District Mineral Foundation

The right of people to benefit from the mineral-rich lands 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 Odisha, a key mining state of the country. According to latest poverty estimates of the Government of India, more than 36 per cent of the people in rural areas of Odisha fall below the poverty line, much higher than the national average of about 26 per cent. Further, 27 districts in the state have been identified as backward by the Planning Commission. The situation is far worse for tribal population in these areas; more then 75 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 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 Odisha District Mineral Foundations 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.

As far as possible, affected families should be identified by consulting the local/elected representatives of the gram sabha.

- **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 (this may extend to neighboring village, block, district or even the state);
- Areas that fall within a radius of 10 kilometers from a mine or cluster of mines (the radius remains irrespective of whether it falls within the concerned district or the adjacent district);
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. Some major characteristics of these areas 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.

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 Board of Trustees and an Executive Committee. Both will be headed by the District Collector.
- Besides officials, Board of Trustees, has also some representation of elected representatives from mining areas such as members of Lok Sabha, members of state legislative assembly, member of zila parishad, members of panchayati raj institutions or urban local bodies.
- The Executive Committee has mainly government officials.

Some key roles of the Board of Trustees will be:
- Approve annual budget and plan;
- Approve master plan or perspective plan;
- Decide which priority areas money should be spent on and decide sectoral allocation;
- Sanction individual projects exceeding Rs. 10 crore;
- Appoint auditors and approve annual reports of the Trust.
- The Board has to meet at least twice during one financial year.

Some key roles of the Executive Committee will be:
- Oversee day-to-day functioning of DMF, including administration of funds;
- Prepare DMF budget, which is subject to Board’s approval;
- Give the work contract and payment to concerned authorities/ people;
- Sanction individual projects not exceeding Rs. 10 crore;
- Supervise work progress, maintain accounts etc.
- Executive committee will meet at least once every quarter.
Institutional structure of DMF

Board of Trustees

**Official representatives**
- District collector
- Additional district magistrate
- District steel and mines officer
- District forest and environment officer
- District rural development officer
- District public works officer
- District ST and SC development officer
- District health and family welfare officer
- Any other officer of the district departments as the government specifies

**Political and community representatives**
- Each member of Lok Sabha in whose constituency any major mineral concession is located
- Each member of Odisha Legislative Assembly in whose constituency any major mineral concession is located

Executive Committee

- District collector
- District rural development officer
- District forest and environment officer
- District steel and mines officer
- District public works officer
- Project director of district rural development agency
- A member of the Zila Parishad from the area in which any major mineral concession is located
- Maximum three Members of panchayati raj institutions or urban local body in which any major mineral concession is located
How much money will come to the DMF?

Miners/mining companies operating in the district will 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;
- 10 per cent of royalty if the lease has been granted through auction.

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.

How and for what should DMF money be used?

This is the most crucial question. To channelize the funds properly, the Central government in September 2015 launched the Pradhan Mantri Khanij Kshetra Kalyan Yojna (PMKKKY), a welfare scheme for mining-affected areas and people. It gave clear guidelines regarding where DMF money use is to be prioritized.

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.

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 timeframe;
- To execute the plan, the Trust will allocate money to the concerned authorities.
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 **housing** for people without pacca houses, through group housing schemes, old age home 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 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:** 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 that 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 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 platform through which complaints or grievance 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 in affected villages and recommending plans/programmes/projects to be taken up by DMF money.

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

► **Board of Trustees:** It is the overlooking body with political as well as community representation.

► **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.