

**Round - Table
Mines, Mine Workers' Problems
And Their Remedies**

(SEPTEMBER 8 & 9, 1994)

REPORT

CONVENED BY
MINE LABOUR PROTECTION CAMPAIGN (MLPC)
Between Mandir and Masjid, Jalap Mohalla
Jodhpur (Raj.)

MINES, MINE WORKERS' PROBLEMS AND THEIR REMEDIES

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Under the auspices of
Mine labour Protection Campaign (MLPC)
Between Mandir and Masjid, Jalap Mohalla,
Jodhpur (Raj.), India

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Round-Table Mines, Mine Workers' Problems And Their Remedies

ABSTRACT

The round-table was held at Jaipur (Rajasthan) on September 8 and 9, 1994, under the auspices of the Mine Labour Protection Campaign (MLPC) in collaboration with several NGOS, to deliberate problems faced by over 1.8 million mine workers in the State and to seek their legal redress. Over 100 delegates and many mine workers drawn from several districts participated. The deliberations were split into four sessions spread over two days. A variety of issues were discussed, such as: the socio-economic status, health and safety of mine workers, conditions of the mines and mine workers and their exploitation by mine owners and the general apathy of the State Government regarding these issues. Many very informative case studies on the mines and mine labour in Jodhpur, Udaipur, Jaipur and Alwar regions were presented and discussed by several of the delegates.

Everyone attending the round-table felt that the mine workers continue to encounter a multitude of serious problems that must be critically evaluated and urgently addressed. Therefore, immediate solutions to these mine related problems became the main topic of discussions among the many eminent lawyers assembled at the round-table, figures such as: Justice V.R. Krishna Iyer; Justice V.S. Dave; Chairman of the Rajasthan Law Commission and Chief Secretary of the State, Shri M.L. Mehta and his colleagues from the various concerned Government Departments. Many careful and detailed recommendations have been formulated from the deliberations toward making the mining issues more clear, concise and operative. The first set of recommendations are of a general nature for giving insight and proper direction to the pertinent State administrative and technical agencies, as corrective provisions already exist. The other set of recommendations are of a specific nature, concerning: health, safety, welfare and the law. These are the result of the MLPC's meticulous examination of the current legal provision for mines and mine labour and have been formulated as concrete suggestions for amending the existing legal statutes. Some of the specific suggestions include: the creation of a provision for welfare amenities; various changes to the Mines and Mineral Act, 1957; the creation of a Mining Commission; the Central Government to issue public notification for incorporation of mining related occupational diseases, including silicosis into Workmen's Compensation Act, 1923 and various amendments be made to Industrial Disputes Act, 1947, Employees' State Insurance Act, 1948 and others. The details of these suggestions by the round-table group follow under the specific recommendation section. Here appropriate citations and detailed references to current legal statutes can be found. In light of this round-table discussion, several changes are most urgently necessary.

I. Introduction

For over a decade we have been deliberating on mining related problems of the Thar desert, with a view to understand the resulting environmental degradation and its effects on the water, soil, forests, pastures and germplasm. In this process, realized that a more serious issue urgently need to be investigated, mainly the health hazards and status of mine workers in relation to their socioeconomic conditions legal provisions. Our agenda, therefore, shifted from the environment to humane issues following more than half dozen national, state and regional seminars, workshops and group meetings that we organized in the last three years at Jodhpur, Udaipur, Alwar, Jaipur and elsewhere in the State. We felt that as NGOs we must start a campaign to protect the rights of mine workers and provide relief in terms of health, safety and ownership to lakhs of mine workers. This is how the Mine Labour Protection Campaign (MLPC) came into being with Justice V.R. Krishna Iyer as patron.

Under the auspices of MLPC and several professional and social groups, a “JODHPUR DECLARATION” was made at the National Seminar on Mines and Mine Workers on April 16, 1993 at Jodhpur. This declaration highlights the problems of mine workers and our struggle against dust related health problems.

The Round-Table discussion on Mines, Mine Workers’ Problems and Their Remedies at Jaipur on September 8 and 9, 1994 was yet another NGO effort deliberate issues like (1) Law and Mine Workers: Future Amendments and Changes (2) Illegal Mining, Loss of Resource and Joint Mines Management; (3) Mine Workers: Health, Welfare and Safety. These issues, unfortunately have not received due attention at any level, not even in the new Mineral Policy, 1994 announced by State Government in August, 1994.

II. Inauguration, Key-note Address and Deliberations

1. Inauguration: Honorable Justice V.S. Dave, Chairman of Rajasthan Vidhi Ayog, inaugurated the round-table discussion. In his address, he was more than empathetic as he looked for remedial measures to provide relief to mine work within the legal framework. He explained where the current laws needed to amended and new laws needed to be enacted. He also asserted that, Rajasthan Vidhi Ayog would do its best to continue its critical evaluation of the mine labour legal provisions, and where it is necessary, or when it is brought to the notice of the Ayog, he vowed that Ayog would act quickly and actively for the betterment of the legal provisions and to safeguard the interests of the mine workers.

