



# "WHEN LAND IS LOST, DO WE EAT COAL?"

COAL MINING AND VIOLATIONS OF  
ADIVASI RIGHTS IN INDIA

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Index: ASA 20/4392/2016  
Original language: English  
Printed by Amnesty International India.

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Cover photo: Kusmunda open cast mine, as seen from Barkuta village, April 2014.  
Front inside photo: Mining at the edge of Barkuta village, May 2016.

All photographs by Aruna Chandrasekhar for Amnesty International India



## EXECUTIVE SUMMARY

Coal is an important part of India's economic growth story. Nearly two-thirds of India's electricity is derived from coal, and the country is the third largest producer and consumer of the mineral in the world. The Indian government now plans to nearly double annual coal production by 2020 to meet growing energy requirements.

However coal mining in India also has a different cost, borne by the communities affected by these mines, who are rarely meaningfully informed or consulted when their land is acquired, their forests decimated, and their livelihoods jeopardised.

Crucial to India's coal plans is the role of the giant Coal India Limited (CIL) – the country's primary state-owned coal mining company and the world's largest coal producer. CIL aims to increase its output to 1 billion tonnes annually by 2020, primarily by increasing production in existing mines. Nearly 93 per cent of CIL's total production is through surface, or 'open-cast', mines.

About 70 per cent of India's coal is located in the central and eastern states of Chhattisgarh, Jharkhand and Odisha, where over 26 million members of Adivasi communities live, nearly a quarter of India's Adivasi population. Adivasi communities, who traditionally have strong links to land and forests, have suffered disproportionately from development-induced displacement and environmental destruction in India.

**“We worshipped the forest god. We got all our firewood from here. This place was green, now it is black with dust...When agricultural land is lost, what are we supposed to eat? Coal?”**

*Hemanto Samrat from Gopalpur village,  
Sundargarh, Odisha*

A raft of domestic laws require Indian authorities to consult, and in some cases seek the consent of, Adivasi communities before acquiring land or mining. International human rights law and standards also guarantee the right of Indigenous peoples to take part in the decisions that affect their lives and territories. However these requirements are regularly flouted.

This report examines how land acquisition and mining in three mines in three different states run by three different CIL subsidiaries– which are all seeking to expand production- have breached Indian domestic laws, and India's obligations under international human rights law. It also demonstrates how CIL as a company has failed to meet its human rights responsibilities.

The three coal mines profiled are South Eastern Coalfields Limited's (SECL) Kusmunda mine in Chhattisgarh, Central

