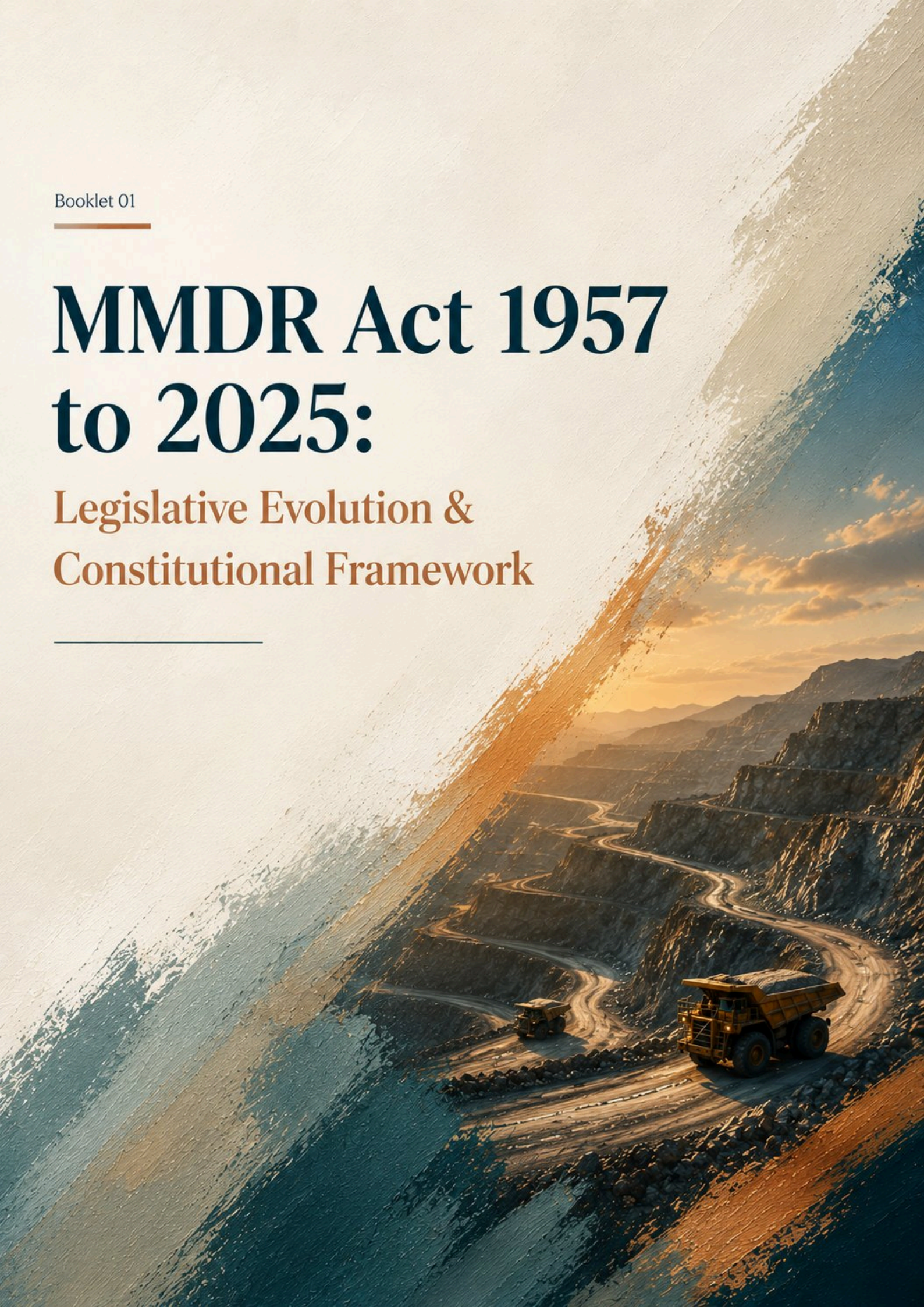


Booklet 01

MMDR Act 1957 to 2025:

Legislative Evolution &
Constitutional Framework



MMDR Act 1957 to 2025: Legislative Evolution & Constitutional Framework

Mines and Minerals (Development and Regulation) Act — History, Amendments, Constitutional Basis & National Mineral Policy

Booklet I of VI — Indian Mining Sector Legal Series

Bhatt & Joshi Associates, Advocates & Legal Consultants

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CHAPTER ONE

Constitutional Framework for Mining Regulation

Entry 54 Union List, Entry 23 State List, Article 246, Pith and Substance Doctrine and Judicial Delineation of Mining Legislative Competence

The constitutional allocation of legislative competence over mines and minerals between the Union and the States is the foundational legal question underpinning every aspect of Indian mining law. Understanding this allocation — and the extensive Supreme Court jurisprudence that has refined it over seven decades — is indispensable for any practitioner advising mining companies, state governments, or investors in the sector.

1.1 The Seventh Schedule: Entries 54 and 23

The constitutional allocation of legislative authority over mines and minerals between Parliament and the State Legislatures is governed by the Seventh Schedule to the Constitution of India, which divides legislative subjects between the Union List (List I), the State List (List II), and the Concurrent List (List III). Entry 54 of List I vests Parliament with exclusive authority to legislate on "regulation of mines and mineral development to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be

expedient in the public interest." Entry 23 of List II vests State Legislatures with authority over "regulation of mines and mineral development subject to the provisions of List I with respect to regulation and development under the control of the Union." The interaction between these two entries creates a system of conditional federalism in mining law: the states have residual legislative authority over mines and minerals, but this authority is subordinated to whatever Parliament declares — through central legislation — to be expedient in the public interest for Union control. Parliament exercised this declaring function through Section 2 of the MMDR Act, 1957, which declared that it was expedient in the public interest that the Union should take under its control the regulation of mines and the development of minerals to the extent provided in the Act — a declaration that effectively displaced state legislative competence over the subject matters covered by the MMDR Act and relegated state regulation to the gaps left by the central framework.