2. Key-note address: Honorable Justice V.R. Krishna Iyer, Patron of MLPC, in his key-note address raised basic issues pertaining to human existence and the status of mine workers. Justice Krishna Iyer opined that mine workers are grossly discriminated against, paid insufficient wages, suffer of a variety of occupationally related diseases, and often prematurely die or lead a life of bonded labour. He was very emotional as he explained why we were gathered there: “To liquidate this discrimination by legal methods, by militant processes, and by appealing to institutions of law and order; the executive, the legislature and the judiciary. I want

to ask our governments, Rajasthan and Central. I want to plead with the NGOs, like Swami Agniveh's organization, to become more and more quickened in their consciousness of the pathetic sight of sand-stone mine workers. We have gathered here to find solutions, legal, if possible, or violent, if compelled desperation is the waving ground of extremism, and the cause of desperation is illegality practiced under the cover of legality. Justice Krishna Iyer further stated that: "Under the Indian Constitution the right of life is the foremost human right, is a fundamental right". Even the Supreme Court has sanctified it as basic: life, livelihood, dignity, education, etc. These are invariable and non-negotiable. The right to life means good health, which we must ensure to the mine workers in whatever way possible. These are the matters, which can be corrected by law, by government, by a welfare state and by a social justice state.

So far no notification has been made for silicosis. And although a notification of minimum wages has been made, the people are uninformed about it. It is imperative that the social action groups become kinetic, that is, work toward moving the law into action. Social action groups will have to be given a high place in the operation of the legal system. No law can work without social action.

He explained that, "like the Jodhpur Declaration, now a Rajasthan declaration has to be made here. If you don't make the law, and allow lawless conditions to prevail where workers are exploited, we have to follow the Gandhian method, namely of: "Break the law to make a better law" which should not work through bureaucracy. We have to see that the rule of law runs close to the rule of life. Law is for life and what we need today is the protection of the law. If we use our creative intelligence, we can find solutions. One reason that I have come all the way from Kochin to this place herein Jaipur at an advanced age, when people should rest, is because there is so much woe, there is so much grief, there is so much suffering that we can avoid. I hope at the end of our deliberations, we will be able to produce something, which is positive, something which will make a better deal and not surrender our workers to exploitation. Let us march with a slogan: 'we shall not stop until our injustices are ended'.

3. Sessions: In addition to the inaugural session, the round-tabled deliberations were split into three technical session. Then the concluding session followed, in which various issues concerning mine workers' problems and their remedies were discussed at length and many case studies were presented. Opinions were expressed freely.

Representing and sharing the plight of the mine workers were a large number of NGOs, institutions, bureaucrats including mines and labour secretaries, technocrats and mine workers who expressed their opinions and gave a lot of input and insight into various facets of this problem. Over one hundred delegates from within the state and different parts of the country participated.

These discussions were frequently interpreted in legal terms by Justice V.S. Dave who shared with the delegates his vast wealth of knowledge and legal experience. During the concluding session the Chief Secretary of the State, Shri

M.L. Mehta also expressed his views on the subject. Shri Mehta assured the gathering that if details of areas where schools and health facilities are not currently available are provided, he would see to it that the Government take appropriate steps to provide such facilities.

4. Exhibition: Shri Madan Modi from Udaipur organized an exhibition on mines and mine workers' problems under the auspices of the MLPC. The exhibition presented graphic information on the conditions of mine labour in the State and the numbers of related accidents, deaths and injuries. This unique exhibition depicted very clearly the current state of affairs in mines that are not monitored, scientifically excavated, and have thus only become sources of profit for mine owners with total disrespect for human life and the natural environment. The exhibit also explained various facets of this industry, including: wages, health conditions and the exploitation of workers, especially women and children.

A large number of histograms, graphs and maps presented important statistics and geographies, including: the availability of minor and major minerals, their annual production and share in the country's total production, mineral concessions, numbers of leases of minor and major minerals, their coverage in terms of hectare acreage, and a list of the important mineral based industries operating in the State and their earned revenues.

III. The Present Status of Mine-Workers: An Overview

Survey reports and case studies on mining and mine-workers undertaken in Jodhpur, Udaipur, Rajsamand, Ajmer, Jaipur, Alwar and Makrana areas presented by different voluntary organizations in the Round-Table discussions revealed the following facts:

1. The general scenario

The sales tax, liquor and mining are three main revenue sources for the State. Over 1.8 million workers are engaged in a variety of mining operations throughout the State of Rajasthan. Although, the Government records suggest only 6 lakh people are employed in the mines, most likely this is the result of mine owners deliberately evading the law so as to avoid labour, welfare and other legal provisions for their employees. Fifteen per cent of the total 1.8 million mine labourers are children. Tragically, twenty-two thousand of them are between the ages of 10-12 years old, and only receive Rs. 10-15 per day. Thirty-seven per cent of the total workers are women, receiving only Rs. 18-22 per day. Mine owners usually prefer to employ workers in the age group 20-35 years, the prime of one's life, and a large number of these workers are working as bonded labourers in a "free" India. Aside from gender discrimination in wages, in several mining areas caste-based wage discrimination is also evident particularly among the Scheduled Castes and Scheduled Tribes, who constitute about 80-90% of the total labour force working in these mines.

