District Mineral Foundation

The right of people to benefit from the mineral-rich land they live on
It is ironic that India’s mineral-rich districts are also those where some of the country’s poorest live. This deep economic and social inequality also afflicts Chhattisgarh, a key mining state of the country. According to latest poverty estimates of the Government of India, about 45 per cent of the people in rural areas of Chhattisgarh fall below the poverty line, much higher than the national average of about 26 per cent. Further, 15 districts in the state have been identified as backward by the Planning Commission. The situation is worse for tribal population in these areas; nearly 55 per cent of them fall below the poverty line.

For India’s democracy, this inequality has remained a dark aspect. In 2008, Centre for Science and Environment published a citizen’s report, Rich Lands Poor People: Is Sustainable Mining Possible?, asking for a new social and environmental contract to address the inequality that burdens mining affected areas. A decade of discussion and negotiations has gone into addressing this through various platforms. In 2015, finally, India’s Central mining law, the Mines and Minerals (Development and Regulation) Act (MMDR) of 1957, was amended and District Mineral Foundation (DMF) was instituted.

With DMF, for the first time, the right of people to benefit from natural resources has been recognized. This is a defining opportunity to rewrite the contract between rich lands and its poor people.
District Mineral Foundation
What? For whom? How?

What is District Mineral Foundation?
District Mineral Foundation (DMF) is a non-profit statutory ‘Trust’ for every district affected by mining-related operations. It should work for the interest of mining-affected communities and benefit the mining-affected people.

Why was it established?
For years, mining has benefitted mining companies and governments, not the communities living there. Because of mining, people are displaced from their land and suffer other negative consequences like break-up of the society, loss of livelihood and pollution, but are never adequately compensated. This is the reason for the poor socio-economic and environmental status of most mining-affected districts.

DMF is a vehicle for people to benefit from mining, which they have been denied for decades. It is strictly targeted to serve the mining-affected people and communities living in the mining-affected areas.

Under which law is this recognized? What does the law say?
- DMF is recognized under India’s central mining law, the Mines and Minerals (Development and Regulation) Act (MMDR) of 1957, as amended in 2015. Section 9B of the MMDR Amendment Act 2015, gives specifications about DMFs.
- The objective of DMFs has been clearly spelt out in the Section 9B (2) as ‘to work for the interest and benefit of persons, and areas affected by mining-related operations’.
- The specific law concerning DMF in the state is the Chhattisgarh District Mineral Foundation (Trust) Rules, 2015, as amended in 2019.

The law – Section 9B (4) – also specifies that the composition and functioning of DMF must be 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 Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 – the Forest Rights Act (FRA). The State DMF Rules must fulfill this.
Who is entitled to benefit?

- Communities/people in areas affected by mining;
- People having legal and occupational rights over the land being mined;
- People having ‘usufruct’ (user rights) and ‘traditional rights’.

Who can be called an affected person?

- Affected families will be the ones as given under Section 3(c) of Land Acquisition, Rehabilitation and Resettlement Act, 2013. These include:
  - Families whose land or other immovable property has been acquired for mining activity;
  - Families that do not own any land but a member/members may be:
    a. Tenants (including any form of tenancy), or holding usufruct rights over the land;
    b. Agriculture labourers;
    c. Share-croppers or artisans working in the affected area for three years prior to the acquisition of the land, whose primary source of livelihood has been affected by land acquisition.
  - Scheduled Tribes, other traditional forest dwellers who have lost any of their forest rights as recognized under the Forest Rights Act, 2006 because of land acquisition;
  - Family whose primary source of livelihood for three 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.

- Displaced families as given under Section 3(k) of the Land Acquisition, Rehabilitation and Resettlement Act, which include any family displaced, relocated or resettled from the affected area to a resettlement area because of land acquisition for mining activity.

- People who have legal and occupational rights, and also usufruct and traditional rights over the land being mined.

- Any other as appropriately identified by the gram sabha.
How do I determine if my area will be considered mining-affected?

An area can be directly or indirectly affected by mining.

**Directly affected areas include:**

- Areas with direct mining-related operations, such as excavation, mining, blasting, beneficiation and waste disposal (overburdened dumps, tailing ponds, transport corridors etc.);
- Villages, gram panchayats and municipal areas within which mines are situated;
- 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 and have usufruct (user rights) and traditional rights over the project areas. For e.g. where grazing lands or lands from which forest produce is collected are affected by mining.

**Indirectly affected areas include:**

- 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.

Also areas that fall within a specific radius/distance from a mine or cluster of mines (defined by the collector or state government) will be considered affected. Such areas can extend to adjacent/adjoining districts or states.

