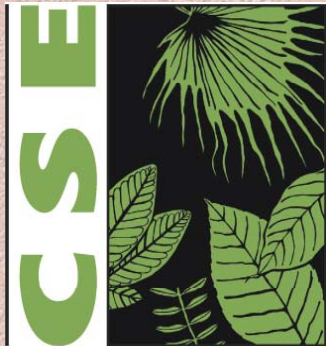


District Mineral Foundation

**The right of people
to benefit from the mineral-rich lands they live on**



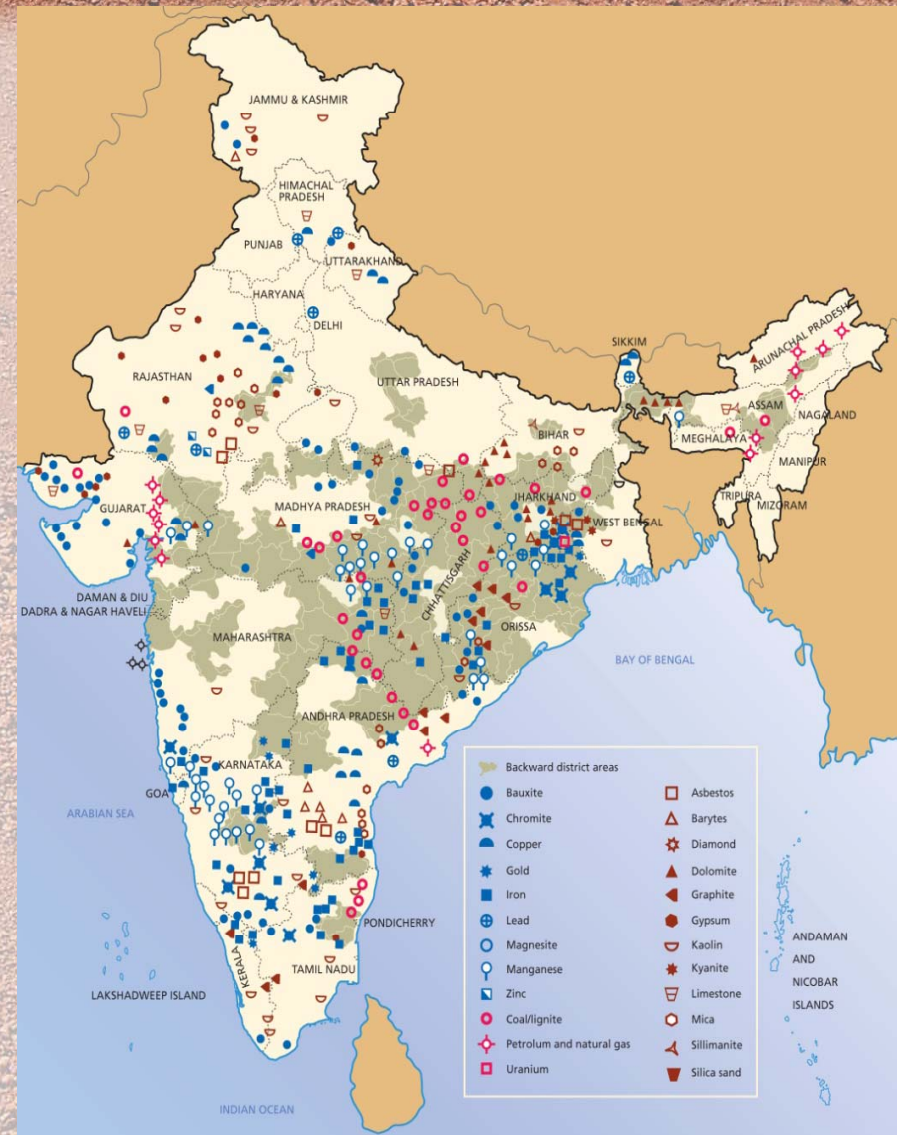
**Chandra Bhushan
Deputy Director General**

December 8, 2016

Bhubaneswar, Odisha

The inequality in India's mining landscape

- **Poverty high in major mining states-** for example the top 3 mining states- Chhattisgarh, Odisha, Jharkhand- people under poverty line is much higher than the national average (26%). **In Chhattisgarh BPL= 45% in rural and 55% in tribal areas; Jharkhand BPL= 49% in rural and 54% in tribal areas; Odisha BPL= 36% in rural and 75% in tribal areas.**
- **Human development indicators very poor-** In Odisha, 40%-50% children below 5 years are underweight (national average 29.4%), stunted growth); high percentages of people suffer from chronic health problems(95%); access to clean water a very low- in rural mining areas of Odisha average 3% people have access to treated water; most people (80-85%) rely on unhealthy sources of fuel such as firewood.

