District Mineral Foundation

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An Opportunity and a Challenge

**Opportunity** - to improve economic status and empower communities

**Challenge** - to realize the opportunity, the institutional structure and the rules guiding the DMF must be devised appropriately and should be implemented with proper planning, oversight and accountability
What the 2015 Act says?

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

- Establish DMF by state governments in the mining districts.
- DMF will be the nodal authority entrusted with the day-to-day matters of benefit-sharing.
- New mine lease holders to pay not exceeding one-third of the royalty to DMF*. This is to be determined by the central government. How funds will be used will be decided by the states.
- Objective and functioning of the DMF should be guided by Constitutional provisions relating to Fifth and Sixth Schedules for governing tribal areas.
- It should also be guided by the provisions of the Panchayats (Extension to Scheduled Areas) Act (PESA), 1996, and the Forest Rights Act, 2006.

*For existing mine lease holders: DMF amount to not exceed royalty.
A window of opportunity

• In major mining states- Odisha, Jharkhand and Chhattisgarh, just from iron-ore mining, Rs 800 crore, Rs 105 crore, and Rs 440 crore, respectively, can go to the DMF annually. In Goa and Karnataka, the amount can be to the tune of Rs 350 crore and Rs 180 crore.

• In major iron-ore-mining districts, such as Keonjhar, Sundergarh, Singhbhum (West), Dantewada and Bellary, it could amount to Rs 600 crore, Rs 185 crore, Rs 105 crore, Rs 350 crore and Rs 170 crore respectively.

• For the major coal-mining states- DMF share could be as high as Rs 820 crore for Jharkhand, Rs 420 crore for Chhattisgarh, Rs 440 crore Madhya Pradesh and Rs 430 crore for Andhra Pradesh from coal alone.
Calculation of DMF funds

Royalty collected per district = royalty rate x value of mineral production

DMF fund* = Royalty collected per district/3

Example:
As per latest royalty rates, royalty rate for iron ore = 15 %
Value of mineral production for Keonjhar** = Rs 11983.6 crore
Royalty collected from Keonjhar = 0.15 x Rs 11984 crore = Rs 1797.5 crore
DMF fund contribution for Keonjhar from iron ore = Rs 1797.5 /3 crore

= ~ Rs 600 crore (per year)

Similarly, for West Singbhum, DMF fund contribution from iron ore can be about Rs 105 crore per year

*Assuming one-third royalty; **IBM data for 2012-2013
Challenges and concerns

- Must not become another general development fund.
- The money coming to the DMF must not be wasted on activities that are not related to the direct economic and social benefit of mining affected people and areas.
- People should not be excluded from the decision making and governance mechanism of the DMFs.
- Must not become another controversial institution or program.
The way ahead

DMF must be people-centric, effective and accountable

• Need to set clear guidelines for identifying beneficiaries

• Specify how and where the money should be spent

• Specify who should administer the funds

• Ensure effectiveness, transparency and accountability of DMF
Set clear guidelines for identifying beneficiaries – CSE’s recommendation

Define mining affected areas clearly

- Directly affected: Where mining or mining related operations happen, villages where people are displaced and resettled, villages that depend on the project area for economic needs.
- Indirectly affected—typically at the block level in which mining or mining related operations happen.

Define mining affected people/families

- Affected and displaced people/families as defined under Land Acquisition Act, 2013.
- Any others as identified by gram sabha.
Set clear guidelines for identifying Beneficiaries – CSE’s recommendation

Process of identifying affected persons/beneficiaries

- Provisions of PESA empowers the gram sabha to identify beneficiaries for poverty alleviation or other such programs.
- Forest Rights (Amendment) Rules (2012) clearly outlines the process how gram sabha can identify beneficiaries.
- For instance:
  - Gram sabha should prepare a list of prospective beneficiaries and maintain a register containing such detail of them.
  - Upon verifying the prospective beneficiaries, the gram sabha shall pass a resolution and forward the same to the Governing Council of the DMF.
  - The quorum of the gram sabha meeting where a resolution will be passed, shall not be less than 50% of all members.
  - Would also require the presence of at least 50% of the claimants or their representatives.
Set clear guidelines for identifying Beneficiaries – CSE’s recommendation

• DMF must develop mechanisms to clearly communicate with the gram sabha the requirements that are to be fulfilled for identifying potential beneficiaries. A guideline can be developed for such purpose.

• For very old mines, where identifying beneficiaries is difficult, a village fund for targeted expenditure should be devised.

• For old mines, where displaced people have been settled in a different village, a village level fund for the resettled village should be established.
How and where the money should be spent – CSE’s recommendation

No more than 80% of the total DMF money should be used in the year.
Rest, not less than 20%, should be for future use.

Expenditure distribution

- No less than 65% should be spent on directly affected areas per year.
- No less than 50% should be spent for upliftment of directly affected persons.
- No more than 20% should be spend on indirectly affected areas.
- No more than 10% for district development- excluding affected areas.
- No more than 5% on administrative expense.
What should the money be spent on – CSE’s recommendation

- **Benefit sharing** - monitory benefit to directly affected people (*including widows, single mothers and old people without family support*), no less than that under MGREGA.

- **Securing livelihoods** - education scholarships, health insurance, livelihood trainings, loans to establish small businesses, etc.

- **Investing in the future** - set aside to revive the economy of the area when mining finishes to avoid the issue of ‘ghost towns’.