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The Trust will identify affected areas and people. The gram sabha must, however, be consulted to identify affected people/families.

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**Who will run the DMF**

- DMFs have a Governing Council and a Managing Committee. The Governing Council is headed by District Minister In-charge. The Managing Committee is headed by the District Collector.
- Besides officials, Governing Council has 10 Gram Sabha members from directly mining-affected areas. There are political representatives, some mine lease holders and public representatives as well.
- The Managing Committee has mainly government officials.
Institutional structure of DMF

Governing Council

Public and Community representatives
- District Minister in-charge
- All members of the Legislative assembly of the concerned district
- Three public representatives (nominated by settlor)
- Any two Sarpanchs of Gram panchayats of directly affected areas (Nominated by Collector)
- Ten members from gram sabha of affected areas (Nominated by Collector)

Official Representatives
- District Collector
- Chief Executive Officer, Zilla Panchayat
- Superintendent Of police
- Divisional Forest Officer
- Deputy Director(Mineral Administration)/ Mining Officer
- Deputy Director Panchayat
- Superintending Engineer/Executive Engineer Chhattisgarh State power distribution company ltd
- District Education Officer
- Assistant Commissioner tribal welfare
- Chief Medical and health Officer
- Deputy Director Agriculture
- Deputy Director Horticulture
- Executive Engineer, Public Works Department
- Executive Engineer, Rural Engineering Services
- Executive Engineer, Water Resources Department
- Executive Engineer, Public Health Engineering Department
- District Employment Officer
- General manager, District Trade and Industries Centre
- District planning and statistics officer
- Deputy Director Social Welfare
- Executive Engineer, CREDA
- Chief Executive officer of all janpad panchayat of the district

Industry Representatives
- Upto three representatives from among the mineral concession holders in the district (Nominated by the collector)

Managing Committee
- District Collector
- Chief Executive Officer, Zilla Panchayat
- Superintendent Of police
- Divisional Forest Officer
- Deputy Director(Mineral Administration)/ Mining Officer
- Deputy Director Panchayat
- Superintending Engineer/Executive Engineer Chhattisgarh State power distribution company ltd
- District Education Officer
- Assistant Commissioner tribal welfare
- Chief Medical and health Officer
- Deputy Director Agriculture
- Deputy Assistant Director Horticulture
- Executive Engineer, Public Works Department
- Executive Engineer, Rural Engineering Services
- Executive Engineer, Water Resources Department
- Executive Engineer, Public Health Engineering Department
- District Employment Officer
- General manager, District Trade and Industries Centre
- District planning and statistics officer
- Deputy Director Social Welfare
- Executive Engineer, CREDA
- Chief Executive officer of all janpad panchayat of the district

State-level Monitoring Committee
- The chief minister
- Minister of finance
- Minister of agriculture
- Minister of forest
- Minister of panchayati raj and rural development
- Minister of public health and engineering
- Minister of tribal development
- Minister of school education
- Minister of health and family welfare
- Chief secretary
- Secretary, mineral resources
At the state-level, there is a monitoring committee and a DMF Trust cell. The Secretary of the Mineral Resources Department, Government of Chhattisgarh will function as the Settlor of the Trust.

Some **key roles of the Governing Council** are:
- To lay down and approve the procedure for functioning of the Trust;
- Approve the 5 year vision document/master plan of the Trust, the annual action plan and the annual budget of the Trust;
- Periodically review activities undertaken by the Trust;
- Approve annual reports and audited accounts of the Trust;
- Ratify appointment of officers and auditors;
- Select an appropriate and empanelled agency to carry out identification of beneficiaries, project monitoring, preparation of vision document/master plan and conducting social audit.

The Governing Council shall meet at least once in six months.

Some **key roles of the Managing Committee** are:
- Oversee day to day functioning of the DMF, including timely collection and administration of funds;
- Prepare the vision document/master plan for the activities of the Trust;
- Prepare the DMF annual plan based on the vision document/master plan; sanction orders and monitor progress of work;
- Receive proposals/projects from the Gram Panchayats, Janpad Panchayats, Zila Panchayats and the urban local bodies in the district, government departments etc. In scheduled areas it can receive proposals/projects from the Gram Sabhas of the affected areas;
- Present annual reports and audited accounts before the Governing Council.

Managing Committee shall meet at least four times in a financial year.

Some **key roles of the State-level Monitoring Committee** are:
- Lay down any broad policy framework for DMFs as required;
- Supervise and monitor functioning of DMFs in all districts; ensure transparency through on-line disclosure and monitoring system;
Decide on the amount of money to be distributed between two or more DMF trusts when an affected area falls within more than one district;

Approve the set up and arrangement of the staff of the state-level DMF Trust cell.