The scope of Parliament's declaration under Entry 54 and Section 2 of the MMDR Act has been extensively litigated, with the Supreme Court required to determine whether specific state mining-related legislation falls within the ambit of Entry 23 (validly enacted by the state legislature in the gaps left by Parliament's declaration) or conflicts with Entry 54 and the MMDR Act (and is therefore repugnant to the central law and void to the extent of repugnancy under Article 254). The Supreme Court's decision in *State of West Bengal v. Kesoram Industries Ltd.* (2004) — decided by a five-judge Constitutional Bench — is the leading authority on this question. The Court held that the cess on coal bearing land levied by West Bengal was a tax on land (Entry 49, List II) rather than a tax on mineral rights (Entry 50, List II) or a regulation of mines (Entry 54, List I), and was therefore within the state's legislative competence. However, the larger principle established in *Kesoram* is that states cannot levy taxes or charges that directly regulate mining operations or mineral development in a manner that conflicts with the MMDR Act's framework — the state's taxing and regulatory powers must operate on the land and property dimensions of mining activity rather than on the mining activity itself as regulated by the central framework.

The Supreme Court's nine-judge Constitutional Bench decision in *Mineral Area Development Authority v. Steel Authority of India (MADA v. SAIL)*, pronounced in July 2024, has fundamentally recast the constitutional framework of mining taxation by overruling *Kesoram Industries* and holding that states do have the constitutional power to levy taxes and cesses on mineral-bearing land under Entry 49 of List II, and that such taxes are not covered by or repugnant to the MMDR Act's royalty framework under Entry 54. The *MADA v. SAIL* decision — with its dramatic commercial implications for the mining industry, the states, and the Central Government — is analysed in depth in Booklet V of this series. For present purposes, the decision's significance in the constitutional framework analysis is its confirmation that the fields of taxation (state) and regulation (Union) in mining are distinct: Parliament controls the regulatory framework for mining through the MMDR Act under Entry 54, but the states retain

independent authority to tax mineral-bearing land under Entry 49, subject to the general constitutional limits on taxation (non-discrimination, non-confiscation).

1.2 Article 294 and State Ownership of Minerals

The ownership of minerals in India is fundamentally a matter of property law overlaid by regulatory law. Under Article 294 of the Constitution, all property that vested in His Majesty prior to the commencement of the Constitution — including minerals under the surface of land that were Crown property — vested in the relevant State Government (for property within that state's territory) or the Union Government (for property in Union territories or properties assigned to the Union). This constitutional vesting, combined with the common law presumption that subsurface minerals belong to the owner of the surface land (unless expressly reserved), has created a complex property structure in Indian mining: some minerals (particularly minor minerals and sand) are privately owned where the surface land is privately owned; while most major minerals in forest and government land are state-owned, with the MMDR Act and the State Minor Mineral Concession Rules providing the regulatory framework for granting concessions to private parties to extract these minerals.

1.3 Distinction Between Major and Minor Minerals

The MMDR Act's jurisdictional scope is limited to "mines and minerals" as defined in the Act — specifically, it covers major minerals, atomic minerals, and offshore minerals, while leaving "minor minerals" (defined in Section 3(e) as building materials including sand, gravel, clay, ordinary earth, and other minerals used for construction purposes) to the exclusive jurisdiction of state governments under the Mines and Minerals (Regulation and Development) Act's provisions for state-level minor mineral concession rules. The distinction between major and minor minerals has significant practical implications: major mineral concessions (prospecting licences, mining leases, and composite licences) are governed by the MMDR Act and the Mineral Concession Rules, 2016, with auctions conducted under the oversight of the Central Government; while minor mineral concessions (quarrying leases for sand, stone, bajri, etc.) are governed by state government rules notified under Section 15 of the MMDR Act, with the state authorities having far greater discretion in the grant process. The boundaries between major and minor minerals are contested in specific cases — sand has been a particularly contentious category, with states treating river sand as a minor mineral under their jurisdiction, while the Supreme Court has at various times addressed the environmental regulation of sand mining under the Environment Protection Act, 1986 and directed the Central Government to regulate sand mining more comprehensively as a matter of national environmental concern.

1.4 Forest Land and Tribal Rights in Mining

Mining in forested and tribal areas involves a constitutional dimension beyond the basic Entry

54/23 framework: the Fifth and Sixth Schedules to the Constitution provide special protections for Scheduled Areas and Scheduled Tribes that directly affect mining concessions. The Fifth Schedule (Articles 244(1) and 244A) empowers the Governor of a state with Scheduled Areas to make regulations to prohibit, restrict, or regulate the transfer of land by or among members of Scheduled Tribes, and to regulate money-lending to members of Scheduled Tribes — powers that have been interpreted to extend to the grant of mining concessions in Scheduled Areas where tribal communities hold traditional land rights. The Supreme Court's landmark decision in *Samatha v. State of Andhra Pradesh* (1997) held that mining leases in Fifth Schedule areas could not be granted to non-tribal private entities, since tribal land in Scheduled Areas cannot be alienated to non-tribals and a mining lease is a form of alienation. While subsequent legislative and judicial developments have partially qualified the absolute *Samatha* prohibition (particularly for public sector enterprises and for auction-based concessions under the 2015 Amendment framework), the *Samatha* principle remains a critical legal constraint on mining in tribal areas and continues to generate litigation in Jharkhand, Odisha, Chhattisgarh, and other mineral-rich Scheduled Area states.

