

Preparing for a just transition away from coal: Can a Closed Coalfield Land Rights and Restitution Act (CCLRRA) offer hope for coal-affected communities?

An article for EPW Engage

Abstract

The dominance of coal for Indian energy security might, finally, be about to reduce as increasing demands are made for a just transition to cleaner and more community-friendly forms of energy. In this article we explore the possibilities for mine-affected communities to take control of the coalfield lands that will become abandoned by the inevitable closure of coal. Inspired by the Forest Rights Act's vision of local, democratic resource control to rectify historical injustice, we suggest a Closed Coalfield Land Rights and Restitution Act (CCLRRA) to revitalise lives and livelihoods via the return and rehabilitation of several lakh acres of degraded coalfield lands. As coal closes the (typically adivasi) displaced and the (typically Dalit) disenfranchised workers will find themselves without the means to survive. As black landscapes are returned to green, meaningful and independent livelihoods in agriculture, forestry and fisheries can be created in central-eastern India's former mining areas.

Patrik Oskarsson
Department of Rural and Urban Development
Swedish University of Agricultural Sciences
patrik.oskarsson@slu.se

Vasudha Chhotray
School of International Development
UEA, UK
v.chhotray@uea.ac.uk

1. Introduction: What future for India's coal tracts?

Providing justice for millions of coal-affected communities in the transition away from coal is clearly going to be a major challenge. And yet, there may also exist opportunities within this overall difficult scenario because the closing of coal mines will open up land for restitution as major areas can be returned to communities. In this brief article we envision abandoned coal mines, especially if closing on the mass scale that climate scientists state is required, turned into productive resources for those who need them the most – coalfield communities. We do this by asking if the time has come to demand a Closed Coalfield Land Rights and Restitution Act (CCLRRA), following the model set by the Forest Rights Act, to return significant areas of land as coal becomes a fuel of the past?

Coal is king and paramount Lord of industry is an old saying in the industrial world. Industrial greatness has been built up on coal by many countries. In India, coal is the most important indigenous energy resource and remains the dominant fuel for power generation and many industrial applications (Supreme Court of India 2014).

As detailed by the Supreme Court, coal has remained ‘king’ as the national source of energy for a remarkable length of time. As we might be seeing at least the starting points of a transition away from this fossil fuel, the reasons for such a transition are not the vast displacement and environmental degradation in and around the coalfields, or the associated carbon emissions which strongly contribute to climate change. It is rather the more pragmatic fact that renewable energy has become much cheaper than coal energy which opens up for coal closures in the not too distant future.

The transition away from coal raises a host of highly complex issues relating to energy security, sustainability, democracy and other factors of national importance and global significance. In and around the coalfields, the transition additionally raises pertinent questions about where millions of poor, coal-dependent people will go. At the moment, vast numbers of people make a living from coal, particularly in informal and largely unregulated livelihoods (Bhushan et al. 2020; Lahiri-Dutt 2016; Pai & Carr-Wilson 2018), while similarly large numbers struggle to get by as a result of forced displacement, polluted environments and inadequate land compensation from coal extraction and related activities. Two main options stand out for coal-dependent communities when the mines close: migrate or turn to agricultural and forest-based local livelihoods. While migration may be an option for some, it is clearly not without its own problems (Ambagudia, 2018; Rajan & Sumeetha M. 2019). For a large majority the future therefore lies in the very spaces at present occupied by large-scale coal extraction. Several important questions arise in relation to the future of central-eastern India and its coal-affected inhabitants: Who will rise to the challenge to regenerate the central-eastern region which since long ensured national energy provision? And how can local livelihoods be generated to compensate for the inevitable formal and informal job losses when the coal sector closes?¹

2. Justice for who in the transition away from coal?

As Liboiron (2021) makes clear, all polluting industries have colonial origins. These roots in extractive industries are plain to see in continued efforts to make use of officially uninhabited common lands and forests in India and internationally (Bebbington 2018; Gilberthorpe & Hilson 2012; Kumar 2014). It is clear that a just transition away from coal needs to account for the historical injustices borne by indigenous and other groups displaced to make way for vast coal pits and various other mining-related activities. Meanwhile, a just transition needs to cater to the millions of people who find precarious, but nevertheless crucial, livelihood support in the informal coal sector at the moment. The people who should benefit from returned coalfields should thus be those who a) have historical claims to the region and lost their lands for a pittance, typically adivasi groups, and b) informal workers and other more recent migrants to the coalfields, typically of Dalit and other lower caste backgrounds. For both these groups the main prospect for future livelihoods appear to be in the agrarian sector which is facing severe challenges and political protest across the country at the moment. As the nationwide farmer protests make abundantly clear, agricultural

¹ While the renewable energy sector offers hope for new jobs on a national level, indications at present are that this expansion will not take place in the former coal regions (Dubash et al., 2018).

livelihoods are ridden with challenges, and yet, rehabilitated coalfield lands may provide some avenues to allow people to secure their own livelihoods in the territories they at present inhabit.