The Round-Table found based on the various reports presented that over 95% of the mines in the State are mined in an uncontrolled and unscientific

manner, rather, in a most primitive way without use of the modern technologies and innovations.

From the data compiled by Shri Madan Modi of Udaipur and displayed in the exhibition it was also found that, between January through June, 1994 in six months, over 215 mine accidents took place in the State, of these, more than 130 men, women and child labourers died and 175 people suffered major injuries. None of them, dead or injured, were compensated for from any agency, mine owner, or the State. Ironically, out of 215 mine accidents, only 10 cases were registered by the police.

The State records suggest that by 1993 about 1324 leases were granted for major minerals covering an area of 15733 hectares and 10851 leases for minor minerals, covering about 81055 hectares.

2. Profile of Sand-Stone Mine Workers of Jodhpur

(i) General Status

A team of 5 young workers from Gramin Vikas Vigyan Samiti (GVVS) and The School of Desert Sciences (SDS) surveyed and collected data on sand-stone mining in Jodhpur region. These data were presented by Shri Prahalad Singh, Rahul Dev and Bhinya Ram of GVVS in the Round-Table. A majority of the mine workers (83%) are in the age group of 16-40 years, the most productive period of their lives. The number of child and women labourers constitutes 4% and 6%, respectively. Most of the workers in the Jodhpur region belong to either the Scheduled Castes, Scheduled Tribes or to the poor strata of society, which includes landless or those with marginal or unproductive land in their possession. These workers had to leave their place of origin because of resource decline and have taken up mining for their survival. Many of them die prematurely because of diseases like silicosis, asbestosis, baganosis, silico-tuberculosis, etc. as a result of occupational health hazards.

About 99% of the mineral leases have been allotted to private mine owners. A specific question was asked to all the 264 workers surveyed: "Do you own a mine or has the mine where you work been allotted to you?" All workers replied in negative. It was found that mine workers are among the poorest of the poor earning only Rs. 456 per month. In comparison, an agricultural labourer earns about Rs. 825 per month, while working only four months in a year. By and large, most mine workers were found indebted with heavy loans, which they could not repay, and thus had to resort, work as bonded labourers.

The hard work, illiteracy, poor economic condition, working without proper nutrition and the use of intoxicants have brought down the health and economic status of workers and while lessening their longevity.

(ii) Working Conditions and Implementation of Laws

Working Hours: No regular work hours are observed. Seventy-five per cent of the workers said that they work for 8 hours, while 21% of the workers said they work for 10 hours. Four per cent of the workers confessed that they work more than 10 hours a day.

Attendance Register: Proper records of employees attendance do not exist.

Mode of Wage Payment: Sixty-nine percent of the workers were found working on daily wages, and the remaining 31% were paid wages based on the piecework performed.

Work Implements: Tools and implements are not provided to workers by the owners.

(iii) Entitlements Under Labour Laws

All workers expressed their ignorance about the minimum wage, labour laws, health, safety, over-time, etc. stipulated by the government. Our survey suggests that there is no health scheme, group insurance, E.S.I., P.F., gratuity, bonus, pension, etc. for mine workers. Also, a well-marked gender difference was found in wage payment between men and women. The latter were grossly discriminated against.

(iv) Women Workers

Large numbers of women work in these mines on a daily basis. Their wages are relatively low compared to men. Maternity leave or any other leave is not given to women workers. It was also reported that women workers often become victims of sexual exploitation.

(v) Absence of Facilities and Weekly Off

Workers reported that they do not even have a proper place or shade where they can rest and no first aid kit is available in case of injury. Almost all workers said that the basic amenities like drinking water, electricity, housing and toilets (especially for women) are not provided by the mine owners.

The workers explained that there is no system of holidays or weekly off. They also explained that if they fail to turn up for work their wages are withheld because no leave is given. As such, there is no question of any leave, earned or casual, applicable to mine workers.

(vi) Compensation

It was reported that according to their knowledge not a single legal case of compensation or for providing any other facility for which they are entitled have ever been made or filed in any of the courts. It is also strange that not a single case of silicosis has been reported, and thus no compensation has been given. Even in the case of death, no compensation is normally given.

(vii) Health, Welfare and Safety

Health Status: Our sample survey conducted in the Jodhpur area revealed 189 workers (71.6%) suffering from respiratory problems. We attribute this to dust-related hazards. Some of them were either under treatment for tuberculosis or were suffering from perennial cough syndrome.

