CRITICAL MINERALS AND STRATEGIC EXTRACTION: LEGAL CHALLENGES EMERGING FROM THE MMDR AMENDMENT ACT, 2023

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ABSTRACT

India's interlinked transition in energy, industry, defence, technology governance, and critical minerals demand a rapid and fundamental reorganization of the regulation of their extraction. With the passage of the Mines and Minerals (Development and Regulation) Amendment Act, 2023, India now moves past the 2015 auction-oriented reforms. The Amendment tackles a critical and strategic minerals' unique and specialized regime with the introduction of the exploration license and the delegation of the auction powers for certain minerals in Part D of the First Schedule to the Central Government, and the reallocation of certain atomic minerals, who were previously extricated from the regular mining economy. In highly technical terms, the Amendment offers a response to government frameworks to combat supply-side scarcity, government-induced import reliance, and government-induced concentration of the supply chain. Beyond the factors previously mentioned, the Amendment establishes a new set of legal parameters. It resurrects the debate on the distribution of governance over minerals, the royal and auction premium tax character assignments, the legislative and judicial tensions between the government-induced concentration of the supply chain and securitized extraction policy.

Keywords: Critical minerals, MMDR Amendment Act 2023, exploration licence, mineral federalism, strategic extraction.

Introduction

India is formulating an industrial policy to detail how the country is refocusing its critical minerals strategy. More than industrial policy, it is part of a structural transformation of how the law articulates the elements of mining, energy security, geopolitical/geo-economic risk, technological manufacturing, and ecological law. This transformation of the law makes the 2023 MMDR amendment significant not just for the regulation of extraction, but also for the public law of India.[1][2]

An example is the state's own acknowledgment that a state's minerals vulnerability translates into a strategic vulnerability. In 2023 the Ministry of Mines published for the first time an official conceptual framework for identification of critical minerals, along with a list of 30 minerals for which supply chain risk was deemed significant to the country's economy, clean technology and strategic sectors. This exercise was significant as it helped to formalize the policy language that was previously borrowed from international discourse into a domestic legal and administrative framework. After criticality was formally established, the impetus to re-engineer concession rule modifications, auction design and exploration incentive revisions became significantly stronger.[3]

Before 2023, the MMDR framework had already been changed by the 2015 shift towards auction-based allocation, though that regime was still anchored around a general mineral economy where States were still the operational hubs for block identification and auctioning. The 2023 amendment changed that by placing for the first time a Central Government auctioning role for Part D minerals, and by providing a new exploration licence, which is designed to capture risk capital for deep and challenging deposits. The legal significance of that change lies, in part, not only to whom the auctions belong, but who gets to control the speed, order, and the overall strategic rationale for extraction.[4]

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1 Nidhi Srivastava and Atul Kumar, "Mineral Resources and Energy Security in India", 376 *Journal of Cleaner Production* 134354 (2022).

2 Parliament Passes the Mines and Minerals (Development and Regulation) Amendment Bill, 2023, *available at:* https://www.pib.gov.in/PressReleasePage.aspx?PRID=1945102 (last visited on February 1, 2026).

3 The Mines and Minerals (Development and Regulation) Amendment Bill, 2023, *available at:* https://prsindia.org/billtrack/the-mines-and-minerals-development-and-regulation-amendment-bill-2023 (last visited on February 2, 2026).

4 Nidhi Srivastava, "Critical Minerals for India: Assessing Their Criticality and Projecting Their Needs for Green Technologies", 82 *Resources Policy* 103491 (2023).

This alteration must be seen considering India's wider developmental aspirations. Lithium, cobalt, graphite, nickel, titanium, rare earths and other associated strategic inputs are needed for Electric mobility, battery storage, electronics, advanced manufacturing, defence systems, semiconductors and renewable infrastructure. However, the governance of India's domestic minerals has, in the past, been shaped by other assumptions, such as the impact of slower concession cycles, fragmented and conventional state level administrative exploration, and an environmental framework that is reactive after allocation pressures have built up.[5]

The author's primary concern is that the MMDR Amendment Act, 2023, has not eliminated legal friction, but rather has shifted it. The law provides a "streamlined" approach for entering the central market for critical minerals but does not provide a clear path for addressing, or worse, deferring, legal issues that are likely to arise around the four "adjacent" fields. These include the constitutional division of labor between the federal and state governments, the revenue and expenditure (fiscal) aspects of royalty and auction return payment, the legal environment of accelerated extraction, and the alignment (or misalignment) of social license to operate (SLO) with strategic minerals policy. These issues are not peripheral. They will shape the essence of the legal framework for the extraction of critical minerals in India - whether it will be stable, public, and law-like or whether it will be a series of discretionary administrative shortcuts.[6]

Statutory and Policy Framework

The legal framework established in 2023 must be understood in a more holistic context. This framework is being situated amidst ongoing policy changes regarding exploration, auctions, royalty rationalisation, strategic stock vulnerability, and self-reliant industrial defence. The amendment positions itself as the legal nucleus of a more expansive purpose-oriented model of minerals governance.[7]

Amendment Design

The amendment has three notable features as far as statutory design is concerned. First, it places

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5 M. P. Jain, *Indian Constitutional Law* 154 (LexisNexis, Haryana, 8th edn., 2022).

6 Shyam Divan and Armin Rosencranz, *Environmental Law and Policy in India* 212 (Oxford University Press, New Delhi, 3rd edn., 2022).

