Course title: Mining and Mineral Laws			
Course code MPL 124	**No. of credits:** 3	**L-T-P distribution:** 30-15-0	**Learning hours:** 45
Pre-requisite course code and title (if any): None			
Department: Centre for Postgraduate Legal Studies			
Course coordinator (s) Dr. Kavita		**Course instructor (s) Dr. Kavita**	
Contact details:			
Course type	Core		
Course offered in	Semester 2		

Course Description

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 favored 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 nationalization 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 resemble 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.

Course objectives

The course aims to:

1. provide an overview of the legal and policy framework on the mining sector in India
2. understand the causal forces which have been transforming the laws and policies on the sector
3. survey and appraise the major reformative efforts in the sector
4. analyze 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.
5. rovide the participants an inside-out view by familiarizing them with decision-making,enforcement, and dispute settlement/avoidance.

Course content	**L**	**T**	**P**
Module 1: Introduction and Legal Framework	**8**	4	
An introduction to the mining sector in India Allocation of jurisdiction over minerals and mines under the ConstitutionMinor minerals and other minerals An overview of Policies: National Mineral Policy, 1993; National Mineral Policy, 2008; National Mineral and Exploration Policy, 2016, National Mineral Policy, 2019			

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 Nationalization laws Commercial Coal Mining (2020 Reforms): Opening up coal mining to private players and allowing 100% FDI; and Shift from captive mining to commercial production. Coal Mines (Special Provisions) Act, 2015: Amendments and their implications for India's energy security. Intersection of Mining with EIA Rules Economic Policy Reforms in Mining Sector			
Module 2: Laws relating to Prospecting and Mining	**8**	**4**	
Key Provisions related to Prospecting and Mining under 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 profitCharacter and legal nature: Whether tax or not. 2015 Amendments: District Mineral Foundation, National Mineral Exploration Trust 2021 Amendments to the MMDR Act: Shift to auction-based allocation of mineral blocks; Removal of end-use restrictions; and Provisions for the transfer of mining leases. Streamlining of Statutory Clearances Role of Indian Bureau of Mines, State Departments of Mines and Geology			
Module 3: Mining and Environmental Issues	**6**	**4**	
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 theState of Goa Role of NGT Sustainable Development Framework, Sustainable mining Initiative Discussion about Critical Minerals and Social License to Operate Coal-Phase Out Case Studies (Vedanta's Niyamgiri mining project & coal mining in the Hasdeo Arand forests of Chhattisgarh)			
Module 4: Mining and Laws relating to Scheduled Areas and Tribal Rights	**4**	**2**	
Article 244, Schedule V and VI Areas, Restriction on Transfer of LandPanchayats (Extension to Scheduled Areas) Act, 1996 Forest Rights Act, 2006 (FRA) Impact of 2015 Amendments Case Study- BALCO (1997); POSCO project in Odisha			
Module 5: Conflicts and local communities	4	**1**	

Causes, Role of governments, civil society organizations, courts Case studies- Sterlite Industries Case (Tamil Nadu); Vedanta and Niyamgiri Case; and Coal Mining in Hasdeo Arand (Chhattisgarh)			
Total	**30**	**15**	

Evaluation criteria

- Class participation 10%
- Case Analysis 25% (Module 3)
- Assignment & Presentations 25% (Modules 4 & 5)
- Major Test 40% (Module 1&2)

Learning outcomes

The course will provide the students:

1. familiarity with the normative legal framework on mining in India (Modules 1 & 2)
2. the ability to appreciate policy-shifts and policy-decisions on mining in India (Module 3)
3. knowledge on dispute settlement in the mining sector and ability to imagine disputeavoidance in the sector (Module 3,4 &5)
4. ability to understand externalities cost and propose solutions, particularly in the context externalities of mining like environmental damage and threat to the life andlivelihood of tribal population (Module 4)

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. *Common Cause v. Union of India (2017) (Odisha Mining Scam Case)*
2. *Goa Foundation* v. *Union of India* (2014)
3. *In re: Natural Resources Allocation* (2012)
4. *India Cement Ltd.* v. *State of Tamil Nadu* (1990)
5. *Lafarge Umiam Mining Pvt. Ltd. v. Union of India (2011)*
6. M.*C. Mehta v. Union of India (2004) (Aravalli Hills Mining Ban)*
7. *Manohar Lal Sharma* v. *Principal Secretary* (2014)
8. *Mineral Area Development Authority* v. *Steel Authority of India* (2011).
9. *Samatha* v. *State of Andhra Pradesh* (1997)
10. *State of West Bengal* v. *Kesoram Ltd.* (2004)
11. *Sterlite Industries (India) Ltd. v. Union of India (2013) (Sterlite Copper Plant Case)*
12. *T.N. Godavarman Thirumulpad v. Union of India (1996) (Forest Conservation Case)*
13. *Thresiamma Jacob* v. *Geologist, Department of Mines and Geology* (2013)
14. *Vedanta Ltd. v. Union of India (2013) (Niyamgiri Bauxite Mining Case)*

Primary Texts:

1. Mines and Minerals (Development and Regulation) Act, 1957 (including 2021 amendments).
2. National Mineral Policy 2019.
3. Coal Mines (Special Provisions) Act, 2015
4. Environment (Protection) Act, 1986.
5. Forest (Conservation) Act, 1980.
6. Panchayats (Extension to Scheduled Areas) Act, 1996 (PESA).
7. Forest Rights Act, 2006 (FRA).