Accidents and Health Care: Accidents are frequent as most of the work is done manually with the help of heavy hammers, chisels and other primitive tools. Often heavy slabs of stone fall on workers resulting in serious injuries. During the recovery period workers receive neither wages nor leave, as reported by 250 workers (94%) surveyed. Regarding medical treatment, 237 workers (89%) said that they themselves had to pay for medicines and other medical expenses. Even in the case of accident on the job, 170 workers (72.7%) reported that no medical treatment expenses were provided by their employers. The workers surveyed were also asked what percentage of their earnings they spent on medical care, and many reported that they usually have to spend 15-45% of their wages on medical treatment.

Temperature Increase: The degradation of forests in the mining belts, has created increased regional temperatures leading to heat strokes and other related health disorders common among mine workers. Workers also often develop problems of bleeding from nose and mouth.

Malaria: Water filled mines have become the prime source of malaria and liver diseases.

Noise Pollution: The constant noise emitted by hydraulic drills during mining operation has caused deafness, irritability and other problems among mine workers.

(viii) Radiological Investigations

The radiological investigations of mine workers carried out by Prof. P.K. Gupta and his associates at the Department of Chest Diseases of Dr. S.N. Medical College, Jodhpur and the report presented by Dr. P.K. Gupta in the Round-Table suggest that of 82 labourers subjected to chest X-ray evaluation, 64 (78%) of who were engaged in chiseling and stone cutting, 35 showed silicosis of different grades and 6 of them had silico-tuberculosis and tuberculosis, respectively. Of the remaining 18 cases engaged in various odd jobs, 3 (16.6%) showed silicosis, 4 (22.2%) tuberculosis and 2 (11.1%) silico-tuberculosis.

Our target is to screen at least 500 mine workers radiologically, and we are already on it.

The radiological investigations performed so far suggest a very alarming health scenario for mine workers. A large number of workers must be suffering from silicosis, silico-tuberculosis and tuberculosis. The radiological findings commensurate with the startling fact that there are villages in which a young widows of mine out number the other women in the population because their husbands died at a young age after working for 10-20 years in mines. This suggests that mine workers are exposed to extraordinary health hazards. If the health problems of mine workers are assessed under the existing situation, then the incidence of silicosis, silico-tuberculosis, tuberculosis, asbestosis, cough, asthma, breathlessness, chest pain, etc. is extremely high compared to normal situations.

(ix) Organization of Mine Workers

It is reported that the mine workers are totally unorganized and to date no sincere efforts have been made to organize them.

According to our surveys, the reasons were as follows:

- i) Fifty-three per cent of the workers admitted lack of knowledge and guidance.
- ii) Eleven per cent of workers felt that the lack of unity among them is the cause of this apathy.
- iii) Eleven per cent of the workers reported that the mine owners would have a hostile reaction toward them if they formed a union or worker's group.

But, it is encouraging to learn that 73.5% of the workers were of the opinion that there is an urgent need for the organization of workers empowering them to fight for their rights.

(x) Illegal Mining

Our survey of 265 mines revealed that, only seven of these mines belonged to Scheduled Castes and none belonged to Scheduled Tribes. This clearly suggests that the mines, which have been allotted by the State Government to people belonging to these communities, are not the real owners. Mine owners who have been engaged in mining operations for a long time in the same area seem to have taken over these mines from the Scheduled Caste peoples and have been operating them in a 'benami' way. To start a mine one needs about twenty to twenty-five thousand rupees which is beyond the capacity of the rural poor, especially from the Scheduled Castes and Scheduled Tribes.

It was also noticed that a large number of mines are operating illegally. Obviously these mines are run by none else than those who were mining legally and have begun illegal mining in the adjoining areas.

3. Profile of Mine Workers of Udaipur Region

(i) General Status

Shri Madan Modi of the Ubeshwar Vikas Mandal, Udaipur, presented a status report on the mining scenario of Udaipur region. The Round-Table was informed that in a population of over 6.4 million in the region (which includes Udaipur, Rajsamand, Banswara, Dungarpur and Chittorgarh districts), about 600,000 labourers are engaged in mining operations in a variety of mines. Of these, 120,000 or 20% are child labourers (8-14 years old) who make about Rs. 10-15 rupees per day, 200,000 or 33% are women labourers making about Rs. 20-30 per day and 280,470 are men who make about Rs. 25-35 per day.

The Government records suggest that there are 750 leases issued for major minerals, 3500 for minor minerals and over 5000 quarry licenses. But, in reality many more mines are in operation covering a very large area in Aravalli belt. There are currently about 200 soap grinding units, 220 diamond gangsa units, 6 tile plants, 2 polishing plants, over 5000 marble cutting, and other small units operating in the region. Most of these units are spread along national high way No.

8. In Udaipur from Bhuwana to Chirwa, a patch of about 5 kms is flooded with these units. No land is left unmined in a 25-kilometer long Rajsamand -Gomati Chauraya.

The mine workers of this region are disorganized. Even the CITU sponsored workers union in Babarmal failed because of mine owners' underhanded practices. No forceful NGO effort in this direction is visible in the region.

