



RIGHTS WATCH

Impact of mining on the environment

Bangladesh added Article 18A to the constitution in 2011 after realising the importance of protecting the environment. Although this Fundamental Principle of State Policy (FPSP) is not judicially enforceable, it has a significant role while interpreting the national environment-related legislation. This Article is intended to safeguard natural resources and biodiversity.

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Article 143 of the Constitution provides that all minerals and other things of value underlying any land of Bangladesh as well as all lands, minerals and other things of value underlying the ocean within the territorial water or the ocean over the continental shelf vests in the Republic. The State has the power to issue mining leases as it owns the mineral resources. Principle 21 of the Stockholm Declaration declares that the States have sovereignty and independent political and legal control over their own natural resources. However, another principle incorporated by Principle 21 of the same Declaration is the 'transboundary harm' which prescribes that the responsibility of the States is to ensure that the activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

Mining has turned into a source of commodities as a result of the anticipated demand for bauxite, copper, gold, nickel, iron ore, and cobalt. Although mining provides financial advantages, there are also significant environmental drawbacks. The environment of the area where mining takes place, and its surroundings is

negatively impacted by the release of harmful chemicals and the destruction of biodiversity from the exploration stage to the reclamation stage. Significant amounts of air pollution, water pollution, and damage to species and habitat are caused by mining.

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the environment. Although this Fundamental Principle of State Policy (FPSP) is not judicially enforceable, it has a significant role while interpreting the national environment-related legislation. This Article is intended to safeguard natural resources and biodiversity. Some laws specifically address Bangladesh's regulatory

framework for mining. Exploration of natural gas necessitates PSC (Production Sharing Contracts) contracts with the government. However, a license system is used to conduct the exploration of other mineral resources including coal and hard rock. The Mines Act 1923, the Mines and Mineral Resources (Control and Development) Act 1992, and the Mines and Minerals Rules 2012 are the main laws that provide detailed procedure for granting licenses for these types of mineral resources, with the exception of natural gas, and also include environmental protection provisions.

According to Section 3(f) of the Mines Act 1923, a mine is any excavation where an operation for the purpose of looking for or obtaining minerals has been carried out or is currently being carried out. It also includes all structures, equipment, tramways, and sidings, whether above or below ground, located within, next to, or attached to a mine. The Mines Act 1923 rules and regulations are under the supervision of the Chief Inspector and the Mines Inspector. It has been promulgated for the regulation and inspection of mines. However, this Act does not directly provide provisions for environment protection. This Act truly lays out guidelines for managing the

mine properly and taking care of the mine's workplace environment.

A license for mining and associated operations may only be granted in compliance with the rule, according to section 3 of the Mines and Mineral Resources (Control and Development) Act 1992. This Mines Rules 2012 forbids illegal labor and regulates unauthorised mining, quarrying, and mineral disposal. A licensee's duties and responsibilities are outlined in Rule 54. The licensee is required by Rule 54(8) to maintain accurate geological, geophysical, and drilling plans, maps, logs, and records. In addition, the licensee is required to provide the Director with any data and information regarding the status of geological, geophysical, drilling operations, and other geoscientific works.

The Mines and Minerals Rules 2012, the Environment Conservation Act 1995 and the Environment Conservation Rules 1997 must be complied with by license holders. Rules 19, 20, and 26 of the Mines Rules respectively provide that the Forest Department must be notified in advance of any exploration in reserved or protected forests, no licensee is allowed to cut hills or plants on government-owned property without first receiving permission from the government, and the licensee is responsible for compensation for any

unscientific means of exploration, lack of supervision, etc. In accordance with Rule 39, the licensee must take steps to purify the water whenever mining contaminates neighboring bodies of water. Rule 84 grants the Director the authority to revoke the license and to suspend mining operations right away in the event of any violation of the rules.