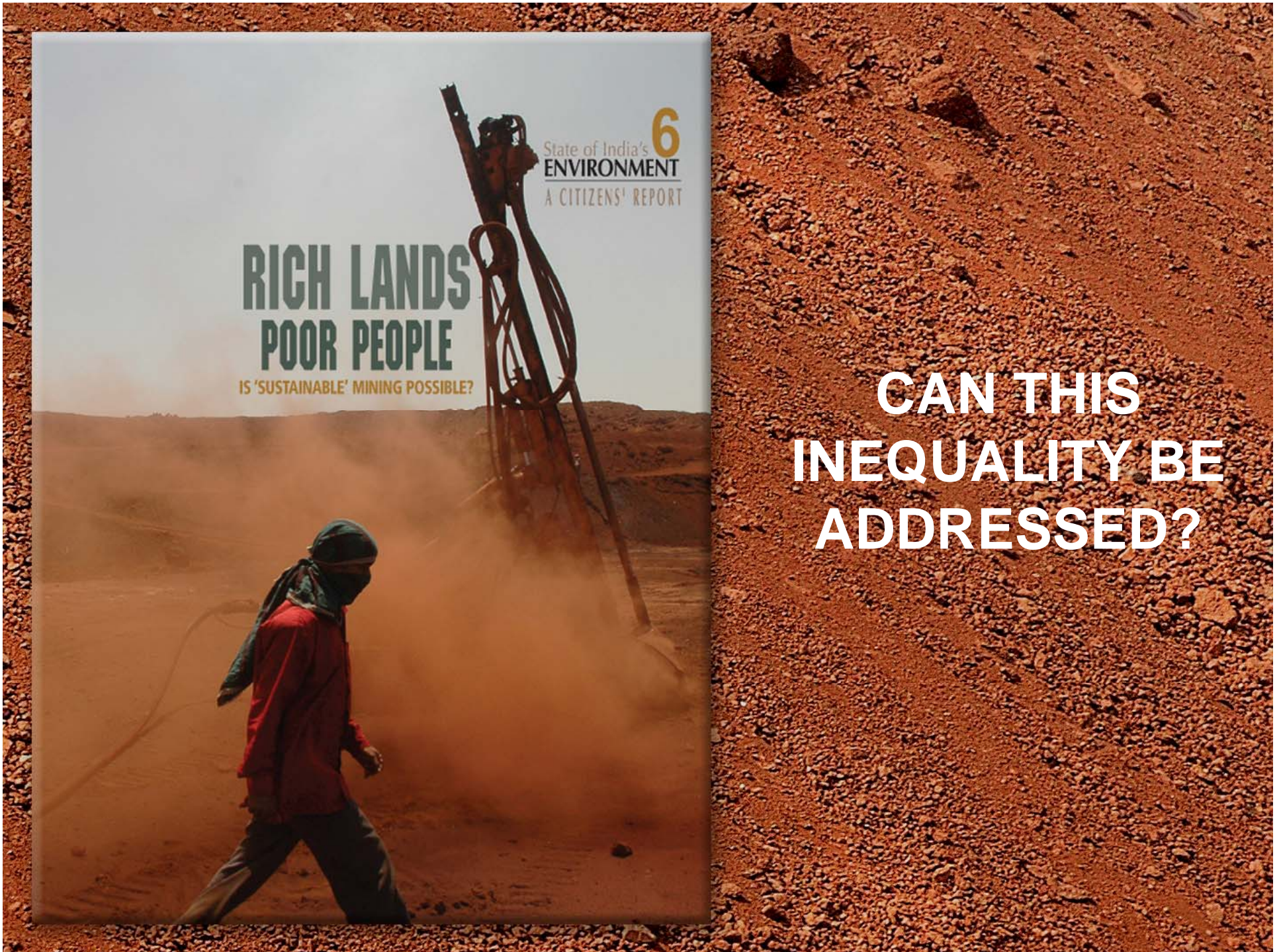


State of India's **6**
ENVIRONMENT
A CITIZENS' REPORT

RICH LANDS POOR PEOPLE

IS 'SUSTAINABLE' MINING POSSIBLE?