The Committee shall meet at least once a year.

Some **key roles of the State DMF Trust cell:**

- Provide necessary consultation and guidance to DMF Trusts in various districts;
- Monitor the functions of DMF Trusts;
- Co-ordinate between State Government departments as necessary and also co-ordinate with the Central Government.

Some **key roles of the Settlor:**

- Appoint members of the Governing Council, who are officials of various government departments.
- Has over-riding power to include any project/scheme for the welfare of people/areas affected by mining; or ban any project/scheme that fails to provide required benefits and welfare.

**How much money will come to the DMF?**

Mining companies/individual mine lease holders operating in the district will pay directly to the DMF Trust of that district as per the rates below.

Payment to be made for major minerals (*e.g. coal, iron ore and bauxite)*:

- 10 per cent equivalent of royalty paid to the State Government for leases granted after the commencement of MMDR Amendment Act 2015;
- 30 per cent equivalent of royalty for leases before that.

Payment to be made for major minerals (*e.g. coal, iron ore and bauxite)*:

- 30 per cent equivalent of royalty if the lease has not been granted through auction, also same amount for quarry permits;
- 10 per cent equivalent of royalty if the lease has been granted through auction.
**How and for what should DMF money be used?**

This is the most crucial question. The Central government in September 2015 launched the Pradhan Mantri Khanij Kshetra Kalyan Yojna (PMKKKY) which gives clear guidelines regarding where DMF money must be used and prioritised.

Broadly, THREE key things should be checked to ascertain the effective use of DMF money as specified by PMKKKY. DMF money should be used to:

- implement various developmental and welfare projects/programmes in mining-affected areas, and these will complement existing ongoing schemes/projects of the state and Central government;
- minimize/mitigate the adverse impacts during and after mining on the environment, health and socio-economic status of people;
- ensure long-term sustainable livelihoods for mining-affected people.

The sectors on which DMF funds must be used for the benefit of mining-affected communities should be guided by such outlook.

**How will planning happen for DMF money?**

- The Trust will prepare a 5 year vision document/master plan. Based on the vision document, an annual action plan must be prepared;
- The plans must be prepared based on a survey of the needs of the affected areas;
- Gram sabha should be consulted while preparing the plans;
- Assistance of empanelled agencies and civil society organisations can be taken in conducting the survey, assessing the gaps and preparing the plan;
- To execute the plan, the trust will allocate the money to the concerned authorities/agencies.
What works must DMF do?

At least 60 per cent of the DMF funds should be spent on certain high priority issues that are major problems in the mining districts. Additionally, directly mining-affected areas should be prioritized for DMF investments where at least 50 per cent of the money must be spent.

High Priority Issues:
1. Sustainable livelihoods for communities in directly affected areas to improve income generation and standard of living; livelihood and income support for forest rights holders, resource support for agriculture and forest based livelihoods, agro forestry, small scale and rural industry etc.;
2. Facilities for drinking water supply which can include centralized purification systems, water treatment plants, permanent/ temporary water distribution network including standalone facilities for drinking water, solar energy based drinking water projects etc.;
3. Creation of primary and secondary health care services in affected areas. Apart from creation of health care infrastructure, emphasis should be on necessary staffing, equipment, and supplies required for making such facilities effective;
4. Education which includes creating necessary infrastructure, resources, payment of education fee and hostel fee in universities/colleges for higher/technical education;
5. Welfare of women and children through special efforts for addressing problems of maternal and child health, malnutrition etc.;
6. Welfare of aged and disabled people;
7. Skill development for livelihood support, income generation and economic opportunities This can involve training programmes, developing skill-development centre, providing self-employment schemes, supporting self-help groups and entrepreneurship etc.;
8. Proper infrastructure for sanitation, such as ensuring collection, transportation and disposal of waste, cleaning of public places, provision of proper drainage and sewage treatment (sewage treatment plants), disposal of faecal sludge, provision of toilets etc.;


**People must be vigilant to ensure that they get the right benefits.**

Communities MUST be wary of the use of money in schemes/projects/activities that have other dedicated funds or remain specific responsibilities of mining companies. For example, DMF money should not be used for:

- **Environmental pollution control from mining activities:** It is the responsibility of the mining company/individual to spend on pollution control (according to the environmental clearance(s), environmental management plan(s) and mining plan conditions). Once this is done a fraction of DMF money can supplement this.

