The New Extractivism

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Among the 11 Bills passed without discussion in the just concluded session of Parliament, the Mines and Minerals (Development and Regulation) (MMDR) Amendment Act, 2026, is facing serious pushback from opposition parties and State governments run by them. The Bill has been widely criticised for trampling on the rights and taxation powers of State governments in India's fast-eroding federal structure. But the Bill goes even further. It advances efforts to institute a neo-extractivist mining regime through a series of measures, including a previous amendment to the MMDR Act of 1957 passed in 2023.

Besides hurting States, the 2026 Amendment Act is remarkable also because it reflects the agenda of the Centre under Prime Minister Narendra Modi to openly engineer massive transfer of surpluses to favoured sections of Indian big business. New clauses give these entities freer rein to extract both "traditional" and "new" minerals, as well as help them pay out implicit subsidies to encourage such extraction at the expense of State governments.

The rules and regulations governing mines, mining, and minerals specified in the MMDR Act of 1957 gave certain powers of regulation to the Centre to be deployed in the public interest while preserving the control of the States over mineral-bearing land within their boundaries. It gave States the right to issue licences for prospecting and mining and to impose royalties on mining revenues derived by licensees from land in their jurisdiction. The Centre, however, was mandated to specify the rules and procedures for auctioning mining rights and fix the rates for royalties that could be levied.

2024 Judgment

In a 2024 Supreme Court judgment, a nine-member bench in an 8:1 ruling overturned an earlier 1989 decision that identified royalty as a tax. Contrary to that, the court defined royalty as a payment that was a contractual obligation to enjoy mining rights, separate from taxes that could be additionally levied. Moreover, it held that the power of States to tax land as specified in Entry 49 of the State List in the Seventh Schedule of the Constitution also extended to mineral-bearing land and mines and quarries. However, it simultaneously ruled that the limitations on State taxes on mineral rights set by Entry 50, which states that such taxes are subject to "any limitations imposed by Parliament", included prohibition of such taxation.

The Act just passed appears to misread this ruling to stretch its powers to the extreme at the expense of States. To start with, it extends the powers of the Centre to regulate mines and development of minerals to include regulation of mineral-bearing land. This would allow it to determine the conditions under which land can be procured for mining and the manner in which such land can be exploited for the purpose. Further, under the amended Act, those holding leases for mining one type of mineral can apply to extend that right to cover deposits of any other minerals within the leased area, instead of applying for a separate mining licence for the new mineral.

In addition, leaseholders will not have to pay any additional fee for inclusion of strategic and critical minerals, such as lithium, graphite, nickel, and cobalt, in an existing lease. With the boom in demand for rare earths and critical minerals stemming from the shift to renewables and electrical vehicles, the amendment allows holders of leases to diversify at no cost if they happen to be holding a lease on lands bearing such minerals.

But the amendment does not stop there. It overrides the rights of States by stretching the interpretation of the limitation on State taxation of mineral rights. It requires a State government to levy taxes that are in keeping with the conditions prescribed by the Central government not only in the case of mineral rights but also of mineral-bearing land. This takes away the separate right of States to impose taxes on such land.

Casualty: Federalism

The amendment is clearly an intensification of the ongoing trend to diminish States' rights and taxation powers. Land is a State subject under Entry 18 of the State List. States, through their legislatures, have the power to tax land as per Entry 49 of the State List. And the limitations applicable to taxes on mineral rights under Entry 50 do not apply to taxes on land. The Supreme Court, which allowed Parliament the power to impose limitations on the taxation of mineral rights, excluded the taxation of land from being subject to that power.

There is another violation implicit in the amendment. In its 2024 judgment, the Supreme Court held that States, having the power to impose taxes, could raise tax demands for the period beginning April 1, 2005. The 2026 amendment seeks to completely divest States of any such right.

What is more, it makes the new and stringent limitation retrospective, in a manner that is crudely discriminatory. If there are any pending, unpaid, or unrecovered dues from any violative State levies from a period before the notification of the Amendment Act, they stand cancelled. Such demands, if not already met, are now invalid. On the other hand, any such levies already paid are not liable to be refunded. In sum, if taxpayers have been prompt and compliant, they are penalised, while the laggards and those non-compliant are to be rewarded. This differential treatment, which violates the principle of equality before the law, has little justification.

Not surprisingly, the response of the State governments and parties that dare to be vocal has been belligerent. The Jharkhand Chief Minister has termed the legislation that was passed as a "black Bill" and asserted that the land and minerals in Jharkhand belong to the State. Similar statements have come from Kerala, Odisha, and elsewhere. The measure is bound to widen the fracture in India's federal relations. It also gives cause for concern because it intensifies the ongoing effort of the Centre to benefit big business in mining at the expense of the populations inhabiting the lands that would be the target of the new extractivism.

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