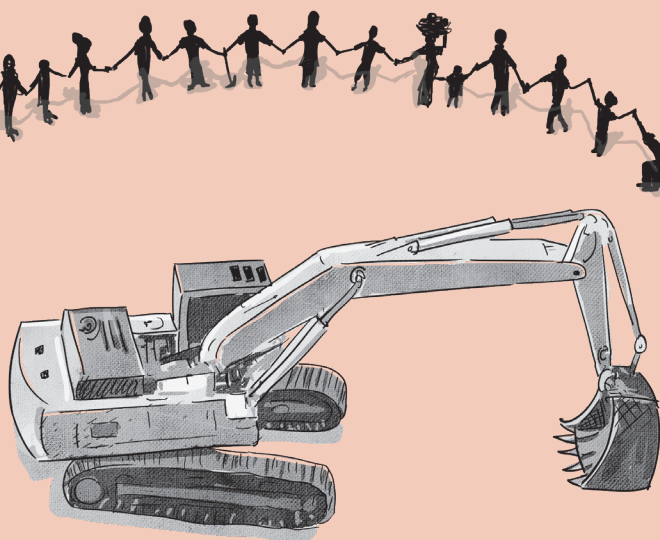


CHHATTISGARH

District Mineral Foundation

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

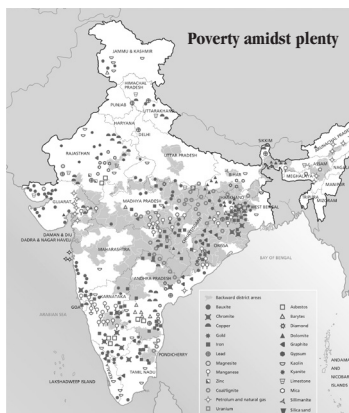


**RICH LANDS
POOR PEOPLE**

BY NICHOLAS DOLAN OF NICHOLAS DOLAN FILMS

ENVIRONMENT
A CITIZENS REPORT

6



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 (Mineral Development and Regulation) Act (MMDR) of 1957, was amended. The 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 to protect the interest of communities and benefit the people in those areas.

Why was it established?

For years, mining has benefitted mining companies, individual miners 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 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 communities/people in 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 Act gives specifications about DMFs
- ▶ The objective of DMFs have been clearly spelt out in the Section 9B (2) of the MMDR Act (amended in 2015) 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.

The objective and functioning of DMF are 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 Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 – the Forest Rights Act (FRA).

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 and gram panchayats within which mines are situated and are operating. Such mining areas may extend to neighbouring village, block or district or state.
- ▶ 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 local population is adversely affected by economic, social and environmental consequences of mining-related operations. This includes deterioration of water, soil, 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.

The Trust will identify affected areas and people. The gram sabha must be consulted to identify affected people/families in Schedule Areas.

Who will run the DMF?

- ▶ The DMF will have a Governing Council and a Managing Committee. Both will be headed by the District Collector.
- ▶ Besides officials, Governing Council includes political and community representatives. The Managing Committee has mainly government officials.
- ▶ Additionally, there will be two state level authorities to oversee the DMFs in all mining districts:
 - A state-level Monitoring Committee under the Chief Minister.
 - A settlor, represented by the Secretary, Mineral Resource Department.

Some **key roles of the Governing Council** will be:

- ▶ To lay down the procedure for functioning of the Trust;
- ▶ Participate in developing annual plan of DMF;
- ▶ Approve annual plan and the budget for the same. Also approve budget for any additional work/ project that the Settlor recommends;
- ▶ Review activities undertaken by the Trust;
- ▶ Conduct social audits of development schemes/works of gram sabhas;
- ▶ Approve annual reports and the audited accounts of the Trust;
- ▶ Ratify appointments of officers and auditors;
- ▶ The Council has to meet at least once in six months.

Some **key roles of the Managing Committee** will be-

- ▶ Oversee the day-to-day functioning of the DMF, including ensuring timely collection and administration of funds;
- ▶ Develop a master plan for activities of the Trust;
- ▶ Coordinate with various district level authorities/ departments to receive proposals about projects/works that need to be included in the annual plan. In scheduled areas must co-ordinate with gram sabhas of affected areas;

Institutional structure of DMF

Governing Council



Official representatives

- District collector
- Chief executive officer, zila panchayat
- Superintendent of police
- Divisional forest officer
- Deputy director mineral administration/ mining officer
- Deputy director panchayat
- Superintending engineering/ executive engineering Chhattisgarh state power distribution company limited
- District education officer
- Assistant commissioner tribal welfare
- Chief medical and health officer
- Deputy director agriculture
- Deputy/assistant director horticulture
- Executive engineer, PWD
- Executive engineer, rural engineering services
- Executive engineer, water resource department
- Executive engineer, public health engineering department
- District employment officer



Political and community representatives

- Three public representatives (nominated by the settlor)
- Any two sarpanchs of gram panchayats of directly affected areas (nominated by the collector)



Industry representatives

- General manager, district trade and industries centre
- Up to three representative from mineral concession holders (nominated by the collector)

Managing Committee

- District collector
- Chief executive officer, zila panchayat
- Superintendent of police
- Divisional forest officer
- Deputy director panchayat
- Chief medical and health officer
- Superintending engineering/ executive engineering Chhattisgarh state power distribution company limited
- Deputy director mineral administration/ mining officer
- Deputy director agriculture/horticulture
- Executive engineer, PWD
- Executive engineer, public health engineering department
- Executive engineer, rural engineering services
- District education officer
- Assistant commissioner tribal welfare
- Executive engineer, water resource department
- District employment officer
- General manager, district trade and industries centre

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

- ▶ Develop the annual plan for the projects to be undertaken with DMF money; sanction orders and monitor progress of work;
- ▶ Present annual reports and audited accounts before the Governing Council;
- ▶ **The Committee has to meet at least four times in a financial year.**

Some **key roles of the state-level Monitoring Committee** will be:

- ▶ 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;
- ▶ Will 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.