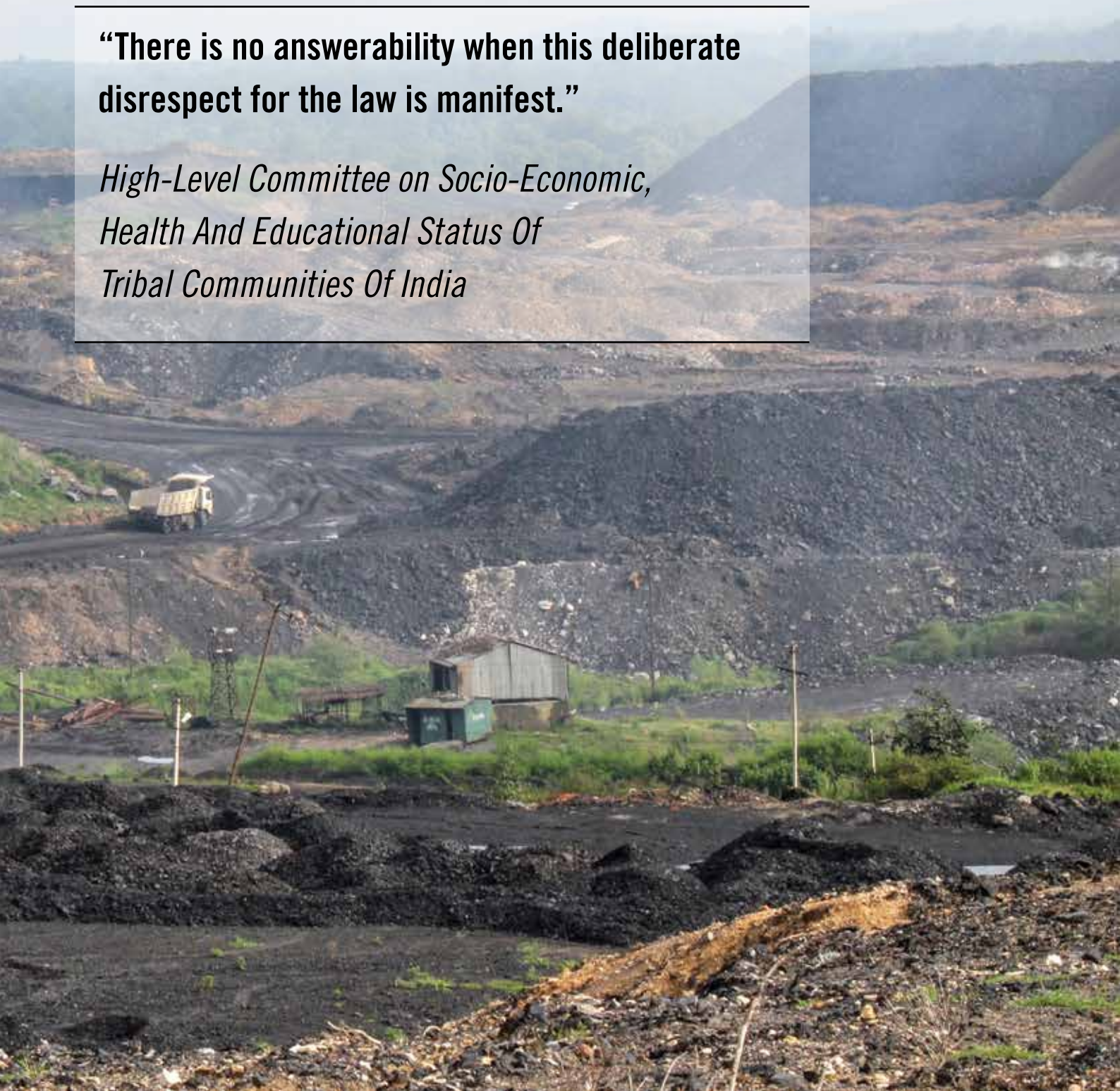
Coalfields Limited's (CCL) Tetariakhar mine in Jharkhand, and Mahanadi Coalfields Limited's (MCL) Basundhara-West mine in Odisha.

Adivasi communities in these areas complain that they have been routinely shut out from decision-making processes around their traditional lands, rights and resources. Many have had to wait for decades for the compensation and rehabilitation they were promised. The violations of their rights to consultation and consent – around land acquisition, environmental impacts, indigenous self-governance, and the use of traditional lands - has led to serious impacts on their lives and livelihoods.

This report is based on research conducted between January 2014 and June 2016, which includes several interviews with members of Adivasi communities, activists and government officials.

**“There is no answerability when this deliberate disrespect for the law is manifest.”**

*High-Level Committee on Socio-Economic, Health And Educational Status Of Tribal Communities Of India*



## LAND ACQUISITION: COAL BEARING AREAS ACT, 1957

Land acquisition for coal mining by the government is carried out under the Coal Bearing Areas (Acquisition and Development) Act (CBA Act). The Ministry of Coal is responsible for monitoring the implementation of the Act. Under the Act, when the government is satisfied that coal can be obtained from a certain area, it declares its "intention to acquire" the land in the official government gazette. There is no requirement to consult affected communities, or seek the free, prior and informed consent of Indigenous peoples, as stipulated by international law.

Anyone who objects to the acquisition and who is entitled to claim compensation must file written objections within 30 days of the notice of acquisition to the office of the Coal Controller, under the Ministry of Coal which goes on to make recommendations to the central government. After considering the recommendations, the central government can issue a declaration of acquisition of the land and all rights over it. These rights can then be transferred to a government company such as CIL.

There is no requirement for authorities to pay compensation before taking possession of land. The law has no provisions for ensuring that human rights impact assessments are conducted prior to land acquisition proceedings. There are no requirements to consult with non-landowners who may be affected by land acquisition, such as landless labourers. The law also does not offer adequate protection to communities from forced evictions.

The CBA Act undermines communities' security of tenure and creates the legal basis for CIL to operate without due regard for the impact of its operations on human rights. The procedure for notification of acquisition under the Act does not amount to adequate notice as set out by international human rights law and standards.

Despite a parliamentary committee pointing out in 2007 that "coal reserves in the country are mostly in the far-flung areas inhabited by the tribal communities" who "hardly have any access to the Official Gazette wherein they could see that their lands are to be acquired for public purposes", there have been no changes made to the process of informing communities that their land will be acquired.