The MMDR Act 1957: Original Architecture and Early Amendments

Legislative History, Concession Types, Pre-2015 Grant Framework, Mining Leases by Negotiation and the Structural Weaknesses the 2015 Amendment Addressed

2.1 The MMDR Act 1957: Legislative Design

The Mines and Minerals (Development and Regulation) Act, 1957 — enacted by Parliament in the second year of India's first Five Year Plan — was designed to provide a comprehensive framework for the regulation of mines and the development of minerals in independent India, replacing the colonial Mines and Minerals (Regulation and Development) Act, 1948. The 1957 Act was shaped by the development priorities of the Nehruvian era: a preference for public sector enterprises in mineral extraction, cautious opening to private sector participation subject to comprehensive government oversight, and a strong emphasis on state control over the pace and direction of mineral development in the national interest. The Act's core architecture rested on three types of concessions: Prospecting Licences (PLs), which authorised the holder to carry out prospecting operations (geological surveys, drilling, sampling) in a defined area for a limited period to determine the presence and extent of minerals; Mining Leases (MLs), which authorised the holder to carry on mining operations in a defined area for a period of up to 30 years (extendable); and the general principle that no person could undertake any form of mineral extraction without a valid concession from the competent authority (the state government for most major minerals, with the Central Government's prior approval required for specified minerals and for leases above threshold areas). The Act was supplemented by the Mineral Concession Rules, 1960 (MCR 1960), which specified the detailed procedures for the grant, renewal, and transfer of concessions, the form of mining lease deeds, the conditions to be incorporated in leases, and the obligations of lease holders.

The pre-2015 concession grant framework under the MCR 1960 operated on a first-come-first-served basis for most concession types: applications for PLs and MLs were filed with the state government (or directly with the Central Government for specified minerals), and were adjudicated in order of receipt subject to the applicant meeting the prescribed qualifications and the concession area not conflicting with existing reservations or other concessions. The first-come-first-served system created strong incentives for speculative application filing — companies would file applications for large areas covering geologically promising tracts before undertaking any actual exploration, essentially "land banking" prospective mineral areas to prevent competitors from accessing them. The accumulation of thousands of pending ML and PL applications — many filed for large areas with no genuine intention of immediate development, simply to preserve optionality — was a structural problem that significantly impeded India's

mineral sector development by creating uncertainty about when pending applications would be decided and whether areas under pending application could be allocated to new applicants who were ready to invest immediately.

2.2 Pre-2015 Mining Leases: Grant by State Discretion

Under the pre-2015 framework, mining leases for major minerals were granted by state governments in the exercise of discretionary administrative powers, with the State Government's decision to grant or refuse an application subject to challenge through writ petitions in the High Courts but generally given wide deference by the courts as a matter of executive policy within the government's constitutional competence over state minerals. The discretionary grant process — subject to political influence, inter-departmental delays, litigation by rival applicants, and the chronic problem of pending applications blocking fresh allocations — was widely recognised as one of the principal obstacles to efficient mineral sector development in India. The Comptroller and Auditor General's reports consistently identified the discretionary grant process as a source of revenue loss to state governments (through below-market royalties and lease terms negotiated without competitive benchmarking) and as a structural impediment to the rational development of India's mineral resources. The Supreme Court's observations in *Goa Foundation v. Union of India* (2014) — arising from the illegal mining crisis in Goa, where hundreds of mining leases had been granted or renewed without adequate oversight, resulting in massive environmental damage and revenue losses — provided the immediate political and judicial impetus for the comprehensive reform of the concession grant system that became the cornerstone of the 2015 Amendment.

2.3 Mineral Development and Conservation

The Mineral Conservation and Development Rules (MCDR), first framed under Section 18 of the MMDR Act, prescribe the technical standards for safe and scientific mining operations, mine planning, conservation of mineral deposits, prevention of loss of associated minerals, environmental management within the mine lease area, and the health and safety of mine workers. The MCDR have been substantially revised and updated through successive amendments, with the current MCDR 2017 replacing the MCDR 1988. The MCDR's requirements — applicable to all operating mining leases — include: the preparation and approval of a Mining Plan (detailing the annual mining programme, the method of mining, the conservation measures, and the environmental management plan) before mining operations commence; the submission of Annual Programme of Mining Operations (APMO) and Annual Return of Mining Statistics; the maintenance of specified safety equipment and infrastructure; the prevention of mineral waste through scientific methods of extraction and processing; and the maintenance of records on all aspects of the mining operations for inspection by the authorities. The MCDR's enforcement is carried out by the Indian Bureau of Mines (IBM) — a technical organisation under the Ministry of Mines — which has the power to inspect mine operations,

issue directions for corrective action, and recommend suspension of operations for serious safety or conservation violations.

2.4 The Structural Problems That Drove Reform

By the early 2010s, a convergence of judicial scrutiny, investigative journalism, and political pressure had exposed systemic problems in India's mining concession framework that demanded fundamental reform. The illegal mining crises in Goa, Karnataka, Odisha, and Jharkhand — documented in reports by the Central Empowered Committee, CAG audit reports, and the Justice MB Shah Commission on illegal mining — revealed that thousands of mining leases had been granted or extended through opaque processes that bypassed regulatory requirements, enabling operators to extract minerals far in excess of their lease entitlements without paying proportionate royalties or complying with environmental and forest clearance conditions. The Supreme Court's interventions — ordering cancellation of illegal leases in Goa, suspending illegal mining in Karnataka, directing the Central Empowered Committee to investigate Odisha mining irregularities, and in *Goa Foundation (2014)* holding that all mining leases renewed without following the statutory procedure were illegal — created an existential crisis for India's mining sector and forced the Government to fundamentally redesign the concession framework to replace discretion with rule-based, transparent, and competitive processes.