Special powers 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?

Miners/mining companies operating in the district will directly pay 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 of royalty paid to the state government for leases granted on or after 12 January 2015;
- ▶ 30 per cent of royalty for leases before that.

Payment to be made for minor minerals (*e.g. stone, sand*):

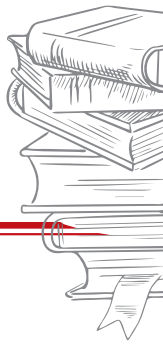
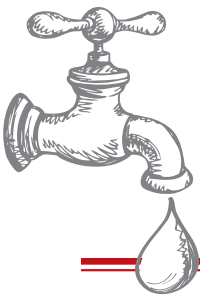
- ▶ 30 per cent of royalty if the lease has not been granted through auction, also same amount for quarry permits;
- ▶ 10 per cent of royalty if the lease has been granted through auction.

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 to prioritise the implementation and use of DMF funds.

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:

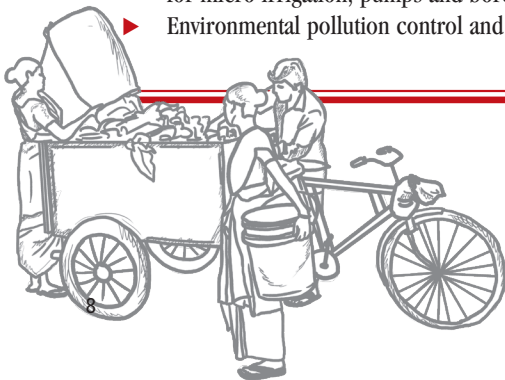
- ▶ implement various developmental and welfare projects/programmes in mining-affected areas, and these will complement existing ongoing schemes/projects of the state and Central government;
- ▶ minimize/mitigate the adverse impacts during and after mining on the environment, health and socio-economic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

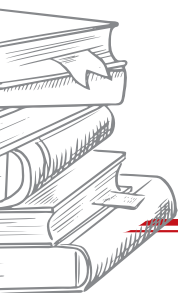


So what works must DMF do?

Welfare programmes and activities can vary between mining districts. But there are High Priority Areas specified by law, where **at least 60 per cent** of the money must be used. They include:

- ▶ **Facilities for drinking-water supply**, such as centralized purification systems, water treatment plants and permanent/temporary water distribution networks, including standalone facilities for drinking water, piped-water supply etc.
- ▶ **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;
- ▶ Creation of **primary and secondary healthcare facilities** in affected areas and maintaining necessary infrastructure. Also, instituting a group insurance health scheme for mining-affected people.
- ▶ **Educational institutes and vocational training centres** and supporting infrastructures.
- ▶ **Welfare of women and children** through special efforts for addressing problems of maternal and child health, malnutrition etc.
- ▶ **Welfare of aged and disabled** people.
- ▶ **Skill development** for livelihood support, income generation and other economic opportunities. This can involve training programmes, developing skill-development centre, providing self-employment schemes, supporting self-help groups and entrepreneurship etc.
- ▶ Provide **assistance to farmers and forest rights holders (under provisions of the FRA Act, 2006) for livelihood**; such as financial assistance for micro irrigation, pumps and bore wells; dairy, poultry, agro forestry etc.
- ▶ Environmental pollution control and mitigation measures.

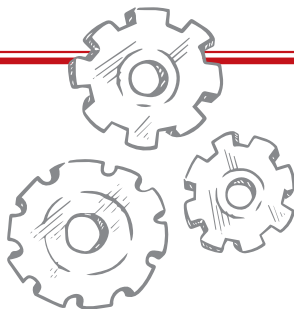
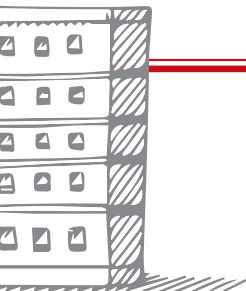




People must be vigilant to ensure that they get the right benefits.

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 can a fraction of DMF money 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: State governments have money earmarked for these. The law also specifies that **no more than 40 per cent of DMF money should be spent on making roads, bridges, railways, waterways projects, irrigation and alternative energy sources.** DMF money should be complementary to state funds available for infrastructure projects.
- **No more than 5 per cent of DMF funds should be used for administrative purposes.** The law specifies this.



How will planning happen for use of DMF money?

- ▶ 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.
- ▶ The final plan will detail out the type and quantum of development schemes/works to be implemented within a definite time frame.
- ▶ To execute the plan, the Trust will allocate money to the concerned authorities.

The money coming to DMF must be spent on development works and activities that will address the basic needs of people in mining affected areas and benefit them directly.

Does the community have the power to decide where the money should be used?

YES, the law does empower the community, especially in the Scheduled Areas, to give their opinion. Power has been vested through gram sabhas.

For villages affected by mining within the Scheduled Areas, gram sabhas have the following power:

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 the gram sabha is required for all plans/programmes/projects 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.

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 overriding 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.

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