Streams that feed the Basundhara river near the Basundhara (West) mine, Sundargarh, Odisha, September 2014. © Amnesty International India

## KUSMUNDA, CHHATTISGARH

Kusmunda is one of India's largest coal mines, covering about 2382 hectares in Korba district. South Eastern Coalfields Limited (SECL), which operates the mine, increased production capacity from 10 mtpa (million tonnes per annum) to 15 mtpa in 2009, to 18.75 mtpa in 2014 and 26 mtpa in early 2016.

To facilitate expansion of the mine, in June 2009, the Ministry of Coal declared its intention to acquire land under the CBA Act in four villages around the mine - Risdi, Sonpuri, Pali and Padaniya - followed by the village of Jatraj in 2010, in the official government gazette and in a notice in a newspaper. Over 3600 people live in these villages. Over a third of the residents in each village are not formally literate.

None of the affected families that Amnesty International India spoke to said they had been directly informed about the government's intention to acquire land. Some found out that their land may be acquired only through word of mouth months or even years later.

Mahendra Singh Kavar, an Adivasi man from Padaniya, said in April 2014: "We did not receive any notice about our land being acquired. We only heard recently that SECL now owns all our land."

In March 2010, the Ministry of Coal announced that it had acquired over 752 hectares of land for SECL.

In 2014, SECL said that it was planning to expand production at the mine by up to four times. The expansion would involve the acquisition of additional land in the five villages of Amgaon, Churail, Khodri, Khairbawna and Gevra. Over 13,000 people live in these villages.

On 20 July 2014, the Ministry of Coal published a notification in the official government gazette declaring its intention to acquire 1051 hectares of land, including the entire villages of Amgaon, Churail, Khodri, and Khairbawna and part of Gevra. The government invited objections to be submitted within 30 days by those who were entitled to claim compensation if the land was acquired.

Adivasi communities in the five affected villages who stand to lose their homes and agricultural fields said they have not received any information about the rehabilitation and resettlement they would be entitled to. Their objections sent to the Coal Controller and to SECL were met with no response.

Vidya Vinod Mahant from Amgaon village said, "The acquisition notice was pasted on the wall of the office of the panchayat (village council). How do we object to this?"

The Ministry of Coal has not yet stated whether the acquisition of land in the five affected villages has been completed.



A man evicted from his home in Barkuta village forges bricks to build his new home in the village of Padaniya, April 2014. © Amnesty International India

## TETARIAKHAR, JHARKHAND

The Tetariakhar mine is operated by Central Coalfields Limited, and is seeking to expand production from 0.5 mtpa to 2.5 mtpa. It covers an area of 131 hectares, including parts of the villages of Basiya (which includes the hamlet of Tetariakhar), Nagara, Jala and Pindarkom. Over 6400 people live in these villages, over half of whom are not formally literate.

The central government first acquired land in five villages in the region under the CBA Act in October 1962, but mining officially began only in 1992. During the first phase of land acquisition, about 40 hectares of private land in Pindarkom were acquired to build a road for trucks at the entrance of the mine. Land owners here said that they were never consulted.

On 18 August 2015, the Ministry of Coal published notifications in the official government gazette declaring its intention to acquire 49 hectares in Nagara and 25 hectares in Basiya under the CBA Act. Local communities from these villages said they were unaware of the new notification, and had only heard rumours that more of their land was going to be acquired.

The Ministry of Coal has not yet stated whether the acquisition has been completed.

Communities in the villages surrounding the Tetariakhar mine are also concerned about the fate of common lands called *gair mazrua* lands. Under a state law which applies to the district, a senior-level official in the district administration has to approve any acquisition of *gair mazrua* land for mining by the central government. However the central government does not follow this process, and instead uses the CBA Act to acquire common land without any consultation with communities.

Communities say about 40 hectares of *gair mazrua* land already acquired by the Central government has not even been used by CCL. Villagers in Nagara and Basiya continue to oppose the taking over of this land, asserting that they have lived off it for decades.

"We have been surviving on this land for generations. CCL, on the other hand tells us that this is *gair mazrua* land and that no one can stop them from acquiring it", said Sukhinder Oraon from Basiya, who has agricultural fields right next to the mine.