Present research on just transitions has mainly been carried out in Western contexts with a much higher degree of formal workers and formalised governance settings than those present in India (Harrahill & Douglas 2019; Heffron & McCauley 2018). Within India, formal workers have to date usually been offered voluntary retirement or redeployed to other nearby mine in case of mine closures (Bhushan et al. 2020). The much higher number of informal coal workers, on the other hand are at present left to their own devices to either relocate, or continue to use closed mines to take whatever coal pieces might remain. Meanwhile earlier infrastructure is abandoned leading to a reduction in available facilities (like schools and healthcare facilities) or slowly left to fall apart (like roads and water services infrastructure) (Lahiri-Dutt 2014; Lahiri-Dutt & Williams 2005).

3. Regenerating coal regions

While recent years has meant a massive expansion, rather than required closure of coal mines, it is clear that from time to time mines do close also in India for various reasons. The main reason for closure is that the mine is not economical to run, or due to exhausted coal reserves. When mines close, a mine plan is supposed to guide the closure procedures to ensure a safe and environmentally conscious end to mining operations. Unfortunately, such plans tend to lack detailed and meaningful requirements, and implementation is often lacking. In practice, due to a shortage of funds, dearth of governmental oversight, inadequate technical and environmental expertise, and very little or no local community voice, closed coal mines are simply abandoned. The result is a crater landscape with haphazard growth of whatever trees or other vegetation might be able to grow, and often a gradual filling of water turning parts of the pit into a pond with dangerous, unstable overburden waste hills nearby. Moreover, the environmental fallout for the surrounding areas of former coal pits may include the continued leaching of dangerous compounds into nearby water sources (Bhushan et al. 2020; Bhushan & Zeya Hazra 2008; Mishra 2018).

International experiences, however, show that these dire outcomes need not be the case as former mines across different environments, forms of mining, and types of waste generation activities have been returned to healthy states to enable a return of biodiverse as well as community-oriented uses (Koch & Samsa 2007; Peck & Sinding 2009). It will clearly be challenging for Indian mine rehabilitation to move from little meaningful rehabilitation at present to approximate international experiences which have taken decades to develop and be fine-tuned for different ecologies and climactic conditions. And yet these important possibilities remain, and need to be explored in the coming decades as entire coalfields inevitably start to close. The vast coal pits and tall overburden hills will require significant funds to be returned to productive and social landscapes. We suggest that CSR and District Mineral Funds are channelled for this very purpose, with the requirement that the accumulated funds are placed under the direct control of coalfield communities via their Gram Sabhas to ensure accountability.

4. User rights in the Forest Rights Act

The Forest Rights Act may show us the way forward on how to conceive of historical justice and ensure accountability as landscapes and communities across central-eastern India transition away from coal. Like in the Forest Rights Act, we suggest that the CCLRRA lets local communities take front stage in ensuring mine rehabilitation activities are actually carried out according to the letter and spirit of the best available mine closure and landscape restoration practices. The main

alternative to this approach would be the currently predominant company-led CSR strategy, which has not only engendered locally divisive practices around compensation, but is also worryingly steered towards driving people away from their land, as Kale's (2020) recent paper shows.

Indications are that Coal India is among the country's very largest land owners across its different subsidiaries with land holdings measuring lakhs of hectares in total (Kalpavriksh & Greenpeace India 2012; Oskarsson et al. 2019). How closed coal mine land is being put to use at the moment is simply unknown at present (Oskarsson et al. 2019), but it remains clear that the potential areas involved in a just transition when coal closes are enormous.² Bhushan et al. (2020) are able to show that one coal mining district, Ramgarh, in Jharkhand at the moment uses as much as 10% of all land available in the district. Closed coal mines are thus repositories of massive tracts of land that could be returned to the communities who need them. This could ensure possibilities for continued lives and livelihoods in the region, as the country moves slowly to a post-coal future. Even though the national transition away from coal may take decades to accomplish, the need to restore the lands and livelihoods of coal-dependent people demands more urgent intervention.