It was reported that about 25 people had died in the last few months in the region, and so far none of their families have received any compensation either from the mine owners or the State. Unfortunately, the Mines Department, Labour Department and other concerned departments took no note of these casualties. Even the police department ignored these incidents favouring the mine owners for obvious reasons. Not a single case has ever been referred to Labour Commissioner's office nor any case registered.

The health conditions are extremely poor and basic facilities are totally lacking in and around these mines. Over 90% of the mine workers are Adivasis, and they often suffer from multiple work related diseases because of overwork, malnutrition and no health care. It was suggested that, mobile health vans should be pressed in service on a regular basis as a basic health care programme in the mining areas.

(ii) Accidents and Deaths in Udaipur-Rajsamand Belt

A shocking number of mining related large-scale accidents and deaths have occurred in the Udaipur-Rajsamand belt, clearly demonstrating overall mining conditions in this region.

Shri Madan Modi of Ubeshwar Vikas Mandal and Dr. Prerna Vaish of SARITA, Udaipur compiled 6 months of data from January to June, 1994, based on news-papers articles and information supplemented by several other regions NGO's of the preventing a very sad story about the plight of the regions Adivasis who are working as mine labourers.

Within this six months period 54 accidents took place in Udaipur-Rajsamand area in which 19 persons died and 35 were injured, many seriously, with permanent disabilities. Most of these accidents and deaths occurred because of uncontrolled, unscientific and ruthless mining operations flouting all norms. Most of all the injuries were due to sudden fall of slabs, stones, rubble and sand on the workers while working in the mines. Misuse of explosives and mechanical failures have also been responsible for many accidents.

4. Profile of Mine Workers of Jaipur Region

Dr. M.L. Jhanwar of the Institute of Environment Studies, Jaipur, in a study conducted in 1993 on an environmental impact assessment of mining in Bijolia area found that 70% of the mine workers and their family members were suffering from numerous diseases. This information was supported by Drs. T.P. Jain, Vishal Singh and P. Sisodia of Rajasthan Voluntary Health Association (RVHA) and their studies in several other areas of Jaipur belt.

Among 144 persons who were followed in this study were found suffering from various diseases. Most of these diseases were the result of over exertion and occupational pollution. Lung diseases were most common. Water in mines is the prime source of malaria, liver disease, gastrmoentritis and pneuoconiosis, etc.

In this study found 49.7% people were suffering from malaria and 15.2% from live diseases. Cases of silicosis and tuberculosis were common. 46% workers reported that they got injuries at some stage or other during mining operations. It was found that drilling, blasting and cutting are the main causes of noise and water pollution in the area. They are also responsible for physical, physiological and behavioural problems among mine workers leading to severe physical disabilities in the long term.

5. Profile of Mine Workers of Alwar

Shri Rajendra Singh of Tarun Bharat Sangh, Alwar, presented the pathetic condition of mine workers of Sariska, Alwar, and raised very pertinent issues. He opined that the State is creating a false belief that mines are providing more and more jobs and boosting the economy of the area. The studies carried out in Sariska and elsewhere in Alwar suggest that the condition and status of mine workers is just the reverse. The massive illegal mining operations in the region have brought down the socio-economic level of the people, about which even the Supreme Court has given clear direction to stop this anti-human activity.

IV. Loss of Resource and the People's Survival

Mining has a great impact on the natural resources and livelihood of the village communities. The bulk of mining activities are done in an unsystematic and unscientific manner with adverse and damaging consequences to pastures, forests, watercourses, watersheds and even cultivated lands and livestock. The village communities contribute major human resources. Men, women and children are engaged in a variety of mining operations. They are subjected to generally unsafe, hazardous and unhealthy working conditions and in return they receive only meager wages without welfare programmes attached.

In spite of the fact that village resources primarily belong to the village, in the mining enterprises there is no involvement of local communities, villages and Panchayats except to use them as labour. Villagers therefore have no *locus standi* or statutory powers in the regulation of benefits and management of these mining activities in and around their villages.

In the past few years, people's participation in development activities has come to be accepted as a key principle and premise in resource management and governance. This is especially so where the damage and hazardous operations are integral to the enterprise and particular care and proper arrangements are required for safety, welfare and natural resource restoration. Thus, participatory development is becoming an accepted part of land-based development. Village committees and joint management user groups often manage environmental improvement activities like forestry, wastelands development, watershed restoration and irrigation projects. These committees and groups are important

because they give the local people who live in hamlets, villages and Panchayats, who are the traditional and contemporary users of the local resources, a direct role in the survey, planning, implementation, protection, maintenance and monitoring of their own projects. Therefore, in the end they all share the benefits of their endeavors.

Unfortunately, these sound principles and practices do not find a place in the planning and management of mining activities. Even the vast extended powers of local bodies under the new Panchayat Raj Act do not include any jurisdiction over the regulation of mining and the working conditions in their areas. Hence, the local mining operations do not offer any benefits to be shared by the local communities, and have thus become problems, not assets.