A Turi Dalit man, Tetariakhar village, July 2014. © Amnesty International India

## BASUNDHARA-WEST, ODISHA

The Basundhara-West mine in Sundargarh, Odisha is operated by Mahanadi Coalfields Limited, and is seeking to expand production from 2.4 mtpa to 8 mtpa. It spans 401 hectares across the villages of Sardega, Tiklipara and Kulapara. In 1989 and 1990, the central government acquired over 8000 hectares of land in fourteen villages, and transferred the land to MCL for coal mining. No consultations were held with affected communities, or consent sought.

Even after the acquisition, the government did not actively seek to use the land or evict families for many years. Several families received compensation only after a Supreme Court order in 2010.

MCL, through its subsidiary Mahanadi Basin Power Limited (MBPL), also aims to set up a 2x800 MW coal based 'super critical' thermal power plant on 860 hectares of land in the villages of Sardega, Tiklipara and Kulhapara, which were acquired under the CBA Act in 1989 and 1990 for coal mining.

Local gram sabhas (village assemblies) have objected to the proposal, saying that MCL could not begin proceedings for the transfer of their land for the power plant until the Supreme Court orders pertaining to compensation, rehabilitation and resettlement had been followed.



Families in Basiya village, July 2014. © Amnesty International India



Displaced families from Tetariakhar village now living in Nagara village, October 2015. © Amnesty International India



## ENVIRONMENTAL IMPACT: ENVIRONMENT (PROTECTION) ACT, 1986

As part of the environment clearance process under India's Environment Protection Act (1986), state-level pollution control authorities are required to set up public consultations with local communities likely to be affected by the environmental impact of projects to give them an opportunity to voice any concerns.

The Environment Impact Assessment notification, 2006 (amended in 2009) requires the concerned pollution control authority to advertise the hearing widely, including by publishing notice of the hearing in at least one major national newspaper and one regional language newspaper. In areas where there are no newspapers, authorities are required to use other means such as drum-beating and radio/television advertisements to publicise public hearings.

Prior to the public hearings, the concerned company is required to submit copies of the draft Environmental Impact Assessment

(EIA) report, and summaries in English and the relevant local language, to various district-level authorities. These authorities are in turn required to provide publicity about the project and make the documents available for public inspection. EIA reports frequently use extremely technical language – there is unfortunately no requirement for either the concerned company or the pollution control board or any other authority to simplify the content of the EIA.

The EIA reports prepared are also supposed to involve social impact assessments. These are almost never carried out. Expert committees at the Ministry of Environment, Forests and Climate Change (MoEF) are supposed to consider applications for environmental clearances, and are supposed to submit them to 'detailed scrutiny'. However these committees often do not engage substantively with concerns raised at public hearings.

In recent years, successive central governments have sought to dilute requirements for public hearings for certain categories of mines, putting the rights of local communities at further risk.



An Oraon Adivasi man, Balumath, July 2014. © Amnesty International India

## KUSMUNDA, CHHATTISGARH

SECL has expanded production at the Kusmunda mine three times. Public hearings that were held as part of the environment clearance process for the expansions have suffered from serious drawbacks.

On 27 August 2008, the Chhattisgarh Environment Conservation Board (CECB) called for a public hearing on the mine's expansion of its capacity from 10 to 15 mtpa. Around 3000 people live in the five affected villages of Padaniya, Pali, Barkuta, Sonpuri and Jataraj. Over a third of the residents most of these villages, mostly women, are not formally literate.

As required, the CECB published a notice about the hearing in a local newspaper, and provided a copy of the EIA report to the head of the village council. However, as far as Amnesty International India could discover, no other efforts were made to publicise the hearings.

Some local residents, who said they had heard about the hearing from activists and had gone on to attend, reported that many of their concerns, including concerns about rehabilitation and resettlement and the impact of mining on agricultural land, had been dismissed by CECB authorities as being irrelevant. An official record of the meeting suggests that many of the issues raised appear to have been met with minimalist responses which did not address the concerns of local people.

In the MoEF's letter granting environment clearance for the expansion in June 2009, the only mention made of the public hearing is: "Public hearing was conducted on 28.08.2008". The letter did not go into any more detail about the issues raised during the public hearing.

In December 2012, the MoEF allowed coal mines to expand their production by up to 25 per cent without a public hearing if they were expanding within the existing land leased to them. In September 2013, SECL applied to the Ministry to expand the Kusmunda mine again, this time from 15 mtpa to 18.75 mtpa. They received the clearance in February 2014.