7 Twenty Blocks of Critical and Strategic Minerals Being Auctioned in the First Tranche, *available at:* https://www.pib.gov.in/PressReleasePage.aspx?PRID=1981041 (last visited on February 3, 2026).

the exploration licence under Section 10BA, thereby acknowledging that critical and deep-seated minerals merit an intermediate concession model between initial reconnaissance and commercially-viable mining operations. Second, it adds Section 11D, under which the Central Government auctions mineral concessions for the minerals specified in Part D of the First Schedule. Third, it alters the regulatory framework of certain atomic minerals, thereby expanding the legal space for market access in areas that were previously legally constrained.[8]

The exploration license idea is significant in legal terms as it transforms the state from an allocator of proven deposits to a facilitator of geological risk. In previous models, investors were expected to enter only after substantial resource confidence was established. The exploration license enables private involvement sooner in the discovery process. While this could encourage geological investments, it also produces a doctrinal shift: the legal system must now regulate uncertainty. Concerns about data ownership, reporting obligations, rights to transition, structures of reimbursing the public, and access to exploration information become more relevant when exploration risk is subject to concession law.[9]

The amendment also alters the inter-institutional relation between the Union and the States. The legal ownership of minerals within the territory of a state is not lost, but the auction design for critical minerals is shifted to the Centre. This means the legal grammar of mineral federalism shifts from decentralised administration with central oversight to prominent central command with state involvement in downstream implementation. The consequence is a constitutional, administrative and revenue fragmentation which leads to a layered arrangement. The statute achieves speed by fragmentation, but this fragmentation is the basis of future legal disputes.[10]

Royalty and Auction Architecture

The new regime's second pillar is commercial viability. The critical minerals auction model starts working only after royalty rates, minerals bidding conditions, and reserve classification rules are tailored to emerging domestic supply chains. This explains the royalty rates, prompted

[8] Union Minister Pralhad Joshi Launches the Second Tranche of Auction of Critical and Strategic Mineral Blocks, *available at:* https://pib.gov.in/PressReleasePage.aspx?PRID=2010396 (last visited on February 4, 2026).

[9] Ministry of Mines Successfully Completes the Auction of 18 Blocks Put Up in Tranche II, *available at:* https://www.pib.gov.in/PressReleasePage.aspx?PRID=2014749 (last visited on February 5, 2026).

[10] Shri G Kishan Reddy Launches Fourth Tranche of Auction of Critical and Strategic Minerals, *available at:* https://pib.gov.in/PressReleasePage.aspx?PRID=2028356 (last visited on February 6, 2026).

by notifications related to the critical minerals lithium, niobium, and rare earth elements, and the later Cabinet-supported ration alignment for twenty-four critical and strategic minerals. Simply put, there was more to legal reform in the area than the form of the concession. It was also about pricing the state's entitlement to minerals in a way that did not close off a developing market.[11]

The auction design shows the state's experiments with the market in stages, rather than one big master plan. The first five tranches show some logic: present a varied basket of blocks, monitor bidder behaviour, re auction weakly subscribed blocks, and modify the commercial and regulatory package incrementally. The significance of this approach is economic and doctrinal. By using staged tendering, the government is able to create an administrative record that evolves of what the industry views as legally and commercially bankable. That record may be useful in subsequent disputes over reasonableness, arbitrariness, or the structural deficiencies of the design of the auctions.[12]

This table captures the amendment's conversion from abstract legislation to operational steps. It captures the speed of the Central Government's movement from statutory change to successive auction tranches while also demonstrating the market's response remained uneven rather than automatic.[13]

[11] Ministry of Mines Successfully Completes Auction of 24 Critical and Strategic Mineral Blocks in Four Tranches, *available at:* https://www.pib.gov.in/PressReleseDetailm.aspx?PRID=2131723 (last visited on February 7, 2026).

[12] Cabinet Approves Royalty Rates for Three Critical and Strategic Minerals Lithium, Niobium, and Rare Earth Elements, *available at:* https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1966595 (last visited on February 8, 2026).

[13] Cabinet Approves Amendment in the Second Schedule to the Mines and Minerals (Development and Regulation) Act, 1957 for Specifying Rate of Royalty in Respect of 12 Critical and Strategic Minerals, *available at:* https://pib.gov.in/PressReleasePage.aspx?PRID=2010128 (last visited on February 9, 2026).

Figure 1 Central auction tranches for critical mineral blocks, 2023 to 2025.[14]

There are two legally relevant observations to make from the table. The state for the first time accepted re-auction as a normal feature of the regime, meaning the legal tenders architecture has as much legal validity as the statute. Second, the difference between offered blocks and auctioned blocks suggests that strategically designated blocks are not commercially viable. This is relevant because litigation is inevitable regarding the terms of the auctions, the certainty of reserves, eligibility tiers, downstream obligations, etc. Future disputes will consider a supposedly administrative framework on litigation, marking that the markets are being constructed actively rather than just opened.[15]

Mission Architecture

The amendment has now been integrated into a considerably larger mission framework. The National Critical Mineral Mission, approved in January 2025, invokes the legal imagination of the 2023 statute to go beyond extraction to include exploration, beneficiation, processing, recovery from end-of-life products, overseas acquisitions, and regulatory streamlining. This is

[14] Cabinet Approves National Critical Mineral Mission, *available at:* https://www.pib.gov.in/PressReleasePage.aspx?PRID=2097309 (last visited on February 10, 2026).