The 2015 Amendment: The Watershed Reform

MMDR Amendment Act 2015, Mandatory Auction Regime, Composite Licence, Section 10A Savings Provision and the End of First-Come-First-Served

3.1 The MMDR Amendment Act 2015: Key Changes

The Mines and Minerals (Development and Regulation) Amendment Act, 2015 — enacted on 27 March 2015 and brought into force from 12 January 2015 (retrospectively for certain provisions) — is the most transformative reform of India's mining law since the original MMDR Act was enacted in 1957. The 2015 Amendment fundamentally changed the basis on which mining concessions are granted, replacing the first-come-first-served discretionary allocation process with a mandatory competitive auction framework for all new concessions for major minerals (other than atomic minerals and certain specified categories). The Amendment's central provision — Section 10B, which requires all mineral concessions to be granted through competitive bidding — eliminated the previous regime of administrative discretion in concession grant and established transparency, competition, and value maximisation as the governing principles for mineral allocation. The Amendment also introduced the Composite Licence (a new type of concession combining prospecting and mining in a single instrument), restructured the MMDR Act's provisions on the District Mineral Foundation (DMF) and the National Mineral Exploration Trust (NMET), enhanced penalties for illegal mining, and established the framework for a National Mineral Policy. The accompanying subsidiary legislation — the Mineral Concession Rules, 2016 (MCR 2016) and the Mineral (Auction) Rules, 2015 — specified the detailed procedures for implementing the new auction-based system.

Section 10A of the 2015 Amendment is a savings provision of enormous commercial significance, preserving the vested rights of certain categories of applicants who had filed applications before the cut-off date specified in the amendment. Section 10A(1) preserves the rights of persons whose ML/PL applications were filed before 12 January 2015 and had been received by the state government (in the case of state minerals) or the Central Government, where a letter of intent (LoI) had been issued, a reconnaissance permit had been granted, or the applicant had a legal entitlement to the concession arising from a previous ML. Section 10A(2)(b) preserves the right to ML grant for applicants who had received a letter of intent (LoI) for an ML from the state government before the cut-off date, even if the formal ML had not yet been executed. The interpretation of Section 10A — which Section 10A applications were saved and which were not — has been the subject of extensive High Court and Supreme Court litigation, with state governments in Odisha, Jharkhand, and Chhattisgarh taking different positions on the scope of the savings provision. The Supreme Court's decisions in *Thriveni Earthmovers v. State of Chhattisgarh* and related cases have progressively narrowed the Section 10A(2)(b) savings

provision, holding that the LoI must have been valid, unconditional, and capable of being acted upon at the cut-off date to qualify for savings protection — which has excluded many applicants who held technically valid LoIs but had been unable to fulfil their conditions due to regulatory delays in obtaining environmental and forest clearances.

3.2 The Auction Regime: Section 10B and Mineral Auction Rules

Section 10B of the MMDR Act (inserted by the 2015 Amendment) mandates that all new concessions for specified major minerals must be granted through competitive bidding conducted by the state government on the basis of parameters notified by the Central Government. The Mineral (Auction) Rules, 2015 specify the detailed procedure for conducting mineral auctions: the state government is required to identify mineral blocks for auction (based on geological reports from the state geological departments or the Geological Survey of India), prepare detailed Information Memoranda about each block (including geological data, resource estimates, area details, and applicable conditions), publish auction notices, receive bids through electronic bidding platforms (typically MSTC Limited, a Central Public Sector Enterprise under the Ministry of Steel that manages the electronic auction platform), and grant the concession to the highest bidder on the basis of the bid parameter specified in the auction conditions. The bid parameter for most mineral auctions is the "premium percentage" — the percentage above the applicable royalty rate that the successful bidder undertakes to pay, in addition to the statutory royalty, as a bid premium over the life of the concession. The revenue to the state from a mining lease therefore comprises: the statutory royalty (as specified in the Second Schedule to the MMDR Act, calculated on the quantity of minerals extracted); the bid premium (the additional percentage above royalty committed by the successful bidder); and the DMF contribution and NMET contribution (calculated as percentages of the royalty amount). The auction framework has significantly increased the revenue realised by state governments from mineral concessions — competitive bidding has resulted in premium commitments of 50%-200% above royalty for high-value iron ore blocks in Odisha and Chhattisgarh, generating substantially higher revenue than the pre-2015 negotiated lease terms would have yielded.

3.3 Composite Licence: A New Instrument

The Composite Licence (CL) — introduced by the 2015 Amendment as a new form of mining concession — combines the prospecting and mining phases in a single grant, authorising the holder to first conduct prospecting operations and then, upon completion of prospecting, to proceed directly to mining without requiring a separate ML grant. Prior to the CL's introduction, a prospecting licence holder who completed successful prospecting had a "preferential right" to apply for an ML, but was not entitled to automatic grant — the state government could still reject the ML application (within the constraints of its discretion) or grant it to a different applicant under the first-come-first-served system. The CL's design addresses this structural uncertainty by guaranteeing the CL holder's right to proceed to mining if prospecting

establishes the presence of minerals above a specified threshold and the mining plan is approved — converting the prospecting-to-mining pathway from a two-stage discretionary process to a single integrated concession. CLs are also subject to auction — state governments auction areas as CL blocks, and the successful bidder proceeds with prospecting, followed by mining if prospecting results are positive. The CL mechanism is particularly valuable for attracting exploration investment in areas with geological potential but limited drilling data, since the investor can be assured of mineral extraction rights if exploration succeeds, without facing the risk that the exploration investment creates value that is then captured by a different operator who obtains the ML through administrative discretion.