- **Afforestation:** As there are funds available to the state under forestry fund/schemes such as Compensatory Afforestation Fund Management and Planning Authority (CAMPA), Green India Mission etc.

- **Major sanitation infrastructure:** As it is also under the Swachh Bharat Mission and other urban and rural development programmes. DMF money should supplement these initiatives and not be the primary source of money for these activities.

- **Big infrastructure projects such as road building, railways and bridges. No more than 20 per cent of DMF money can be used for these.**

- **Overall, no more than 40 per cent of total fund should be used for works that are not under the high priority issues.**

- **No more than 5 per cent of DMF funds should be used for administrative purposes.** The law specifies this.
Does the community have the power to decide where the money should be used?

YES, the law does provide the opportunity for mining-affected community to participate and decide on this through gram sabhas particularly in two ways:

► As being members of the Governing Council;
► Exercising their power to participate in beneficiary identification, and planning and monitoring of DMF works.

Gram Sabha members as part of DMF Governing Council:

► Ten members from Gram Sabhas of directly mining-affected areas are part of the DMF Governing Council (refer to figure: Institutional Structure of DMF). Members should be nominated by the Collector through consultation;
► Two members, including one female member, will be nominated from each Gram Sabha;
► In Scheduled area, at least 50 per cent of nominated Gram Sabha members will be from the Scheduled Tribes;
► If the mining-affected area is urban, two members of the urban local body shall be nominated.

Key roles of Gram Sabhas in DMF implementation:

Identify beneficiaries
► Approval of gram sabha is required to identify beneficiaries in affected villages.

Identify works to be carried out in affected areas
► Gram sabhas in consultation with the sarpanch/up-sarpanch will identify the required work to be done in affected villages. Approval of gram sabha is required for all the plans/programmes to be taken up with DMF money.

Monitor developmental schemes/works
► Report on the works undertaken by the DMF Trust in respective villages should also be furnished to the gram sabha after completion of every financial year.

DMF Trust funds will be used to provide training to Gram Sabha members and build their capacity for participation in DMF planning, decision-making and monitoring of works.
Is there scope of public scrutiny and community review?

Yes, there is scope of public scrutiny and review by communities on how DMF is functioning.

1. **All information related to DMF will be put in public domain.**
2. Both DMF vision document/master plan as well works can be reviewed by civil society and mining-affected communities. A third party review of the master plan/vision document at any time, as per the directions of the Settlor;
3. **Annual social audit** will happen for review of DMF works and evaluating their effectiveness. This will be conducted by empanelled agency(ies) that are authorized by the State Government for conduct of social audit in schemes like MGNREGS, Pradhan Mantri Awas Yojana (PMAY) etc. Social audit will be conducted in two phases:
   - In the first phase requirements of the affected areas will be accessed and identified.
   - In the second phase the works/schemes undertaken will be reviewed. This will involve looking into quality of works and assessing whether they are of significance/helpful for the mining-affected people and the concerned areas.

How can I access information on the DMF of my district?

ALL information must be in public domain. Each Foundation must prepare and maintain a website where all information should be disclosed. This includes:

- Detailed composition of the DMF—the Governing Council and Management Committee;
- Quarterly details of all contributions received from lessees and others;
- A list of areas and people affected by mining;
- All meeting agenda, minutes of meetings and action-taken reports;
- Annual plans and budget;
- Work orders and progress reports of all the projects/programmes being undertaken, description of work, estimated cost, expenditure, name of implementing agencies, expected date of commencement and completion of work etc.;
- List of prospective beneficiaries and those who have benefitted from such measures;
- Annual report, including accounts and audit records;
- Other related information.
How do I register a complaint if I or the people of my area are not receiving the stipulated benefits?

There are enough platforms through which complaints can be registered:

- **Gram sabha:** In Scheduled Areas a person or community can bring a complaint to the attention of the concerned gram sabhas, as the grams sabhas have a say in the identification of beneficiaries and recommending plans/programmes/projects to be taken up by DMF money.

- **Managing Committee:** The committee is in charge of the day-to-day functioning of the DMF and can be approached to put forth a grievance or complaint.

- **Governing Council:** It is the overlooking body with political as well as community representation.

- **Settlor:** Complaints can be taken to the settlor represented by Secretary Mineral Resource Department as he/she has an over riding power to include or ban projects if they do not serve the welfare of people.

- **Monitoring Committee:** Complaints can be taken to the state-level committee as it will supervise and monitor functioning of the DMFs in all districts.

- **Court of law:** A case can be filed in the court against any irregularities or complaints regarding the functioning or works undertaken by the DMF Trust.