*DMF funds to be used for the socio-economic upliftment of the community, must not be compromised by administrative expense requirements, or any other unrelated/ random activities.*
Who should administer the funds – CSE’s recommendation

**DMF is for the people, of the people**

must have significant representation of people of mining community

**District Mineral Foundation**

<table>
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<tr>
<th>Member Body</th>
<th>Governing Council</th>
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<td><strong>(Overseeing Governing Council)</strong></td>
<td><strong>(Concerned with day to day work of DMF)</strong></td>
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**Structure:** Multi stakeholder representation:
- 2 members (one female, one male) from affected villages nominated by Gram Sabha
- 10% of mining companies, nominated by district mining association (no more than 3)
- Head of district offices of state departments

**Functions:**
- Voting on and passing annual plan
- Nominating members of Governing Council from affected communities
- Ratifying appointment of officers (including auditors), and determining salaries
- Power to remove Governing Council members

**Structure:** Multi stakeholder representation:
- 11 members
- Nearly 50% (5) must be from mining affected community
- Membership duration: maximum 3 years; re-election after 10 years (excluding govt. officials)

**Functions:**
- Developing annual plan
- Distributing monetary benefits
- Undertaking other activities for DMF fund utilization, such as infrastructure
- Appointing officers, including CEO
- Organizing AGM and presenting audit reports
Ensure effectiveness, transparency and accountability

Should be open to the government as well as public audit.

• Should maintain a register with details of- list of lease holders in the district and the annual payments made by them to DMF, disbursal of benefits to the affected persons, annual audited accounts of DMF.
• Prepare an annual statement of accounts, including profit and loss account and balance sheet of DMF funds.
• Accounts must be periodically audited.
• Accounts with audit report must be given to the state government, thereafter to be placed before state legislature.
• All information concerning the DMF, **MUST be in public domain.**
• There must be provisions of strict punishment/trial for the members like any other civil person.
How the DMF can go wrong. 
Rajasthan case

Rajasthan Draft DMF Trust Rules, 2015

• Objectives
  ➢ To work for the interest and benefit of persons and areas affected by mining related operations.
  
  **But also**
  ➢ To utilize the funds accumulated in the District Mineral Foundation.
  ➢ The trust fund may be used for any other purposes that the trustee may decide to be desirable or expedient in the interest of mineral development of the concerned district.

• Composition
  ➢ Comprises of eight members: **Chairperson-District Collector**. 3 mining officials; any other officer nominated by the government, 2 lessees nominated by District Collector, 1 NGO working in mining field.
  ➢ This suggests up to 50% of the members could be mining officials.
Rajasthan DMF Trust Rules

• Functions
  ➢ Monthly meeting of the Trust members- more than 50% of the members must be present. Decisions about funds to be made in these meetings.

  ➢ Proposals for fund utilization to be prepared by Mining Engineer in consultation with the “appropriate department”, and submitted to the Trust.

  ➢ Fund to be used for construction of infrastructure, mobile ambulances and occupation health surveillance programs, animal vaccination programs, cultural programmes, melas, inter-school game activities, etc. as well as any other activities approved by the Trust.

• Transparency and Accountability
  ➢ The accounts of the Trust shall be audited by the Auditor General of India.

  ➢ Will submit an annual report and the audited report to the state government that will in turn be placed before the state Assembly.
Major problems with the Rajasthan DMF Rules

• The “objective” as outlined, is focussed primarily on fund “utilization”, and not on making DMF relevant to people - the chief objective with which DMF has been envisioned.

• Utilization of funds without elaborating on what, where and how the funds will be utilized, creates a scope and excuse for using the DMF money for activities that can have little or nothing to do with uplifting the socio-economic status of the people and areas affected by mining.

• With a central focus is fund utilization, likely to become another source of revenue to be used as ‘general development fund’.

• People of mining affected communities are left out from every aspect of decision-making.

• This can create a huge disconnect between the ground realities of what the mining affected communities consider is essential for improving their economic and social condition, and the perception of government officials and mining companies.
Major problems with the Rajasthan DMF Rules

• Proposal for the use of DMF funds cannot be done by the Mining Engineer. This is not a technical exercise that the mining can be entrusted with. Requires a comprehensive understanding of the social and economic challenges of the community by multi stakeholder engagement.

• Given the skewed representation of stakeholders in the DMF, presence of 50% of the members at DMF meetings will mean it will be a meeting of primarily mining officials and mining companies.

• The NGO member, which is the sole representation of civil society, can be easily overruled. Further, NGO representation must not be confused with the representation of people of the mining areas.

• Even the only time that community consultation is mentioned, is before implementation of the proposal in Schedule and Tribal Areas, once approved by the Trust. Requiring a consultation to happen once a proposal is ‘already approved’ is merely customary.
Major problems with the Rajasthan DMF Rules

• Decisions taken at the meeting and thrust on communities thus can make DMF just another ‘charitable’ foundation, where the needs of the people, and mechanisms of fulfilling them, will be determined by other agents.

• No representation of various local government institutions that are also instrumental in various development initiatives particularly concerning the poor and the minority including tribal people.

• The Rules completely leave out the process of identifying beneficiaries.

• There is little clarity and justification on how and where the money will be spent. For instance, there is no justification for cultural programmes, melas, inter-school games.

• Insufficient measures for transparency and accountability. For instance, no requirement for information about DMF to be put in the public domain.