3.4 DMF and NMET: Revenue Distribution Architecture

Sections 9B and 9C of the MMDR Act (inserted by the 2015 Amendment) established two mandatory contribution mechanisms that direct a portion of mining revenue to local communities and to mineral exploration, respectively. The District Mineral Foundation (DMF), established as a trust under Section 9B in every district with mining operations, receives mandatory contributions from mining lease holders of: 10% of the royalty payable (for leases granted after the 2015 Amendment's cut-off date) or 30% of the royalty payable (for leases granted under the pre-2015 framework) — the higher rate for old leases reflecting the lower effective royalty rates under those leases. The DMF's funds are applied exclusively for the benefit of affected persons in mining districts, under the Pradhan Mantri Khanij Kshetra Kalyan Yojana (PMKKKY) guidelines issued by the Ministry of Mines. The National Mineral Exploration Trust (NMET), established under Section 9C, receives 2% of the royalty payable by mining lease holders and deploys these funds for regional mineral exploration and mine infrastructure development through agencies such as the Geological Survey of India and the Mineral Exploration and Consultancy Limited. The DMF and NMET architecture represents a significant structural redistribution of mining revenues: the DMF ensures that mining-affected communities receive direct benefits from the extraction of resources from their territories, addressing the long-standing criticism that mineral-rich states and districts bore the environmental and social costs of mining while the economic benefits flowed primarily to the mining companies and to the consolidated revenues of state governments rather than to the most immediately affected communities.

2021 and 2023 Amendments: Deepening the Reform Agenda

MMDR Amendment 2021, Captive-to-Merchant Mining, 2023 Amendment, Critical Minerals, Offshore Mining Reforms and End-Use Condition Changes

4.1 MMDR Amendment Act 2021: Key Provisions

The MMDR Amendment Act, 2021 — enacted in March 2021 — made several significant changes to the MMDR Act's framework, addressing operational bottlenecks that had emerged in the auction-based concession system established by the 2015 Amendment. The 2021 Amendment's most commercially significant change was the elimination of the "captive mining" restriction for mines auctioned as non-captive (merchant mining) blocks: prior to the 2021 Amendment, certain mineral blocks had been auctioned with end-use conditions restricting the extracted minerals to specific downstream uses (such as iron ore for a steel plant of the lessee, or coal for a captive power plant). The 2021 Amendment removed the end-use condition from auction-awarded mining leases, allowing lessees to sell the extracted minerals in the open market rather than being restricted to their own downstream units. This change had major implications for the auction economics: without end-use restrictions, a broader range of bidders (including trading companies and smaller downstream users who could not otherwise justify a captive mine) could participate in mineral block auctions, increasing competition and potentially improving state revenues. The removal of end-use conditions was also intended to address the fragmented and inefficient allocation of mineral resources that had resulted from the captive mining framework, where a steel company with a captive iron ore mine could produce iron ore far in excess of its steel plant's requirement (or far below it) with no mechanism to efficiently reallocate the surplus or deficit across the market.

The 2021 Amendment also streamlined the procedure for the transfer of mining leases, making it easier for concession holders to transfer their leases to entities with better financial and technical capacity. Prior to the Amendment, ML transfers required prior approval from the state government (for state minerals) and the Central Government's concurrence in certain cases — a process that could take years and during which the mine was often left in limbo. The 2021 Amendment introduced deemed approval provisions for transfers that meet specified conditions (the transferee meets the eligibility criteria, all dues are cleared, and the transfer is filed with the state authority within the specified timeline), reducing the administrative processing time and enabling faster transfer of mining assets. The Amendment also clarified the procedure for extending mining leases for government companies and government-affiliated entities beyond the standard lease period, addressing the uncertainty that had arisen from the interplay between MMDR Act's lease period provisions and the extended rights claimed by public sector mining

companies under pre-2015 administrative arrangements.

4.2 MMDR Amendment Act 2023: Critical Minerals and Offshore Mining

The MMDR Amendment Act, 2023 — enacted in August 2023 — represents the most recent major legislative evolution of India's mining framework, with two principal objectives: incorporating critical and strategic minerals into the MMDR Act's Sixth Schedule (the schedule of atomic minerals reserved exclusively for the Central Government) and strengthening the framework for offshore mineral development. The 2023 Amendment added six critical minerals — lithium, beryllium, niobium, titanium, tantalum, and zirconium — to the First Schedule to the MMDR Act, classifying them alongside atomic minerals as minerals whose concession can only be granted by the Central Government, through an auction conducted by the Central Government. This change was motivated by the recognition that these critical minerals — essential for advanced electronics, defence systems, electric vehicle batteries, and renewable energy infrastructure — have significant national security and strategic supply chain implications that justify centralised oversight of their development, distinct from the state-controlled auction framework applicable to most major minerals. The Central Government auctions for critical minerals — conducted by the Ministry of Mines through a modified auction procedure specified in the Mineral (Critical and Strategic Minerals Auction) Rules — are intended to attract large-scale, technologically sophisticated investors who can develop these minerals to international standards of extraction and beneficiation, with the auctioned blocks typically larger and the eligibility criteria more stringent than state-level mineral auctions.