The EIA for the expansion mentioned a range of potential environmental impacts from the expansion, including air and noise pollution and contamination of land and water. However, the MoEF's December 2012 notification meant that a public

hearing did not have to be conducted to inform or consult communities about the expansion.

In June 2014, four months after the approval of the previous expansion, SECL applied again for an environmental permit to expand production from 18.75 mtpa to 62.5 mtpa. The CECB called for a public hearing for this expansion on 11 February 2015. Over 13,000 people live in the five affected villages of Khodri, Gevra, Amgaon, Khairbawna and Churail. Over a third of the residents, mostly women, are not formally literate.

The CECB published notices for the public hearing in local newspapers. However many members of local communities, including heads of village councils of Pali and Khodri villages, said that this had been inadequate, as there had been no other public advertisement of the date of the hearing, or any explanation of the project's potential impacts by project or government authorities. At a focus group discussion involving 81 people from the affected villages, people said that they had only found out about the public hearing through a loudspeaker announcement that morning.

At the hearing, which was attended by Amnesty International India, SECL officials spent only a few minutes explaining the impact of the project. A large number of security force personnel were present at the hearing, which appeared to have intimidated locals from raising their concerns.

People raised concerns regarding rehabilitation and resettlement, compensation and employment, the impact of the mine on air quality, groundwater levels and agricultural activities, and the lack of information about land acquisition. Of 38 people who spoke at the public hearing, only one spoke in favour of the expansion. He was a CIL employee.

Mahesh Mahant, a resident of Khodri village, said, "We've lived next to this mine for almost 30 years, and watched our wells go dry, forests disappear and fields become unproductive. What is the point of this environmental public hearing, except to tell us that we're not fit to live here anymore?"

Yet, on 3 February 2016, the MoEF granted environmental clearance to SECL to expand capacity at the Kusmunda mine to 26 mtpa. The clearance perfunctorily referred to the fact that a public hearing had been held and listed the concerns raised, but did not discuss them any further. The Ministry did not respond to questions about the reasons behind its decision.



A Kavar Adivasi woman outside her demolished home, April 2014.  
© Amnesty International India



A Rathia Adivasi man plucks fruit from a guava tree, Sonpuri village, April 2014. © Amnesty International India

## TETARIAKHAR, JHARKHAND

As part of the environment clearance process for the expansion of the mine's production from 0.5 mtpa to 2.5 mtpa, the Jharkhand State Pollution Control Board (JSPCB) called for a public hearing on the mine's expansion on 17 April 2012 in Balumath, about seven kilometres from Basiya and Nagara.

The JSPCB published notices of the public hearing in English and Hindi newspapers a month in advance. However, none of these newspapers are available in the villages of Nagara or Basiya, two of the main affected villages. Several villagers, including the village heads of Basiya and Jala, said that there had been no other publicity about the hearing.

The head of the Jharkhand State Pollution Control Board did not appear to know about the hearing, but told Amnesty International India that the onus of publicising any hearing was on CCL.

While the minutes of the public hearing are not publicly available, the EIA report includes a summary of the hearing. This summary mentions the opinions of only seven people, of whom only four were from affected villages. Two people from Nagara village who attended the hearing said that they had been invited to the hearing by CCL authorities a few hours prior to the hearing.

The EIA states that the issues raised at the hearing include dust pollution from the mines and from coal transportation and falling water levels.

On 2 August 2012, the MoEF's Expert Appraisal Committee wrote that "most of the Public Hearing issues have not been addressed properly". However, on 7 May 2013, the MoEF granted environment clearance for the Tetariakhar mine expansion. The only mention made of the public hearing was one line, which said: "The Public Hearing was held on 17.04.2012." No additional information was provided about whether CCL had taken any action on the issues raised in the public hearing.

## BASUNDHARA-WEST, ODISHA

As part of the environmental clearance process for the expansion of the mine's production from 2.4 to 8 mtpa, the Orissa State Pollution Control Board (OSPCB) called for a public hearing on 30 May 2009. Over 3500 people live in the affected villages of Sardega, Tiklipara and Kulapara. On average, over a third of them are not formally literate.

The OSPCB published notice of the hearing in Odia and English newspapers. However residents of Sardega and Tiklipara, including those who were village council chiefs at the time, said that MCL had not made a copy of the mine's draft EIA report available prior to the public hearing. They also said that the attempts made to advertise the hearing had been inadequate.