CAN THIS
INEQUALITY BE
ADDRESSED?



Where it started years back

- **2006-10:** Ministry of Mines starts deliberations to draft a new Mines and Minerals (Development and Regulation) Bill (MMDR) to replace MMDR Act, 1957. **Benefit-sharing a prominent part of the change.**
- **2008**, the Centre for Science and Environment (CSE) published, *Rich Lands, Poor People: Is sustainable mining possible?* **recommended benefit-sharing with mining affected communities based on practices being followed in countries like Canada, Australia etc.**
- Group of Ministers (GoM) constituted under Shri Pranab Mukherjee, then Minister of Finance, in 2010 to consider draft Bill, and give recommendations on various issues including benefit-sharing. In 2011, GoM agreed on following: **for major minerals an amount equivalent to the royalty paid during the financial year; for coal and lignite, an amount equal to 26% of the profit after tax.**

A long deliberation

- **2011**, MMDR Bill final draft; detailed out provisions of sharing of mining benefits through **District Mineral Foundation (DMF)**. **Bill lapsed in February 2014.**
- **2015**, in January MMDR Amendment Ordinance- revised and also down-sized several provisions of the 2011 Bill. Major **cut down in share of money that leaseholders will pay to the DMF- not exceeding one-third of the royalty** paid for respective minerals.
- **2015**, in March Parliament passed MMDR Amendment Act, 2015- **District Mineral Foundation instituted.**

District Mineral Foundation (DMF)

A defining opportunity

- With DMF, for the first time, the right of people to benefit from natural resources has been recognized.
- An institution strictly targeted for mining affected areas and people.
- A vehicle for people to benefit from resources which they have been denied for decades.
- An opportunity to address some of the pressing social and human development issues that are critical for mining areas- nutrition, health, education, livelihood.

What is DMF?

A non-profit statutory 'Trust' instituted under MMDR Amendment Act 2015, for every mining district in the country.

Objective

“To work for the interest and benefit of persons and areas affected by mining related operations”

What laws will guide the functioning of DMF?

- The Central mining law, MMDR Amendment Act 2015, Section 9(B): under which DMF is established and its objective specified.
- Objective and functioning also guided by other crucial legal and regulatory provisions, that are crucial for mining areas-
Constitutional provisions as it relates to Fifth and Sixth Schedules for governing tribal areas; Panchayats (Extension to Scheduled Areas) Act (**PESA**), 1996; **Forest Rights Act (FRA)**, 2006.
- Every state has a specific law guiding DMF , the **state DMF Rules**
 - **Odisha District Mineral Foundations Rules, 2015**

Who is entitled to benefit?

- Communities/people of areas affected by mining.
- People having **legal and occupational rights** over the land being mined.
- People also having '**usufruct**' (user rights) and '**traditional rights**'.

How will the mining affected people be recognized?

- **Affected families** will be identified on the basis of the Land Acquisition Act, 2013, Section 3(c). This includes-
 - whose land or other immovable property has been acquired for mining
 - Families that do not own any land but a member/members may be tenants (any tenancy) or have user rights, agricultural laborers, share - croppers or artisans working in the affected area for 3 years prior to the acquisition of the land
 - Scheduled Tribes, other traditional forest dwellers who have lost any of their forest rights as recognized under the FRA because of land acquisition
 - Family whose primary source of livelihood for 3 years has been dependent on forest or water bodies prior to land acquisition
 - A family member whom the Central or state government has assigned land under any of its schemes and such land is under acquisition.

How will the mining affected people be recognized?

- **Displaced families** due to mining will be identified on the basis of the Land Acquisition Act, 2013, Section 3(k). This includes any family displaced, relocated or resettled from the affected area to a resettlement area because of land acquisition for mining activity
- And any other as appropriately identified by the concerned gram sabha.

How will mining affected areas be recognized?