4.3 Offshore Mineral Development Reforms

The 2023 Amendment also made important changes to the Offshore Areas Mineral (Development and Regulation) Act, 2002 (OAMDR Act), the legislation governing mineral development in India's territorial waters, exclusive economic zone (EEZ), and continental shelf. The OAMDR Act had been largely inactive since its enactment, with very limited offshore mineral concessions having been granted or developed in the more than two decades since the Act's passage. The 2023 Amendment's reforms to the offshore framework were designed to activate this sector by: streamlining the concession grant procedures; introducing auction-based allocation for offshore mineral blocks (aligned with the onshore auction framework established by the 2015 MMDR Amendment); clarifying the roles of the Geological Survey of India and the offshore exploration agencies in the pre-auction data development stage; and establishing a dedicated offshore mineral development regulatory structure within the Ministry of Mines. The deep-sea and EEZ mineral resources — including polymetallic nodules, cobalt-rich ferromanganese crusts, and seabed massive sulphides — represent a potential source of critical minerals (cobalt, manganese, nickel, rare earths) that is currently underdeveloped globally and could provide India with a significant strategic mineral reserve if the offshore development framework can attract the necessary technological and financial investment.

4.4 Section 4A and Lapse of Non-Operational Leases

Section 4A of the MMDR Act provides for the premature termination or lapse of mining leases where the lessee fails to commence or resume production within specified timeframes. The MMDR Act distinguishes between "deemed lapse" (automatic termination of the lease if the lessee fails to commence production within two years of ML grant, or fails to produce for a continuous period of two years) and "premature termination" (ordered by the state government on grounds including breach of ML conditions, non-payment of royalty or DMF contributions, or commission of serious violations). The Section 4A lapse provision has been the subject of extensive litigation, particularly in respect of auction-awarded mining leases where the ML holder has been unable to commence production due to delays in obtaining environmental and forest clearances — delays that are not within the lessee's control but which nonetheless cause the two-year production commencement deadline to be missed. The courts have generally held that Section 4A lapse is subject to a reasonableness standard — a lessee who has genuinely attempted to commence production but has been prevented by regulatory delays beyond its control is not liable to lapse — but the application of this standard is fact-specific and the risk of lapse from regulatory delay is a genuine concern for mining investors that must be addressed in the risk allocation provisions of mining project financing documentation.

National Mineral Policy 2019 and Regulatory Institutions

NMP 2019, Ministry of Mines, Indian Bureau of Mines, GSI, MECL and the Institutional Framework for Mineral Sector Governance

5.1 National Mineral Policy 2019

The National Mineral Policy 2019 (NMP 2019), approved by the Cabinet in February 2019 to replace the NMP 2008, articulates the Central Government's comprehensive vision for sustainable mineral development in India. NMP 2019's core objectives include: attracting private sector investment in mineral exploration and mining through a stable, transparent, and predictable regulatory framework; ensuring that the benefits of mineral development are shared with mining-affected communities through the DMF mechanism; promoting the sustainable and scientific development of mineral resources with minimal environmental impact; developing India's mineral exploration infrastructure to reduce the dependence on foreign survey agencies; and establishing a strategic mineral stockpile for critical and strategic minerals essential for national security and economic development. The Policy's emphasis on a "Level Playing Field" for public and private sector mining entities — treating government-owned and privately-owned mining companies equally in the auction-based concession system — was a significant departure from the pre-2015 philosophy of public sector preference in mineral allocation, reflecting the government's recognition that private sector investment and technology are essential for efficient mineral development at scale.

5.2 Ministry of Mines and Regulatory Architecture

The Ministry of Mines (MoM) is the nodal central government ministry for the mining sector, exercising the Central Government's legislative and administrative functions under the MMDR Act, the Mines Act, 1952, the OAMDR Act, and the Atomic Minerals Concession Rules. The Ministry's administrative jurisdiction covers all major minerals other than coal and lignite (governed by the Ministry of Coal), hydrocarbons (Ministry of Petroleum and Natural Gas), and atomic minerals (Department of Atomic Energy). Within MoM, the key bodies relevant to the mining sector are: the Geological Survey of India (GSI) — India's premier earth science organisation, responsible for geological mapping, mineral resource assessment, and geoscientific research; the Indian Bureau of Mines (IBM) — the regulatory body responsible for scientific mining, conservation of mineral resources, environmental protection within mine lease areas, and collection and dissemination of mining statistics; the Mineral Exploration and Consultancy Limited (MECL) — a government enterprise responsible for detailed mineral exploration (drilling and sampling of known mineral prospects to establish mineral reserves and

resources); and the Khanij Bidesh India Limited (KABIL) — a joint venture of three PSEs (NALCO, HCL, and MECL) formed in 2019 to acquire and develop critical mineral assets overseas. The institutional coordination between these bodies — in pre-auction geological data development, mining plan approval, and operational oversight — defines the quality and efficiency of India's mineral sector governance.

5.3 IBM: Technical Oversight and Mine Closure

The Indian Bureau of Mines (IBM), headquartered in Nagpur with regional offices across major mining states, is the technical regulatory authority for mining operations under the MCDR 2017 and the MMDR Act. IBM's principal functions include: approval of Mining Plans and Annual Programme of Mining Operations (APMO) for all major mineral mining leases; inspection of mines for compliance with MCDR standards; compilation and publication of the Indian Minerals Yearbook and mineral production statistics; monitoring of mineral conservation and the prevention of waste; and administration of the Mine Closure framework. The Mine Closure Plan (MCP) — required under the MCDR 2017 for all mining leases above a specified production threshold — specifies how the mine will be progressively closed and rehabilitated as mining operations in different parts of the lease area are completed, and the financial assurance (through a progressive mine closure fund, to which the lessee must make annual contributions at a rate per unit area of disturbed land) that ensures sufficient funds are available to complete the closure work even if the lessee becomes insolvent. The Mine Closure framework addresses one of the most serious environmental legacies of the pre-2015 mining era — the abandonment of exhausted mines without reclamation or environmental restoration — by mandating financial provisions that tie closure funding to the mine's operational lifespan and productivity.

