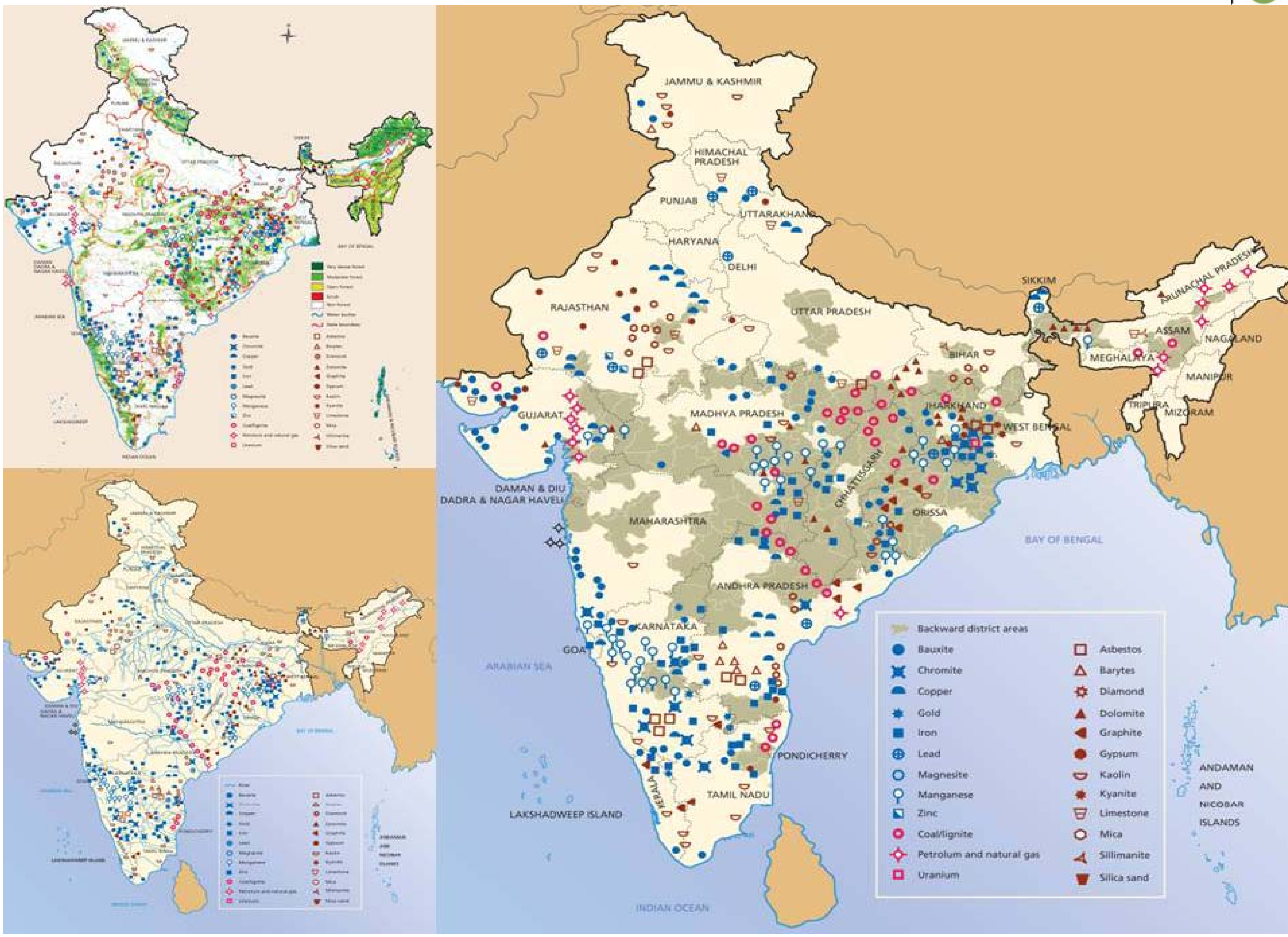
District Mineral Foundation

Chandra Bhushan
Deputy Director General

Minerals, Environment and People

A contested geography



Can mining be sustainable?

- **Sustainable mining is an oxymoron-** ore bodies are finite and non-renewable; even the best managed mines will have some environmental and social costs.

  However the **inescapable truth is modern economy even with the best intensions cannot do without minerals**.

But if mining has to happen, it must be environmentally and socially responsible

- Environmental – clearances/permits must be tightened, stricter pollution standards must be enforced, mines once opened must be closed, and use of minerals must be minimized.

- Social – **<u>people's rights must be recognized, mining benefits equitably shared, people must be made part of decision-making.</u>**

District Mineral Foundation

Recognizing the rights of people to benefit from natural resources

Where it 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.