[15] KABIL Signs Agreement with CAMYEN SE for Exploration and Development of Five Lithium Blocks in Argentina, *available at:* https://pib.gov.in/PressReleasePage.aspx?PRID=1996380 (last visited on February 11, 2026).

significant because it establishes that the amendment was not intended to be a stand-alone mining reform. It was intended to be the upstream legal tool in a more extensive supply-chain project.[16]

This mission logic is supported by two further developments. One is the state's public prioritisation of quicker approvals, including the 2026 announcement where critical mineral mining projects have been designated as strategically important and are therefore exempt from public hearing in the applicable approval process. Another is the ongoing attempts at the international supply security quasi-affording through Khanij Bidesh India Ltd., including for five lithium brine blocks in Argentina. Taken together, these indicate that India's critical mineral law is more and more structured around strategic scarcity than the previously dominant developmental logic of ordinary mineral administration.[17]

Constitutional and Fiscal Challenges

The issue regarding the amendment's constitutionality is nuanced. It is not the case here that Parliament is encroaching on a field where it indisputably has no business. It involves the amendment's reconfiguration of the Union and State axis of control in areas where both levels of government have historically been of equal relevance.[18]

Legislative Competence and Federal Balance

The starting point of reference is still *State of Orissa v. M. A. Tulloch & Co.*[19] where the Supreme Court viewed a declaration under the MMDR Act as a way in which the Parliament could occupy the regulatory field of mineral development as per the declaration. Tulloch is indispensable because it explains why mining federalism in India is complicated. The constitutional scheme gives Parliament, via Entry 54 of List I, control over Union Prescriptions that would otherwise fall under State control as a subject of Entry 23 of List II.

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[16] KABIL Explores Overseas Critical Mineral Opportunities and Invites Indian Industries for Investment Collaboration, *available at:* https://pib.gov.in/PressReleseDetailm.aspx?PRID=2039606 (last visited on February 12, 2026).

[17] Shri G Kishan Reddy to Launch First-Ever Auction of Exploration Licence Blocks on 13th March, 2025, *available at:* https://pib.gov.in/PressReleasePage.aspx?PRID=2110761 (last visited on February 13, 2026).

[18] Iqra Yaseen, Surendar Singh, et.al., "Impact of Energy Infrastructure on Sustainable Development: A Critical Assessment and Feasible Solutions", 103 *Resources Policy* 105542 (2025).

[19] AIR 1964 SC 1284.

However, Tulloch does not address every contemporary issue. The 2023 amendment not only focuses on regulating mines with more intensity. It also selectively centralises, for certain defined 'critical' and 'strategic' minerals, the auction mechanism. That is a more narrow and more instrument-specific intervention. The legal question, then, is whether the new centrality complements the Parliament's division of powers and control over the development of minerals, or whether it is an attempt to further hollow out the federal logic that still provides for the States a primary administrative and land-bound control under the more general MMDR framework.[20]

Careful reading of the amendment shows that it does not remove State relevance, but does shift the balance of relevance from the Federal level. States remain important in fields such as land access, local governance, post-auction execution, law and order, rehabilitation, and most of the practical ecosystem clearance; the ministry's own annual reporting keeps portraying States as major players in the identification and preparation of auctionable blocks. The constitutional tension appears to lie not so much in the formal competence but in the institutional asymmetry. The centre is increasingly defining and controlling the strategic mineral market, while the states continue to bear much of the practical workload. That gap may not necessarily negate the regulation, but it is a fertile ground for claims on the allocation of responsibility and accountability.[21]

Royalty, Taxation and Fiscal Federalism

Questions became even more pronounced regarding fiscal matters after the Constitution Bench decision in *Mineral Area Development Authority v. Steel Authority of India*[22]. The court held, in effect, that royalty is not a tax and went back to the older reasoning line related to *India Cement Ltd. v. State of Tamil Nadu*[23]. This is extremely critical for the mineral sector because the post-2023 regime is based on several layers in the extraction of public value, royalty, auction premium, dead rent, NMET contributions, DMF payments, and so on. Once royalties are separated from the tax, the federal finance framework for minerals becomes more complicated, not simpler.

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[20] H. M. Seervai, *Constitutional Law of India* 98 (Universal Law Publishing, Delhi, 4th edn., 2015).
[21] V. N. Shukla, *Constitution of India* 132 (Eastern Book Company, Lucknow, 13th edn., 2017).
[22] 2024 INSC 554.
[23] (1990) 1 SCC 12.

The first consequence that follows is that the fiscal domain has reopened. If royalty consideration is related to mineral rights and not a tax, the constitutional room for State taxation of mineral-bearing lands and/or incidents must be looked at differently. At the same time, the strategic mineral auction model relies on the maintenance of commercial predictability. The Court's subsequent order in *Mineral Area Development Authority v. Steel Authority of India*[24], which dealt with prospective operations and fiscal disruption, reflects that concern. The mining industry is particularly exposed to retrospective fiscal changes since auction bids and investment decisions are made with a regulatory time frame built into the price.

In the case of critical minerals, the issue is more severe as auction prices are being discovered in an underdeveloped market. If the revenue structure remains unstable post auction, the validity of the entire centralised model starts to collapse. It is for this reason that the government has mentioned the need for royalty rationalisation and the continuity of State revenue while further centralising auction control. The deeper constitutional issue is that while strategic extraction may warrant stronger Union steering, it does not constitutionally justify the opacity of the revenue. Centralised allocation with unknown revenue outcomes would invite both litigation and a wait-and-see approach from the market.[25]

Administrative Review of Auctions

The next layer of constitutionality pertains not to legislation but to administration. Once the structuring of auctions for critical minerals occurs through the nitty-gritty of notices inviting tender, qualifiers for bidders, thresholds of a technical nature, and pre-determined preferred bidders, auctions become subject to the run of the mill principles of public law. Strategic significance does not place them outside of review. It may warrant a greater degree of discretion in the design of policy, but not in the execution of policy.[26]

This is where the legal challenge gains traction. Tender conditions for critical minerals may contain peculiar reserve uncertainties, unexplored, downstream, and/or technology thresholds. These factors increase the risk of challenges for irrational classification, lack of transparency and insufficient disclosure, cancellation, and unequal treatment of bidders. The framework for

[24] 2024 INSC 607.

[25] Kanchi Kohli and Manju Menon, *Development of Environmental Laws in India* 76 (Cambridge University Press, Cambridge, 1st edn., 2021).

