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

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Where it all 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


- **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.

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.

• 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 burdens the mining areas.

• An institution strictly targeted for mining affected areas and people.
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 constitutional provisions as it relates to Fifth and Sixth Schedules for governing tribal areas, the provisions of the Panchayats (Extension to Scheduled Areas) Act (PESA), 1996, and the Forest Rights Act (FRA), 2006.

- Every state has a specific law guiding DMF, the state DMF Rules:
  - Jharkhand District Mineral Foundation (Trust) Rules, 2016
  - Chhattisgarh District Mineral Foundation Trust 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.
### 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?

DMF Trust

- Governing Council
  - Officials of various departments; political and community representatives
  - (in cases as Chhattisgarh) Industry representatives

- Managing Committee
  - Officials of various departments
## Who will run the DMF?

<table>
<thead>
<tr>
<th>Governing council members</th>
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<tbody>
<tr>
<td><strong>Chair</strong> - District Commissioner/Collector</td>
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<td><strong>Other members</strong> - (varies with states)</td>
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<td>Broadly includes -</td>
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<tr>
<td>▪ Officials of various departments</td>
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<tr>
<td>▪ Political and community representatives - sarpanchs of gram panchayats from affected areas, mukhiya/ up-mukhiya, zila parishad representative.</td>
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<td><strong>Officials of various departments</strong> - who are also mostly part of Governing Council. Includes- mines department, forest department, police department, panchayati raj department, education department, health department, water resources department, public works department etc.</td>
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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 and Chhattisgarh:
  - 30% of royalty if the lease has not been granted by auction;
  - 10% of royalty if the lease has been granted by auction.
How and 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.
- Institute a group health insurance scheme
- Educational institutes and vocational training
- Skill development
- Welfare of women and children
- Welfare of aged and disabled
- Environmental pollution control and mitigation measures.
Where should DMF money 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 that 5%** of DMF funds should be used for administrative purposes.
How will planning happen for DMF money use and projects

• 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.

• 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. Power has been vested through gram sabhas (in Chhattisgarh and 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. In fact in Jharkhand the Trust cannot override proposals of the gram sabha, only can send back with suggested problems/revisions.
  - **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 enough 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.

- Information must be put out about-
  - 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 emphasized and strengthened

- **Invest in human capital** - such as hunger and nutrition, health, education, clean and sustainable water supply.

- **Provide supporting infrastructure and resources**

- **Provide employment opportunity and secure livelihoods** - skill development, trainings, support self help groups, loans to establish small businesses, etc.

- **Invest in and secure for the future** - set aside to revive the economy of the area when mining finishes to avoid the issue of ‘ghost towns’.
Few key areas that must be emphasized and strengthened

• **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.

• **Identification of beneficiaries and delivery of services** where needed most remains crucial. Priority areas and priority work must be determined appropriately.

• People should **not be excluded from the decision making processes.** DMFs are meant for people and must be inclusive.