- **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. **Benefit-sharing becomes a prominent part of discussion in MMDR Act.**

- **2010**, Group of Ministers (GoM) on draft bill under Shri Pranab Mukherjee, then Minister of Finance, give recommendations on various issues including benefit- sharing. 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.**

- **2011**, MMDR Bill final draft; detailed out provisions of sharing mining benefits through **District Mineral Foundation (DMF). Bill lapsed in February 2014.**

Where it all started years back

- **2015 January**, MMDR Amendment Ordinance- revised several provisions of the 2011 Bill. **Cut down in share of money that leaseholders will pay to the DMF- not exceeding one-third of the royalty** paid for respective minerals.

- **2015,** in March Parliament passed MMDR Amendment Act, 2015- **DMF instituted.**

- **2015,** in September Government of India launched **Pradhan Mantri Khanij Kshetra Kalyan Yojana (PMKKKY) and aligned it to DMF both in terms of fund use and objective**. PMKKKY will implement various developmental projects/welfare programmes in mining-affected areas with DMF funds, alleviate impacts of mining on people and environment, and create long-term sustainable livelihood opportunities.

- **2015,** in September, Centre also specified the amount mining companies will pay to DMF- 10% of the royalty paid to the state government for leases granted on or after January 12, 2015, and 30 % for leases granted before that.

What is DMF?

A non-profit 'Trust' instituted under MMDR Amendment Act 2015 to be developed in 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.

- **State DMF Rules-** specific Rules guiding DMFs in every state.

Comes with some key functional advantages

- Has **targeted beneficiaries.**
- Has **defined areas and priority issues** to focus on for intervention.
- Has a **very significant financial corpus** coming directly to districts.
- **Fund non-lapsable**- gives ample scope addressing issues urgently and through long-term planning.
- Mandates decentralized bottom-up planning.

Who is entitled to benefit?

- Communities/people living in areas affected by mining.
- People having **legal and occupational rights** over the land being mined
- People having '**usufruct' (user rights) and 'traditional rights**'.
- People who have been **displaced** by mining activities.
- People who have **lost livelihoods** (including forest-based) for mining.
- People who have **lost forest rights** as recognized under FRA.
- Any others as identified by Gram Sabha.

Affected people/ families will be identified in line with the Land Acquisition Act, 2013

Affected areas
to be precisely identified

- **Directly Affected Areas-**
  - Where mines are located and with direct mining-related operations.
  - Fall within a radius (defined by the state) from a mine/ cluster.
  - Villages where displaced families have been resettled/ rehabilitated.
  - Villages significantly dependent on mining areas to meet their economic needs.

*Besides areas will be considered **indirectly affected** where the Local population is adversely affected by economic, social and environmental consequences of mining- deterioration of water, soil and air quality, depletion of groundwater etc.*

Who will run the DMF?

DMF Trust

Chaired by DC/DM

- **Governing Council** (overall management)
  - Officials of various district departments
  - Political and community representatives (MLAs, elected PRI representatives)
  - Industry representatives (in some states)
- **Managing Committee** (day to day functioning)
  - Officials of various district departments

DMF funds and its administration

- Miners/mining companies operating in the district **will have to pay to the DMF Trust of that district.** Trust will have an account in a nationalized bank.

- **Payment-**
  - 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 and
    10% of royalty if the lease has been granted by auction.

- **Operation of account-** Will be operated by the member secretary and the treasurer of the Managing Committee.

Priority issues for intervention

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 **clean drinking-water supply**.
- Proper infrastructure for sanitation.
- **Healthcare** including creation of primary and secondary healthcare facilities in affected areas and maintaining necessary infrastructure, provide a group **health insurance** scheme.
- **Education** including resources, institutes and vocational training centres.
- Skill development and **livelihood.**
- **Welfare of women and children.**
- **Welfare of aged and disabled.**
- Environmental pollution control and mitigation measures.

Where should money not be used

- **Administrative expenses- No more that 5%** of DMF funds should be used as specified by DMF law.

- **Big infrastructure projects** such as road building, railways and bridges

- **Environmental pollution control and management, of mining activities**: As it is the responsibility of the mining company, they should be asked to take the lead; DMF can support industries.

- **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:** lead by the Swachh Bharat Mission; DMF can fill the gap.

How will DMF planning happen

- The Trust will make an annual plan **based on a bottom-up approach (involving Gram Sabhas).**
- Members of the DMF will prepare the annual plan taking into account the inputs/plans 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/people.

Do people have power to decide?

- The law does give power to the community. Power has been vested through Gram Sabhas (particularly 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 works to be carried out in affected areas-** approval of Gram Sabha is required for this. <u>Infact in Jharkhand the Trust cannot override proposals of the Gram Sabha, only can send back with suggested problems/revisions.</u>

  - **Monitor developmental schemes/works** – report of work in villages should be furnished with the Gram Sabhas.

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 include-
  - 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.