[26] Launching of the Critical Mineral Blocks Auction by Ministry of Mines, *available at:* https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1983066 (last visited on February 14, 2026).

the Mineral (Auction) Rules was never intended for an everyday world only. However, in the critical minerals space, every deviation from ordinary auction practice will require justification in a clear record.[27]

On most accounts, the most appropriate position doctrinally speaking, is the position of disciplined deference. Courts may not second guess the state's choice of strategy to expedite critical minerals. They should insist, however, that any rational tender deviation be explained, proportionate and transparent. The claim of strategic urgency may strengthen the case for reasons to be documented. Otherwise, we may be inclined to administer the law of national interest and not be so reasoned in our approach.[28]

Environmental and Community Challenges

If constitutional conflicts centre on who governs the sector, then environmental conflicts focus on to what extent strategic urgency may alter the law's domain. The critical minerals turn has made this question unavoidable, as the state seizes the need for pace in a context that has, for the most part, a rich history of layered ecological constraints.[29]

Environmental Appraisal and Procedural Legality

Perhaps the most controversial recent development is the announcement that critical mineral mining projects are proposed to be treated as strategically important projects that would be exempt from the public hearing step in the approval process. The state defends this as a response to supply urgency, though the legal challenge is apparent. A public hearing is not just an administrative formality. They are among the very few places in the institutional landscape where local knowledge, distributive burdens and site-specific ecological risks are articulated before irreversible project momentum establishes. Eliminating this step will most certainly shorten time lines, but it will also erode procedural legitimacy.[30]

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[27] Royalty Rates of Strategically Important Minerals, *available at:* https://pib.gov.in/PressReleaseIframePage.aspx?PRID=2003457 (last visited on February 15, 2026).

[28] Peter D. Cameron and Michael C. Stanley, *Oil, Gas, and Mining* 180 (World Bank, Washington, D.C., 1st edn., 2017).

[29] Strict Adherence to Environmental Regulations Mandatory for Mining, *available at:* https://www.scobserver.in/supreme-court-observer-law-reports-scolr/strict-adherence-to-environmental-regulations-mandatory-for-mining-state-of-uttar-pradesh-v-gaurav-kumar-clearance/ (last visited on February 16, 2026).

[30] Philippe Sands and Jacqueline Peel, *Principles of International Environmental Law* 228 (Cambridge University Press, Cambridge, 4th edn., 2018).

There is increased concern regarding the reasoning in the case of *Deepak Kumar v. State of Haryana and Others*[31]. While that case involved sand mining and minor minerals, the Supreme Court's reasoning was much wider. It dismissed the reasoning that smaller or fragmentary mining operations could escape substantial environmental scrutiny and argued that she environmental clearance requirements must be responsive to cumulative impacts and not be determined by formal lease fragmentation. The judgment is highly relevant to critical minerals. Regardless of the type of strategic labelling, there is no escaping the need to evaluate the cumulative effects of hydrology, biodiversity, and landscapes in areas where numerous exploration and mining blocks are situated in close proximity within the same strategic mineral belt.

The Court's recent ruling in *State of Uttar Pradesh v. Gaurav Kumar*[32], further confirms the same procedural instinct with the doctrine of scientific preconditions. The decision reaffirmed the enduring significance of a legitimate District Survey Report and dismissed mining administration that operates on old or erroneous evidentiary foundations. Although the case predates the critical minerals framework, it is clear that its relevance is for doctrinal development. The legally sufficient underlying material for strategic extraction is still valid. Accelerated approvals, in the absence of a sound and defensible scientific basis, will be susceptible to challenges as arbitrary or uninformed.

An obstinate insistence on strict environmental compliance also appears in *Union Territory of J&K v. Raja Muzaffar Bhat*[33]. The Court has dealt with mining activities in proximity to sensitive ecological zones as requiring serious obedience to regulative discipline, as opposed to administrative relaxation. Taken together, Deepak Kumar, Gaurav Kumar and Raja Muzaffar Bhat create a jurisprudential tendency: mining law may change, but the Court continues being apprehensive about permitting extraction to surpass scientific evaluation. This tendency adds to the difficulty of justifying a wide critical-mineral exceptionalism in environmental law.

Illegal Mining, Enforcement and Ex Post Facto Legality

In conversations surrounding strategic minerals, the enforcement question is typically pushed

[31] (2012) 4 SCC 629.
[32] 2025 INSC 650.
[33] 2025 INSC 1025.

to the sidelines but this is a mistake. The enforcement framework is essential. Once strategic minerals develop significant commercial value and geopolitical relevance, the risks associated with illegal mining, over-mining, and fraudulent reporting increase considerably. The most significant Supreme Court intervention in this regard remains *Common Cause v. Union of India*[34], where the Court took an unprecedented position of ordering compensation for illegal or excessive mining and claimed there could be no ex post environmental impact assessments in the affirmative. This decision warns us the absence of an extraction-first framework where the authorities encourage and permit extraction, and the legal compliance to be 'constructed' afterward.

Common Cause's relevance to the MMDR amendment is direct. If the 2023 regime fast-tracks allocation and does not balance it with the equally critical aspects of monitoring, production reporting, control over transport, and enforcement of the full range of applicable penalties, it may, quite paradoxically, amplify the risks of the Common Cause critique. The strategic importance of the mineral does not dilute the Section 21 accountability. On the contrary, the more economically valuable and supply-sensitive the mineral, the more pronounced the public interest in strict compensation and restoration for unlawful extraction.[35]

The interface of criminal law also matters. In the case of *Jayant v. State of Madhya Pradesh*[36], the Supreme Court explained that illegal mining can bring about consequences under the MMDR Act, as well as the Indian Penal Code, and neither of those would be deferring to the other. That precedent is positive for the case of critical minerals as it avoids the statutory interpretation that is overly narrow to focused enforcement to authorised complaints under the mining law. Where there is clandestine extraction, theft, forgery, falsification, and organised transport networks, the state has a broader coercive toolbox. A strategic mineral sector with poor criminal law enforcement would very quickly lose both revenue integrity and environmental integrity.