The Forest Rights Act similarly provides a model for the possible return of coalfield lands with its emphasis on historical justice for the dispossessed and community-based, democratic approach to how to govern and use forests. The FRA has been ignored and subverted from time to time, and yet reiterates the power of progressive legislation, as demonstrated by the Niyamgiri case. It was under the provisions of the FRA that 12 Gram Sabhas comprehensively rejected proposed bauxite mining by Vedanta, leading to the cancellation of this project by the Central government (Kumar 2014). Further, CCLRRA may thus serve as a counter-hegemonic piece of legislation (Nielsen & Nilsen 2015) contra LARRA. This latter legislation serves as a 'compromise equilibrium' that can appease the demands of social movements that have opposed displacement, but without conceding the fundamental right of the state to enable neoliberal development.

The experience of LARRA shows that laws represent struggles at a broader political and discursive terrain, and often serve as important instruments for ruling elites to entrench control while appearing to be progressive. As Nielsen and Nilsen's (2015) work has shown, the expanded definition of public purpose in the LARRA effectively means that even the seemingly more inclusive approaches to resettlement and rehabilitation of the Act are significantly circumscribed in reality. Even if its implementation will be challenging, CCLRRA will provide a necessary new shift in the language of extractive development. This dominant paradigm has been thoroughly disrespectful of the value of the lives of local people, by relentlessly seeking their lands, guided by false narratives of *terra nullius* and a generalised 'public purpose' that does not include coalfield groups.

5. CCLRRA: Implications

Climate activists rightly demand an end to coal extraction. But unless they bring in the restitution of land for coal-dependent communities as a key component of that demand, these same communities will suffer the prospect of double victimisation in a not too distant future – a loss of livelihoods as coal advanced, and a second loss as coal-dependent livelihoods come to an end when extraction ends. CCLRRA acknowledges historical injustices in a call for land restitution. As Fay

² At present, land acquired for coal mining remains with the company once coal operations end and the mine closes.

and James (2008: 43) point out, “restitution promises to restore land to specific groups who are understood as having earlier been unfairly dispossessed.”

Clearly there is a case for land restitution for coal mining, though the context is highly volatile, with dramatic land use changes already having occurred resulting in realigned social identities in the intervening decades. In such a setting there is a real danger of the entrenchment both of existing patterns of inequality in resource access and control, as well as the creation of new forms of exclusion, such as through the assertion of arguments around prior claims, indigeneity or autochthony (Fay & James 2008). Nevertheless, closed coalfields represent an important opportunity to create new forms of democratic politics based around a re-establishment of the commons, since we envision collective rather than individual land restitution. As other historical experiences of restitution have shown, the process of restitution is not the final step, as many supporting policies, structures and forms of technical expertise will need to be put in place to nurture and realise meaningful communal rights.

Land is a key material resource which can revitalise livelihoods, but it also embodies profound symbolic value. It is simultaneously “infused with history, memory and sacrality” (Sud 2021: 7) to serve as territory, generator of authority and property, and as a site for access as well as exclusions that are vital in the constitution of individuals and communities. These symbolic and affective dimensions are as important as the material aspects of authority and access. Land restitution generates hope and mobilises a sense of autonomy and self-determination. It is clear that at present, land dispossession due to coal mining remains far from over, and there are ever newer forms of dispossession underway related to, for example, the renewable energy transition which also requires scarce land resources to be implemented (Chhotray 2021). Land restitution from closed coal coalfields could generate positive multiplier effects for the future.

However, as Fay and James (2008: 19) point out, “land restitution is no panacea for rural poverty or underdevelopment”. Merely granting land rights is clearly not going to solve all problems, and this is particularly the case for degraded and polluted former coalfields. Meaningful community uses of former coal lands will require significant funds and technical support to turn what is today black back to green. Funds are increasingly accumulating at the moment in District Mineral as well as Compensatory Afforestation Funds. This money should be put to use for post-mining rehabilitation activities under the strict control of local Gram Sabhas for community and landscape restoration.

6. References

- Ambagudia, Jagannath (2018): *Adivasis, Migrants and the State in India*. New Delhi: Taylor & Francis.
- Bebbington, Anthony (2018): *Governing extractive industries: Politics, histories, ideas*, Oxford: Oxford University Press.
- Bhushan, Chandra, Shrestha Banerjee and Shruti Agarwal (2020): *Just Transition in India: An Inquiry into the Challenges and Opportunities for a Post-coal Future*. New Delhi: iFOREST (International Forum for Environment, Sustainability & Technology).
- Bhushan, Chandra and Monali Zeya Hazra (2008): *Rich lands poor people: Is “sustainable” mining possible?*, New Delhi: Centre for Science and Environment.