The following recommendations have emerged in the round-table deliberation. We call for immediate attention at all levels. These recommendations have been split into two parts: (A) General Recommendations and (B) Specific Recommendations (with regards to legal provisions).

V. Recommendations

(A) General Recommendations

1. The Government of Rajasthan must put a complete ban on liquor shops operating in the mining areas. Workers should be educated about the harmful effect of alcohol consumption on their health and families.
2. Maintenance of proper employment records and the recording of worker's attendance must be made compulsory for mine owners.
3. Mine owners must put a notice board at their offices for displaying information on working hours, wages paid and the names and number of workers (skilled and unskilled) employed in the mine on a daily basis.
4. Workers must be directly appointed by the mine owners, not by the petty contractors working between mine owners and workers.
5. Workers who work for long periods (beyond 180 days) must be treated as permanent employees.
6. The Government of Rajasthan must ensure the implementation of all labour laws as applicable to industrial labour, such as minimum wage (not less than Rs. 50/- per worker per day). Every adult mine worker, irrespective of gender, should be granted over-time wages, insurance, E.S.I., P.F., Gratuity, Bonus, weekly off, earned and casual leave, etc.
7. The mine owners must be made responsible to provide safe drinking water, shade for rest, electricity, toilets and first aid kits at each work site. Also, housing should be provided for all permanent workers and schools and crèches for their children.
8. Mine owners must be held responsible for periodical health check-ups (once every three months) of each mine worker on a regular basis.
9. The Government of Rajasthan must set up a fully equipped medical centre and health clinic in each district, and possibly in each mining area, for providing complete health check-up and necessary medical aid.

10. Recommendations 6 through 9, mentioned above, must be strictly adhered to as mandatory qualifications for the renewal of mining allotment leases. The mine owners must submit weekly progress reports to the mining and labour departments regarding their compliance with above entitlements. Failure to do so should result in the cancellation of their leases.
11. Those mine workers who have worked for a period of one year and have taken advances in pay from their employer must be considered redeemed from any debt as under the laws enacted regarding bonded labour.
12. The voluntary organizations must organize intensive awareness generation programmes for educating mine workers about health, welfare and safety entitlement, labour laws, scientific mining, etc., and the Government should come forward to help these organizations in every possible way.
13. Effective steps must be taken by mine owners to monitor the levels of dust pollution. Experience proves that masks are not the most effective means of health protection in these mines. Therefore, watering down the work sites should be tried.
14. The voluntary organizations must take-up a leadership training programme for educating mine workers about the significance of trade unions, and how they function. Voluntary organizations must work to help mine workers in the promotion of trade unions.
15. Mine owners must provide wage compensation to those mine workers who are suffering from occupational health hazards like silicosis, silico-tuberculosis, asbestosis, etc. The Government must set up a committee of medical and legal experts in each district for this purpose. These committees should be empowered to examine the cases and authorize medical disability certificates to the workers suffering from health hazards of mining operations.
16. The Government must appoint a district level mine workers' welfare officer within the Department of Mining, who would be responsible for monitoring the health, safety and welfare of workers.
17. Mine owners must be held responsible for the rehabilitation of the environment around the mines, including the removal of rubble, powder, etc. to restore vegetation in the mining area and reverse the increasing temperature and soil erosion problems.
18. Before issuing mining pattas for land in a village the Gram Sabha must be consulted and their approval sought. Also, there must be a total ban on leasing agricultural lands for mining.
19. Wherever mining is to be done, the share of the villager in the earnings from this must be specified by the Panchayat and this income should be used for development and welfare work in the village.
20. Mine worker's cooperatives be given mining leases on a preferential basis and they should be supported for upgrading their skills and capacities.
21. A large number of mines have been allotted to the Scheduled Caste and Scheduled Tribe peoples over-time, but for obvious economic and other reasons these people most likely are not the actual owners and developers

of these mines. Therefore, the officially registered Scheduled Caste and Scheduled Tribe people should immediately be given rightful possession of their allotted mining areas, and stringent regulation procedures should be created to this end. Furthermore, those who are operating 'benami' mines (allotted to Scheduled Caste and Scheduled Tribe peoples) should be severely punished within the law for their negligence and open exploitation of man, materials and the law.

22. The Panchayats must be empowered to oversee the people's participation in mining lease agreements, workers' welfare, environmental protection and restoration, safety, and the legal aspects of mining operations in their areas.
23. The Mineral Policy, 1994 must be amended to include the *locus standi* and jurisdiction of Gram Sabhas and the Panchayats in mining operations management.

(B) Specific Recommendations

The Rajasthan State Government issued its new Mineral Policy, 1994 (MP, 1994) this August. The policy re-emphasizes the State Government's right to mineral wealth, as subject to regulation and development under the Constitution of India, Schedule VII, Union List I, Entry 54. References are also made to the State Government's legislative power with respect to regulation and development of minor mineral resources stated under the Rajasthan Minor Mineral Concession Rules, 1986 and the Central Government issued Mineral Conservation and Development Rules, 1988. But it appears that the primary purpose of this new mineral policy was to allow rules for foreign joint venture mineral explorations and exploitations. Allowances that will only greatly increase the exploitation and hardships of mine labourers, if immediate protection is not sought.