Community Rights and Intergenerational Equity

The strongest incorporation of the community dimension into the doctrine can be seen in the

[34] (2017) 9 SCC 499.
[35] Hanneke Carr-Wilson, Subhrendu K. Pattanayak, et.al., "Not in Anyone's Backyard: Identifying and Addressing Resistance to Clean Energy Transition Minerals", 116 *Energy Research and Social Science* 103672 (2024).
[36] (2021) 2 SCC 670.

case of *Goa Foundation v. Union of India*[37], and the subsequent case of *Goa Foundation v. Union of India*[38]. Though these cases are remembered for issues regarding the expiry and renewal of leases, their more important contribution is the recognition that the nation's mineral wealth should be seen as an asset that goes beyond short-term fiscal gains. The Court connected the governance of mining to the principles of intergenerational equity and lawful lease management and the urgent need for new legal frameworks as opposed to mere administrative extensions of existing laws. This reasoning is particularly relevant for the governance of so-called 'critical' minerals, where the discourse of national imperative might tempt the state to undermine the consideration.

The case *Samaj Parivartana Samudaya v. State of Karnataka*[39], illustrates yet another lesson from the Karnataka line of litigation. The Court faced the issue of immense illegality, environmental devastation and failure of institutions, and so exercised extraordinary remedies. The case is an example of what is at stake when regulatory failure precedes the extraction of economically important minerals. The case is also an example of what the Court should not do when a regulatory failure occurs, and should not be the case that courts be overly protective of the mining industry. The politically valuable minerals often come with intense production pressures. This is why profound ex-ante predictability of the law is preferable to intense post facto judicial activism.

More so than the amendment does currently, critical mineral policy has to deal with local legitimacy more directly. District Mineral Foundation framework, rehabilitation claims, forest rights, biodiversity rights and concerns, and Gram Sabha involvement are still in the processes strategically and systematically. Yet legally, a sustainable regime must do more than just respond to a country's needs. It must also respond to how the burdens of extraction are equitably distributed, what impacts the extraction-related sacrifices are on the communities, and how the environmental degradation is justified and, more importantly, not hidden. Where these questions are not answered, the courts become the only place where people can participate.[40]

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37 (2014) 6 SCC 590.
38 (2018) 4 SCC 218.
39 (2013) 8 SCC 154.
40 Government Set to Exempt Critical Mineral Mining Projects from Public Hearing Requirement, *available at:* https://www.downtoearth.org.in/energy/government-set-to-exempt-critical-mineral-mining-projects-from-public-hearing-requirement (last visited on February 17, 2026).

Strategic and Comparative Dimensions

The last challenge is structural. Even a legally valid extraction regime will underperform if it is not connected to processing, refining, recycling and external supply diversification. The critical mineral challenge is therefore not only about how to mine, but how to manage a holistic chain from discovery to industrial utilization.[41]

Supply Security and Value-Chain Limits

The policy record openly acknowledges that extraction by itself will not address India's critical mineral vulnerability. More recent ministry material on rare earths and strategic minerals has noted that commercial mining and processing are still constrained by technological gaps and insufficient midstream and downstream processing capabilities. That admission is important because it identifies the principal limit of the 2023 amendment. The Act will enable faster concessioning, but it will not create newer refining, separation, and magnet manufacturing, or advanced chemical processing infrastructures. Policy reforms at the mine-head will need to be evaluated in the context of how they integrate, or fail to integrate, with an overall industrial policy, rather than by the speed of allocation alone.[42]

The National Critical Mineral Mission provides an institutional form to this wider perspective. It integrates domestic exploration targets, offshore acquisition, recycling, processing support and expedited regulatory pathways within a singular framework. Its central expenditure, anticipated public sector and other investment, numerous Geological Survey of India initiatives, and an increasing backlog of successfully auctioned blocks and exploration licence operations, are all telling. These records demonstrate that the state no longer views critical minerals as a peripheral sub-field of mining administration. It views them as the infrastructure of strategic autonomy.[43]

The table assists in providing a translation of the mission language into measurable indicators. Compared with the auction table, this one shows that the state's strategy has multiple parallel components, such as budget distribution, intensity of exploration, and distribution of blocks.

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41 P. Leelakrishnan, *Environmental Law in India* 166 (LexisNexis, Haryana, 5th edn., 2019).

42 Saleem H. Ali, Mining, *the Environment, and Indigenous Development Conflicts* 94 (University of Arizona Press, Tucson, 1st edn., 2003).

43 Raphael J. Heffron, "The Role of Justice in Developing Critical Minerals", 7 *The Extractive Industries and Society* 855 (2020).

This suggests its potential utility for future conversion into bar or pie charts, should this Article be formatted for submission.[44]