The hearing was held on 30 May 2009 in Garjanbahal, 6-8 kilometres from the affected villages, which made it difficult for poorer members of the community to attend. The OSPCB, in the official record of the public hearing, claimed that 100 people had attended, but only 48 had signed the attendance sheet. Over 80 per cent of the attendees were from the villages of Garjanbahal and Bankibahal, which are not directly affected. Of those who attended, only 12 people spoke.

The concerns expressed, as recorded in the minutes, ranged from control of dust and air pollution, provision of drinking water facilities and electricity, a coal transportation road and afforestation. More than half of those who spoke were not from the villages most affected by the mine.

On 25 February 2013, the MoEF granted an environment clearance for the expansion of the mine. The clearance letter referred to the hearing just once, in a line that reads: "Public hearing was conducted on 30.05.2009."



The Tetariakhar mine operated by Central Coalfields Limited, Latehar, July 2014. © Amnesty International India

## INDIGENOUS SELF-GOVERNANCE: PANCHAYAT (EXTENSION TO SCHEDULED AREAS) ACT, 1996

Amendments made to India's Constitution in 1993-94 conferred powers in relation to local development to elected village councils (or 'panchayats'). In 1996, the Panchayat (Extension to Scheduled Areas) Act was enacted to extend these amendments to Scheduled Areas: certain Adivasi regions identified under the Constitution as deserving special protection.

The PESA Act requires that panchayats or gram sabhas be consulted before land is acquired in Scheduled Areas for development projects, and also before the resettlement or rehabilitation of people affected by such projects.

The central Ministry of Panchayati Raj is responsible for monitoring overall implementation of the Act. District-level authorities are responsible for seeking the consent of affected communities. The implementation of the Act has however been exceedingly poor.

### KUSMUNDA, CHHATTISGARH

SECL has stated that land acquisition for CIL subsidiaries only has to follow the CBA Act, which does not require any form of consultation.

In March 2013, a local activist from Pali village, filed a Right to Information application asking for details about the project's compliance with the PESA Act. SECL responded that in cases of land acquisition under the CBA Act, the "PESA Act is not applicable".

In a case filed by another activist from Korba at the Chhattisgarh High Court, the Chhattisgarh government and the Ministry of Coal both said that the requirements of consultation under the PESA Act would apply to any land acquisition by CIL. However in a disappointing judgement, a single-judge bench of the High Court agreed with SECL, and ruled that the PESA Act would not apply in cases of land acquisition under the CBA Act. An appeal is pending before the Chhattisgarh High Court.

### TETARIAKHAR, JHARKHAND

Jharkhand state authorities have not held any consultations with communities under the PESA Act on their rehabilitation or resettlement.

In an interview, the District Development Commissioner of Latehar - the authority governing all village councils in the district and responsible for implementing the PESA - said that he was not aware that Latehar was a 'Scheduled Area' under the Constitution with special protections for Adivasi communities. A CCL official said that "[Consultation under] PESA is not required under the Coal Bearing Areas Act."

Over 40 people in the affected villages told Amnesty International that they had not even heard of the PESA. Nor were they aware that gram sabha consultation was required for land acquisition.

"If we haven't heard of the laws, then how can we use them?" asked Kishor Oraon, an Adivasi man from Basiya.

### BASUNDHARA-WEST, ODISHA

The Odisha government has weakened the requirement under the PESA Act of consultation with gram sabhas before land acquisition or rehabilitation and resettlement in Scheduled Areas, by designating the *zila parishad* - a district-level body - as the body which needs to be consulted, and not the gram sabha. This discrepancy has been criticised by a number of official bodies.

Authorities have not consulted communities under the PESA Act in any of the three affected villages on the mine expansion. No consultation has been held on the upcoming Mahanadi Basin thermal power plant either.

The Divisional Land Acquisition Officer of the Sadar division of Sundargarh said that the PESA act was not applicable to land acquisition under the CBA Act. The Sub-Divisional Panchayat Officer of the Sadar division asked, "If Odisha has not even drafted the rules for the PESA Act, how are we supposed to monitor its implementation?"

A local activist, said, "The PESA Act was drafted by the government, the Fifth Schedule was drafted by the government, Coal India was created by the government. Then why doesn't the government follow its own laws?"

## RIGHTS OVER TRADITIONAL LANDS: FOREST RIGHTS ACT, 2006

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 was enacted to correct the historical injustice faced by Adivasi communities in India and enable them to gain legal recognition of their rights over their traditional lands.