The policy only contains a small statement referring to welfare amenities for mine labourers, but makes no mention of health compensation and safety. This statement is reproduced from MP, 1994 as follows:

“Welfare Amenities for Mine Workers”

(1) Looking at the inadequacy of welfare amenities available to the mine workers, the Government has decided to share fifty per cent of the cost of construction of such amenities like schools, hospitals, dispensaries, etc. under various rural development schemes like “Apna Gaon, Apna Kaam”. The rest of the expenditure will have to be borne by the mining leases.

(2) Labour plays a very important role in the development of mines and, therefore, it is necessary to provide adequate welfare facilities depending on the requirement of the area. In clusters of mines, schools will be opened by the State Government. Efforts would be made for providing proper housing, health care and drinking water facilities for the labour engaged in mines. Special welfare amenities would be provided for children.

The wording is very general and vague regarding the development of infrastructure for the welfare of mine workers. Actually, all provisions discussed are the standard rights of any citizen of the Indian nation; i.e. creation of schools,

public health (hospitals, clinics, dispensaries), drinking water, etc. Therefore, safety and long-term welfare (i.e. disability insurance) are still not seen as important rights to grant to mine labourers. The only statement here made specifically clear is how these common rights will be paid for, which is not in keeping with the Central Government's overall policies on education and public welfare. This creative financing idea for construction of necessary facilities for mine labourers and their families appears to be no more than a creative loop-hole to produce an excuse for non-implementation.

As desired in the Round-Table discussion, the MLPC legal council comprising of prominent lawyers: Sarvashri Marudhar Mridul, Sukh Deo Vyas, Govind Mathur, Sangeet Lodha and Mahesh Boda had reviewed the legal hurdles and barriers faced by mine workers. The council have put forth following suggestions for amending the mine and mine labour statutes, as follows: -

- (1) All authorities under Entry 55, Union List I, Schedule VII of the Constitution of India should be transferred to the more localized jurisdiction of the State Government.
- (2) Entry 55, Union List 1, Schedule VII of the Constitution of India should be amended so that minor mineral mines, which are under the domain of the State Government under Section 15 of the Mines and Minerals (Regulation and Development) Act, 1957, are placed under complete control by the State Government.
- (3) Following the changes under suggestion #2, then all the labour welfare provisions should also placed under State control.
- (4) An amendment should be made to Section 15 of the Mines and Mineral Act, 1957 transferring all powers to State Government jurisdiction.
- (5) In spite of the fact that subject to laws made by Parliament, as stated in Entry 23, State List II, the subject of labour of miner, should be added, thus allowing for the State Government to cover the field unoccupied by the Union, or just implementation of the law under the understanding that minor mineral mines are major lease properties.
- (6) Legislation should be created for the formation of a court advocated Mining Commission for supervision of the proper implementation of laws relating to mine labour.
- (7) Section 3 of Mines Act, 1952 (referring to the specific exclusion of minor mineral mine workers from basic safety and general welfare amenities) should be totally deleted to guarantee all mine workers the same rights.

The *non obstante* clause contained in Sub-section (2) of Section 3, MA, 1952, empowering the Central Government to declare by public notification that any of the provisions of the Act not set out in Sub-section (1) of Section 3 shall apply to such mine on part thereof or group or class of mines or any class of person employed therein, should be exercised. Therefore, a notification can be immediately be issued by the Central Government making all the provisions of the Act applicable to sand-stone mines.

Placing the regulation of labour and safety in mines under the jurisdiction of the State Government would put into place a much more efficient and localized system for enforcing legal labour practices and more expedient worker compensation. It is only through this shift from Central authority to State authority that the process of creating the proper legislation for mine worker compensation and safety can begin.

VI. Workmen's Compensation Act, 1923

The Workmen's Compensation Act, 1923 (WCA, 1923) was created due to the increasing number of occupational hazards from the widespread introduction of machinery into the work place. Unfortunately, due to the lack of enforcement and supervision, and the ambiguity of many provisions, the WCA, 1923 cannot be properly exercised in the best interests of the workmen. As discussed in the Round-Table discussions, the MLPC suggests the following changes be made to the WCA, 1923 for making it more operational:

- (1) The list of injuries deemed to result in permanent disablement in Scheduled I of WCA, 1923 is very incomplete. The list mainly specifies injuries to particular parts of the body without accounting for overall bodily harm and permanent total disability resulting from occupational diseases acquired during mine work; such as, silicosis and silicosis-related tuberculosis from sand-stone mine labour. Therefore, the disease of silicosis should be added to Part I of Schedule I, WCA, 1923.
- (2) Occupational diseases like silicosis-related tuberculosis from "sand-stone mine labour" are not mentioned in the list of occupational diseases contained in Schedule III. Therefore, it is doubtful that such silicosis-related diseases are covered by any existing entry under Scheduled III, WCA, 1923. Hence, diseases caused by work in sand-stone mines should be added to the list of occupational diseases under Part A of Schedule III, WCA, 1923.
- (3) The amount of compensation provided in Section 4, WCA, 1923 is very meager. Appropriate amendments must be made to enhance the current amount of compensation under Section 4, WCA, 1923.
- (4) Immediate action can be taken toward suggestions 1 and 2 by the Central Government making a public notification, in exercise of the power conferred under Sub-section (2) of Section 3 of MA, 1952, that employment in sand-stone mines should be added to the list under Part A of Scheduled III, WCA, 1923. Also it should be officially noted that silicosis and tuberculosis are occupational diseases resulting from work in sand-stone and other mines. The adoption of these suggestions should make immediate exercise of WCA, 1923 possible for sand-stone mine labourers.

VII. Industrial Disputes Act, 1947 (IDA, 1947)

The Industrial Disputes Act, 1947 provides the machinery and procedure for the investigation and settlement of industrial disputes. The intention of the Act is to provide a framework for collective bargaining through a process of negotiations and mediations, in the situation where normal arbitration or compulsory adjudication by judicial authorities had failed. The Act allows for State Government intervention in order to protect workmen from the arbitrary actions of employers. Originally it was hoped that the creation of IDA, 1947 would encourage more workers to participate in industrial management. Unfortunately, the Act tends to create a false sense of security in the workmen, while giving the employer the ability to curb and control union activities.

Special provisions are written into the IDA, 1947, under Chapter V-B, regarding employment security, layoffs and retrenchment, but unfortunately a majority of the mine workers are exempt from these protections. Therefore, the Round-Table deliberations have triggered the MLPC legal council to suggest the following changes be made to IDA, 1947:

- (1) There should only be compulsory adjudication of industrial disputes. A workman should have a right to approach a judicial forum for redress of his grievances without having to face impotent negotiations, and being forced to use unnecessary and disinterested State Government representation.
- (2) At the present the Central Government is deemed responsible for mine workers, and it is very difficult from them to have to seek State representation to raise an industrial dispute claim before the Central Government. Therefore, the word “mine” should be deleted from Section 2(l) of IDA, 1947, so that the State Government can be made responsible for mine workers.
- (3) As under Section 2(K) of IDA, 1947, the definition given for industrial dispute nowhere makes a differentiation between industrial dispute and individual dispute. However, at the present because of a judicial decision, an industrial dispute can only be raised by the trade union representing an individual’s claim. Thus, if a labourer wants implementation of the provisions under the Mines Act, 1952, Bonus Act, 1985, or to make an industrial dispute claim, then they must be a member of a trade union. It is well-known that a majority of the mine labourers are not, organized into trade unions, therefore they have no protection under IDA, 1947. It is suggested that an amendment must be made to Section 2(K) of IDA, 1947, that would reverse the judicial decision, in order to allow an individual labourer to make an industrial dispute claim against an employer without the representation of a trade union present.
- (4) Chapter V-B, IDA, 1947 provides special protections for mine labourers along with plantation and factory labourers. Unfortunately, these provisions are useless to many mine labourers working in mines with less than one hundred labourers. It is suggested that this minimum number of labourers clause be deleted, thus giving all mine labourers equal protection under Chapter V-B, IDA, 1947. Also, Chapter V-B, IDA, 1947 should be made

applicable to all labourers in industrial establishments as defined under Section 25-L, IDA, 1947. Then, as a result of this, Section 25-F, IDA, 1947 will be rendered redundant, and therefore, it will be appropriate to make the same changes to the statute book.

- (5) Section 2 (oo) (bb), Chapter V-B, IDA, 1947 should be deleted because it essentially gives the industrial employer the power to completely disregard all the protections provided to the employee under IDA, 1947.

VIII. Employee's State Insurance Act, 1948 (ESIA, 1948)

Mine workers have also been excluded from the Employee's State Insurance Act, 1948 (ESIA, 1948) because they have been excluded from the definition of "actory" under Section 2(12), ESIA, 1948. Obviously, this blatant negligence was consciously manufactured to exclude low class labourers from the benefits and dignity due to them. ESIA, 1948 makes reference to Mines Act, 1952 which classifies these labourers as minor mineral labourers, therefore, specifically denying them rights to the benefits.

The Round-Table has suggested that using the pattern of the Welfare Acts referred to under ESIA, 1948, an Act should be created specifically providing a welfare fund for the granting of social security to mine labourers.

IX. Gratuity Act, 1975 and Bonus Act, 1985

Gratuity Act, 1975 and Bonus Act, 1985 simply do not apply to mine labourers because their employers do not keep an up-to-date and accurate labour register including the number of hours worked by each labourer. A simple solution to this problem, as desired by the Round-Table Conference, is the creation of a legal provision for the proper enforcement of labour documentation for the protection of labourers.

Acknowledgements

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