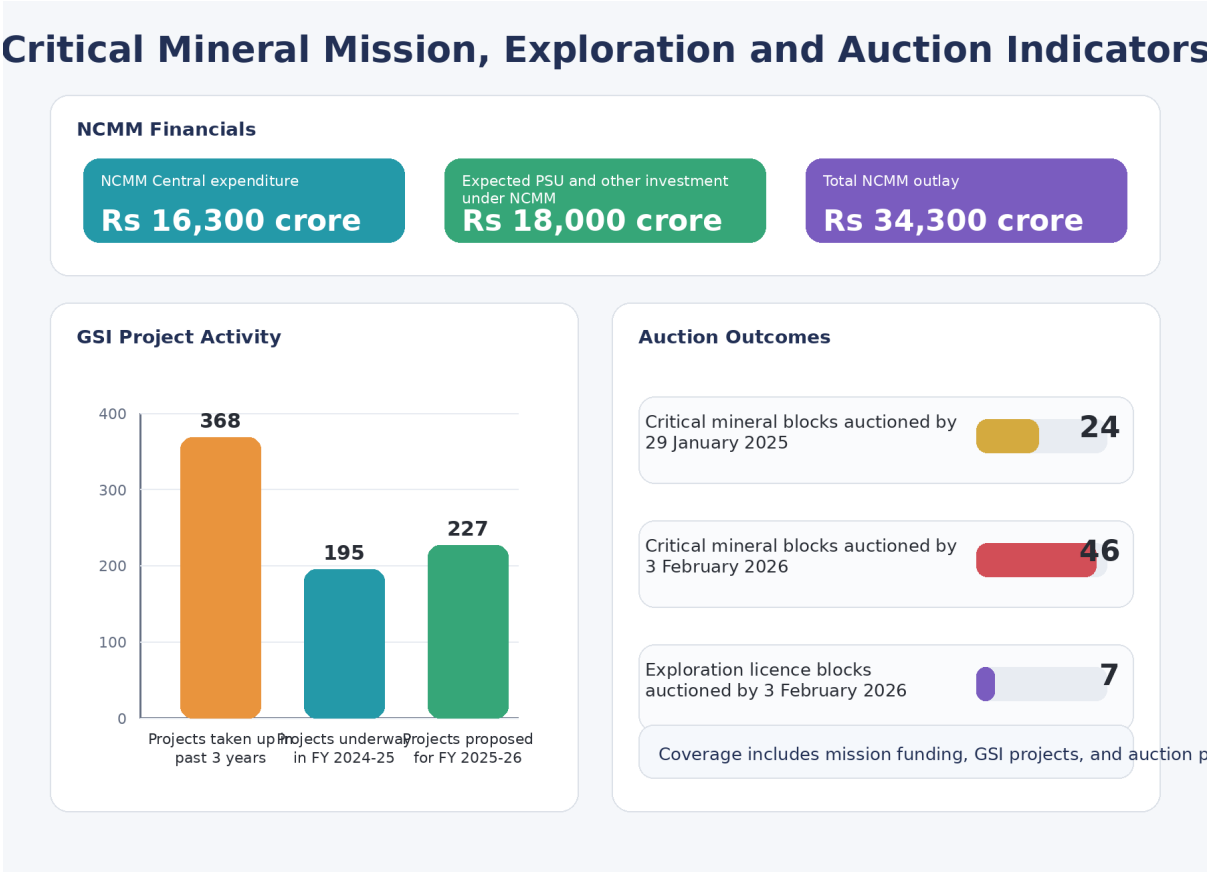

Figure 2. Critical mineral mission, exploration and auction indicators.[45]

The state has taken a portfolio approach based on the data from the table. It is not relying on one single doctrinal innovation (e.g. Section 11D) for achieving mineral security. Instead, it is public funding, geological surveys, central auctions, exploration licences, and acquisition of foreign assets. That range is quite reasonable, but it also means that legal unpredictability in one part of the chain can derail the entire superstructure. For instance, an expedited auction regime may offer strategically limited advantages in a situation where processing, local dissent, or inadequate compliance with environmental requirements obstruct operationalization.[46]

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[44] Centre Moves to Exempt Critical Mineral Mines from Public Consultation, *available at:* https://india.mongabay.com/2025/09/centre-moves-to-exempt-critical-mineral-mines-from-public-consultation/ (last visited on February 18, 2026).

[45] Morgan D. Bazilian, "The Mineral Foundation of the Energy Transition", 5 *The Extractive Industries and Society* 93 (2018).

[46] Critical Minerals for India's Clean Energy Transition, *available at:* https://www.wri.org/research/critical-minerals-indias-clean-energy-transition (last visited on February 19, 2026).

Overseas Acquisition and Processing Strategy

Thus, KABIL's significance goes well beyond mere symbolism. India's operationalization of the exploration and development of five lithium brine blocks in Argentina signifies that our government engages with critical mineral security as both a domestic and external strategy, rather than a purely territorial one. From a legal standpoint, international consultations have consequences on the domestic plane, where the state's financial commitment to overseas sources of minerals access means that domestic law can no longer be assessed in terms of maximalist, immediate extraction. Instead, it shifts to a more complex legal critique focused on the equilibrium of a legal framework that provides a stable exercise of multiple supply options.[47]

International purchases will not replace the need for regulatory consistency domestically. If the/extraction domestically increases without the corresponding processing domestically, India will still rely on foreign refining and manufacturing nodes even with better access to ore or concentrate. This is why initiatives in the 2025 mission frameworks focused on beneficiation, processing and recycling, merit legal scrutiny. The sector is in need of regulations pertaining to the design of incentive systems, the environmental impacts of processing units, technology transfer and partnerships, and the recovery of materials secondary to the end-of-life products. The critical minerals law will move, therefore, beyond the traditional mining law to include industrial, environmental, and trade regulations.[48]

Reform Directions

A sound doctrinal response to the 2023 amendment should thus avoid both extremes. It should not regard strategic extraction as constitutionally questionable simply because the Centre has taken a bigger role. Neither should it regard critical minerals as a category free of normal legal restraints. What is needed instead is a framework of structured acceleration. That would preserve the state's ability to move quickly while making their reasons, data and accountability

[47] National Critical Mineral Mission, *available at:* https://www.pib.gov.in/PressReleasePage.aspx?PRID=2120525 (last visited on February 20, 2026).

