

India: During a Lockdown, Why Is the Mining Industry Considered 'Essential'?

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The exemption granted to sectors such as mining and steel may have more to do with sustaining large companies which are already facing losses.

India is under an emergency lockdown. One big question that will be asked for some time to come is if this extreme measure could have been prevented. What we do know is that its implementation has resulted in chaos and has threatened the lives of a large number of poor workers. While the total lack of safety and survival measures for urban daily wage workers at this time has been on full display, news about how this lockdown affects rural workers is trickling in.

The national lockdown was announced on March 24. It invoked Section 10 (2) (i) of The Disaster Management Act, 2005 which gives powers to the National Executive Committee to *"evaluate the preparedness at all governmental levels for the purpose of responding to any threatening disaster situation or disaster and give directions, where necessary, for enhancing such preparedness..."*.

Under this law, the central government issued "Guidelines on the measures to be taken by Ministries/ Departments of Government of India, State/Union Territory Governments and State/ Union Territory Authorities for containment of COVID-19 Epidemic in the Country." This document stated that industrial establishments will remain closed, except for manufacturing of essential commodities and specific production units with prior permissions. On the next day, an addendum was issued to exclude certain industries and *"coal and mineral production, transportation, supply of explosives and activities incidental to mining operations."*

Mining and steel as essential services

The central Indian mining states have deployed a slew of legislations to continue mining operations. The Odisha government has invoked the Epidemic Diseases Act of 1897 and issued Orissa COVID-19 Regulations, 2020 under it. These regulations allow the government to exclude "essential services" from any lockdown restrictions. An order (9015/H&FW) issued by the Health and Family Welfare Department on March 24 has excluded the following from any restrictions, subject to preventive measures like social distancing and containment: *"v. Operation of mines of iron ore, coking coal, thermal coal, limestone, dolomite, manganese, chromite etc. as well as operations of ferroalloys, iron ore pellet plants etc. which are supply critical raw material for steel making"*

The [Essential Services Maintenance Act \(ESMA\), 1981](#) which also has corresponding state ESMA lists "(xii) any service in any establishment or undertaking dealing with the production, supply or distribution of coal, power, steel or fertilizers" as an essential service. The [steel ministry](#) and companies like [CIL](#), [JSW](#) have relied on this law to keep their operations going at this time. This law is basically meant to prohibit worker strikes and lockouts in industries.

Why have Central and state governments exempted coking coal, iron ore mining or production of steel and ferroalloys from being shut during the COVID 19 pandemic? There is only a very broad

justification provided by these sectors and ministries about why these activities have been allowed to generate huge [inventories](#) when the [demand is low due](#) to [the economic slowdown](#).

As noted by Jan Adhikar Manch, a network of trade unions and civil society organisations, these sectors are kept going by “thousands of workers and daily labourers, largely adivasi and dalit, who are compelled to report to work at grave risk to their own health and well being and that of their families and village communities”. Masks and sanitizers meant to protect workers from COVID-19 are far from enough to tackle occupational risks related to these industrial and mining operations. Workers are having to bear the wrath of the police stationed to restrict public movement and village *nakabandi* barricades to come to work. Although the prohibition Order No.F-4 133/HOME-c/2018 on “refusal to work” for essential services, such as in Chhattisgarh, does not include mining work, contractors and employers have reportedly threatened to cut wages or fire workers who stay at home. Truck drivers carrying coal and other materials in port areas and mining villages are stranded at various places without food as the roadside *dhabas* are shut.

Lifeline to companies?

The exemption to major sectors such as mining and steel industry may have more to do with sustaining these companies, which are already facing losses, than them being essential during an emergency lockdown. Why has this consideration not been extended to sectors like agriculture, [poultry](#), [fisheries](#) and forest produce collection, given how important these sectors are to the rural economy and to food security? Wheat harvested in Gujarat is stacked up in homes. In several coastal areas, fishing activities have been partially or completely stopped and fishing families will have to bear financial losses. In Chhattisgarh, tribal villagers in districts like Sarguja are unable to collect forest produce due to restrictions placed on movement. According to the Ministry of Tribal Affairs, [“around Rs 2,00,000 crores worth of NTFP”](#) is collected annually by tribal communities and transported to local, state and international markets.