The Director has the authority to renew a license under rule 65 if he is pleased with the licensee's prior performance. There is however no set method for how he will be satisfied. The Environment Conservation Act 1995 and the Environment Conservation Rule 1997 are not explicitly stated in rule 42 of The Mines and Minerals Rules 2012 as to how and in what manner they would be applied to the mining sectors. A proper and expanded explanation is required. A mineral resource or a class of mineral resources may currently be exempted by the government from any or all of the regulations' requirements under Section 6 of the Mines and Mineral Resources (Control and Development) Act 1992. In order to avoid future abuse, the legal scope for the exemptions must be defined clearly. It must specify the circumstances or parties to whom such an exemption may be given.

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RIGHTS ADVOCACY

Offence of uploading conversations or video clips online

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Leaked conversations and video clips often stir the social media platforms. In many cases, the leaked materials interfere with the citizens' right to privacy and also with the lawful processes of the court. It is thus important to know what the law says in this regard.

The conversations of, between, and among individual citizens are completely a private matter. The State or any individual has no legal authorisation to intercept it. The Constitution of Bangladesh, expressly recognises the right to privacy guaranteeing the protection of home and correspondence and other means of communication as a fundamental right in article 43. Here, the right to privacy of correspondence and other means of communication means the privacy of letters, telegrams, and other postal dispatches, as well as of telephone calls and other legal means of communication. In fact, this is the only provision under the Constitution where the word "privacy" is specifically mentioned irrespective of the wordings "right to privacy" as the subset of privacy of correspondence and

other means of communication. However, these fundamental rights under the Constitution are subject to reasonable restrictions provided under Article 39(2) of the Constitution that may be imposed by the State.

The authorities have equipment to monitor and record telephone conversations with only objective to do so is to either detect and nab criminals or foil any attempt of subversive activities with pre-emptive measures. So, making the conversation public of some private individual on the social media constitutes an offence. Some individuals may have ulterior motive to influence the investigation or legal proceedings of the persons involved. These acts clearly militate against the right of privacy of the citizens of the country.

The Telecommunication Act, 2001 is the only law that regulates the telecommunication sector as far as data protection is concerned. According to section 30(1)(g), one of the functions and duties of the Bangladesh Telecommunication Regulatory Commission is to ensure protection of the privacy of telecommunication subscribers.



Under this Act, the disclosure of any confidential information shall be deemed to be misconduct and the Act provides punishment for that. Any person working within the telecommunication administration of Bangladesh is not authorised to disclose any message of a person to any other person. No Commissioner, or consultant, officer or employee or any other person employed by the Telecommunication Regulatory Commission shall knowingly disclose or allow to be disclosed any confidential information to any other person in a manner so that

the information may be used to the benefit of that other person or to the detriment of a related person (section 85(2)).

Under section 67(b), no person shall intercept any radio communication or telecommunication, nor shall they utilise or divulge the intercepted communication, unless the originator of the communication or the person to whom the originator intends to send, it has consented to or approved the interception or divulgence. The section 68(b) (ii) stated that except for the requirement of a legal proceeding

of the Commission or a court or of a consequential proceeding, disclose any information about the sender or addressee or contents of a message which has come to his knowledge only by using or in connection with the use of a telecommunication apparatus or radio apparatus.

There is only exception is the Government's power to intercept. Under section 97 of the Telecommunication Act, on the grounds of national security and public order, the Government may empower certain government

user information relating to any subscriber to a telecommunications service. Except for authorised persons as described in section 97 of the Telecommunication Act for security agencies, if anyone taps or intercepts telecommunications between two persons without their authorisation, then such intervention shall be considered an offence.

The perpetrators seem to be trying to influence the investigation and judicial system in favour of some citizens. These acts are against the constitutional right of

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authorities (intelligence agencies, national security agencies, investigation agencies, or any officer of any law enforcement agency) to suspend or prohibit the transmission of any data or any voice call, and record or collect

privacy and some other laws of the land. The relevant authority should hence investigate into the incidents as per law of the land.

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