5.4 GSI and Mineral Exploration: The National Mineral Target

The Geological Survey of India (GSI) — established in 1851 and one of the oldest geological survey organisations in the world — is responsible for geological mapping and regional mineral resource assessment that forms the foundational data basis for India's mineral exploration sector. GSI's national geoscientific mapping programme aims to achieve 100% geological mapping coverage at 1:50,000 scale across India, providing the baseline data for identifying mineral prospective zones that can be developed into detailed mineral exploration targets. The National Geoscience Data Repository (NGDR), established under the Ministry of Mines to make GSI's geological data publicly available to private sector explorers and investors, is intended to reduce the data cost and timeline for mineral exploration by providing free access to decades of geological survey data that would otherwise require independent duplication. For mining investors assessing India's mineral exploration potential, GSI's published geological maps, mineral resource assessments, and preliminary prospecting data provide the starting point for identifying areas with potential for specific minerals — though the transition from GSI's reconnaissance-level data to detailed mineral resource estimates requires significant additional

exploration drilling and sampling that is typically undertaken either by MECL under government programmes or by private sector explorers under their concession rights. The interaction between GSI's national geological data programme and the MMDR Act's exploration concession framework is a key determinant of the pace at which new mineral blocks can be identified, delineated, and brought to auction for development.

Booklet I Key Takeaways: India's mining legal framework is grounded in a constitutional allocation that gives Parliament primary authority over major minerals under Entry 54 (List I) while preserving state authority to tax mineral-bearing land under Entry 49 (List II) — as confirmed by the MADA v. SAIL nine-judge bench in 2024. The MMDR Act 1957's evolution from discretionary grant (pre-2015) to mandatory auction (post-2015) represents the most fundamental governance reform in India's mineral sector history. The 2015 Amendment's auction framework, DMF architecture, and NMET mechanism collectively address the three principal failures of the previous system: corruption in concession grant, insufficient local community benefit, and under-investment in exploration. The 2021 and 2023 Amendments have progressively refined this framework to address critical mineral security, offshore development, and captive mining inefficiencies. Understanding this legislative evolution is essential for any practitioner advising mining sector clients.

MMDR Act: Advanced Constitutional and Operational Issues

Atomic Minerals, Coal Mines Act Interface, State Mining Laws, Tribal Rights Post-MADA and 2025 Policy Developments

A.1 Atomic Minerals: The Nuclear Concession Framework

Atomic minerals — including uranium, thorium, beryllium, lithium, niobium, tantalum, and zirconium (as listed in the First Schedule Part A to the MMDR Act, as amended) — are subject to a distinct and more restrictive regulatory regime than other major minerals, reflecting their potential applications in nuclear energy and weapons. The Atomic Energy Act, 1962 and the Atomic Minerals Concession Rules, 2016 (AMCR 2016) govern the grant of concessions for atomic minerals, with the Atomic Minerals Directorate for Exploration and Research (AMD) under the Department of Atomic Energy (DAE) being the primary exploration and development agency for these minerals. Unlike other major minerals where the state government is the primary concession-granting authority, atomic mineral concessions can only be granted by the Central Government — specifically by the DAE — and private sector participation in atomic mineral mining is strictly limited, with the bulk of atomic mineral extraction reserved for government agencies such as the Uranium Corporation of India Limited (UCIL) and the Indian Rare Earths Limited (IREL). The 2023 Amendment's addition of lithium, beryllium, niobium, titanium, tantalum, and zirconium to the First Schedule extended this Central Government-only concession grant requirement to these commercially important critical minerals, raising the regulatory threshold for their development in recognition of their strategic significance beyond the nuclear sector.

The legal framework for private sector access to atomic mineral-associated deposits creates complex compliance situations in areas where commercially important minerals co-occur with atomic mineral-bearing ores. India's beach sand heavy mineral deposits — particularly in the coastal regions of Kerala, Tamil Nadu, Andhra Pradesh, and Odisha — contain commercially valuable concentrations of ilmenite (titanium), rutile (titanium), zircon (zirconium), garnet, sillimanite, and monazite (which contains radioactive thorium and uranium). The monazite content of these beach sand deposits — typically 0.3-1% by weight — triggers the Atomic Energy Act's regulatory requirements even for operations primarily targeting the non-radioactive minerals, since monazite is classified as a prescribed substance under the Atomic Energy Act and requires DAE permission for separation, storage, transport, and export. Private operators who hold state mining leases for beach sand heavy minerals must therefore obtain: the state ML for the heavy mineral lease; DAE approval for the separation and handling of monazite from the ore; and appropriate export permits if any monazite or monazite-containing tailings are to be

exported. The regulatory complexity of operating at the intersection of the MMDR Act state mineral framework and the Atomic Energy Act's prescribed substance regime is a significant barrier to private sector participation in India's potentially large beach sand mineral sector.