Following the government guidelines, food production and supply has taken a huge hit. The lockdown has temporarily broken the supply chain across the country for food grains, vegetables, groceries, milk, fish, LPG and various other everyday commodities. Now state governments and sectoral ministries are trying to tie them back together through series of notifications, updating earlier orders and the provision of passes for transport and sale. This is likely to have a long-term impact on the rural economy.

Regulating environmental impacts of projects?

The industrial sectors which have been excluded from the shutdown may also see another huge advantage during this time. Under ‘normal’ circumstances, all industrial, infrastructure and mining operations are supposed to be monitored by regulatory bodies. The environmental management protocols of projects such as include pollution control, water extraction, tree felling, extraction of raw material or forest produce, transport and construction, are to be overseen by institutions responsible for mitigating and controlling environmental impacts. Project emissions and discharges are to be tightly regulated according to specific environment laws to protect rural ecologies and livelihoods.

Presently, while Indian cities are enjoying blue skies, rural communities, already severely affected by mining and industrial operations in central and eastern India, are reporting higher levels of effluent discharge and localized dust pollution since the lockdown. The official mechanism to verify these claims or act on these complaints is yet to be prioritized by environmental institutions at this time. It is also likely that environment enforcement will be minimal, at least for as long as the lockdown is in place. For projects engaged in mining, the lack of regulatory monitoring means

projects can mine and pollute as they please with no one to watch over.

There is no clarity on the protocols to be followed by environmental monitoring agencies during this period. There are no clear instructions on how to go about routine functions and emergency situations. In some parts of the country, these offices are open for “two hours a day” or not at all. Officials may be willing to take complaints and perform “*kagaz wala kaam*” (paperwork), as one of our colleagues was told, but they are unable to assure action. If mining and industrial units are operational, then regulatory procedures at least to supervise their environmental impacts and proactive community assistance in instances of accidents and other risks would be necessary.

A time for loosening regulatory control

In the midst of the news of the COVID 19 pandemic, environment institutions are loosening regulatory control over project approvals. The environment ministry has introduced several proposals and sweeping changes. One notice seeks public comments on the revamp of the Environment Impact Assessment (EIA) notification. Responses on the draft notification were to be sent within sixty days from March 12, the date of the notice. The prohibition of meetings and gatherings during the lockdown makes it impossible to respond to this crucial notification that regulates the approvals and compliance with environmental safeguards of many industrial, infrastructure and mining projects in the country. The new draft proposes several exemptions and limitations on public participation in environmental decision-making processes. This draft is [still uploaded asking for responses](#) during the lockdown.

Another notification was issued on March 28. In this, the environment ministry has stated that all mines that were auctioned under the Mines and Minerals (Development and Regulation) Act, 1957) and where ownership was to be transferred to a new bidder as on March 31, 2020, can continue with a two-year deemed environment clearance. This notification is to ensure that the new lessee can continue mining operations and seek a fresh environmental approval within two years. This decision makes all pending court cases or complaints related to violations and impacts inconsequential to the continuation of the mine. On March 30, the Punjab Pollution Control Board (PCB) [issued an extension](#) of the validity of all authorisations, consents and registration under their jurisdiction to June 30 (No.PPCB/SEE (HQ-2)/2020.) It is likely that other State PCBs will follow.

While the state of environmental monitoring is practically a no show, there is little public information on whether project approval committees are reviewing environmental approvals and forest diversions. A March 30 meeting agenda lists the diversion of 1177.21 hectares of forests for an iron ore mine in Odisha. The environment ministry has not made any public announcement on the cancellation of these meetings. There is a passing [reference](#) to some expert committee meetings for the month of March being deferred.

As we work through the COVID lockdown and evolve ways to deal with the pandemic, India's villages, especially the mining regions where workers and their families are already ravaged by the impacts of extraction, deserve special attention. Should these high-risk industrial operations continue unregulated during this period? Let us not wait for an explosion of suffering to answer this.

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