Under a 2009 order issued by the MoEF, for industrial projects to receive forest clearances from the Ministry, state governments have to obtain the consent of gram sabhas for any diversion of forest land. The gram sabhas are required to have a quorum of at least 50 per cent, and have to be recorded on video.



Abandoned houses near overburden dumps, Sardega village, September 2014. © Amnesty International India.

## KUSMUNDA, CHHATTISGARH

The people affected by the Kusmunda mine include members of the Kwar, Gond, Rathia and Agaria Adivasi communities, who are all recognized officially as Scheduled Tribes under India's Constitution. Traditionally agrarian and dependent on the land and forest for their livelihood, these communities have lived next to the Kusmunda mine for decades.

State governments are responsible for obtaining certificates from gram sabhas declaring their consent. However, SECL wrote directly to the head of the Pali village panchayat in May 2011 and again in February 2012, asking her to conduct gram sabhas seeking consent for diversion of forest land for the mine.

The villagers did not agree. In a subsequent gram sabha conducted on 29 December 2013, villagers opposed the expansion, instead demanding that rehabilitation and compensation be given to those who had been evicted from their homes in a nearby village.

On 8 February 2016, the Block Development Officer, Katghora, issued a notice for the conduct of three separate gram sabhas on 16 February in Pali, Padaniya and Khodri villages to seek the consent of villagers for the diversion of forest land for the expansion of the Kusmunda mine. Government officials claim that three gram sabhas were accordingly conducted on 16 February. However local villagers said that the gram sabhas did not meet important requirements and two of them were invalid.

Villagers in Pali, including the head of the village council and her son, said that the gram sabha in Pali had only 42 attendees, when the quorum should have been about 800. They said that many villagers did not know of the gram sabha, and some who knew chose not to attend because they were opposed to the diversion of the forest land. Villagers who attended the gram sabha said that it had not been recorded on video and that they had not received any details about how the diversion of the forest land would affect them.

Activists, media persons and six villagers from Padaniya, including the head of the village council, said that the gram sabha in Padaniya had been called off following opposition from the villagers who had attended, and nobody had consented to the diversion of forest land. They said that the gram sabha had not been recorded on video.

## TETARIAKHAR, JHARKHAND

The Tetariakhar mine is surrounded by forests, villages, agricultural fields and streams. Communities affected by the mine include Oraon Adivasis, who have depended on the forests for generations for food, fuel, medicine and building materials.

"The forest is part of who we are. It is where we collect firewood for the house, mahua, lac and tendu leaves. It is where we graze our livestock and it is where our gods reside," said Suresh Uraon, 28, an Adivasi resident of Basiya village.

However members of local communities said that no gram sabhas had been conducted in the affected villages on the diversion of forest land for the mine. The former Divisional Forest Officer, Latehar, and the Circle Officer, Revenue Administration, Balumath block, confirmed this. CCL authorities maintain there is no forest land involved in the project.

## BASUNDHARA-WEST, ODISHA

Adivasi communities in the region surrounding the mine include Bhuiyan, Oraon, Kharia, Gond, Agaria and Binjhar Adivasi communities, who rely on the forest and traditional common land for food, grazing their livestock, firewood, and religious purposes.

No gram sabhas have been conducted by MCL in the affected villages of Sardega, Tiklipara or Kulapara on the diversion of forest land for the mine or its expansion.

The Mahanadi Basin thermal power plant will also involve the diversion of 143 hectares of forest land. The Divisional Forest Officer for the Sadar sub-division in Sundargarh, under which the affected villages fall, said that the forest land affected would be within the villages of Sardega and Tiklipara, which could further adversely impact the livelihoods of Adivasi communities in these villages.

Block-level officials proposed that gram sabhas be conducted on 11 and 12 September 2014 in Sardega and Tiklipara for the power plant. However, neither hearing took place. Local communities refused to conduct the gram sabhas, and instead wrote to district authorities that communities had not yet been fully compensated, and that the power plant was likely to further contaminate their air and water resources.



Trucks queue up to load coal mined from the Kusmunda opencast mine, Barkuta village, April 2014. © Amnesty International India

## CONFUSION AND OBFUSCATION

Despite several legal provisions recognising Adivasi communities' rights to consultation and consent, authorities and companies are known to use the complex mosaic of laws to deny communities their rights.