Directly affected areas

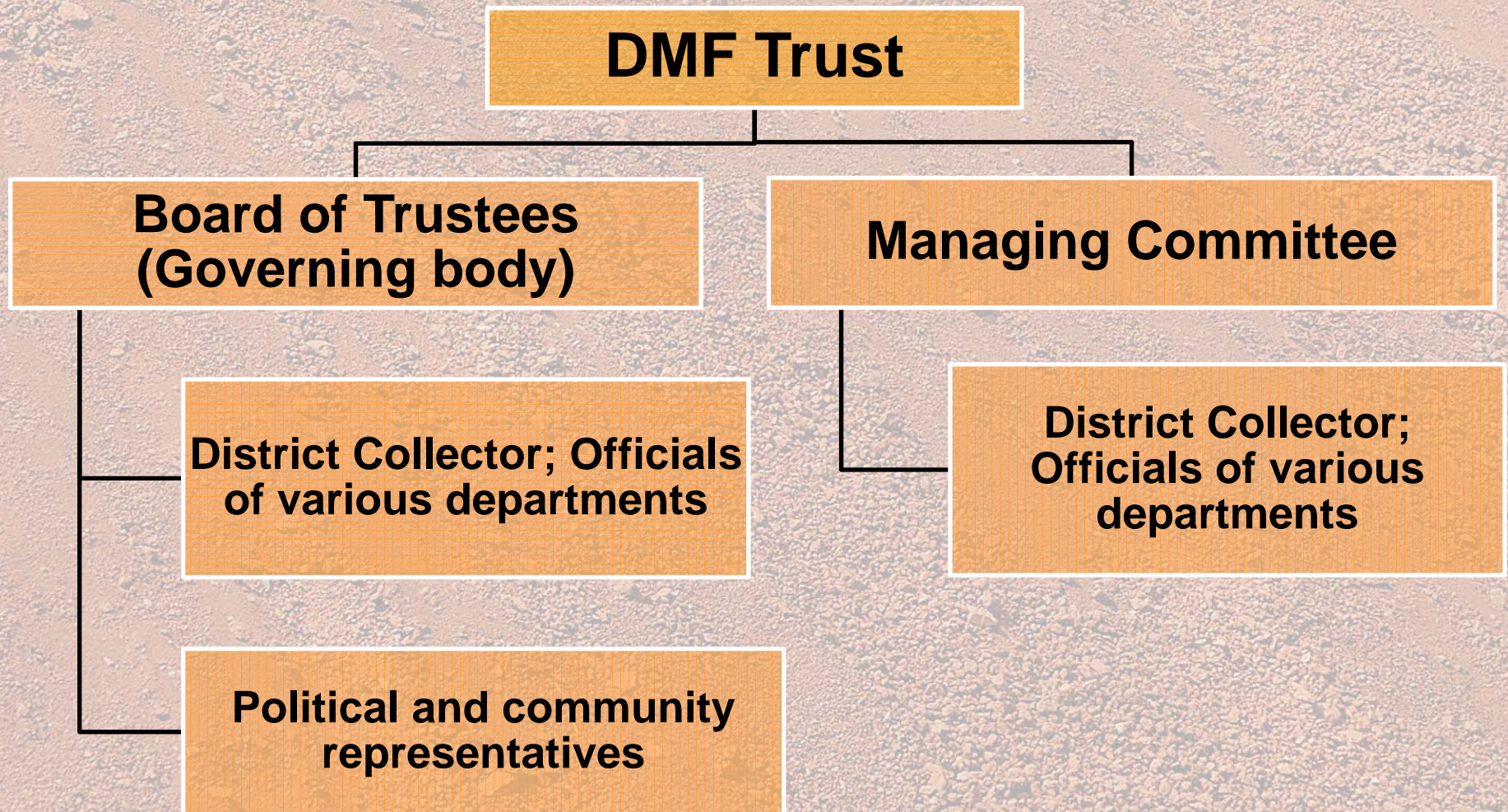
- Areas with direct mining-related operations.
- Villages and gram panchayats within which mines are situated.
- Areas that fall within a radius (defined by the state) from a mine/ cluster of mines.
- Villages in which families displaced by mines have resettled/been rehabilitated by project authorities;
- Villages significantly dependent on mining areas to meet their economic needs

Indirectly affected areas

- Areas where the local population is adversely affected by economic, social and environmental consequences of mining-related operations.
- These include deterioration of water, soil and air quality, reduction in stream flows and depletion of groundwater, congestion and pollution due to mining operations, transportation of minerals and increased burden on existing infrastructure and resources.

Who will run the DMF?

Example Odisha



Who will run the DMF?

Governing council members

- **Chair- District Collector**
- **Officials of various departments**
- **Political and community representatives-**
 - **Member(s) of Lok Sabha and MLAs of constituencies with major mineral lease;**
 - **a Zila Parishad member from area with major mineral lease;**
 - **3 members (max) of PRIs/ULBs from areas with major mineral lease.**

Managing committee members

- **Chair- District Collector**
- **Officials of various departments-** who are also mostly part of Governing Council. Includes- mines department, forest department, rural development department, education department, public works department, district rural development agency

What is the source of DMF funds?