[48] India Steps Up Exploration of Critical and Strategic Minerals, *available at:* https://www.pib.gov.in/PressReleasePage.aspx?PRID=2222902 (last visited on February 21, 2026).

lines more visible.[49]

Here are four recommendations. First, the Union and State relationships should be defined further, through clarifications and greater transparency in coordination mechanisms, in particular, an allocation of responsibilities concerning the blocks: preparation, clearance, local engagement, and post-auction compliance. Second, the narrowing of the processes for environmental fast-tracking should be evidence-based and should be paired with the strengthening of cumulative impact assessments, not a general weakening of procedural requirements. Third, auction design should set out with greater clarity the confidence in the reserve, the assumptions around regulation, and the obligations to be fulfilled downstream. Finally, the DMFs and local engagement processes, as community-facing mechanisms, should be incorporated into the broader strategic narrative around minerals, rather than being treated as external welfare add-ons. A strategic approach that disregards legitimacy will, in comparison, be slower, more litigious and less credible than a more regulated approach.[50]

Conclusion

The MMDR Amendment Act, 2023, represents a strategic constitutional intervention in the governance of minerals. Its formal objective emerges from the reality that India cannot afford to wait for traditional mining administration to provide secure access to the materials that shape energy systems, militaries, electronics, and industrial competitiveness. Thus, the amendment focuses on centralising auctions for critical and strategic minerals, introduces the exploration licence, and attempts to re-engineer statutory design to a bigger mission-oriented policy framework. From its own perspective, this is a reasoned state response to geological risk, import dependence, and geopolitical concentration.[51]

This also indicates significant legal strains. The strategic need of central control to secure critical minerals is understandable, but that urgency can never justify infringing on legal order, environmental protections, financial transparency, community consent, and legitimacy. Given

[49] How Can India Build Domestic Processing and Refining Capacity for Critical Minerals?, *available at:* https://www.ceew.in/cef/quick-reads/explains/how-can-india-build-domestic-processing-and-refining-capacity-for-critical-minerals (last visited on February 22, 2026).

[50] Anthony Bebbington and Jeffrey T. Bury, *Subterranean Struggles* 119 (University of Texas Press, Austin, 1st edn., 2013).

[51] Ministry of Mines to Launch Second Tranche of Exploration Licence Blocks on March 20, 2025, *available at:* https://pib.gov.in/PressReleasePage.aspx?PRID=2227094&lang=2&reg=3 (last visited on February 23, 2026).

that royalties, tax, and stakeholder auction value are rarely synchronic, fiscal doctrine renders policy formation more challenging. The community legitimacy dilemma remains stark, as the discourse of state necessity generally ignores the question of distribution regarding extraction and the allocation of derived benefits.[52]

Consequently, solely relying on Section 11D will not determine the future of critical mineral regulation in India. Rather, it will depend on the institutions' ability to mesh the legal clock on statutory castings with the legal order of the public law. Should the system maintain a clear auction design, a reasonable set of fiscal rules, a robust environmental assessment, and reasonable accountability to the locals, the 2023 amendments could become the building blocks for a strategic and sustainable approach to mining. Conversely, if the surrounding safeguards weaken, the amendment will stimulate extraction activity, but it will also bring about the litigation, delays, and absence of legitimacy that was intended to be avoided with the strategic reform.[53]

As such, the most compelling legal reading is neither exuberant nor despondent. The amendment is partial and positive. It addresses an old problem- the absence of a dedicated legal channel for critical minerals. However, it also poses a new problem. How do we manage strategic extraction without resorting to normalising strategic exceptionalism? Indian mining law is now in a structural reconfiguration where the constitutional structure, market architecture, environmental paradigm, and industrial policy converge to an unprecedented degree. The success of the 2023 reform will be contingent on the extent to which that interplay is contained.[54]

Ultimately, the debate over critical minerals should teach something about Indian public law that goes beyond the minerals themselves. Urgency often captures the governing of strategic sectors. However, lasting governance is more likely to come from an institution (or set of institutions) rather than from a slogan. Legislation that facilitates the first exploration, the first allocation of concessions and the first acceleration of approvals is only the first step. The more difficult task is to make sure that the strategic imperative does not become a cover for the weak,

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[52] Reserves and Extraction of Major Critical Minerals, *available at:* https://pib.gov.in/PressReleasePage.aspx?PRID=2114466 (last visited on February 24, 2026).

[53] Donald N. Zillman, Alastair R. Lucas, et.al., *Human Rights in Natural Resource Development* 203 (Oxford University Press, Oxford, 1st edn., 2002).

[54] Michael J. Trebilcock and Robert Howse, *The Regulation of International Trade* 260 (Routledge, London, 4th edn., 2013).

the poorly justified, the thin science and the limited participation. In that respect, the developing law on critical minerals is likely to test whether the state can pursue a measure of long-term strategic autonomy in a way that is constitutionally unconstrained.[55]

Suggestions

The following measures seek to make the 2023 reforms operational while avoiding new federal, fiscal, environmental, and legitimacy disputes in strategically important mining.[56]

1. Publish an auction implementation handbook to guide critical minerals Union-State collaboration for Part D minerals. The handbook should assign responsibility for coordination on(block) identification, acquisition support, coordination of law and order at the locality, post-auction compliance monitoring, etc., in a time-bound matrix. The handbook should also have a requirement for joint minutes on critical decisions to prevent the accountability vacuum that occurs when responsibility at the time of litigation or blame delay shift. A Standing Intergovernmental Steering Committee should be established to review bottleneck issues and publish reports on the actions taken on a quarterly basis.[57]

2. Standardise the disclosure of reserve-confidence and risk allocation for auction of critical minerals model tender documents. Every tender must include a geological uncertainty statement linked to the exploration stage, sampling interval, and data gaps. Model terms deviations should be allowed only if reasons are documented, and a public note justifying the proportionality and competitiveness gaps. This will reduce the claims of arbitrariness and increase bidder confidence and price discovery.[58]

3. Develop an exploration data governance framework detailing statutory or regulatory-based components for each of ownership, access, confidentiality, and public interest disclosure. The Framework must also include a singular and central secure national repository for all exploration licence outputs and set national standards for staged public

[55] Details and Status of Critical Mineral Blocks Put Up for Auction, *available at:* https://pib.gov.in/PressReleasePage.aspx?PRID=2002706 (last visited on February 25, 2026).