- Chhotray, Vasudha (2021): Extractive Regimes in the Coal Heartlands of India: Difficult questions for a Just Energy Transition. In Prakash Kaswan (Ed.), *Climate Justice in India*, Cambridge University Press. <http://dx.doi.org/10.1111/j.1467-7660.2004.00354.x>
- Dubash, Navroz K. Sunila S. Kale and Ranjit Bharvirkar (Eds.) (2018): *Mapping Power: The Political Economy of Electricity in India's States*. Oxford University Press.
- Fay, Derrick and Deborah James (2008): The anthropology of land restitution: An introduction. In Derrick Fay and Deborah James (Eds.), *The Rights and Wrongs of Land Restitution: 'Restoring What Was Ours'* (pp. 1–24), London: Routledge.
- Gilberthorpe, Emma and Gavin M. Hilson (2012): *Natural Resource Extraction and Indigenous Livelihoods: Development Challenges in an Era of Globalisation*, Farnham, England: Ashgate Publishing.
- Harrahill, Kieran and Owen Douglas (2019): “Framework development for ‘just transition’ in coal producing jurisdictions,” *Energy Policy*, Vol 134, pp 110990. <https://doi.org/10.1016/j.enpol.2019.110990>
- Heffron, Raphael J. and Darren McCauley (2018): “What is the ‘Just Transition’?,” *Geoforum*, Vol 88, pp 74–77. <https://doi.org/10.1016/j.geoforum.2017.11.016>
- Kale, Sunila S. (2020): “From company town to company village: CSR and the management of rural aspirations in eastern India’s extractive economies,” *The Journal of Peasant Studies*, Vol 47, No 6, pp 1211–1232. <https://doi.org/10.1080/03066150.2020.1825290>
- Kalpavriksh and Greenpeace India (2012): *Countering Coal?* <http://www.greenpeace.org/india/Global/india/report/Countering-coal.pdf>
- Koch, John M. and Glen P. Samsa (2007): “Restoring Jarrah Forest Trees after Bauxite Mining in Western Australia,” *Restoration Ecology*, Vol 15, pp S17–S25. <https://doi.org/10.1111/j.1526-100X.2007.00289.x>
- Kumar, Kundan (2014): “The sacred mountain: Confronting global capital at Niyamgiri,” *Geoforum*, Vol 54, pp 196–206. <https://doi.org/10.1016/j.geoforum.2013.11.008>
- Lahiri-Dutt, Kuntala (2014): Introduction to Coal in India: Energising the Nation. In K. Lahiri-Dutt (Ed.), *The Coal Nation: Histories, Cultures & Ecologies* (pp. 1–36). Ashgate.
- (2016): “The diverse worlds of coal in India: Energising the nation, energising livelihoods,” *Energy Policy*, Vol 99, No 5, pp 203–213. <https://doi.org/10.1016/j.enpol.2016.05.045>
- Lahiri-Dutt, Kuntala and David J. Williams (2005): “The coal cycle: Small-scale illegal coal supply in eastern India,” *Resources, Energy, and Development*, Vol 2, No 2, pp 93–105.
- Liboiron, Max (2021): *Pollution is colonialism*, Durham: Duke University Press.
- Mishra, Sujit Kumar (2018): “Mine Closures and the Issue of Livelihood,” *Economic and Political Weekly*, Vol 53, No 42, pp 7–8.
- Nielsen, Kenneth B., and Nilsen, Alf Gunvald (2015): “Law Struggles and Hegemonic Processes in Neoliberal India: Gramscian Reflections on Land Acquisition Legislation,” *Globalizations*, Vol 12, No 2, pp 203–216. <https://doi.org/10.1080/14747731.2014.937084>
- Oskarsson, Patrik, Kuntala Lahiri-Dutt and Patrick Wennström (2019): “From Incremental Dispossession to a Cumulative Land Grab: Understanding Territorial Transformation in India’s North Karanpura Coalfield,” *Development and Change*, Vol 50, No 6, pp 1485–1508. <https://doi.org/10.1111/dech.12513>
- Pai, Sandeep and Savannah Carr-Wilson (2018): *Total transition: The human side of the renewable energy revolution*, Victoria, Canada: Rocky Mountain Books.

- Peck, Philip and Knud Sinding (2009): “Financial assurance and mine closure: Stakeholder expectations and effects on operating decisions,” *Resources Policy*, Vol 34, No 4, pp 227–233. <https://doi.org/doi:10.1016/j.resourpol.2009.03.001>
- Rajan, S. Irudaya and Sumeetha M. (2019): *Handbook of Internal Migration in India*, New Delhi: SAGE Publishing India.
- Sud, Nikita (2021): *The Making of Land and The Making of India*, Oxford: Oxford University Press.
- Supreme Court of India (2014): “Verdict in ‘Coal Allocation Scam’,” *Writ Petition No. 120 of 2012*, New Delhi: Government of India.