

WHY SHOULD WE BE CONCERNED WITH

Children in Mining Areas?

CHILDREN AND MINING - WHERE IS THE CONNECT?

India currently produces 89 minerals out of which four are fuel minerals, 11 metallic, 52 non-metallic and 22 minor minerals. Mining for fuel, metallic and non-metallic industrial minerals is currently undertaken in almost half of India's districts. Post-Independence, mining has been considered as one of the main industries that generate high revenues considering that India is significantly endowed with mineral resources. Development through the means mining in our country is also considered to be directly proportional to economic prosperity at all levels – be it national or local.

A fact finding visit to the mines of Hospet and Bellary in 2005 and the country-wide study on children and mining, "India's Childhood in the Pits", a report undertaken jointly by HAQ Centre for Child Rights, Samata, Mines, Minerals and People (MM&P) and Dhaatri Resource Centre for Women highlighted the impact of mining on children. The report highlighted that mining children suffer from malnourishment, respiratory diseases, absence of safe drinking water, safe and healthy environment.

Mining has always been a symbol of struggle between human need and human greed. The greed has always undermined the need. We have seen many such struggles by tribal people in India such as the one in Niyamgiri hills against Vedanta in Odisha, against POSCO in Odisha, against SAIL in Salem, Tamil Nadu, and many more. Through these struggles one can see that economic prosperity has never percolated to the local level.

It is in and around these mining areas that we find many children growing up. These children are affected by mining both-indirectly and directly. It is these children who one should be concerned about and refer to as the mining children.



These areas are prone to high dropout rates from school, vulnerability to sexual exploitation and trafficking. Since areas inhabited by *adivasis* are the ones that are also mineral resource rich, it is the *adivasi* children who are the worst affected by mining. They are hit the hardest by landlessness, displacement and depletion of forest resources, which also seriously affects their nutrition.

The tragedy is that “mining children” are nobody’s children. The ministry or department that mines does not look after children and those ministries or departments that look after children, such as Departments or Ministries of Social Welfare, Labour, Women and Child Development, Education, Tribal Welfare do not have mining areas on their radar. So invariably, children in these areas fall between the cracks.

What is more, the same kind of gap exists between human rights activists and civil society groups as well. Those who work on land rights and mining issues seldom see and therefore highlight the issues concerning children. Similarly, those working on child rights seldom see the impact mining is having on children. Media too has never made this connect. Therefore it is not surprising that they are partnering with mining companies such as the partnership between NDTV and the controversial Vedanta, who have caught on to the importance of the issue and the need to focus on



children, and are already acting on it to boost their image.

Following the release of the report “India’s Childhood in the Pits”, an inter-ministerial committee was set up by the secretary of mines to address the issues of women and children in the mining areas. This Committee was constituted keeping in mind the need to interact and coordinate with different concerned ministries to address the emerging concerns. But unfortunately, as soon as the Secretary changed, this initiative seems to have put into cold storage.



DIRECT AND INDIRECT IMPACTS OF MINING ON CHILDREN

- 1 Increased morbidity and illness:** Mining children are faced with increased morbidity. Children are prone to illness because they live in mining areas and work in mines.
- 2 Increase food insecurity and malnutrition:** While almost 50 percent of children in many states across the country are malnourished, mining areas are even more vulnerable to child malnutrition, hunger and food insecurity.
- 3 Increased vulnerability to exploitation and abuse:** Displaced, homeless or living in inadequate housing conditions, forced to drop out of schools, children become vulnerable to abuse, exploitation and being recruited for illegal activities by mafia and even trafficking.
- 4 Violation of Right to Education:** India is walking backwards in the mining affected areas with respect to its goal of education for all. Mining children are unable to access schools or are forced to drop out of schools because of circumstances arising from mining.
- 5 Increase in child labour:** Mining regions have large numbers of children working in the most hazardous activities.
- 6 Further marginalisation of Adivasi and dalit children:** Large-scale mining projects are mainly in adivasi areas and the adivasi child is fast losing his/her Constitutional rights under the Fifth Schedule, due to displacement, land alienation and migration by mining projects. As with adivasi children, it is the mining dalit children who are displaced, forced out of school and employed in the mines.
- 7 Migrant children are the nowhere children:** The mining sector is largely dependent on migrant population where children have no security of life and where children are also found to be working in the mines or other labour as a result of mining.
- 8 Mining children fall through the gaps:** Children are not the responsibility of the Ministry of Mines that is responsible for their situation and the violation of their rights. The mess that is created in the lives of children as a result of mining has to be addressed by other departments like child welfare, education, tribal welfare, labour, environment and others. Without convergence between various departments and agencies, the mining child falls through the gaps. All law and policies related processes do not address specific rights and entitlements of mining children.