- Miners/mining companies operating in the district will have to pay to the DMF Trust of that district.
- For major minerals (e.g. coal, iron ore and bauxite)-
 - **10% of royalty** paid to the state government for leases granted on or after 12 January 2015;
 - **30% of royalty** for leases before that.
- For minor minerals (e.g sand, stone etc.)- rates as fixed by state government. For example in Odisha-
 - 30% of royalty if the lease has not been granted by auction;
 - 10% of royalty if the lease has been granted by auction.

For what should DMF money must be used?

The law clearly specifies certain **high priority areas** for which **at least 60% of funds** coming to DMF must be used. These include-

- Facilities for drinking-water supply.
- Proper infrastructure for sanitation.
- Creation of primary and secondary healthcare facilities in affected areas and maintaining necessary infrastructure.
- Welfare of women and children.
- Welfare of aged and disabled.
- Educational institutes and vocational training.
- Skill development.
- Permanent / proper housing facilities.
- Environmental pollution control and mitigation measures.

Where money should not be used

- **Environmental pollution control and management, of mining activities:** It is the responsibility of the mining company/individual.
- **Afforestation:** As there are funds available to the state under forestry fund/schemes such as Compensatory Afforestation Fund Management and Planning Authority (CAMPA).
- **Major sanitation infrastructure:** As it is also under the Swachh Bharat Mission.
- **Big infrastructure projects** such as road building, railways and bridges. The law clearly specifies that **no more than 40%** of DMF money should be spent on these.
- **No more than 5%** of DMF funds should be used for administrative purposes.

How will planning happen for DMF money use and works

- The Trust will make an annual plan which will be operational for one year.
- Members of the DMF will prepare the annual plan taking into account the inputs/plans as received from respective gram sabhas of the district- **a bottom up approach must be instituted, must in Scheduled Areas.**
- The final plan will detail out the type and quantum of development schemes/ works to be implemented within a definite timeframe.
- To execute the plan, the Trust will allocate money to the concerned authorities.

Can people have a part in deciding who gets benefits or where DMF money will be used?

- The law does give **power to the community** through gram sabhas. In Odisha this is particularly specified for Scheduled Areas.
- **Gram Sabhas have 3 key roles-**
 - **Identify beneficiaries:** approval of gram sabha is required to identify beneficiaries in affected villages.
 - **Decide plans and programmes** to be carried out in affected areas- approval of Gram Sabha is required for this.
 - **Monitor developmental schemes/works** – report of work in villages should be furnished with the gram sabhas.

With whom to register complaint in cases of non-receipt of benefits

There are various platforms through which complaints or grievance can be registered-

- Gram Sabhas
- Governing Council/ Board of Trustees of DMF- this have people's and political representation
- Managing Committee- as it is responsible for day to day functioning of DMF
- Court of law

Transparency and Accountability

- All information related to DMF **must be in accessible public domain.** Each DMF is required to prepare and maintain a website where all information should be disclosed.

<http://dmf.orissaminerals.gov.in/>

- Information should include-
 - Composition of DMF
 - Annual plans of work and whom work has been awarded, budget.
 - Details of all contributions received
 - List of areas and people affected by mining
 - All meeting agenda, minutes of meetings and action-taken reports.
 - Work progress reports
 - Annual reports and accounts

Few key areas that must be prioritized

- **Invest in human capital-** **hunger and nutrition, health, education, clean and sustainable water supply.**
- **Provide supporting infrastructure and resources to address the critical issues.**
- **Provide employment opportunities and secure livelihoods-** **skill development, trainings, support self help groups, loans to establish small businesses, etc.**
- **Invest in and ensure future security-** **must set aside a portion of the budget for future, to revive the economy of the area when mining finishes to avoid the issue of 'ghost towns'.**

Institutional and functional aspects

- **Identification of beneficiaries and delivery of services** where needed most remains crucial. Priority areas and priority work must be determined appropriately by involving gramsabhas.
- People should **not be excluded from the decision making processes. DMFs are meant for people and must be inclusive.**
- **Planning and monitoring of works:** if these does not happen properly, DMF can become another general development fund which may not benefit the affected people/areas.