Activists in these areas told Amnesty International India that authorities frequently choose to deploy provisions which require them to do as little as possible by way of consultation. In the examples in this report district, state government and central government authorities, besides companies, appear to see public hearings more as a bureaucratic hurdle to overcome than a genuine opportunity to hear and address community concerns.

"Is granting one land title more important to me or is a transmission line that is a State Government project? For local rights, I cannot stop development," said a former Divisional Forest Officer from Latehar, Jharkhand, while speaking to Amnesty International India. In this way, authorities give development priority over indigenous peoples' rights.

A lack of harmonisation of the various overlapping laws enables authorities to dodge their responsibilities.

In December 2011, the central government set up a 'Harmonisation Committee' to align existing central laws with the PESA Act. This committee specifically recommended that the CBA Act be amended to require prior consultation with gram sabhas before any land acquisition. This report appears to have been largely ignored by the government.

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (PoA Act) was enacted to tackle particular kinds of caste-based discrimination and violence faced by people from Dalit and Adivasi communities. Amendments to the Act that came into force in January 2016 criminalize a range of new offences, including the wrongful dispossession of land.

## INTERNATIONAL LAW AND STANDARDS

India is a state party to several international human rights treaties – including the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), and Convention on Elimination of Racial Discrimination (CERD), whose treaty monitoring bodies have recognized the rights of Indigenous peoples to land, consultation and free, prior and informed consent in decisions that affect them.

The right of Indigenous peoples to lands they traditionally occupy is also recognized in ILO Indigenous and Tribal Populations Convention 107, which India has ratified. India also supported the adoption of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), which obligates states to consult and cooperate in good faith with indigenous peoples to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources.

The ICCPR and ICESCR, along with other human rights treaties, also require India to refrain from and prevent forced evictions, defined as "the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection."

Forced evictions may only be carried out as a last resort and only after all feasible alternatives to eviction have been explored in genuine consultation with affected people.

Companies such as CIL also have a responsibility to respect human rights in their operations. The UN Guiding Principles on Business and Human Rights require that companies "do no harm" or, in other words, take pro-active steps to ensure that they do not cause or contribute to human rights abuses within their global operations and respond to any human rights abuses when they do occur. CIL cannot point to the role of the government to defend the fact that it knowingly benefited from processes that violated the human rights of thousands of people.



Water from the Basundhara-West mine empties into the Basundhara river, October 2015. © Amnesty International India

## CONCLUSION

As the Indian government rushes to increase coal production across the country, this report offers evidence of the very real human rights impacts of irresponsible mining, and of the pattern of human rights violations that appear to accompany mining by Coal India Limited.

The report demonstrates that Indian authorities have breached domestic laws and their obligations under international human rights law to protect the rights of Adivasi communities affected by CIL mines in Chhattisgarh, Jharkhand and Odisha.

State governments in these states must compensate affected communities for the loss of their assets and for impacts on their lives and livelihoods, undertake comprehensive human rights and environmental impact assessments and ensure that there will be no evictions until genuine consultations have taken place with affected communities and that resettlement and compensation measures have been fully implemented.

The domestic Indian legal framework does not fully recognize the rights of indigenous peoples. The Coal Bearing Areas Act legitimises land acquisition without consultation, enabling further human rights violations.

The central government must introduce a notification in Parliament ensuring that any land acquisition for coal mining involves social impact assessments and the seeking of the Free Prior Informed Consent (FPIC) of Adivasi communities. The potential human rights impact of proposed mines, or the expansion of existing mines, must be considered as part of the social impact assessment of the Environmental Impact Assessment process, and public hearings must always be carried out.

CIL and its subsidiaries have failed to respect human rights, thereby breaching well-established international standards on business and human rights. By continuing to acquire land through flawed processes that breach international law, CIL's failure to respect human rights is ongoing.

CIL must urgently address and remedy the existing negative environmental and human rights impacts of the expansions of the Kusunda, Tetariakhar and Basundhara-West mines, in full consultation with project-affected communities. It should ensure that these expansions do not go ahead until existing human rights concerns are resolved, and the free, prior and informed consent of affected Adivasi communities is obtained.

CIL should also conduct a comprehensive review of operations in all its coal mines across India to identify and assess human rights risks and abuses, and publicly disclose the steps taken identify, assess and mitigate them.



A gram sabha taking place in the village of Pelma in Raigarh, Chhattisgarh, where Adivasi communities vetoed the diversion of their forest lands for an SECL coal mine for the fourth time, March 2016. © Amnesty International India