THE CHALLENGES

1. India has a lot of laws, policies and programmes for children. But our report shows that mining children are unable to benefit from them. Very few laws provide any protection or relief to mining children in particular or address their specific situation created as a result of living and even working in mining.¹
2. A key challenge in India for those who work on children's rights is the confusion around the definition of a child in terms of age. The Indian Majority Act 1875 makes 18 years the general age of majority in India. The Juvenile Justice (Care and Protection of Children) Act 2000 as amended in 2006 follows this principle to define a child as persons below the age of 18 years. The Mines Act 1952 also defines an adult to have completed his eighteenth year.

However, other laws passed in India cause confusion, with many laws defining a child as only up to 14 years of age. For example, the Child Labour (Prohibition and Regulation) Act 1986 defines childhood as only up to 14 years of age. The Factories Act, 1948 defines a child to be someone who has not completed his fifteenth year of age. The Right of Children to Free and Compulsory Education Act passed in 2009, guarantees the right to education only to children between 6 -14 years.

3. The mess that is created in the lives of children as a result of mining is left to be addressed by other departments like child welfare, education, tribal welfare, labour and others, which makes for an inter-departmental conflict of interest and leaves ample room for ambiguities in state accountability. In this process, the child is being forgotten. Thus, impacts of mining on children have technically few legal redressal mechanisms to bring the multiple players to account.²
4. Child labour in mining and quarrying is in virtually all cases, a Worst Form of Child Labour because of the extent and severity of the hazards and the risks of death, injury and disease. There is no justification - poverty included - for children to work in this sector. It is literally a back breaking work. It is relatively straightforward, therefore, for governments to legislate to include mining and quarrying activities on their legally-binding, national hazardous child labour lists; thereby making them prohibited activities for children.³

Different laws have different ages:

Indian Majority Act, 1875	18 years
Juvenile Justice (Care and Protection) Act 2000 as amended in 2006	18 years
Prohibition of Child Marriage Act 2006	18 years for girls and 21 years for boys
Mines Act, 1952	18 years
Factories Act 1948	15 years
Child Labour (Regulation and Prohibition) Act, 1986	14 years
Right of Children to Free and Compulsory Education Act, 2009	6-14 years

The paradox of mining lies in the fact that, although they live in the mining areas, neither the mining industry nor the mining administration is legally responsible for ensuring the rights and development needs of children. This is because the principal job of the Ministry of Mines is to mine and not look into the requirements of children.

1. Dhaatri Resource Centre for Women and children- Samata, Vishakhapatnam, HAQ: Centre for Child rights, New Delhi, 2010 India's Childhood in the "Pits"- A report on the Impacts of Mining on Children in India
2. Ibid.
3. Eliminating Child Labour in Mining and Quarrying, Background Document, *International Programme on the Elimination of Child Labour (IPEC)*, 12 June 2005, accessed on September 10, 2012

KEY STRATEGIES

For the past three years, HAQ and Samata, with support from Tdh-Germany have been trying to bring in this connect through public hearings, trainings and workshops. But clearly that has not been enough. It is important to bring many more stake holders into this discussion and debate.