[56] Patricia Birnie, Alan Boyle, et.al., *International Law and the Environment* 145 (Oxford University Press, Oxford, 3rd edn., 2009).

[57] Pre-Bid Conference on First Tranche of Auction of Critical and Strategic Mineral Blocks, *available at:* https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1989273 (last visited on February 26, 2026).

[58] Critical Minerals, *available at:* https://mines.gov.in/webportal/content/critical-minerals (last visited on February 27, 2026).

release of non-sensitive exploration data sets. The Framework must include a mechanism for dealing with data integrity issues and specify required reporting and monitoring of audit trails for sampling, assaying, and reporting. The Framework must describe how the States and local authorities will obtain the relevant information for clearance, disaster risk planning, and community oversight.[59]

4. Establish an objective, transparent, and dispute-resistant method for transitioning from an exploration license to a mining lease. Provide guidelines for minimum work programmes, reporting limits, and 3rd party verification standards for resource estimations concerning any pre-emptive rights that may exist. Provide a clear and formulaic approach for reimbursement and cost-recovery for unsuccessful transitions or competitive conversions to mitigate retrospective negotiations. To avoid project paralysis, an appellate system with defined short timelines should manage transition disputes.[60]

5. Substitute general procedural relaxations for the environmental appraisal with a model of 'structured acceleration' that maintains meaningful stakeholder engagement. Where public consultations are limited, provide alternative arrangements for stakeholder engagement such as recorded Gram Sabha meetings, digital submissions in multiple languages, and facilitated consultations with affected communities. Before incremental expansion of multiple blocks within the same ecosystem, conduct cumulative impact assessments at the mineral-belt scale. Justify grant of clearances by publishing decisions along with specific project mitigation measures and compliance timelines that are subject to independent monitoring.[61]

6. Build a specific compliance system for critical minerals rather than intelligence-guided enforcement for illegal mining. Apply fully digital minerals tracking and accounting systems using e-permits, weighbridge integration, and transport tracking for high-value minerals. Mandate periodic independent reconciliations of production, dispatch, and royalty-premium payments, with red-flag triggers for inspections. Establish specialized

[59] Lavanya Rajamani and Jacqueline Peel, *The Oxford Handbook of International Environmental Law* 311 (Oxford University Press, Oxford, 2nd edn., 2021).

[60] Ongoing Notice Inviting Tenders and Auction Summary for Critical and Strategic Minerals, *available at:* https://mines.gov.in/webportal/ongoing_nit_critical_minerals (last visited on February 28, 2026).

[61] Union Minister Shri G Kishan Reddy Unveils AI Hackathon on Mineral Targeting, *available at:* https://pib.gov.in/PressReleasePage.aspx?PRID=2115222 (last visited on March 1, 2026).

enforcement units with the ability to prosecute who can apply mining law and general criminal law for cases of organised theft or criminal fraud.[62]

7. Start by describing the 'total government take' framework on each critical mineral category to capture the government's take of royalty, auction premium, DMF, NMET, and new levies and provide project examples at various price ranges. Explain how rate or levy changes are structured and how the framework cycles predictably. Display revenue to the states and local institutions to ease confrontation on the distribution of the government's take.[63]

8. Combine community benefit and legitimacy within the strategic narrative by embedding outcome-based DMF planning for critical mineral districts. DMF expenditure should align with quantifiable parameters that include the security of drinking water, health burdens, restoration of livelihoods, and environmental rehabilitation. Establish social impact baselines prior to the commencement of operations and annual community participation audits of DMF activities. Delayed disclosure of the performance-related payments of DMF should result in legally defensible measures, including the potential to restrict operations in timetables.[64]

9. Integrate downstream value-chain readiness into concession design without vague capability requirements that provoke imposition challenge. Where downstream obligations are unavoidable, frame these as specific, measurable milestones, such as linked beneficiation capacity, offtake commitments, or targets for integrated recycling. Prepare a timetable for compliance that corresponds to plausible timelines for required infrastructure and permits, so obligations do not become a concealed basis for cancellation. Instead of offering discretionary relaxations, provide clear incentive mechanisms to facilitate processing and refining investment that lowers external dependency.[65]

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[62] John H. Knox and Ramin Pejan, *The Human Right to a Healthy Environment* 83 (Cambridge University Press, Cambridge, 1st edn., 2018).

[63] Tien Ming Chang, Farhad Taghizadeh-Hesary, et.al., "How Critical and Conflict Minerals Affect Renewable Energy Generation?", 181 *Renewable and Sustainable Energy Reviews* 113321 (2023).

[64] Martha M. Roggenkamp, Catherine Redgwell, et.al., *Energy Law in Europe* 407 (Oxford University Press, Oxford, 3rd edn., 2016).

[65] IEA Critical Minerals Data Explorer, *available at:* https://www.iea.org/data-and-statistics/data-tools/critical-minerals-data-explorer (last visited on March 1, 2026).

10. Bolster litigation resilience by embedding reasoning and record construction across auctions, clearances, and enforcement actions. Every significant decision should be accompanied by a concise "reasons note" concerning statutory foundation, proportionality, and pertinent technical proof. Create a unit for internal pre-decision legal assessments regarding tender deviations, cancellation decisions, and expedited procedural approvals to assess robustness. To foster consistent administrative practice and mitigate repetitive challenges, publish anonymized summaries of important decisions and disputes.[66]

[66] Juan L. Calderon, Nicole M. Smith, et.al., "Critical Mineral Demand Estimates for Low-Carbon Technologies: What Do They Tell Us and How Can They Evolve?", 189 *Renewable and Sustainable Energy Reviews* 113938 (2024).