Key International Conventions and Legal Documents

1. United Nations. (1982). United Nations Convention on the Law of the Sea (UNCLOS). Retrieved from https://www.un.org/Depts/los/
2. United Nations Environment Programme. (2013). Minamata Convention on Mercury. Retrieved from https://www.mercuryconvention.org/
3. International Labour Organization. (1995). Safety and Health in Mines Convention (No. 176). Retrieved from https://www.ilo.org/
4. Organisation for Economic Co-operation and Development. (2011). OECD guidelines for multinational enterprises. Retrieved from https://www.oecd.org/corporate/mne/
5. Extractive Industries Transparency Initiative. (n.d.). EITI framework. Retrieved from https://eiti.org/

Books/Articles/Online Resources

1. Anton, D., & VanderZwaag, D. L. (2019). Mining and the law of the sea. Cheltenham: Edward Elgar Publishing.
2. Asir, N.G.G., Kumar, P.D., Arasamuthu, A. et al. Eroding islands of Gulf of Mannar, Southeast India: a consequence of long-term impact of coral mining and climate change. Nat Hazards 103, 103–119 (2020). https://doi.org/10.1007/s11069-020-03961-6
3. Bastida, E. (2020). International and comparative mineral law and policy: Trends and prospects. Cheltenham: Edward Elgar Publishing.
4. Bastida, E., Wälde, T., & Warden-Fernandez, J. (2005). Mining law and policy: International perspectives. London: Routledge.
5. Dalton Debbarma and Yash Yadav, A Critical Evaluation of the Adequacy of Current Mining Laws in India: A Legal Study, International Journal of Law and Social Sciences, Vol. 9 Issue 1, 2023
6. Dhavan, R. (1992). MINING POLICY IN INDIA : PATRONAGE OR CONTROL ? Journal of the Indian Law Institute, 34(2), 218–246. http://www.jstor.org/stable/43951425
7. Gupta, Harsh, "The Role of Mining in Economic Development and Environmental Protection", 1st ed., Sage Publications, 2019.
8. Hilson, G. (2012). The resource curse revisited: Environmental justice and the extractive industries. Development Studies Research, 9(3), 310–330.
9. Hilson, G. (2012). The resource curse revisited: Environmental justice and the extractive industries. Development Studies Research, 9(3), 310–330.
10. Humphreys, D. (2019). Critical minerals and resource security: Policy approaches and international cooperation. Mineral Economics, 32(2), 145–159.
11. Humphreys, D. (2019). Critical minerals and resource security: Policy approaches and international cooperation. Mineral Economics, 32(2), 145–159.
12. ISID (2012), *Sustainable Development: Emerging Issues in India's Mineral Sector*,New Delhi: Planning Commission.
13. Jane H. Hodgkinson, Michael H. Smith, Climate change and sustainability as drivers for the next mining and metals boom: The need for climate-smart mining and recycling, Resources Policy, Volume 74, 2021.
14. Jenkins, V. (2016). Environmental regulation and the mining industry: Balancing risks and rewards. Environmental Law Review, 18(4), 255–268.
15. Jenkins, V. (2016). Environmental regulation and the mining industry: Balancing risks and rewards. Environmental Law Review, 18(4), 255–268.
16. Khanna, Arpita A. (2013), "Governance in Coal Mining: Issues and Challenges",
17. Lukasiewicz, A., et al. (Eds.). (2017). Natural resources and environmental justice. New York: Routledge.
18. Morrison, J. (2014). Corporate social responsibility in the mining sector: The case of social license to operate. Journal of Cleaner Production, 84(1), 122–131.
19. Morrison, J. (2014). Corporate social responsibility in the mining sector: The case of social license to operate. Journal of Cleaner Production, 84(1), 122–131.
20. Otto, J. (2020). The future of mining law in a low-carbon world. Resources Policy, 65, Article 101567.
21. Otto, J. (2020). The future of mining law in a low-carbon world. Resources Policy, 65, Article 101567.

22. Sen, Raj Kumar, "Mining and Environmental Law in India", 2nd ed., Eastern Book Company, 2020.

23. Seth, D. D. (2012), *Encyclopaedia of Mining Laws*, Fifth Edition, Lucknow: Eastern Book Company.
24. Singh, A.K. "Sustainable Mining: The Law and Practice", 1st ed., Oxford University Press, 2018.
25. Sreejith, S. G. (2015), "Vedanta and the philosophy of international law: From humansociality to ahuman reality", *Indian Journal of International Law*, 55 (1): 3-38.
26. Szablowski, David (2007), *Transnational Law and Local Struggles: Mining Communities and the World Bank*, Oxford: Hart Publishing.
    TERI – NFA Working Paper, New Delhi: TERI.
27. Zillman, D. N., McHarg, A., Barrera-Hernandez, L., & Bradbrook, A. (Eds.). (2014). The law of energy underground: Understanding new developments in subsurface production, transmission, and storage. Oxford: Oxford University Press.

Additional information (if any):

Student responsibilities: 75% attendance

Course Reviewers

1. Prof Gurujit Singh, Professor, USLLS, Guru Gobind Singh Indraprastha University, Delhi
2. Ms Chhaya Bharadwaj, Associate Professor, Jindal Global Law School, Sonepat