A.2 State Mining Laws: Supplementary Legislation

While the MMDR Act provides the central framework for major mineral concessions, state governments have substantial regulatory space to legislate on matters not covered by or inconsistent with the central framework. State mining laws of particular significance for practitioners include: the Rajasthan Minor Mineral Concession Rules, 2017 (which govern sand, stone, and other minor minerals in India's most mine-lease-dense state for minor minerals); the Jharkhand Mineral (Prevention of Illegal Mining, Transportation and Storage) Rules, 2017 (which establish an elaborate system of permits, challans, and checkpoints for monitoring mineral transport in Jharkhand's major mining districts); the Odisha Minerals (Prevention of Theft, Smuggling and Possession) Rules (which criminalize the possession of minerals without valid documentation); and the Goa Mineral Policy (post-Goa Foundation case) which establishes a special framework for resuming mining operations in Goa after the Supreme Court's cancellation of all mining leases. State governments also frame rules under Section 23C of the MMDR Act for the welfare of persons engaged in mining — requirements for housing, water supply, health care, and educational facilities for mine workers and their families that go beyond the Mines Act 1952's minimum requirements. Practitioners advising mining companies with multi-state operations must maintain current knowledge of each operating state's supplementary mining legislation and ensure that their clients' compliance programmes address state-specific requirements in addition to the central MMDR Act framework.

A.3 Mining in Scheduled Tribal Areas: Post-MADA Developments

The intersection of mining law and tribal rights in Scheduled Areas has been significantly affected by the MADA v. SAIL judgment and the evolving Forest Rights Act jurisprudence. While the MADA v. SAIL nine-judge bench decision primarily addressed the constitutional question of state mining taxation, its broader implications for the legal status of pre-existing mining operations in tribal areas — particularly the validation of historical cesses that had been levied by MADA and similar authorities in Jharkhand's tribal mining districts — have important consequences for mining companies operating in Fifth Schedule areas. The Forest Rights Act 2006's Gram Sabha consent requirement — which the Supreme Court has consistently emphasised as a non-negotiable procedural requirement for diversion of forest land in tribal areas — remains a significant constraint on the pace of mining development in mineral-rich tribal regions, particularly in Jharkhand, Odisha, Chhattisgarh, and Telangana. The interaction between the FRA consent requirement, the MMDR Act's auction-based concession framework, and the practical challenges of obtaining genuine, informed consent from multiple Gram Sabhas within the mining development timeline creates one of the most complex legal problems in

Indian mining practice — a problem that requires careful community engagement planning, legal advice on what constitutes valid consent under the specific state's FRA implementation rules, and project structuring that minimises the area of FRA-governed forest land required for the mining project's initial development phase.

A.4 National Mineral Policy 2019: Implementation Status

The National Mineral Policy 2019's implementation — five years after its adoption — has been uneven across its multiple policy commitments. The auction framework's implementation has been relatively successful: since the 2015 Amendment, several hundred mineral blocks have been auctioned across major mineral-producing states, with significant bid premium commitments obtained for high-value iron ore, bauxite, and limestone blocks. The NMP 2019's commitment to developing a domestic exploration industry has been less successfully implemented: the private sector exploration ecosystem remains thin, with very few genuinely independent exploration companies (as distinct from mining company subsidiaries conducting pre-development exploration on their own projects) operating in India. The NMP 2019's commitment to developing the National Mineral Index — a standardised framework for quantifying India's mineral resource endowment and tracking its development over time — has progressed slowly through inter-departmental deliberation. The NMP 2019's commitment to developing a satellite-based mineral traceability system — tracking the movement of mined minerals from pit to user through the entire supply chain — has been implemented in limited form through the Mineral Traceability portal, but comprehensive implementation across all mineral categories and all states remains a work in progress. For practitioners advising mining clients on regulatory strategy, the NMP 2019's implementation status provides a forward-looking framework for anticipating regulatory developments — where the NMP commits to specific policy actions that have not yet been implemented (such as the mineral exchange, the national mineral index, and the comprehensive traceability system), these represent potential regulatory developments that may create both compliance obligations and commercial opportunities for mining sector participants in the near term.

A.5 MMDR Act 2025: Anticipated Future Amendments

The MMDR Act continues to evolve through periodic amendments as the government responds to emerging challenges and opportunities in the mining sector. Based on the Ministry of Mines' published consultation papers, industry advocacy positions, and parliamentary committee recommendations, anticipated future developments in the MMDR Act framework include: further expansion of the First Schedule's critical minerals list (adding additional minerals identified as critical through the NCMM assessment process); enhancement of the DMF's governance framework (through central guidelines with stronger accountability mechanisms for DMF utilisation); progressive integration of the minor minerals framework (currently under state jurisdiction) into the central MMDR Act framework, to address the endemic illegal sand mining

problem through more uniform national regulation; digital mine surveillance requirements (mandatory GPS tracking, CCTV, and production monitoring for all ML operations above specified thresholds, integrated with the national NMRMS portal); and reforms to the ML transfer process (further streamlining to facilitate project M&A and enable efficient reallocation of mining assets to better-capitalised operators). Legal practitioners advising mining clients on medium-term strategy should monitor the Ministry of Mines' consultation process and legislative pipeline to ensure that their clients' project planning, investment decisions, and compliance programmes anticipate the regulatory environment that will apply over the investment horizon rather than merely responding to the current framework.

Booklet I – Complete Summary: The MMDR Act's evolution from its 1957 inception through the transformative 2015 Amendment to the 2023 critical minerals reforms reflects India's progressive shift from a state-discretion, public-sector-preference mining policy to a transparent, auction-based, private-sector-inclusive framework that simultaneously maximises public revenue, ensures community benefit through the DMF, funds exploration through the NMET, and now addresses strategic mineral security through the critical minerals classification. The MADA v. SAIL constitutional ruling adds a new layer of state taxation authority over mineral-bearing land that will reshape the financial parameters of Indian mining for decades. Understanding this complete legislative and constitutional framework is the foundational requirement for effective mining law practice in India.