10) Government will compute the costs of damage done to the environment of Goa and demand the necessary compensation from the Goa Mineral Ore Exporters Association and its members.
- 11) Government will compute the costs of damage to the health of persons residing in the mining areas and along mining roads and demand the necessary damages from the Goa Mineral Ore Exporters Association and its members.
- 12) Government will communicate to the Environment Ministry that no further applications for mining leases and mining operations shall be entertained from the State of Goa until the cap as desired is put into place. All applications for mining and prospecting operations shall be disposed of as rejected.

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MUKHERJEE/SHANKAR JOG AND SEVERAL OTHERS TOO NUMEROUS TO
NAME