1. **Public Hearings on Children and Mining** – Six public hearings were organised in Jharkhand, Orissa, Andhra Pradesh, Karnataka, Maharashtra and Madhya Pradesh in which the children, parents and others working with children deposed. What came through clearly was the total gap in people's appreciation of the condition of children mining areas both among the activists as well as government
2. **Community Resource Guide on Children and Mining** – A Community Resource Guide on children and their rights in mining areas has been prepared which helps the users identify and address the concerns that the “mining children” face and will also help to uphold rights of the children by using the laws available in the country
3. **Capacity building of key stake holders** – Capacity building of community based organisations, community members, advocates, academicians on issues surrounding children living in mining areas and how they are to be addressed through existing law, policy and programmes
4. **Field studies on situation of children in mining areas**
5. **Interface with concerned parliamentarians, government authorities, media and relevant organisations**



OUR DEMAND

1. Inclusion of children in mining laws

Defining a child as an affected person must entitle them to all legal rights and basic services available to them as per laws and programmes of the country. For example, a young Child who is to be served by early child hood care interventions is for children in the 0-6 age group and are entitled to ICDS, crèches etc. Children in the 6-14 age group have right to free and compulsory education.

Given the negative impacts of mining, leading to greater vulnerability of children to abuse and exploitation requires implementation of the Juvenile Justice (Care and Protection) Act, and establishment of Child Welfare Committees and Juvenile justice Boards.

2. Addressing the child labour gap in Mining laws

The Child Labour (Prohibition and Regulation) Act, 1986, prohibits the engagement of children in certain employments and regulates the conditions for work for children in certain other employments. The list of hazardous forms of employment has been added to on several occasions since the Act was passed in 1986, but mining and collieries were included on the original list. In addition to this, Article 24 of the Constitution of India, drafted in 1950, states that: “No child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment.” Despite this, 60 years after the Constitution came into effect, thousands of children across India continue to work in mines and quarries.

The Mines Act, 1952 clearly prohibits the employment of children under 15 years of age in mines, stipulating that for underground work, workers must have reached 16 years of age. This was then revised in 1983 when the Mines (Amendment) Act stated that: “no person below 18 years of age shall be allowed in any mine of part thereof” (Section 40) or in any operation connected with or incidental to any mining operation being carried on (Section 45). However, even while prohibiting the employment of children in mines, the Mines Act leaves open a window of opportunity for exploitation, as it simultaneously allows for children of sixteen years to be apprentices and trainees. It also leaves it to the discretion of the Inspector to determine whether the person is a worker or apprentice/trainee and fit to work (Section 43.1).

3. Revival and revitalization of the inter-ministerial committee set-up in 2011 by the Secretary of mines to address issues of women and children in mining areas

4. Priority given to mining children for access to government programmes and schemes

Mining areas must be priority areas for implementation of the Integrated Child Protection Scheme (ICPS).

5. Convergence of departments and ministries

The Ministry of mines needs to work closely with all the other line departments and ministries (social welfare, education, health, tribal welfare).

6. A system of implementing child protection measures by the lease holders/PSU/ Private Companies to be put in place



ABOUT US

Samata, is a social justice organization working for the rights of the tribal “*Adivasi*” people of Andhra Pradesh, India and for the protection of the natural resources and ecology of the Eastern Ghats (hills). Samata started working in a small tribal hamlet in 1987 with a group of tribal and rural youth, to mobilize tribal communities against exploitation by outsiders and by government. Samata was formally registered as a non government organization in 1990. Samata advocates for the voiceless, holds government accountable to its promises, enables minorities to fully achieve and exert their rights, promotes sustainable development while defending against environmental abuses and aids the human development of the disadvantaged. Samata believes the best way to achieve our mission is through adherence to nonviolence, community empowerment and adherence to the democratic process.

HAQ: Centre for Child Rights, based in New Delhi, India, began working in October 1998 and was formally registered under the Societies Registration Act, in June 1999. HAQ focuses on children in a holistic way- as Actors in our society, as Citizens of today and as Adults of the future. HAQ seeks to recognize, protect and promote all rights for all children in an integrated manner, making crosscutting linkages between all categories of children, especially children who are disadvantaged on account of gender, caste, class, ethnicity, ability, location and issues affecting them. HAQ works through its two main programmes- Children and Governance and Child Protection. It works as a resource and support base providing information, referral service, legal aid, training and capacity building of all those working with children or on issues concerning them, and the children themselves.



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Children in "Pits" - Children in Mining Areas – www.facebook.com/ChildrenInMines